

**Federal Register** inviting States to submit applications for this program.

1. *Significance.* The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(a) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

(b) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues or effective strategies.

(c) The importance or magnitude of the results or outcomes likely to be attained by the project, especially improvements in teaching and student achievement.

2. *Quality of the project design.* The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(b) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(c) The quality of the proposed project's procedures for documenting project activities and results.

3. *Quality of the management plan.* The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(a) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(b) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

#### **Executive Order 12866**

This notice of final additional requirements and selection criteria has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently. Although there may be costs associated with participating in this pilot, the Department will provide incentive payments to States to help offset these costs. In addition, we expect that States will weigh these costs against the benefits of being able to participate in the pilot and will only opt to participate in this pilot if the potential benefits exceed the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

#### **Intergovernmental Review**

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

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(Catalog of Federal Domestic Assistance Numbers 84.326P Individuals with Disabilities Education Act Paperwork Waiver Demonstration Program)

**Program Authority:** 20 U.S.C. 1408.

Dated: June 29, 2007.

**Jennifer Sheehy,**

*Director of Policy and Planning for Special Education and Rehabilitative Services.*

[FR Doc. E7-13145 Filed 7-5-07; 8:45 am]

**BILLING CODE 4000-01-P**

## **DEPARTMENT OF EDUCATION**

**RIN 1820-ZA41**

### **The Individuals With Disabilities Education Act Multi-Year Individualized Education Program Demonstration Program**

**AGENCY:** Office of Special Education and Rehabilitative Services, Department of Education.

**ACTION:** Notice of final additional requirements and selection criteria.

**SUMMARY:** The Assistant Secretary for Special Education and Rehabilitative Services announces additional requirements and selection criteria for a competition in which the Department will select up to 15 States to participate in a pilot program, the Multi-Year Individualized Education Program (IEP) Demonstration Program (Multi-Year IEP Program). State proposals approved under this program will create opportunities for participating local educational agencies (LEAs) to improve long-term planning for children with disabilities through the development and use of comprehensive multi-year IEPs. Additionally, the additional requirements and selection criteria focus on an identified national need to reduce the paperwork burden associated with IEPs while preserving students' civil rights and promoting academic achievement. The Assistant Secretary will use these additional requirements and selection criteria for a single one-time only competition.

**DATES:** *Effective Date:* These additional requirements and selection criteria are effective August 6, 2007.

**FOR FURTHER INFORMATION CONTACT:** Patricia Gonzalez, U.S. Department of Education, 400 Maryland Avenue, SW., Room 4088, Potomac Center Plaza, Washington, DC 20202-2700. Telephone: (202) 245-7355 or by e-mail: [Patricia.Gonzalez@ed.gov](mailto:Patricia.Gonzalez@ed.gov).

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** We published a notice of proposed requirements and selection criteria for the Multi-Year IEP Program in the **Federal Register** on December 19, 2005 (70 FR 75158) (December 2005 Notice).

The purpose of the Multi-Year IEP Program established under section 614(d)(5) of the Individuals with Disabilities Education Act, as amended by the Individuals with Disabilities Education Improvement Act (Act), is to provide an opportunity for States (including Puerto Rico, the District of Columbia and the outlying areas) to allow parents and LEAs the opportunity for long-term planning by offering the option of developing a comprehensive multi-year IEP, not to exceed three years, that is designed to coincide with the natural transition points for the child. Under section 614(d)(5)(C) of the Act, the term "natural transition points" means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to secondary school grades, and from secondary school grades to post-secondary activities, but in no case a period longer than three years (for the full text of section 614(d)(5) of the Act, go to: <http://www.gpoaccess.gov/plaws/index.html>).

#### **Statutory Requirements for Multi-Year IEP Program**

As outlined in the December 2005 Notice, the Act establishes the following requirements that States must follow in developing and implementing their Multi-Year IEP Program proposals:

1. A State applying for approval under this program must propose to conduct demonstrations using a comprehensive multi-year IEP (not to exceed three years) that coincides with natural transition points for each participating child.

2. Except as specifically provided for under this program, all of the Act's requirements regarding provision of a free appropriate public education (FAPE) to children with disabilities (including requirements related to the content, development, review, and revision of the IEP under section 614(d) of the Act and procedural safeguards under section 615 of the Act) apply to participants in this Multi-Year IEP Program.

3. A State submitting a proposal under the Multi-Year IEP Program must include the following material in its proposal:

(a) Assurances that if an LEA offers parents the option of a multi-year IEP, development of the multi-year IEP is voluntary.

(b) Assurances that the LEA will obtain informed consent from parents before a comprehensive multi-year IEP is developed for their child.

(c) A list of all required elements for a comprehensive multi-year IEP, including:

(i) Measurable long-term goals not to exceed three years, coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability.

(ii) Measurable annual goals for determining progress toward meeting the long-term goals, coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability.

(d) A description of the process for the review and revision of a multi-year IEP, including:

(i) A review by the IEP team of the child's multi-year IEP at each of the child's natural transition points.

(ii) In years other than a child's natural transition points, an annual review of the child's IEP to determine the child's current levels of progress and whether the annual goals for the child are being achieved, and a requirement to amend the IEP, as appropriate, to enable the child to continue to meet the measurable goals set forth in the IEP.

(iii) If the IEP team determines, on the basis of a review, that the child is not making sufficient progress toward the goals described in the multi-year IEP, a requirement that within 30 calendar days of the IEP team's determination, the LEA shall ensure that the IEP team carries out a more thorough review of the IEP in accordance with section 614(d)(4) of the Act.

(iv) A requirement that, at the request of the parent, the IEP team will conduct an immediate review of the child's multi-year IEP, rather than at the child's next transition point or annual review.

#### **Background for Additional Requirements and Selection Criteria**

While the Act establishes the foregoing requirements, it does not provide for other requirements that are necessary for the implementation of this program. Accordingly, in the December 2005 Notice, we proposed additional Multi-Year IEP Program requirements to address program implementation issues as well as selection criteria that we will use to evaluate State proposals for this program.

In the December 2005 Notice, we also proposed requirements with which States would need to comply to allow the Department to evaluate the effectiveness of the Multi-Year IEP

Program. Under section 614(d)(5)(B) of the Act, the Department is required to report to Congress on the effectiveness of this program. To accomplish this, the Institute of Education Sciences (IES) will conduct an evaluation of the program using a quasi-experimental design that collects data on the following outcomes:

(i) Educational and functional results (including academic achievement) for students with disabilities.

(ii) Time and resource expenditures by IEP team members and teachers.

(iii) Quality of long-term education plans incorporated in IEPs.

(iv) Degree of collaboration among IEP members.

(v) Degree of parent satisfaction.

These outcomes will be compared for students whose parents consent to their child's participation in a multi-year IEP and students who are matched on type of disability, age, socioeconomic status, race/ethnicity, language spoken in the home, prior educational outcomes, and to the extent feasible, the nature of special education, who do not participate in the multi-year IEP. Specifics of the design will be confirmed during discussions with the evaluator, a technical workgroup, and the participating States during the first several months of the study. Participating States will play a crucial supportive role in this evaluation. They will, at a minimum—

(i) Assist in developing the specifics of the evaluation plan;

(ii) Assure that districts participating in the multi-year IEP will participate in the evaluation;

(iii) Supply data relevant to the outcomes being measured from State data sources (e.g., student achievement and functional outcome data, complaint numbers); and

(iv) Provide background information on relevant State policies and practices, provide access to current student IEPs (consistent with the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g (FERPA) and the privacy requirements under the Act) during Year One of the evaluation, and complete questionnaires and participate in interviews.

The December 2005 Notice described the rationale for the additional requirements and selection criteria we were proposing. This notice of final additional requirements and selection criteria contains several changes from the December 2005 Notice. We fully explain these changes in the *Analysis of Comments and Changes* section that follows.

### Analysis of Comments and Changes

In response to the Secretary's invitation in the December 2005 Notice, 31 parties submitted comments on the proposed additional requirements and selection criteria. In addition, we received approximately 1,200 comments that were identical in form and substance and that summarized major recommendations submitted by one of the 31 commenters referenced in the preceding sentence; we do not respond to these 1,200 comments separately.

An analysis of the comments and of any changes in the proposed additional requirements and selection criteria follows.

We group issues according to subject. Generally, we do not address technical and other minor changes, and suggested changes the law does not authorize us to make under the applicable statutory authority, or comments that express concerns of a general nature about the Department or other matters that are not directly relevant to the Multi-Year IEP Program.

#### FAPE

*Comment:* Many commenters recommended revising the final additional requirements and selection criteria to require States to identify effective mechanisms for reporting and resolving adverse events, such as the denial of FAPE.

*Discussion:* We agree that States participating in this program should be required to report on and remedy any adverse consequences of the Multi-Year IEP Program regarding the provision of appropriate services or the denial of other rights protected under the Act and its implementing regulations. Accordingly, we will add a new requirement for States to describe in their proposals how they will collect and report to the Department and the evaluator evidence of any adverse consequences of their projects, including information that children with disabilities are not receiving appropriate services because of their participation in the Multi-Year IEP Program, and information obtained through their complaint and due process systems relating to the Multi-Year IEP Program. The new requirement will also require States to report on how the States responded to this information, including the outcome of that response.

