



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

July 1, 2022

Honorable Mike Morath
Commissioner
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

Dear Commissioner Morath:

We have conditionally approved Texas' application for Federal Fiscal Year (FFY) 2022 funds under Part B of the Individuals with Disabilities Education Act (IDEA Part B). Our conditional approval is based on our review of the IDEA Part B application submitted by the Texas Education Agency to the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), on May 20, 2022, including the assurances provided in Section II and incorporated by reference to this letter as noted in Enclosure A. Our approval is also based on the State's certification in Section II.D of its FFY 2022 application (Enclosure B) that the State's provisions meet the requirements of IDEA Part B as found in Public Law 108-446, and that the State will operate its Part B program in accordance with all of the required assurances and certifications, consistent with 34 C.F.R. § 76.104. The effective date of this grant award is July 1, 2022.

In addition, the State provided specific assurances that it will:

1. Operate throughout the period of the FFY 2022 grant award consistently with IDEA Part B and applicable regulations; and
2. Make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of IDEA Part B as soon as possible, and not later than June 30, 2023. Within Section II of its application, the State has included, for each assurance it cannot meet at this time, the date by which it expects to complete necessary changes to any policies and procedures that are not yet in compliance with the requirements of IDEA Part B.

Please note that OSEP Memorandum 22-07, dated February 3, 2022, explained the impact of recent amendments to the Copyright Act, 17 U.S.C. § 121, on certain terms relevant to Assurance 23a or 23b related to accessible instructional materials as reflected in your State's FFY 2022 application for funds under IDEA Part B. As a result, the term "blind and other persons with print disabilities" has been removed from the Copyright Act and replaced with "eligible person," and the term "specialized format" has been removed and replaced with the term "accessible format." Although at this time Congress has not made conforming amendments to section 612(a)(23) of IDEA, the Department construes Assurances 23a and 23b as incorporating the terms "eligible person" and "accessible format."

OSEP will continue to impose Specific Conditions on Texas' FFY 2022 IDEA Part B grant awards relating to ensuring that: (1) its Dyslexia program, including the revised Dyslexia

Handbook, is being implemented, disseminated, and monitored in compliance with the general supervision responsibilities as required by IDEA sections 612(a)(11) and 616(a)(1)(C), and their implementing regulations at 34 C.F.R. §§ 300.149 and 300.600, to ensure that LEAs throughout the State properly implement IDEA's requirements for the provision of FAPE, child find, and evaluation in IDEA sections 612(a)(1), (a)(3), and (a)(7) and 614(a) through (c) and their implementing regulations at 34 C.F.R. §§ 300.111, 300.122, and 300.300-300.311; and (2) its Dyslexia program, including the revised Dyslexia Handbook, is implemented in compliance with IDEA requirements to ensure that FAPE is made available to all children with disabilities residing in the State's mandated age ranges (ages 3 through 21), as required by IDEA section 612(a)(1) and its implementing regulation at 34 C.F.R. § 300.101. The reasons for doing so and the specific reporting requirements are detailed in Enclosure E.

Please note that as part of your State's application for FFY 2022 IDEA Part B funds, the State has provided a certification, pursuant to 34 C.F.R. § 76.104, that its application meets the requirements of IDEA Part B and that the State will operate its Part B program in accordance with all of the required assurances and certifications. Any changes made by the State, after OSEP approval, to information that is a part of the State's Part B application, must meet the public participation requirements in 34 C.F.R. § 300.165.

Enclosed are the State's FFY 2022 grant awards for funds currently available under the Consolidated Appropriations Act, 2022 (Public Law 117-103) for the IDEA Part B Section 611 (Grants to States) and Section 619 (Preschool Grants) programs. These funds are available for obligation by States from July 1, 2022, through September 30, 2024, in accordance with 34 C.F.R. § 76.709.

The amount in your State's award for Section 619 represents the full amount of funds to which the State is entitled. However, the amount shown in your State's award for the Section 611 program is only part of the total funds that will be awarded to the State for FFY 2022. Of the \$13,343,704,000 appropriated for Section 611 in FFY 2022, \$4,060,321,000 is available for awards on July 1, 2022, and \$9,283,383,000 will be available for awards on October 1, 2022.