*Changes:* The additional Multi-Year IEP Program requirements have been revised by adding a new paragraph 3(e) to require each State to include in its proposal a description of how the State will collect and report to the

Department and the evaluator evidence of adverse consequences of the project and how the State responded to this information, including the outcome of that response.

*Comment:* Many commenters recommended that multi-year IEPs should be limited to students who are given assessments based on grade-level achievement standards, and should not be offered to students given assessments based on modified or alternate achievement standards.

Many commenters recommended that States not be allowed to restrict any multi-year IEP to any specific disability category or group of categories.

Several commenters recommended restricting multi-year IEPs for students who are expected to achieve the same standards as their non-disabled peers, as these students must have annual IEPs that are directly tied to grade appropriate core curriculum content standards.

Several commenters recommended that clarification be given regarding processes that a State may use for students given assessments against modified or alternate achievement standards.

*Discussion:* Section 614(d)(1)(A)(i)(I)(cc) of the Act requires that the IEPs for students who take alternate assessments based on alternate achievement standards include benchmarks or short-term objectives. We believe that Congress included this provision to ensure explicit short-term planning for students with the most significant cognitive disabilities who participate in alternate assessments based on alternate achievement standards. However, these students might also benefit from longer-range planning as part of multi-year IEPs, provided that such longer-range planning is complemented with shorter-term planning. The Act does not require that an IEP include benchmarks or short-term objectives for a student who takes an assessment based on modified achievement standards, as proposed by the Department on December 15, 2005 (70 FR 74624).

We do not agree with the commenters who suggested that multi-year IEPs should be restricted for students who are expected to achieve the same standards as their non-disabled peers, or for students assessed based on alternate or modified achievement standards. These suggestions would preclude the participation of all children with disabilities in the program and would be inconsistent with the Act.

Clarification is available on the processes that a State may use for students given assessments based on

alternate achievement standards (see *Alternate Achievement Standards for Students with the Most Significant Cognitive Disabilities: Non-Regulatory Guidance* (August, 2005); <http://www.ed.gov/policy/elsec/guid/altguidance.doc>). Because the final regulations on assessments based on modified achievement standards have not been finalized, we are unable to provide clarification at this time regarding processes that a State may use for students given assessments based on modified achievement standards.

We agree with the commenters who recommended that multi-year IEPs be available to all students with disabilities, regardless of disability category, except that the multi-year IEP for a student who takes an alternate assessment based on alternate achievement standards must also include benchmarks or short-term objectives in addition to meeting the other requirements of the multi-year IEP. Therefore, we will add language to additional requirement 3 reflecting this change.

*Changes:* We have added paragraph 3(a) to the additional requirements to require that States provide assurances that the multi-year IEP for any child with a disability who takes an alternate assessment based on alternate achievement standards includes a description of benchmarks or short-term objectives in accordance with section 614(d)(1)(A)(i)(I)(cc) of the Act.

*Comment:* Two commenters stated that there is a potential conflict between recently released proposed regulations permitting States to develop modified achievement standards and assessments based on those standards for certain children with disabilities (see the Notice of Proposed Rulemaking, published in the **Federal Register** on December 15, 2005 (70 FR 74623)). The commenters noted that section 200.1(e)(5) of the proposed regulations would require that IEP teams review, on an annual basis, decisions to assess students based on modified achievement standards to ensure that those standards remain appropriate. (70 FR 74623, 74635).

*Discussion:* The Department has not issued final regulations on modified achievement standards. However, when those regulations are finalized, if a State wanted to offer assessments based on modified academic achievement standards to eligible children with disabilities, the State would have to comply with the requirements specified in those regulations.

*Changes:* None.

*Comment:* Several commenters stated that nothing in the proposed additional requirements or selection criteria would

require an IEP team to revisit and adjust a student's IEP when a student is not progressing in accordance with his or her annual IEP goals.

*Discussion:* We believe that the commenters' concerns are addressed by the statutory requirements for this program. Under the Act, IEP teams are required to conduct annual reviews of a child's level of progress and whether the annual goals for the child are being achieved and to amend the IEP, as appropriate, to enable the child to continue to meet the measurable goals set forth in the IEP (see 614(d)(5)(A)(iii)(II)(dd)(BB) of the Act). Moreover, under 614(d)(5)(A)(iii)(II)(dd)(CC) of the Act, if the IEP team determines, on the basis of an annual review, that a child is not making sufficient progress toward the goals described in the multi-year IEP, the LEA must ensure that, within 30 days of the IEP team's determination, the IEP team carries out a more thorough review of the IEP. These statutory requirements are restated in paragraph 3(d)(ii) and (iii) of the *Statutory Requirements for Multi-Year IEP Program* section of this notice. Because the Act addresses the commenters' concerns, we do not believe additional requirements or selection criteria are necessary. Furthermore, all of the statutory requirements will be reflected in the application package for this competition.

*Changes:* None.

*Comment:* Many commenters recommended that States be required to provide a detailed description of how they plan to provide training on multi-year IEPs for administrators, teachers, related services providers, education support professionals, and parents. The commenters expressed concern that children with disabilities would be denied FAPE absent sufficient training of parents and education personnel on Federal and State requirements for multi-year IEPs.

*Discussion:* The Secretary agrees with the commenters that it is essential that parents, teachers, administrators, related services providers, and education support professionals understand the program in order to ensure proper implementation.

*Changes:* We have revised the additional requirements by adding a new paragraph 3(f) to require applying States to provide as part of their proposals a description of the procedures they will employ to ensure that diverse stakeholders understand the proposed elements of the State's submission for the Multi-Year IEP Program.

*Comment:* One commenter recommended defining the term "parent" to have the meaning of the term as defined in section 602(23) of the Act.

*Discussion:* We intend the term "parent" to have the meaning given the term in section 300.30 of the final regulations implementing part B of the Act (34 CFR 300.30).

However, we agree that additional clarification is needed and will add a note reflecting this change.

*Changes:* We have revised the final additional requirements and selection criteria to include a note defining the term "parent" consistent with the definition of that term under section 300.30 of the final regulations implementing part B of the Act (34 CFR 300.30).

*Comment:* One commenter asked the Department to provide additional clarification on the meaning of the term "natural transition points."

*Discussion:* Section 614(d)(5)(C) of the Act defines the term "natural transition points" as those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to secondary school grades, and from secondary school grades to post-secondary activities, but in no case a period longer than three years. We believe that this definition is clear and that no further clarification is necessary.

*Changes:* None.

*Comment:* Many commenters expressed concern that the Multi-Year IEP Program would compromise the right of children with disabilities to receive FAPE. The commenters recommended that the final requirements and selection criteria specify that all of the Act's requirements regarding the provision of FAPE to children with disabilities (including requirements related to the content, development, review, and revision of the IEP under section 614(d) of the Act and procedural safeguards under section 615 of the Act) apply to participants in this Multi-Year IEP Program.

*Discussion:* Public agencies participating in the Multi-Year IEP Program may develop, under the terms of their State's approved application, IEPs that may deviate in certain specified ways from the normal requirements regarding IEP content, review and revision. That said, nothing in this program authorizes participating public agencies to deny appropriate services to children with disabilities or to limit any other right they have under

the Act and its implementing regulations.

*Changes:* None.

### National Evaluation

*Comment:* One commenter recommended that the national evaluation study be completed as two separate Requests for Proposals (RFPs)—one awarded to a group that will work in multiple States and sites to investigate the outcomes variables in a more controlled, experimental way, and one awarded to a separate group that will complete the study evaluation.

*Discussion:* According to section 614(d)(5)(B) of the Act, the Department must report on the effectiveness of the program and provide to Congress recommendations for broader implementation, if appropriate. A maximum of 15 States can participate in this program. Including only select States in the evaluation would undermine the rigor of the evaluation, as well as limit the generalizability of the findings.

*Changes:* None.

*Comment:* None.

*Discussion:* Based on an internal review of the description of the national evaluation in the Background for Additional Requirements and Selection Criteria section of this notice, we have determined that it is appropriate to clarify for applicants and other stakeholders that academic measures are among those student outcomes to be assessed as part of the national evaluation.

*Changes:* In the *Background for Additional Requirements and Selection Criteria* section of this notice, we have added the phrase "including academic achievement" to the outcomes to be measured by the national evaluation. Paragraph (i) of the outcomes to be measured now reads: "Educational and functional results (including academic achievement) for students with disabilities."

*Comment:* Many commenters recommended that the Department commence the national evaluation process as soon as the final evaluation design has been completed, and that the evaluator begin collecting background information from the States at this time.

*Discussion:* We do not agree with the commenters regarding the need to establish a specific timeframe for evaluation activities to commence or to begin collecting background information from States prior to awards being made. The collection of background information cannot begin until after awards are made to States, and we believe that it is more appropriate to allow IES to confirm the specifics of the

evaluation design during its discussion with a technical workgroup and the participating States during the first several months of the study.

*Changes:* None.

*Comment:* Many commenters requested a definition of “quasi-experimental design” and an explanation of how it compares with a “rigorous research design.” One commenter recommended that the evaluation include a variety of qualitative and quantitative evaluation methods (e.g., case studies, observation, cost-benefit analyses).

*Discussion:* A quasi-experimental research design is similar to experimental research design but it lacks one key ingredient—random assignment. In conducting the national evaluation, it may not be possible for IES to match LEAs within States according to demographic characteristics, programmatic features, and other factors in order to apply an empirical research design that randomly assigns LEAs to experimental and control groups. For example, some States may have only one large urban school district, and a comparable control group within the State cannot be established. Similarly, it may not be possible to match participating States according to demographic characteristics in order to establish experimental and control groups. For this reason, IES will conduct the national evaluation using a rigorous quasi-experimental design (i.e., the evaluation will not randomly assign States or LEAs to “experimental” and “control” groups). In addition to quantitative analysis, IES may choose to employ a variety of qualitative evaluation methods (e.g., case studies, observation, cost-benefit analyses). Specifics of the design will be confirmed during discussion with the evaluator, a technical workgroup, and the participating States during the first several months of the study.

*Changes:* None.

*Comment:* Many commenters recommended deleting the requirement for States to work with the national evaluator for four months to conduct joint planning prior to implementing the program. The commenters instead recommended that States establish their own schedule to implement their proposals in an “expeditious manner.”

*Discussion:* We believe that it is important to evaluate the effectiveness of the Multi-Year IEP Program. A successful evaluation of the program requires States to work with the national evaluator. We believe that the four-month timeline for States to conduct joint planning with the national

evaluator is essential to adequately plan and lay the groundwork for data collection and implementation of the program and the national evaluation.

*Changes:* None.

*Comment:* Many commenters recommended clarifying that all States that participate in the Multi-Year IEP Program must participate in the national evaluation conducted by IES. The commenters also recommended adding a new requirement that participating States conduct a State evaluation of the project to ensure accountability to participating children and families and that the State must provide more detailed State specific data than would be required for the national evaluation.

*Discussion:* Paragraph 3(d) of the additional requirements makes clear that participating States must cooperate fully in the national evaluation. Section 614(d)(5) of the Act does not require a State evaluation component to the Multi-Year IEP Program and we believe that it is not appropriate to require States to conduct a State evaluation. However, nothing in the Act or the final additional requirements and selection criteria prevents States from including a proposal to conduct a Statewide assessment of their project as part of their application, if determined appropriate by the State.

*Changes:* None.

*Comment:* Many commenters recommended that LEAs not be required to participate in the national evaluation. One commenter noted that States lack the authority to enforce the cooperation of school districts to participate in the national evaluation.

*Discussion:* The State is responsible for ensuring that participating LEAs cooperate in the national evaluation conducted by IES. If a State is unable to provide an assurance that its participating LEAs will cooperate in the national evaluation, then the State will be deemed ineligible to participate in the Multi-Year IEP Program. Similarly, an LEA that does not provide an assurance to the applying State that it will fully cooperate with the national evaluator is ineligible to participate in the program.

*Changes:* None.

*Comment:* One commenter requested that we clarify the language in paragraph 3(d)(i) of the additional requirements regarding an evaluator having access to the most recent IEP created before participating in the Multi-Year IEP Program because this language implies that no initially identified child (where the multi-year IEP would be the child’s first IEP) could participate in the pilot project.

*Discussion:* Initially identified children are eligible to participate in this program. We agree that additional clarification is needed because an initially identified child would not have a previous IEP, and therefore having access to the most recent IEP would not be applicable.

*Changes:* Paragraph 3(d)(i) has been revised to clarify that the evaluator will have access to the most recent IEP created (if applicable) before participating in the Multi-Year IEP Program.

*Comment:* Several commenters recommended that IES report on the extent to which program activities ensure satisfaction of family members.

*Discussion:* We generally agree with the commenters that the national evaluation should collect data on the satisfaction of family members of children participating in the Multi-Year IEP Program. Section 614(d)(5)(B)(v) of the Act requires the Department to submit a report to Congress and include in that report specific recommendations for “ensuring satisfaction of family members.” In this context, the Department interprets the term “family members” to mean “parents” and intends to collect data on parent satisfaction with the program. While the perspectives of family members, including siblings, grandparents, and other relatives, can be important in making educational decisions for a child with a disability, we believe that the parents of a child with a disability are in the best position to represent the interests of their child. Moreover, while the Act provides a definition of “parent,” it does not provide a definition of “family member.” Parents may, at their discretion, convey the interests and perspectives of other family members in the operation of the project on behalf of their children. We have revised the *Background for Additional Requirements and Selection Criteria* of this notice to clarify that IES will collect data on parent satisfaction with the program. In addition, as part of our internal review of the notice, we determined that it was appropriate to revise the *Background for Additional Requirements and Selection Criteria* to clarify that IES will collect data on teacher and administrator satisfaction. We have not made any changes to the additional requirements or selection criteria in response to these comments.

*Changes:* None.

*Comment:* Several commenters recommended that the list of parties who will be involved in determining the specifics of the evaluation design should be expanded to include representatives of national parent

organizations that represent a cross-section of disabilities, as opposed to being limited to the evaluator, a technical workgroup and the participating States.

*Discussion:* IES will identify and select individuals with the necessary technical expertise to serve as members of the technical workgroup, which will advise IES on the development of a rigorous research design for conducting the national evaluation. These individuals may include representatives of national parent organizations. We decline at this time to add any other specific parties to those involved in determining the specifics of the evaluation design.

*Changes:* None.

*Comment:* One commenter recommended that the evaluation process include public meetings during which parents who participate in the Multi-Year IEP Program may publicly state their opinions regarding the operation of the program.

*Discussion:* We do not believe that it is necessary to design the evaluation process to include public meetings for parents because parent participation in the national evaluation of the program is assured under paragraph 3(d)(v) of the additional requirements. In addition, parent participation in the development and implementation of the program is assured under paragraphs 3(b) and 3(c) of the additional requirements. However, we believe a change is necessary to paragraph 3(d)(v) of the additional requirements because it is appropriate to require all participating States to provide assistance to the evaluator on the collection of data from parents, including obtaining informed consent for parents to participate in interviews and respond to questionnaires and surveys.

*Changes:* Paragraph 3(d)(v) of the additional requirements has been amended by deleting the words "If necessary to the final design of the study," to ensure that the national evaluation of the program will include the collection of data on the satisfaction of parents of children participating in the Multi-Year IEP Program.

*Comment:* Many commenters recommended that paragraph 3(d)(v) of the additional requirements should require the State to ensure that the national evaluation includes surveys of parents of children with disabilities from all 13 disability categories, and parents representing varying minority and socioeconomic backgrounds.

One commenter noted that the individual nature of each IEP may not be conducive for the use of the proposed treatment of comparing students

participating in the Multi-Year IEP Program with those who are not. The commenter went on to state that the national evaluation should not group students by disability category.

*Discussion:* We recognize that random assignment of students to experimental and control groups is not possible due to the nature of the Multi-Year IEP Program. However, we believe that it is critical to compare the outcomes of students who participate in the program with those who do not to determine if patterns in student outcomes are demonstrated.

We decline to require the national evaluation to include surveys of parents of children with disabilities from all 13 disability categories. Specifics of the design will be confirmed during discussions with the evaluator, a technical workgroup, and the participating States during the first several months of the study. IES will conduct an evaluation of the program using a quasi-experimental design that collects data on educational and functional results for students with disabilities, time and resource expenditures by IEP team members and teachers, quality of long-term education plans incorporated in IEPs, degree of collaboration among IEP members, and degree of parent satisfaction. These outcomes will be compared between students whose parents consent to their child's participation in a multi-year IEP and students who are matched on type of disability, age, socioeconomic status, race/ethnicity, language spoken in the home, prior educational outcomes, and to the extent feasible, the nature of special education, who do not participate in the multi-year IEP.

*Changes:* None.

*Comment:* Two commenters recommended deleting all requirements related to a State's participation in the national evaluation. The commenters expressed concern that such participation would add unnecessary costs and paperwork for States and local school districts and could discourage many States from applying for the Multi-Year IEP Program.

One commenter noted that the quasi-experimental research design will be overly costly and burdensome to States and school districts, particularly regarding data collection.

*Discussion:* Participating States will play a crucial supportive role in this evaluation. They will assist in developing the specifics of the evaluation plan; assure that districts participating in the multi-year IEP will participate in the evaluation; supply data relevant to the outcomes being measured from State data sources (e.g.,

student achievement and functional outcome data, complaint numbers); and provide background information on relevant State policies and practices, provide access to current student IEPs during Year One of the evaluation, and complete questionnaires and participate in interviews. State participation in the national evaluation is critical to assess the impact of the program. We believe that participation in the national evaluation will not add unnecessary costs and paperwork or be overly burdensome for States and local school districts. Moreover, during the course of the evaluation, participating States will receive an annual incentive payment (described in the *Additional Requirements* section of this notice) that will offset the cost of participating in the evaluation.

*Changes:* None.