Under the Section 611 formula, in a year in which the amount available for allocations to States increases from the prior year, subject to certain maximum and minimum funding requirements, State allocations are based on the amount that each State received under Section 611 for FFY 1999, the relative population of children in the age range for which each State ensures the availability of a free appropriate public education (FAPE) to children with disabilities, and the relative population of children living in poverty in the age range for which each State ensures the availability of FAPE to children with disabilities.¹

For FFY 2022, the appropriation for the Preschool Grants program is \$409,549,000. Under the Section 619 formula, in a year in which the amount available for allocation to States remains the

¹ The amount that a State's allocation may increase from one year to the next is capped at the amount the State received in the prior year multiplied by the sum of 1.5 percent and the percentage increase in the total amount appropriated for Part B of IDEA from the prior year. Additionally, the maximum amount that a State may receive in any fiscal year is calculated by multiplying the number of children with disabilities ages 3 through 21 served during the 2004-2005 academic year in that State by 40 percent of the annual per pupil expenditure (APPE), adjusted by the rate of annual change in the sum of 85 percent of the children aged 3 through 21 for whom that State ensures the availability of FAPE and 15 percent of the children living in poverty. Because there are multiple caps, in any year the "effective cap" on a State's allocation is the lowest cap for that State.

same or increases from the prior year, State allocations, subject to certain maximum and minimum funding requirements, are based on the amount that each State received under Section 619 for FFY 1997, the relative population of children aged three through five, and the relative population of all children aged three through five living in poverty.

Enclosure C provides a short description of how Section 611 funds were allocated and how those funds can be used. In addition, Table I in Enclosure C shows funding levels for distribution of Section 611 funds and the parameters for within-State allocations.

Enclosure D provides a short description of how Section 619 funds were allocated and how those funds can be used. In addition, Table II in Enclosure D shows State-by-State funding levels for distribution of Section 619 funds.

Section 611(e)(1)(C) of the IDEA provides that “[p]rior to expenditure of funds under this paragraph [Section 611(e)(1) concerning funds for State administration], the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to [S]ection 612(a)(12)(A) are current.” We read this provision to mean that if a State does not have interagency agreements or other arrangements in place to establish responsibility for the provision of services, the State may not expend funds available to the State under Section 611(e)(1) [State administration funds] until the State has these agreements or arrangements in place.

Under IDEA section 605, the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (OMB Uniform Guidance) in 2 C.F.R. Part 200, and 34 C.F.R. § 300.718, the State must request prior approval from OSEP for certain State-level activities or expenses. On October 29, 2019, the Office of Special Education and Rehabilitative Services released a Frequently Asked Questions (2019 FAQs) document on prior approval.² The State did not submit a participant support costs request with its grant application. If the State plans to use its FFY 2022 IDEA Part B grant funds for such costs, and those costs fall outside of the scope of the 2019 FAQs, it must submit a request for prior approval to which OSEP will respond separate from the grant letter.

Under Section 608(a)(2) of the IDEA, each State that receives funds under IDEA Part B is required to inform in writing local educational agencies located in the State of any State-imposed rule, regulation, or policy that is not required by IDEA or Federal regulations. A State may use the same list of State-imposed rules, regulations, and policies that it was required to submit to the Department in Section IV of its IDEA Part B application for this purpose.

In Section V of its IDEA Part B application, pursuant to the authority in IDEA Section 618(a)(3), the State was required to submit data on the total amount of State financial support made available for special education and related services for children with disabilities in State fiscal year (SFY) 2020 and SFY 2021. If OSEP receives information through audits, fiscal monitoring or other means that raises questions about the data your State has provided in Section V, OSEP will follow-up with your State.

Section 604 of the IDEA provides that “[a] State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this [Act].” Section 606 provides that each recipient of assistance under the IDEA make positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under the IDEA. Therefore, by accepting this grant, your State is expressly agreeing as a

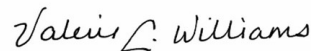
condition of IDEA funding to a waiver of Eleventh Amendment immunity and to ensuring that positive efforts are made to employ and advance employment of qualified individuals with disabilities in programs assisted under the IDEA.

The enclosed grant awards of FFY 2022 funds are made with the continued understanding that this Office may, from time to time, require clarification of information within your application, if necessary. These inquiries may be necessary to allow us to appropriately carry out our administrative responsibilities related to IDEA Part B.

As a reminder, all prime recipients of IDEA Part B funds must report subaward information as required by the Federal Funding Accountability and Transparency Act of 2006 (FFATA), as amended in 2008. First-tier subaward information must be reported by the end of the following month from when the award was made or obligated. FFATA guidance is found at <https://www.fsr.gov/>. Please contact your State's Fiscal Accountability Facilitator if you have further questions.

We appreciate your ongoing commitment to the provision of quality educational services to children with disabilities.

Sincerely,



Valerie C. Williams
Director
Office of Special Education Programs

Enclosures

- Enclosure A (Sections II.A-C. of the State's application)
- Enclosure B (Section II.D. of the State's application)
- Enclosure C
- Enclosure D
- Enclosure E – Specific Conditions

cc: State Director of Special Education

State Name: Texas

Enclosure A

Section II

A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

<p>Yes <i>(Assurance is given.)</i></p>	<p>No <i>(Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)</i> <i>Check and enter date(s) as applicable</i></p>	<p>Assurances Related to Policies and Procedures</p>
	<p>X June 30, 2023</p>	<p>1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.</p>
<p>X</p>		<p>2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)</p>
	<p>X June 30, 2023</p>	<p>3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.</p>
<p>X</p>		<p>4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)</p>
<p>X</p>		<p>5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular</p>

		classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)
	X June 30, 2023	11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or

		mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
X		14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C); 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant

		discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. <i>(Note: Check either "23b.1" or "23b.2" whichever applies.</i>
X		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: <ul style="list-style-type: none"> • require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or • purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)
		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

C. Certifications

The State is providing the following certifications:

Yes	Certifications
X	<p>1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i>, is on file with the Secretary of Education.</p> <p>With respect to the <i>Certification Regarding Lobbying</i>, the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.</p>
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

D. Statement

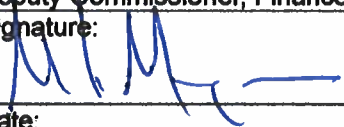
I certify that the State of TEXAS can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA, as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2023. (34 CFR § 76.104)

I, the undersigned authorized official of the

Texas Education Agency
(Name of State and official name of State agency)

am designated by the Governor of this State to submit this application for FFY 2022 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name of Authorized Representative of the State: Mike Meyer
Title of Authorized Representative of the State: Deputy Commissioner, Finance
Signature: 
Date: 5/10/22

Enclosure C
IDEA Grants to States Program
(Part B, Section 611)

Explanation of the Federal Fiscal Year (FFY) 2022 Allocation Table

Total Grant Award (Column B)

Column B shows your total grant award for the Grants to States program for FFY 2022 under the Consolidated Appropriations Act, 2022 (Public Law 117-103).

State total grants are calculated in accordance with several factors. First, each State is allocated an amount equal to the amount that it received for fiscal year 1999. If the total program appropriation increases over the prior year, 85 percent of the remaining funds are allocated based on the relative population of children aged 3 through 21 who are in the age range for which the State ensures the availability of a free appropriate public education (FAPE) to children with disabilities. Fifteen percent of the remaining funds are allocated based on the relative population of children aged 3 through 21 living in poverty who are in the age range for which the State ensures the availability of FAPE to children with disabilities. The statute also includes several maximum and minimum allocation requirements when the amount available for distribution to States increases.

If the amount available for allocation to States remains the same from one year to the next, States receive the same level of funding as in the prior year. If the amount available for allocation to States decreases from the prior year, any amount available for allocation to States above the fiscal year 1999 level is allocated based on the relative increases in funding that the States received between fiscal year 1999 and the prior year. If there is a decrease below the amount allocated for 1999, each State's allocation is ratably reduced from the fiscal year 1999 level.

Section 611 Base Allocation to LEAs (Column C)

Column C is the portion of the local educational agency (LEA) flow-through amount that must be distributed to LEAs based on the amounts that the LEAs would have received from FFY 1999 funds had the State educational agency (SEA) flowed through 75 percent of the State award to LEAs. Note that this amount is less than the minimum amount that States were required to provide to LEAs from FFY 1999 funds. The Part B regulations at 34 CFR §300.705(b)(2) clarify how adjustments to the base payment amounts for LEAs are made.

Maximum Set-Aside for Administration (Column D)

Column D includes the maximum State set-aside amount for administration. A State may reserve for State administration up to the greater of the maximum amount the State could reserve for State administration from fiscal year 2004 funds, or \$800,000, increased by inflation as reflected by the Consumer Price Index for All Urban Consumers (CPIU). The maximum State set-aside amount available for administration for FFY 2022 is a 6.0 percent increase over the maximum amount that was available for FFY 2021. Each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under this program or \$35,000, whichever is greater.

Maximum Set-Aside Available for Other State-Level Activities (Columns E - H)

The maximum level of funding that may be set aside from a State's total allocation for State-level activities, other than administration, is contingent upon the amount that the State actually sets aside for administration and whether the State opts to establish a LEA high-risk pool under IDEA, section 611(e)(3). For FFY 2022:

- (1) If the actual amount a State will set aside for State administration is over \$850,000 and the State will use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 10.0 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (2) If the actual amount a State will set aside for State administration is over \$850,000 and the State will not use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 9.0 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (3) If the actual amount a State will set aside for State administration is \$850,000 or less and the State will use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 10.5 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.
- (4) If the actual amount a State will set aside for State administration is \$850,000 or less and the State will not use funds from its award to support a high-risk pool, the maximum amount the State may set aside of its total award for State-level activities (other than administration) is 9.5 percent of its FFY 2006 award as adjusted for inflation based on the CPIU.