*Comment:* One commenter noted that the privacy rights of individuals under the privacy requirements of FERPA and the Act must be protected in making individual student's IEPs accessible as part of the national evaluation.

*Discussion:* We agree with the commenter and have revised paragraph 3(d)(i) of the additional requirements to clarify that States must ensure, consistent with the privacy requirements of FERPA and the Act, that the evaluator will have access to students' most current IEPs. In addition, we have revised the description of the role that States will play in the national evaluation in the **SUPPLEMENTARY INFORMATION** section of this notice to ensure that the privacy requirements of FERPA and the Act are protected.

*Changes:* We have revised paragraph 3(d)(i) of the additional requirements by adding the words "consistent with the privacy requirements of the Act and The Family Educational Rights and Privacy Act" to the sentence requiring States to ensure that the evaluator will have access to students' IEPs.

*Comment:* Two commenters recommended that the Department contract with an independent agency to develop a research design that would produce reliable information about the effectiveness of the Multi-Year IEP Program and meet the requirements of the Department's "What Works Clearinghouse."

*Discussion:* Data collection and analysis will be the responsibility of IES through its independent contractor. The Department's "What Works Clearinghouse" (WWC) collects, screens, and identifies existing studies of effectiveness of educational interventions (programs, products, practices, and policies). The evaluation will be based on a strong quasi-

experimental design that will yield valid and reliable results consistent with the WWC evidence standards for quasi-experimental studies and will meet the needs of the Secretary for reporting to Congress under section 426 of the Department of Education Organization Act and section 614(d)(5)(B) of the Act.

*Changes:* None.

*Comment:* Many commenters recommended that the Department indicate when the results of the national evaluation will be available and how they will be disseminated.

*Discussion:* We believe that it is not appropriate to set a timeline for disseminating the results of the national evaluation until the specifics of the national evaluation are confirmed during discussion with the evaluator, a technical workgroup, and the participating States during the first several months of the study. Consistent with section 614(d)(5)(B) of the Act, the Secretary will submit an annual report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate regarding the effectiveness of the program and any specific recommendations for broad implementation. It is the expectation of the Department that this annual report will be based, at least in part, on the results of the national evaluation.

*Changes:* None.

*Comment:* Several commenters recommended that the final additional requirements and selection criteria require States to assist the national evaluator in collecting data on the implementation of the program from parents and family members of children participating in the program, including by obtaining informed consent from parents to participate in interviews and respond to surveys and questionnaires.

*Discussion:* We agree with the commenters that States should be required to assist the national evaluator in collecting data from parents. Therefore, a change will be made.

*Changes:* Paragraph 3(d)(v) of the additional requirements has been revised to clarify that participating State educational agencies (SEAs) must provide assistance to the evaluator in the collection of data from parents, including obtaining informed consent for parents to participate in interviews and respond to surveys and questionnaires.

### Consent

*Comment:* Many commenters recommended that the final additional requirements and selection criteria

clarify that parents may revoke their consent for their child to participate in the Multi-Year IEP Program at any time.

*Discussion:* We agree with the commenters that it would be useful to clarify that consent may be revoked at any time. Therefore, a change will be made.

*Changes:* Paragraph 3(b)(ii) of the additional requirements (paragraph 3(a)(ii) of the proposed additional requirements) has been revised to clarify that parents may revoke their consent at any time during the implementation of the Multi-Year IEP Program.

*Comment:* Several commenters recommended requiring that, before a comprehensive multi-year IEP is developed for a child, the LEA must obtain informed written consent from the parent agreeing to allow the development of a multi-year IEP for the child that would supercede the regular IEP requirements, and that the notice that the LEA provides to the parent must be in the native language of the parent.

*Discussion:* We intended the phrase "informed consent" in paragraph 3(a) of the proposed additional requirements to mean written consent that is both informed and provided by the parents voluntarily. "Consent" in this context has the same meaning as given the term in 34 CFR 300.9. For consent to be informed, parents must understand what they are consenting to (i.e., that they are agreeing to a multi-year IEP for their child in lieu of an IEP that meets the requirements of section 614(d)(1)(A) of the Act). To avoid any confusion or misunderstanding, we agree to revise the final additional requirements to state explicitly that LEAs must obtain voluntary informed written consent from parents for a multi-year IEP for their child, and that, before an LEA requests such consent, it must inform the parents in writing (and in the native language of the parent, unless it clearly is not feasible to do so) of any differences between the requirements relating to the content, development, review, and revision of IEPs under section 614(d) of the Act and the State's requirements relating to the content, development, review, and revision of IEPs under the State's approved Multi-Year IEP Program proposal.

*Changes:* Paragraph 3(b) of the additional requirements (paragraph 3(a) of the proposed additional requirements) has been revised to clarify that States must include in their proposals assurances that, before an LEA requests a parent's voluntary informed written consent to the development of a multi-year IEP in lieu of an IEP that meets the requirements of

section 614(d)(1)(A) of the Act, the LEA will inform the parent in writing (and in the native language of the parent, unless it clearly is not feasible to do so) of any differences between the requirements relating to the content, development, review, and revision of IEPs under section 614(d) of the Act and the State's requirements relating to the content, development, review, and revision of IEPs under the State's approved Multi-Year IEP Program proposal.

*Comment:* Many commenters recommended that informed written parental consent must include a statement including the opinions of those in the field that recommend against such consent. The commenters noted that such a statement should give a description of how the multi-year IEP differs from a regular IEP and encourage parents to seek advice from advocacy agencies and resource centers before consenting to a multi-year IEP.

*Discussion:* We believe it is unreasonable to expect States and school districts to seek out and collect information from individuals who oppose the development of multi-year IEPs for students with disabilities and to include such information in notices that are provided to parents. Parents are encouraged to consult with parent resource centers and other resources in making educational decisions for their child. The parent notification rights under section 615(c)(1)(D) of the Act requires that parents receive notification of sources that parents may contact to obtain assistance in understanding the provisions of the Act, including the provisions of the Multi-Year IEP Program under section 614(d)(5) of the Act. Furthermore, paragraph 3(b)(i) of the additional requirements (paragraph 3(a)(i) of the proposed additional requirements) requires the LEA to identify any differences between the requirements relating to the content, development, review, and revision of IEPs under section 614(d) of the Act and the State's requirements relating to the content, development, review, and revision of IEPs under the State's approved Multi-Year IEP Program proposal.

*Changes:* None.

### Program Implementation

*Comment:* Many commenters recommended requiring that any State that submits a proposal for the Multi-Year IEP Program must establish a committee comprised of school district personnel, and at least three parents (each representing a different disability group) to provide input on the State's proposal. In addition, many commenters recommended requiring that the State's

application: (a) Include a summary of the public input; (b) indicate what input the State incorporated into its proposal and who or what organization provided the suggestion; and (c) identify which stakeholders agreed and which stakeholders disagreed with each Federal statutory and regulatory requirement, and State requirement, that the State proposed to waive under its proposed Multi-Year IEP Program.

Many commenters recommended requiring States to use a variety of mechanisms to obtain broad stakeholder input, including holding public meetings at convenient times and places and inviting written public comments. Similarly, two commenters observed that public input must be transparent, and involve the greatest number of stakeholders, particularly teachers, administrators, related services providers, and parents.

Many commenters recommended that paragraph 3(c) of the additional requirements clarify that proposed State proposals must comply with the public participation requirements in section 612(a)(19) of the Act.

Several commenters urged the Secretary to require that States obtain input from representatives of parent training and information centers and community parent resource centers (in addition to obtaining input from school and district personnel, and parents). In addition, one commenter recommended that the Secretary should require States to (1) Obtain input from family members and advocates for children with disabilities, (2) require the State to summarize input that it received and the type of stakeholder who submitted the input, and (3) describe how the State's proposal would improve educational and functional results for children.

*Discussion:* Proposed State plans must conform with the public participation requirements in section 612(a)(19) of the Act, which require that before the adoption of any policies and procedures needed to comply with the Act (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.

However, we believe that States should have some flexibility in designing their process for obtaining public input, rather than adopting the specific suggestions of the commenter. Accordingly, we have revised paragraph 3 of the additional requirements (paragraphs 3(b) and 3(c) of the

proposed additional requirements) to require States to include in their proposals a description of how they involved multiple stakeholders and provided an opportunity for public comment in developing their proposals consistent with section 612(a)(19) of the Act. With this change, each State's application will be judged on the extent to which the State involved multiple stakeholders and provided an opportunity for public comment when developing its proposal.

*Changes:* We have revised and renumbered paragraph 3(c) of the additional requirements to incorporate language from paragraph 3(b) of the proposed additional requirements and to clarify that a State must include in its proposal a description of how it will meet the public participation requirements of section 612(a)(19) of the Act. More specifically, paragraph 3(c) of the additional requirements now requires each State to include in its proposal how the State (a) Involved multiple stakeholders, including parents, children, special education and regular education teachers, related services providers, and school and district administrators in the development of its proposal; (b) provided an opportunity for public comment in developing its proposal, including a summary of public comments received by the State as well as a description of how the proposal addresses those public comments; and (c) obtained input from school and district personnel and parents in developing the list of required elements for each multi-year IEP and the description of the process for the review and revision of each multi-year IEP.

*Comment:* One commenter recommended requiring that the design and development activities of the proposed project be completed during the course of the project period. The commenter noted that the proposed additional requirements for the program require States to begin to develop their model prior to the submission of the application, and that the period of the project performance would be devoted to implementation and evaluation of the program.

*Discussion:* Prior to submitting its application, a State must involve multiple stakeholders and convene public meetings to gather input on Federal and State requirements that the State proposes to waive to reduce excessive paperwork and non-instructional time burdens that do not assist in improving educational and functional results for children with disabilities. The State must also provide a summary of public comments and

how public comments were addressed in the application. Because a State must meet these minimum requirements for its application to be deemed eligible for review, it follows that the focus of the project period must be on the implementation and evaluation of the program, rather than program design and development activities.

*Changes:* None.

*Comment:* Many commenters recommended increasing the annual incentive payment provided to States to support program-related activities, and recommended requiring that the national evaluator provide funds to participating school districts based on the number of participating students in the evaluation.

One commenter asked for clarification on whether the Department will allocate additional dollars to school districts or if the State would use its incentive payments to offset school district costs.

*Discussion:* Paragraph 4 of the proposed additional requirements provided that each State receiving approval to participate in the Multi-Year IEP Program would be awarded an annual incentive payment of \$10,000 to be used exclusively to support program-related evaluation activities, including one trip to Washington, DC, annually to meet with the project officer and the evaluator. In addition, paragraph 4 of the proposed additional requirements indicated that each participating State would receive an additional incentive payment of \$15,000 annually from the evaluation contractor to support evaluation activities in the State, and that incentive payments may also be provided to participating districts to offset the cost of their participation in the evaluation of the Multi-Year IEP Program. Because the total available funds for each award will depend on the number of awards made, we are unable to specify an exact amount over the initially proposed incentive payment amounts. However, the Secretary agrees with the commenters that more funds should be made available if possible and, therefore, the final additional requirements have been revised to clarify that participating States will receive at least \$10,000 to support program-related evaluation activities, and at least \$15,000 annually from the evaluation contractor to support evaluation activities in the State.

*Changes:* We have revised paragraph 4 of the final additional requirements to clarify that each State receiving approval to participate in the Multi-Year IEP Program will be awarded an annual incentive payment of not less than \$10,000 to support program-related evaluation activities, and not less than



\$15,000 annually from the evaluation contractor to support evaluation activities in the State, to offset the cost of participating districts, or to do both. We also have added language to this paragraph to clarify that the total available funds for each award will depend on the number of awards made.

*Comment:* Many commenters recommended that States not be allowed to authorize LEAs to begin using multi-year IEPs until the beginning of the first school year after the specifics of the study design for the national evaluation and the State's evaluation have been determined and all the background information for the national evaluation has been provided to IES.

*Discussion:* We believe that the commenters' concerns are addressed because the evaluation design will be determined and all background information will be collected prior to implementation of the Multi-Year IEP Program. Accordingly, LEAs may not begin using multi-year IEPs until the beginning of the first school year after the specifics of the study design for the national evaluation and the State's evaluation have been determined and all the background information for the national evaluation has been provided to IES.

*Changes:* None.

*Comment:* Some commenters recommended prohibiting an existing annual IEP from being converted into a multi-year IEP before a child's next scheduled annual IEP meeting, unless the child's parent submits a written request to convene an IEP meeting on this issue at an earlier date.

*Discussion:* In its application, a State may propose to prohibit an existing IEP from being converted into a multi-year IEP before the child's next scheduled annual IEP meeting. However, we do not see a compelling reason to preclude States from proposing to allow participating LEAs to convert an existing IEP into a multi-year IEP that meets the requirements of section 614(d)(5) of the Act and the requirements in this notice. It is important to note, however, that if a participating school proposes to convert an existing IEP into a multi-year IEP before the child's next scheduled annual IEP meeting, it will need to obtain the informed written consent of the parent, and may not implement a multi-year IEP for the child without that informed written parental consent.

*Changes:* None.

*Comment:* Several commenters agreed with the language in paragraph 3(d)(ii) of the proposed additional requirements that requires States to provide a list of districts and schools that have been

recruited and have agreed to implement the Multi-Year IEP Program. These commenters urged the Department to add a requirement that would prevent districts or schools from participating in the program if they have a demonstrated history of not complying with the Act or have experienced a disproportionate number of complaints to the SEA or participated in a disproportionate number of dispute resolution processes.

*Discussion:* We generally agree with the commenters. The State is obligated to ensure that children with disabilities who participate in the program continue to receive services in accordance with the Act and implementing regulations, modified only to the extent consistent with the State's approved application. States therefore should take into consideration the compliance history of LEAs within the State as part of their process for selecting LEAs to participate in the Multi-Year IEP Program, and monitor implementation of the program and take corrective action, if needed.

*Changes:* Paragraph 3(e) of the additional requirements (paragraph 3(d) of the proposed additional requirements) has been revised to require the State to provide a description of how it will collect and report to the Department and the evaluator evidence that children are not receiving appropriate services because of the State's implementation of the Multi-Year IEP Program, and how the State responded to this information, including the outcome of that response, such as providing technical assistance to the LEA to improve implementation, or suspending or terminating the authority of an LEA to implement multi-year IEPs due to unresolved compliance problems.

*Comment:* One commenter recommended that the final additional requirements and selection criteria reference the language from the report of the U.S. House of Representatives indicating that the usual rules for annual IEPs must apply to multi-year IEPs.

*Discussion:* We believe that the Act is clear that except as specifically provided for under section 614(d)(5) of the Act, all of the Act's requirements regarding the provision of FAPE to children with disabilities apply to participants in this Multi-Year IEP Program. We reiterate this information in the *Statutory Requirements for Multi-Year IEP Program* section of this notice. The provisions of section 614(d)(5) of the Act, though, do contemplate that States could propose to apply to multi-year IEPs some changes to the normally applicable rules for annual IEPs, such as

changes in the process of reviewing multi-year IEPs in some years.

*Changes:* None.

*Comment:* Many commenters recommended that the Department prohibit States from participating in both the Multi-Year IEP Program and the Paperwork Waiver Demonstration Program (Paperwork Waiver Program), which is the subject of a separate notice.

Many commenters recommended adding a requirement that any State permitted to participate in both the Multi-Year IEP Program and the Paperwork Waiver Program may not implement both programs in the same district or school.

*Discussion:* The Act allows States to apply for the Multi-Year IEP Program and the Paperwork Waiver Program. However, we agree with the commenters that a State that receives awards for the Multi-Year IEP Program and the Paperwork Waiver Program should not be permitted to execute both programs in the same school district. We believe that this type of prohibition would allow for a more precise evaluation of each program.

*Changes:* Paragraph 5 has been added to the final additional requirements to clarify that States must describe how districts were selected and provide an assurance that districts are voluntarily participating along with a description of the circumstances under which district participation may be terminated. States participating in this program and the Paperwork Waiver Program may not select the same LEAs to participate in both programs.

*Comment:* Many commenters recommended that we approve only those Multi-Year IEP Program proposals that propose a project period of not more than four years.

*Discussion:* We agree with this comment. A four-year period is sufficient time to allow States to spend one year preparing to implement multi-year IEPs and three years on the actual implementation, which coincides with one full cycle of a multi-year IEP (i.e., three years). In addition, a four-year project period is consistent with the project period established under the Paperwork Waiver Program. (The Department will invite applications for the Paperwork Waiver Program through a separate competition.)

*Changes:* Paragraph 6 has been added to the final additional requirements to specify that State proposals will be approved for a project period not to exceed four years.

*Comment:* Many commenters recommended that the proposed additional requirements for this program be revised to prohibit

applicants from using the Paperwork Waiver Program (authorized under 609(a) of the Act) as a vehicle for implementing multi-year IEPs that do not comply with the terms of the Multi-Year IEP Program.

*Discussion:* Sections 609 and 614(d)(5) of the Act do not preclude a State from proposing to waive requirements related to the content, development, review and revision of IEPs, nor does the Act preclude a State from proposing to incorporate elements of the Multi-Year IEP Program in its application for the Paperwork Waiver Program. We decline to make the requested change because we believe that there are sufficient protections in the requirements for the Paperwork Waiver Program to protect a child's right to FAPE as well as to ensure that civil rights and procedural safeguard requirements are not waived.

*Changes:* None.

*Comment:* None.

*Discussion:* As part of our internal review of the proposed additional requirements and selection criteria for this program, we determined that it was appropriate to revise Paragraph 1 of the proposed additional requirements to provide that the Secretary may disapprove a State's application to participate in the program if the Secretary determines that the State currently meets the conditions under section 616(d)(2)(A)(iii) or (iv) of the Act relative to its implementation of part B of the Act. The Act does not require the Secretary to disapprove a State's application to participate in the program under these conditions and we do not believe that it would be appropriate to require the Secretary to deny approvals under these conditions. Instead, we believe that it is important that the Secretary have the authority to take into consideration the compliance history of States as part of the process used for selecting States to participate in the Multi-Year IEP Program. Accordingly, we have determined that the Secretary should retain the discretion to deny or approve a State's application if the Secretary determines that the State currently meets the conditions under section 616(d)(2)(A)(iii) or (iv) of the Act relative to its implementation of part B of the Act.