SEAs are required to use some portion of these State set-aside funds on monitoring, enforcement, and complaint investigation and to establish and implement the mediation process required by section 615(e), including providing for the costs of mediators and support personnel. In addition, States setting aside funds for a high-risk pool, as provided for under section 611(e)(3), must reserve at least 10 percent of the amount the State reserved for State-level activities for the high-risk pool.

SEAs also may use State set-aside funds: (1) for support and direct services, including technical assistance, personnel preparation, and professional development and training; (2) to support paperwork reduction activities, including expanding the use of technology in the individualized education program process; (3) to assist LEAs in providing positive behavioral interventions and supports and mental health services to children with disabilities; (4) to improve the use of technology in the classroom by children with disabilities to enhance learning; (5) to support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities; (6) for development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to postsecondary activities; (7) to assist LEAs in meeting personnel shortages; (8) to support capacity building activities and improve the delivery of services by LEAs to improve results for children with disabilities; (9) for alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools; (10) to support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities,

in accordance with sections 1111(b) and 1201 of the Elementary and Secondary Education Act of 1965 (ESEA); and (11) to provide technical assistance to schools and LEAs, and direct services, including direct student services described in section 1003A(c)(3) of the ESEA to children with disabilities, in schools or LEAs implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement based on the challenging academic standards described in section 1111(b)(1) of the ESEA.

Section 611 Population/Poverty

The minimum amount that a State must flow through to LEAs based on population/poverty equals the total award (Column B) minus the LEA base allocation (Column C), the maximum amount available for administration (Column D), and the maximum amount available for other State-level activities (Column E, F, G, or H). Of this amount, 85 percent must be distributed on a pro-rata basis to LEAs according to public and private elementary and secondary school enrollment, and 15 percent on a pro-rata basis to LEAs according to the number of children in LEAs living in poverty, as determined by the State.

Enclosure D
IDEA Preschool Grants Program
(Part B, Section 619)

Explanation of the Federal Fiscal Year (FFY) 2022 Allocation Table

Total Grant Award (Column B)

Column B shows your total grant award for the Preschool Grants program for FFY 2022 under the Consolidated Appropriations Act, 2022 (Public Law 117-103).

State total grants are calculated in accordance with several factors. First, each State is allocated an amount equal to its fiscal year 1997 allocation. For any year in which the appropriation is greater than the prior year level, 85 percent of the funds above the fiscal year 1997 level are distributed based on each State's relative population of children aged 3 through 5. The other 15 percent is distributed based on each State's relative population of children aged 3 through 5 who are living in poverty. The formula provides several minimums and maximums regarding the amount a State can receive in any year.

If the amount available for allocation to States remains the same from one year to the next, States receive the same level of funding as in the prior year. If the amount available for allocation to States decreases from the prior year, any amount available for allocation to States above the fiscal year 1997 level is allocated based on the relative increases in funding that the States received between fiscal year 1997 and the prior year. If there is a decrease below the amount allocated for fiscal year 1997, each State's allocation is ratably reduced from the fiscal year 1997 level.

Maximum State Set-Aside (Column C)

States may reserve funds for State-level activities up to an amount equal to 25 percent of the amount they received for fiscal year 1997 under the Preschool Grants program, adjusted upward each year by the lesser of either the rate of increase in the State's allocation or the rate of inflation as reflected by the Consumer Price Index for All Urban Consumers (CPIU). If a State chooses to set aside the maximum amount of FFY 2022 section 619 funds for State-level activities, the amount available for making local educational agency (LEA) base payments in Column E may be below 75 percent of the State's FFY 1997 section 619 grant.

State educational agencies (SEAs) may use State set-aside funds: (1) for administration (limited to no more than 20 percent of the maximum State set-aside – Column C); (2) for support services (including establishing and implementing the mediation process required under section 615(e) of the IDEA and 34 C.F.R. § 300.506), which may benefit children with disabilities younger than 3 or older than 5, as long as those services also benefit children with disabilities aged 3 through 5; (3) for direct services for children with disabilities who are eligible for services under section 619; (4) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(15) of the IDEA; (5) to supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families (but not more than up to 1 percent of the amount received under this program); (6) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C to children with disabilities who are eligible for services under section 619 and who previously received services under Part C until such children enter, or are eligible under State law to enter, kindergarten; or (7) at the

State's discretion, to continue service coordination or case management for families who receive services under Part C, consistent with number 6.