*Changes:* Paragraph 1 of the additional requirements has been revised by deleting the words "will not grant" and replacing them with the words "may deny" such that the requirement reads as follows: "The Secretary may deny a State approval to participate in this program if the Secretary determines that the State currently meets the conditions under

section 616(d)(2)(A)(iii) or (iv) of the Act relative to its implementation of part B of the Act."

*Comment:* One commenter recommended revising paragraph 2 of the additional requirements by deleting the words "may terminate" and replacing them with the words "shall terminate," so that there will be no option to allow a State's Multi-Year IEP Program to continue under the circumstances described in that paragraph.

*Discussion:* We disagree with the commenter that there should be no option to allow a State's Multi-Year IEP Program to continue under the circumstances identified in paragraph 2 of the additional requirements. The Act does not require the Secretary to terminate a State's application to participate in the program under the circumstances described in paragraph 2 of the proposed additional requirements. However, we believe that it is important that the Secretary have the authority to take into consideration the compliance history of States as part of the process used for monitoring implementation of the program and taking corrective action, if needed.

*Changes:* None.

*Comment:* Many commenters asked for additional clarity regarding the implementation of multi-year IEPs. Specifically, the commenters asked for examples, or a clear description, of the process for the development, review and revision of a comprehensive multi-year IEP.

*Discussion:* Only State applications that meet the requirements of the Act and the additional requirements and selection criteria in this notice will be eligible for approval. We offer the following example as one possible approach that States might propose to follow to develop, review and revise a comprehensive multi-year IEP, not to exceed three years, that coincides with natural transition points for a child. The following example should not be construed as a requirement:

(1) If the parent of a child with a disability provides informed written consent, an IEP team develops for the child a comprehensive IEP that meets all requirements of section 614(d) of the Act and includes longer-range measurable goals coinciding with natural transition points for the child.

(2) The IEP team conducts a comprehensive review of the child's IEP during natural transition points for the child, not to exceed three years from the date the child's initial IEP was developed, consistent with section 614(d)(4) of the Act.

(3) In the intervening years between the child's natural transition points, the child's primary special education teacher or related services provider (i.e., the educational professional who is primarily responsible for overseeing implementation of the child's IEP) conducts a streamlined annual review of the child's IEP to determine (a) The child's current levels of progress, (b) whether the annual goals for the child have been achieved, and (c) whether the child is on track for meeting the longer-range transition goals. Based on these reviews, the child's primary special education teacher or related services provider amends the IEP, as appropriate, to enable the child to continue to meet the measurable annual goals and natural transition point goals set out in the child's IEP.

(4) The child's parent is regularly informed of the child's progress and the extent to which the child is progressing toward meeting the measurable annual goals in the IEP and is on track for reaching the longer-range transition point goals set out in the IEP.

(5) If the primary special education teacher or related services provider determines that the child has met the measurable annual goals and is on track for meeting the longer-range transition goals, the special education teacher or related services provider submits his or her findings to all members of the IEP team, who have the opportunity to either agree and sign the IEP, or call for a thorough review of the child's IEP in accordance with section 614(d)(4) of the Act within 30 calendar days.

(6) If one or more members of the IEP determine that the child did not make sufficient progress toward the annual goals or is not on track for meeting the longer-range transition point goals described in the multi-year IEP, then the IEP team carries out a comprehensive review of the IEP within 30 calendar days.

(7) If requested by the parent, the IEP team conducts a comprehensive review of the child's multi-year IEP rather than or subsequent to a streamlined annual review.

*Changes:* None.

*Comment:* One commenter recommended that States should indicate in their applications whether they would need technical assistance from the Office of Special Education Programs (OSEP) or some other entity.

*Discussion:* States may choose to indicate in their applications whether they will need technical assistance from OSEP in the implementation of the program. States that are awarded authority to develop multi-year IEPs for students with disabilities consistent

with the program requirements may contact OSEP for assistance. OSEP funds a number of national technical assistance centers and regional resource centers that can provide technical assistance to States in the operation of the Multi-Year IEP Program.

*Changes:* None.

*Comment:* None.

*Discussion:* As part of our internal review of the proposed additional requirements and selection criteria, we determined that it is appropriate to revise paragraph 3(d) of the additional requirements by moving the phrase "if selected." The phrase "if selected" was intended to clarify that the requirement only applies to States that are selected to participate in the Multi-Year IEP Program. However, we believe that the phrase might be misconstrued to mean that not all States that participate in the Multi-Year IEP Program will be selected to participate in the national evaluation. Accordingly, we have re-worded this paragraph to read, "Assurances that the State will cooperate fully in a national evaluation of this program, if selected to participate in the Multi-Year IEP Program."

*Changes:* We have revised paragraph 3(d) to clarify that assurances of cooperation with the national evaluation are required from States selected to participate in the Multi-Year IEP Program.

#### **Selection Criteria**

*Comment:* None.

*Discussion:* Upon further consideration of the proposed selection criteria, the Department has made the decision to use selection criteria already established in the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.210 for the review of this program. The proposed selection criteria included many of the measures that would be evaluated as part of the national evaluation of this program. We have determined that it would be inappropriate to include these measures in the selection criteria. We believe that use of the EDGAR selection criteria will enable the Department to sufficiently evaluate State applications for this program.

*Changes:* Throughout the selection criteria, we have replaced or modified proposed selection criteria to better align with language taken from 34 CFR 75.210 of EDGAR. Specifically, we have deleted or modified proposed selection criteria 1(b), 1(c), 2(a), 2(b), 3(b) and 3(c) and added language from 34 CFR 75.210 of EDGAR.

*Comment:* One commenter recommended eliminating proposed

selection criteria 1(a) (i.e., that the proposed project demonstrate the extent to which it will develop or demonstrate promising new strategies that build on, or are alternatives to, existing strategies).

*Discussion:* We decline to make the requested change because we believe that selection criterion 1(a) is an important criterion for evaluating the innovativeness of each State application for the Multi-Year IEP Program.

*Changes:* None.

*Comment:* Many commenters recommended revising selection criterion 1(b) to emphasize that the potential for improved long-term planning as a result of a State's Multi-Year IEP Program proposal be weighted in light of other important outcomes of a well-written IEP. The commenters recommended inserting a statement that the Secretary will consider the extent to which the proposed project will result in improvements to the IEP without compromising the provision of FAPE, the measurement of progress toward the achievement of annual and long-term goals, educational outcomes, and family satisfaction.

*Discussion:* Since publishing the December 2005 notice, we have decided to use certain selection criteria from those found in EDGAR in 34 CFR 75.210 for the review of this program. Proposed selection criterion 1(b), "The likelihood that the proposed project will result in improvements in the IEP process, especially long-term planning for children with disabilities, without compromising the provision of FAPE, satisfaction of parents, and educational outcomes for children with disabilities" has been deleted. Upon internal review of the proposed selection criteria, we have determined that this criterion is inappropriate because it would require panel reviewers to speculate on the impact proposals would have on the variables to be measured by the national evaluation (i.e., long-term planning for children with disabilities, satisfaction of parents and educational outcomes for children with disabilities). If the relationship between changes in multi-year IEPs and outcome variables were known, then there would be no need for the evaluation.

We have replaced proposed selection criterion 1(b) with the following EDGAR criterion, which is from 34 CFR 75.210(b)(2)(iii): "The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues or effective strategies." This criterion will allow panel reviewers to evaluate the proposal's significance relative to how articulately or persuasively the State can

connect current problems or issues with its multi-year IEP proposal. This type of evaluation and subsequent scoring of an application is commonly done in proposal review by standing panel members.

*Changes:* Proposed selection criterion 1(b) has been deleted and replaced with the selection criterion from section 75.210(b)(2)(iii) of EDGAR.

*Comment:* Many commenters recommended that we consider the importance or magnitude of the results or outcomes likely to be attained by the project, especially improvements in teaching and student achievement. The commenters suggested that we include a selection criterion to evaluate the extent to which the proposed project will reduce the amount of non-instructional time spent by teachers and related services personnel.

*Discussion:* As described elsewhere in this notice, since publishing the December 2005 notice, we have decided to adopt certain selection criteria from those found in 34 CFR 75.210 of EDGAR for the review of this program. We believe that including variables, such as non-instructional time or student achievement in selection criteria, would be inappropriate because these are the dependent variables to be examined by the national evaluation. We do not believe it is appropriate for panel reviewers to speculate on the impact specific proposals would have on these variables.

*Changes:* None.

*Comment:* Many commenters suggested that we delete the reference to reducing the paperwork burden associated with IEPs in proposed selection criterion 2(b) and to add language clarifying that improvements in long-range planning not compromise the provision of FAPE, the measurement of progress toward the achievement of annual and long-term goals, educational outcomes and family satisfaction.