Maximum Set-Aside Available for Administration (Column D)

Column D indicates the maximum portion of the total State set-aside amount (Column C) that may be used to administer this program. The amount that may be used for administration is limited to 20 percent of the maximum amount available to a State for State-level activities. These funds may also be used, at the State's discretion, for the administration of the Grants for Infants and Families program (IDEA Part C).

Section 619 Base Payment for LEAs (Column E)

Column E is the portion of the LEA flow-through amount that must be distributed to LEAs based on the amounts that the LEAs would have received from the FFY 1997 funds had the SEA flowed through 75 percent of the State award to LEAs. Note that this amount is less than the minimum amount that States were required to provide LEAs from the FFY 1997 funds. The IDEA Part B regulations at 34 C.F.R. § 300.816(b) clarify how adjustments to the base payment amounts for LEAs are made. If, after the State set-aside is subtracted from the total award, the State determines that the amount available for base payments is less than 75 percent of the State's FFY 1997 section 619 grant, the State must ratably reduce each LEA's base payment by the percentage of the reduction in the total amount actually available for making base payments in FFY 2021. For example, if the total amount in the "Base Payment for LEAs" column is \$100 and the total amount available for making base payments in FFY 2022 is \$90, the reduction in the total base payment amount is 10 percent, and each LEA's base payment for FFY 2022 must be reduced by 10 percent. The State, if necessary, must make base payment adjustments in accordance with 34 C.F.R. § 300.816(b) based on the ratably reduced base payments.

Section 619 Population/Poverty Factors (Column F)

Column F shows the minimum amount a State must allocate to LEAs based on population and poverty factors if a State chooses to set aside the maximum amount of FFY 2022 section 619 funds for State-level activities. As noted above, if a State chooses to set aside the maximum amount of FFY 2022 section 619 funds for State-level activities, the amount available for LEA subgrants could be below the base payment amount in Column E, and the State will not have any remaining section 619 funds available after making base payments. Therefore, the State would be unable to make a population or poverty payment. If States with no funds in Column F reserve the maximum amount of FFY 2022 section 619 funds for State-level activities, they would be unable to make a population or poverty payment.

After a State sets aside funds for State-level activities and makes the required base payments, 85 percent of the remaining amount must be distributed on a pro-rata basis to LEAs according to public and private elementary and secondary school enrollment, and 15 percent on a pro-rata basis to LEAs according to the number of children in LEAs living in poverty, as determined by the State.

Total State Minimum Flow-Through to LEAs (Column G)

The minimum flow-through to LEAs (Column G) is the difference between the Total Grant Award (Column B) and the Maximum State Set-Aside (Column C). If States do not choose to retain the maximum amount available under the State set-aside (Column C), the remaining funds flow through to LEAs in addition to the funds in Column G.

Enclosure E Specific Conditions

I. Basis for Specific Conditions

The U.S. Department of Education's (the Department's) Office of Special Education Programs (OSEP), is imposing Specific Conditions on Texas Education Agency's (TEA's) Federal fiscal year (FFY) 2022 grant award under Part B of the Individuals with Disabilities Education Act (IDEA). These Specific Conditions are based on the Specific Conditions placed on TEA's FFY 2021 IDEA grant award and are required to ensure that TEA corrects its longstanding noncompliance regarding its Dyslexia program, so that the program is implemented and monitored consistent with the IDEA's requirement for the provision of a free appropriate public education (FAPE), child find, evaluation, and the State general supervision requirements.

In addition to these Specific Conditions, because TEA is in the early stages of implementing its revised monitoring system to address the implementation of the State's Dyslexia program, including the revised Dyslexia Handbook, OSEP reserves the right, and provides notice that, consistent with section 431 of GEPA (*20 U.S.C. § 1231a*), 34 C.F.R. § 76.720, and 2 C.F.R. § 200.329, the Department may request additional documentation and information regarding any of TEA's activities related to the Dyslexia program and, if appropriate, may conduct additional on-site or remote monitoring.

The noncompliance that led to the initial imposition of Specific Conditions on the State's FFY 2021 IDEA Part B grant award dates back to OSEP's February 2017 on-site monitoring visit. OSEP subsequently issued findings of noncompliance and required actions in its January 11, 2018 monitoring report¹ and put TEA on notice of its failure to comply with the certain IDEA requirements. On April 23, 2018, TEA submitted its Corrective Action Response (CAR) to OSEP. The CAR detailed actions TEA would take to resolve the findings of noncompliance and the required actions imposed by OSEP in January of 2018. In an October 19, 2018, letter, OSEP required TEA to take certain additional actions to address and demonstrate correction of the findings of noncompliance identified in January 2018, and informed TEA that a follow-up visit would be conducted in 2019 to monitor TEA's implementation of the CAR. In January 2019, TEA provided additional information about its implementation of the CAR. In May 2019, OSEP conducted another on-site monitoring visit to assess TEA's progress in implementing its CAR, and issued a report of the results of its monitoring activities on October 19, 2020. In the 2020 monitoring report, OSEP concluded that TEA had implemented only one of the items in its April 2018 CAR and had failed to implement the additional required actions in OSEP's October 2018 response to the CAR, despite TEA's belief that it had completed all actions outlined in its CAR. In response to OSEP's 2020 monitoring report, TEA submitted numerous documents in support of its assertion that the findings of noncompliance had been corrected. On August 27, 2021, OSEP issued its analysis of TEA's submissions, determining that TEA had not taken the necessary actions to correct all the previously identified noncompliance and requiring additional actions to address the continuing noncompliance. On September 28, 2021, TEA submitted documentation to show its progress in carrying out the required actions in OSEP's August 2021 letter. Based on TEA's submissions, OSEP determined that the State had not met the required actions related to the State's Dyslexia program and the State's general supervision responsibilities.

¹ A copy of OSEP's 2018 monitoring report is available at <https://www2.ed.gov/fund/data/report/idea/dmsrpts/index.html>

On October 1, 2021, pursuant to IDEA section 616(g) and 2 C.F.R. § 200.208, OSEP first imposed Specific Conditions on the State’s FFY 2021 grant award under Part B of the IDEA due to the State’s longstanding noncompliance with ensuring that the Dyslexia program is implemented and monitored consistent with IDEA’s requirements for the provision of FAPE, child find, evaluation, and the State general supervision requirements.²

Summary of the State’s Reporting Under the FFY 2021 Specific Conditions

With its November 1, 2021 submission, TEA provided to OSEP:

- A report of the local educational agencies (LEAs) in Texas that provided an assurance that they were in compliance with the requirements described in *Errata #1*, which added specific information to the required assurances for the State fiscal year (SFY) 2021-2022 IDEA Part B Grant Application for LEAs in Texas. This assurance relates to CAR 1.b. *Ensuring All LEAs Have Policies, Procedures, and Programs that Meet IDEA’s Child Find and FAPE Requirements*. TEA reported that 99.6% of LEAs in Texas provided the required additional assurance.
- A report on TEA’s verification of website postings associated with CAR 1.a, *Communicating Child Find and FAPE Requirements and Obligations Under IDEA to All LEAs*; 2.a, *Requiring All LEAs to Distribute Information to Each Student’s Family*, and 3.c. *Creating a Suite of Information to Share with Parents of Children Suspected of Having a Disability under IDEA*. In TEA’s document, “OSEP CAR 1.a Verification Table”, TEA submitted a stratified random sample of 300 LEAs in Texas that are representative of the State with regard to population, geography, and socio-economic status. TEA reported that 300 LEAs constitutes a confidence interval of approximately .95. This report also included links to the individual LEA websites reviewed and where the required postings would be found.
- A plan to disseminate and train parents, stakeholders, and LEAs, including public charter schools that act as LEAs, throughout Texas on the newly revised Dyslexia Handbook, occurring from September 2021 through August 2022. This document is titled “Dyslexia Handbook – Training, Guidance and Resource Dissemination Planning”. The document outlined the resource(s) to be used for training, the audience, the mode of the training, as well as a description of the training related to the revised Dyslexia Handbook. TEA also explained that the plan was developed in collaboration with stakeholders representing various perspectives and regions within the state.

With its December 15, 2021 submission, TEA provided to OSEP:

- Documentation outlining the progress TEA had made regarding its training and dissemination plan using the “Dyslexia Handbook – Training, Guidance and Resource Dissemination Planning” document. This submission documented the training that had been completed as of the date of submission and highlighted that TEA held a parent webinar in English and Spanish that drew 950 live participants with an additional 1,898 views of the recorded presentation as of November 30, 2021.

² Further details regarding the engagement between OSEP and TEA can be found in the background section of the October 1, 2021 Specific Conditions at: <https://www2.ed.gov/fund/data/report/idea/dmsrpts/index.html#b-tx>. Those details are incorporated herein by reference.