*Discussion:* Statutory and additional requirements for this program only permit certain changes to the development, review and revision of IEPs. Other than these changes, the requirements of the Act must be met. The statutory and additional requirements also require LEAs to complete annual reviews of children's progress and to protect parents' rights to remove their child from the Multi-Year IEP Program. Additionally, as noted previously, we have decided to adopt certain selection criteria from those found in 34 CFR 75.210 of EDGAR for the review of this program and the proposed 2(b) criterion referred to in these comments has been deleted.

*Changes:* Following a decision to adopt certain selection criteria from those found in 34 CFR 75.210 of EDGAR, criterion 2(b) was deleted.

*Comment:* One commenter recommended striking selection criterion 2(c) (i.e., that the Secretary consider the extent to which the proposed project encourages consumer involvement, including parental involvement) as it seemed vague and duplicative of selection criterion 3(c) (i.e., How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, related services providers, administrators, or others, as appropriate).

*Discussion:* We agree that proposed selection criterion 2(c) is duplicative.

*Changes:* We have deleted proposed selection criterion 2(c) regarding the extent to which the proposed project encourages consumer involvement, including parental involvement.

*Comment:* Many commenters recommended that we consider the quality of the proposed project design and procedures for documenting project activities and results.

*Discussion:* We agree with the commenters. The design and procedures for documenting proposed activities and results of the Multi-Year IEP Program must be of high quality for evaluation purposes.

*Changes:* We have added a new selection criterion 2(c) (as noted elsewhere, we have deleted proposed selection criterion 2(c)) to enable the Secretary to consider the quality of the proposed project design and procedures for documenting project activities and results.

*Comment:* One commenter recommended revising selection criterion 3(b) to address resources devoted by the State to implement the project in addition to resources devoted by the State to evaluate the project activities.

*Discussion:* We do not believe that is necessary to require States to submit a detailed description of the resources they plan to devote to implement the project activities. We believe that the main cost incurred will relate to planned training activities. States certainly could include as part of their application a detailed description of planned training activities to demonstrate how their project will improve long-term planning and address the need to reduce the paperwork burden associated with IEPs, while maintaining the provision of FAPE.

*Changes:* None.

*Comment:* Many commenters recommended that the Secretary consider the extent to which the proposed project was designed to involve broad parental input.

*Discussion:* We believe that the commenters' concerns are addressed by selection criterion 3(c), which ensures that States seek a diversity of perspectives, including parents, in the implementation of their projects. Moreover, we believe that paragraphs 3(b)(ii), 3(c)(i), 3(c)(iii), and 3(d)(v) of the additional requirements ensure involvement by parents in this program.

*Changes:* None.

*Comment:* One commenter recommended that the Secretary consider the extent to which the State sufficiently describes how it will recruit school districts to participate in the program.

*Discussion:* We believe that additional requirement 5 addresses the commenter's concern. Additional requirement 5 requires that States must describe how districts were selected and provide an assurance that districts are voluntarily participating along with a description of the circumstances under which district participation may be terminated.

*Changes:* None.

*Comment:* Many commenters recommended that the Secretary consider the extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of children with disabilities.

*Discussion:* We agree that it is important to consider the extent to which the design of a project is appropriate to, and will successfully address, the needs of children with disabilities. As discussed elsewhere, we have added new selection criterion 1(c) to highlight the importance of improving teaching and student achievement. To place even more emphasis within the selection criteria on this issue, we have also added another selection criterion that would require consideration of the extent to which the project's purpose will address the needs of the target population.

*Changes:* We have added selection criterion 2(b) to place further emphasis on how well the project will address the needs of the target population as a basis for application review.

*Comment:* Many commenters recommended revising the selection criteria to incorporate the statutory requirements laid out in section 614(d)(5)(A)(iii)(II) of the Act regarding the content of proposals.

*Discussion:* As noted in paragraph 2 of the *Statutory Requirements for Multi-Year IEP Program* section of this notice,

all applicants are required to meet the statutory requirements laid out in section 614(d)(5)(A)(iii)(II) of the Act regarding the content of their proposals. All States must meet the statutory requirements of section 614(d)(5) of the Act in order to be deemed eligible to participate in the Multi-Year IEP Program. We do not believe it is necessary or appropriate to repeat the statutory requirements of section 614(d)(5)(A)(iii)(II) in the selection criteria section for this program.

*Changes:* None.

*Comment:* Many commenters recommended including the selection criterion found in section 75.210(c)(2)(v) of EDGAR, which requires the Secretary to consider the extent to which the proposed activities constitute a coherent, sustained program of training in the field.

*Discussion:* We decline to include the selection criterion from section 75.210(c)(2)(v) of EDGAR in the selection criteria for this program because that selection criterion applies to professional development grants and is not appropriate for the Multi-Year IEP Program.

*Changes:* None.

*Comment:* Many commenters recommended that the Secretary consider the extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

*Discussion:* We believe that the commenters' concerns are addressed under the management plan selection criterion in paragraph 3(a) (i.e., that the Secretary consider the adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project).

*Changes:* None.

*Comment:* Many commenters recommended that we consider the adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project, and that we also consider whether such procedures ensured multiple methods for collecting data on parent satisfaction from a broad representative sample throughout the State.

One commenter recommended amending the selection criteria to allow States to modify and revise their original statutory, regulatory, and administrative waiver requests during the course of the pilot project.

One commenter recommended requiring States to include an evaluation of whether the pilot project has a mechanism for reporting adverse events, such as denial of FAPE to a child with disability, and the effectiveness of that mechanism.

*Discussion:* We believe that final selection criterion 3(c) addresses the concerns of commenters regarding the involvement of multiple stakeholders in the operation of the Multi-Year IEP Program. In addition, the Secretary is committed to ensuring the objectivity and integrity of the national evaluation conducted by IES. For this reason, we do not support allowing States to pursue changes to waiver activities proposed in their initial applications as this would significantly interfere with the reliability of outcome data gathered as part of the evaluation component for this program. Finally, with respect to the comment regarding FAPE, we believe that the commenter's concerns are addressed by paragraph 3(e) of the additional requirements.

*Changes:* None.

*Comment:* Many commenters recommended including a new selection criterion to require that the Secretary consider the extent to which the applicant has devoted sufficient resources to conduct a State evaluation of its project and the training of IEP Team members to ensure proper implementation of the demonstration program.

*Discussion:* Section 614(d)(5) of the Act does not require a State evaluation component to the Multi-Year IEP Program, rather, States are required to cooperate with the national evaluation conducted by IES. That said, nothing in the Act or the final additional requirements and selection criteria prevents States from including a proposal to conduct a Statewide assessment component of their project as part of their application, if determined appropriate by the State.

*Changes:* None.

*Comment:* One commenter recommended revising the selection criteria to require States to address their commitment to cooperate in the national evaluation in their applications, and to clarify that States are not required to document the extent to which they devoted sufficient resources to conduct data collection and analysis as part of the evaluation of the program.

*Discussion:* We believe that it is not necessary to include a selection criterion that evaluates an applicant's commitment to cooperate with the national evaluation because paragraph 3(d) of the additional requirements already requires applicants to include assurances to this effect in their proposals. Moreover, as noted elsewhere in this preamble, the Department has decided to use only selection criteria from EDGAR; consequently, selection criterion 3(b) has been deleted in its

entirety, including references to the sufficiency of resources devoted to the evaluation.

*Changes:* Criterion 3(b) has been deleted.

*Comment:* Many commenters recommended that the Secretary consider how the applicant will ensure that the perspectives of children with disabilities are brought to bear in the operation of the proposed project.

One commenter recommended revising selection criterion 3(c) to ensure that the perspectives of family members and advocates for children with disabilities are considered.

*Discussion:* We believe it is important to involve children with disabilities in their educational programming. We therefore agree with the commenter that it is appropriate to ensure that the perspectives of children with disabilities are brought to bear in the operation of the project. However, we do not agree with the commenter regarding the need to involve family members and child advocates, other than the child's parents or legal guardian. Selection criterion 3(c) addresses how the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate. While the perspectives of siblings, grandparents, other relatives, and outside advocates can be important in making educational decisions for a child with a disability, we believe that the parents of a child with a disability are in the best position to represent the interests of their child. Parents may, at their discretion, convey the interests and perspectives of other family members and outside advocates in the operation of the project on behalf of their children.

In addition, outside stakeholder involvement in the development phase of the project is assured under paragraph 3(c) of the additional requirements.

*Changes:* Selection criterion 3(c) has been amended to adopt selection criteria from section 75.210(g)(2)(v) of EDGAR: "How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate."

*Comment:* Many commenters recommended that the Secretary consider the extent to which the

methods of evaluation proposed by the State provide for examining the effectiveness of the project implementation strategies and provide guidance for quality assurance.

*Discussion:* We believe that the concerns of the commenters are addressed in the *Quality of the project design* selection criterion (selection criterion 2). Selection criterion 2 provides that we will consider (a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable; (b) the extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs; and (c) the quality of the proposed project's procedures for documenting project activities and results. Additionally, the responsibility for evaluation of these projects rests with the national evaluation to be conducted by IES in cooperation with the States, not with the States themselves.

*Changes:* None.

*Comment:* Many commenters recommended that the Secretary consider the extent to which the methods of evaluation proposed by the State will provide performance feedback and permit periodic assessment toward achieving intended outcomes.