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- Documentation detailing TEA’s revised monitoring protocols for the Dyslexia Program. The submission included two documents: 1. *External Desk Review Rubric 12.2021* and 2. *External Dyslexia Program Evaluation Rubric Updated September 2021*. TEA explained that the *External Desk Review Rubric*, “[i]s designed to evaluate the local education agency’s (LEA) performance on all seven critical areas of compliance identified in the diagnostic framework but does not limit the identification of other areas of IDEA non-compliance.” These seven areas are Evaluation, IEP [individualized education program] Implementation, Properly Constituted Admission, Review and Dismissal (ARD) Committees, IEP Content, IEP Development, Transition, and State Assessment. The *External Dyslexia Program Evaluation Rubric* examines the LEA’s procedures in the areas of implementation in: (1) Early Intervention and Identification; (2) Program of Instruction; and, (3) Parent Communication.
- Monitoring documentation, and communications for 17 LEAs related to the identification and correction of noncompliance in the areas of child find, individualized evaluations, and the provision of FAPE.

With its February 15, 2022 submission, TEA submitted to OSEP:

- A notification that the revised Dyslexia Handbook went into effect on February 10, 2022.
- Documentation highlighting progress TEA had made regarding its training and dissemination plan using the “Dyslexia Handbook – Training, Guidance and Resource Dissemination Planning” document. TEA reported that in response to the revised Dyslexia Handbook going into effect, new activities were added to the training and dissemination plan. Specifically, TEA required all LEAs to attend training developed by TEA on updates to the Dyslexia Handbook. TEA required LEAs to submit a formal assurance after participating in the training and it also tracked attendance through an education service center registration system.
- Documentation related to monitoring and communications with 34 LEAs related to the identification and correction of noncompliance identified through monitoring in the areas of child find, individualized evaluations, and the provision of FAPE.

With its April 15, 2022 submission, TEA provided to OSEP:

- Documentation highlighting progress TEA had made regarding its training and dissemination plan using the “Dyslexia Handbook – Training, Guidance and Resource Dissemination Planning” document. Specifically, TEA reported the release of a “To the Administrator Addressed” letter (TAA letter) dated March 13, 2022, which outlined the requirement for LEAs (including public charter schools that operate as LEAs) in Texas to designate a staff member to attend training developed by TEA on the revised Texas Dyslexia Handbook by no later than August 31, 2022. The TAA letter also required each LEA to provide an assurance, through the “Legal Framework” web portal, that it has placed a link to this TAA letter, in both English and Spanish, on its local public facing website, and that it has updated all websites, materials, static resources, and information available to parents and staff to reflect the revised Dyslexia Handbook by June 11, 2022.
- Documentation related to monitoring and communications with 29 LEAs related to the identification and correction of noncompliance identified through monitoring in the

areas of child find, individualized evaluations, and the provision of FAPE.

With its June 15, 2022 submission, TEA provided to OSEP:

- Documentation demonstrating the progress that TEA had made regarding its training and dissemination plan using the “Dyslexia Handbook – Training, Guidance and Resource Dissemination Planning” document. In this document TEA reported that after issuing its March 13, 2022 TAA letter, “99% of LEAs in the [S]tate have provided an assurance that local websites and resource updates are complete.” Additionally, TEA reported that it will verify compliance with the website and resource updates by conducting website checks as part of its monitoring in the Fall of 2022. TEA also reported that approximately 70% of LEAs in the State have completed the required Dyslexia Handbook training and that additional training sessions are scheduled prior to the August 31, 2022 deadline.
- Documentation related to monitoring, and communications with 44 LEAs including public charter schools that operate as LEAs, related to the identification and correction of noncompliance identified through monitoring in the areas of child find, individualized evaluations, and the provision of FAPE.

OSEP recognizes that TEA has made significant progress toward achieving compliance with OSEP’s Specific Conditions and IDEA’s requirements for the provision of FAPE, child find, evaluation, and the State general supervision requirements. However, as detailed above, TEA reported that only approximately 70% of its LEAs have completed the required Dyslexia Handbook training and that additional training sessions are scheduled. Additionally, although 99% of LEAs have uploaded assurances that they have placed a link to the TAA letter on their local, public facing websites, and updated all websites, materials, static resources, and information available to parents and staff to reflect the revised Dyslexia Handbook, TEA has not yet verified whether the assurances are accurate and LEAs are in compliance with this requirement. These activities are crucial to ensuring that LEAs are implementing the Dyslexia program, including the revised Dyslexia Handbook, consistent with IDEA Part B requirements.