*Discussion:* We believe that the concerns of the commenters are addressed in selection criteria 2(a) and 3(a). Selection criterion 2(a) provides that the Secretary will consider the extent to which the goals, objectives and outcomes to be achieved by the proposed project are clearly specified, measurable, and address active participation in the program evaluation. Selection criterion 3(a) provides that we will consider the adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

*Changes:* None.

*Comment:* Many commenters recommended that the Secretary consider the extent to which the methods of evaluation proposed by the State include multiple methods for collecting data on parent satisfaction from a broad representative sample throughout the State with respect to the waivers and the usefulness of the information and training they have received.

*Discussion:* We believe that the evaluation of these projects is the responsibility of the national evaluation to be designed and conducted by IES in collaboration with the States. There is no requirement for the States to complete an impact evaluation of their

projects independent of the national evaluation.

*Changes:* None.

**Note:** This notice does not solicit applications. We will invite applications through a separate notice in the **Federal Register**.

### **Additional Requirements and Selection Criteria for Multi-Year IEP Program**

#### *Additional Requirements*

The Secretary establishes the following additional requirements for the Multi-Year IEP Program:

1. The Secretary may deny a State approval to participate in this program if the Secretary determines that the State currently meets the conditions under section 616(d)(2)(A)(iii) or (iv) of the Act relative to its implementation of part B of the Act.

2. The Secretary may terminate any Multi-Year IEP Program project if the Secretary determines that the State (a) needs assistance under section 616(d)(2)(A)(ii) of the Act and the State's participation in this program has contributed to or caused the need for assistance; (b) needs intervention under 616(d)(2)(A)(iii) of the Act or needs substantial intervention under section 616(d)(2)(A)(iv) of the Act; or (c) failed to appropriately implement its project.

3. States submitting a proposal under the Multi-Year IEP Program must include the following material in their proposal:

(a) Assurances that the multi-year IEP for any child with a disability who takes an alternate assessment based on alternate achievement standards includes a description of benchmarks or short-term objectives in accordance with section 614(d)(1)(A)(i)(I)(cc) of the Act.

(b) Assurances that before an LEA requests a parent's voluntary informed written consent to the development of a multi-year IEP in lieu of an IEP that meets the requirements of section 614(d)(1)(A) of the Act, the LEA will inform the parent in writing (and in the native language of the parent, unless it clearly is not feasible to do so) of:

(i) Any differences between the requirements relating to the content, development, review, and revision of IEPs under section 614(d) of the Act and the State's requirements relating to the content, development, review, and revision of IEPs under the State's approved Multi-Year IEP Program proposal; and

(ii) The parent's right to revoke consent at any time during the implementation of the Multi-Year IEP Program and the LEA's responsibility to conduct, within 30 calendar days after revocation by the parent, an IEP meeting

to develop an IEP that meets the requirements of section 614(d)(1)(A) of the Act.

(c) A description of how the State will meet the public participation requirements of section 612(a)(19) of the Act, including how the State:

(i) Involved multiple stakeholders, including parents, children with disabilities, special education and regular education teachers, related services providers, and school and district administrators, in the development of its proposal;

(ii) Provided an opportunity for public comment in developing its proposal. This description must include a summary of public comments received by the State as well as a description of how the proposal addresses those public comments; and

(iii) Obtained input from school and district personnel and parents in developing the list of required elements for each multi-year IEP and the description of the process for the review and revision of each multi-year IEP.

(d) Assurances that the State will cooperate fully in a national evaluation of this program, if selected to participate in the Multi-Year IEP Program. Cooperation includes devoting a minimum of four months between the State's award and subsequent implementation of this program to conduct joint planning with the evaluator. It also includes participation by the State educational agency (SEA) in the following evaluation activities:

(i) Providing to the evaluator the list of required elements for the multi-year IEP and the description of the process for the review and revision of the multi-year IEP submitted as part of the State's application for this program. Consistent with the privacy requirements of the Act and The Family Educational Rights and Privacy Act, ensuring that the evaluator will have access to the most recent IEP created (if applicable) before participating in the Multi-Year IEP Program and the multi-year IEP(s) created during the project for each participating child (multi-year IEP participants and matched participants who do not have a multi-year IEP), together with a general description of the process for completing both versions of the IEP.

(ii) Recruiting districts or schools to participate in the evaluation (as established in the evaluation design) and ensuring their continued cooperation with the evaluation. Providing a list of districts and schools that have been recruited and have agreed to implement the proposed Multi-Year IEP Program, allow data collection to occur, and cooperate fully

with the evaluation. Providing, for each participating school or district, basic demographic information such as student enrollment, district wealth and ethnicity breakdowns, the number of children with disabilities by category, and the number or type of personnel, as requested by the evaluator.

(iii) Serving in an advisory capacity to assist the evaluator in identifying valid and reliable data sources and improving the design of data collection instruments and methods.

(iv) Providing to the evaluator an inventory of existing State-level data relevant to the evaluation questions or consistent with the identified data sources. Supplying requested State-level data in accordance with the timelines specified in the evaluation design.

(v) Providing assistance to the evaluator on the collection of data from parents, including obtaining written informed consent for parents to participate in interviews and respond to surveys and questionnaires.

(vi) Designating a coordinator for the project who will monitor the implementation of the project and work with the evaluator. This coordinator also will serve as the primary point of contact for the Office of Special Education Programs (OSEP) project officer.

(e) A description of how the State will collect and report to the Department, as part of the State's annual performance report submission to the Secretary in accordance with section 616(b)(2)(c)(ii)(II) of the Act, and to the national evaluator, that children are not receiving appropriate services because of the State's implementation of Multi-Year IEP Program, and how the State responded to this information, including the outcome of that response such as providing technical assistance to the LEA to improve implementation, or suspending or terminating the authority of an LEA to implement multi-year IEPs due to unresolved compliance problems.

(f) A description of the procedures the State will employ to ensure that diverse stakeholders (including parents, teachers, administrators, related services providers, and other stakeholders, as appropriate) understand the proposed elements of the State's submission for the Multi-Year IEP Program.

4. Each State receiving approval to participate in the Multi-Year IEP Program will be awarded an annual incentive payment of not less than \$10,000 to be used exclusively to support program-related evaluation activities, including one trip to Washington, DC, annually to meet with the project officer and the evaluator.

Each participating State will receive an additional incentive payment of not less than \$15,000 annually from the contractor to support evaluation activities in the State. Incentive payments may also be provided to participating districts to offset the costs of their participation in the evaluation of the Multi-Year IEP Program. Total available funds will depend on the number of awards made.

5. States must describe how districts were selected and provide an assurance that districts are voluntarily participating along with a description of the circumstances under which district participation may be terminated. States participating in this program and the Paperwork Waiver Demonstration Program may not select the same LEAs to participate in both programs.

6. Proposals must be for projects not to exceed a period of four years.

**Note:** The term "parent" as used in these requirements and selection criteria for the Multi-Year IEP Program has the same meaning given the term in section 300.30 of the final regulations implementing part B of the Act.

### Selection Criteria

The following selection criteria will be used to evaluate State proposals submitted under this program. These particular criteria were selected because they address the statutory requirements and program requirements and permit applicants to propose a distinctive approach to addressing these requirements.

**Note:** We will inform applicants of the points or weights assigned to each criterion and sub-criterion in a notice published in the **Federal Register** inviting States to submit applications for this program.

1. *Significance.* The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(a) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

(b) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(c) The importance or magnitude of the results or outcomes likely to be attained by the project, especially improvements in teaching and student outcomes.

2. *Quality of the project design.* The Secretary considers the quality of the

design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(a) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(b) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(c) The quality of the proposed project design and procedures for documenting project activities and results.

3. *Quality of the management plan.* The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(a) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(b) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

### Executive Order 12866

This notice of final additional requirements and selection criteria has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently. Although there may be costs associated with participating in this pilot, the Department will provide incentive payments to States to help offset these costs. In addition, we expect that States will weigh these costs against the benefits of being able to participate in the pilot and will only opt to participate in this pilot if the potential benefits exceed the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

### Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

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(Catalog of Federal Domestic Assistance Number 84.326Q Individuals with Disabilities Education Act Multi-Year Individualized Education Program Demonstration Program)

**Program Authority:** 20 U.S.C. 1414.

Dated: June 29, 2007.

**Jennifer Sheehy,**

*Director of Policy and Planning for Special Education and Rehabilitative Services.*

[FR Doc. E7-13146 Filed 7-5-07; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Office of International Regimes and Agreements; Proposed Subsequent Arrangement

**AGENCY:** Department of Energy.

**ACTION:** Notice of proposed subsequent arrangement.

**SUMMARY:** This notice is being issued under the authority of Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed "subsequent arrangement" under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and the European Atomic Energy Community (Euratom) and the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy between the United States and Canada.

This subsequent arrangement concerns the retransfer of 147,929 kg of Natural UF<sub>6</sub> (67.6% U), containing 100,000 kg of Uranium. This material will be retransferred from Cameco Corporation, Canada, to Urenco Deutschland GmbH, Germany for final use in a civilian nuclear power reactor