For the reasons listed above, OSEP has determined that TEA has not yet demonstrated that it has met the Specific Condition that its Dyslexia program, including the revised Dyslexia Handbook, are being implemented, disseminated, and monitored consistent with IDEA’s requirements for the provision of FAPE, child find, evaluation, and the State general supervision requirements. Therefore, OSEP is imposing Specific Conditions on the State’s FFY 2022 IDEA Part B grant award based on the Specific Conditions placed on TEA’s FFY 2021 IDEA grant award. The Specific Conditions are set forth in the following section.

II. Specific Conditions

These Specific Conditions are imposed on the State’s FFY 2022 IDEA Part B grant awards pursuant to IDEA section 616(g) and 2 C.F.R. § 200.208, by OSEP. The Specific Conditions are intended to ensure that the State corrects its longstanding noncompliance with ensuring that the Dyslexia program, including the revised Dyslexia Handbook, is implemented and monitored consistent with IDEA’s requirements for the provision of FAPE, child find, evaluation, and the State general supervision requirements, as discussed in further detail below.

Required Reporting on Areas of Longstanding Noncompliance: TEA must provide additional information and reporting in the areas of longstanding noncompliance, as described below.

TEA must demonstrate that its Dyslexia program, including the revised Dyslexia Handbook, is being implemented, disseminated, and monitored in compliance with the general supervision responsibilities as required by IDEA sections 612(a)(11) and 616(a)(1)(C), and their implementing regulations at 34 C.F.R. §§ 300.149 and 300.600, along with 20 U.S.C. 1232d(b)(3)(A), to ensure that LEAs throughout the State properly implement IDEA’s child find, evaluation, and the provision of FAPE requirements. 34 C.F.R. §§ 300.111, 300.122, and 300.300-300.311. TEA must also demonstrate that its Dyslexia program, including the revised Handbook, is implemented in compliance with IDEA requirements to ensure that FAPE is made available to all children with disabilities residing in the State’s mandated age ranges (ages 3 through 21), as required by IDEA section 612(a)(1) and its implementing regulation at 34 C.F.R. § 300.101.

- **Required reporting on progress:** The State must provide periodic updates on the status of the revised Dyslexia Handbook dissemination and communication plan to inform stakeholders, parents, and LEAs throughout Texas of the changes in the revised Dyslexia Handbook. Specifically, with regards to TEA’s training of LEAs on the revised Dyslexia Handbook, TEA must provide documentation to the Department verifying the progress or completion of its proposed plan of training all LEAs throughout the State. TEA must also report on the progress TEA has made, in accordance with its plan, to verify that all LEAs in the State have posted the TAA letter on their local, public facing websites, and have updated all websites, materials, static resources, and information available to parents and staff to reflect the revised Dyslexia Handbook. The reporting period for each progress report is reflected below:

Due Date	Reporting Period
October 15, 2022	July 1, 2022 – September 30, 2022
January 15, 2023	October 1, 2022 – December 31, 2022
April 15, 2023	January 1, 2023 – March 31, 2023
June 15, 2023	April 1, 2023 – May 31, 2023

In each progress report, the State must submit the following information:

1. Report to OSEP on the progress TEA has made on its plan to train all LEAs in the State on the changes in the revised Dyslexia Handbook, including the number and percent of LEAs that have completed the training, and the expected date of completion for this requirement.
2. Report to OSEP on the progress TEA has made, in accordance with its plan, to verify that all LEAs in the State have posted the TAA letter on their local, public facing websites, and have updated all websites, materials, static resources, and information available to parents and staff to reflect the revised Dyslexia Handbook, including the total number and percent of LEAs for which TEA has verified compliance, and the expected date of completion for this requirement.

III. Evidence Necessary for Specific Conditions to be Removed

These Specific Conditions require TEA to submit information, data, and documentation, as outlined above, demonstrating that the State’s Dyslexia Handbook and program are being implemented, disseminated, and monitored consistent with IDEA’s: (1) Child

Find and individualized evaluation requirements; (2) FAPE requirements; and (3) general supervision requirements applicable to States, including proper identification and correction of noncompliance.

The Department will remove these Specific Conditions if, at any time prior to the expiration of the FFY 2022 grant year, the State provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above.

IV. Method of Requesting Reconsideration

The State can write to OSEP’s Director, Valerie C Williams, if it wishes the Department to reconsider any aspect of the Specific Conditions. The request must describe in detail the changes to the Specific Conditions sought by the State and the reasons for those requested changes.

V. Submission of Reports

The Commissioner of Education or other authorized official of Texas shall certify the completeness and accuracy of each report. TEA must submit all reports required under these Specific Conditions by email to: Jennifer.Finch@ed.gov.

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