

DMS REPORT

DIFFERENTIATED MONITORING AND SUPPORT OFFICE OF SPECIAL EDUCATION PROGRAMS U.S. DEPARTMENT OF EDUCATION

STATE LOUISIANA

DATE DECEMBER 22, 2020

IDEA PART B

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

December 22, 2020

Honorable Dr. Cade Brumley
Superintendent
Louisiana Department of Education
1201 North Third Street
Baton Rouge, Louisiana 70802-5243

Dear Superintendent Brumley:

The purpose of this letter is to provide a summary of the results of the differentiated monitoring and support (DMS) activities conducted by the U.S. Department of Education's Office of Special Education Programs (OSEP) during an on-site visit to the Louisiana Department of Education on November 13–15, 2019.

As part of the DMS process, OSEP conducts an organizational assessment (OA) of factors to identify States' progress in meeting performance standards and complying with the requirements of Part B of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the Education Department General Administrative Regulations, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. OSEP uses the information from the OA and an Engagement Decision Tree to make decisions about how it will engage with States over the course of the Federal fiscal year (FFY). The FFY 2019 DMS areas were: 1) Results; 2) Compliance; 3) State Systemic Improvement Plan; and 4) Fiscal Accountability.

On August 16, 2019, OSEP sent the Louisiana Department of Education's DMS notice to the former State director, Ms. Jamie Wong.¹ That notice provided a level of engagement of universal, targeted, or intensive for each of the four areas OSEP identified for DMS. The levels of engagement in the notice are based on a snapshot of the most recently available data in the corresponding four areas. The notice also identified the activities that would be carried out to address the factors contributing to the elevated need for monitoring and support in the two areas that were identified for intensive engagement — Results and Fiscal Accountability. We have attached a copy of the DMS notice for your convenience.

The enclosure describes the: 1) Background; 2) Monitoring² Activity for each DMS area; 3) Summary; and 4) OSEP's conclusion including Next Steps and Required Actions. Where OSEP issued findings of noncompliance with the IDEA requirements, you will find specific details

¹ Ms. Wong resigned as State Director following OSEP's visit. The current Director is Ms. Kelly R. Peterson

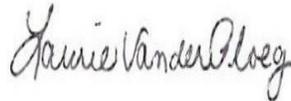
² Monitoring is broadly defined as including activities examining both compliance and performance issues, and encompasses traditional monitoring reviews and technical assistance activities

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pertaining to the basis for the findings, along with the respective citation(s); and the corrective action required to address each identified finding of noncompliance.

We appreciate your efforts to improve results for children with disabilities. If you have any questions, please contact your OSEP State Lead, Bryan G. Grigg, at Bryan.Grigg@ed.gov or 202-245-8107.

Sincerely,

A handwritten signature in cursive script that reads "Laurie VanderPloeg".

Laurie VanderPloeg
Director
Office of Special Education Programs

cc: Kelli R. Peterson, Assistant Superintendent of Equity, Inclusion and Opportunities

Enclosure

DMS Notice

RDA Matrix

ENCLOSURE

Background

The Office of Special Education Programs (OSEP) has a Differentiated Monitoring and Support (DMS) system as a component of Results Driven Accountability to improve results for children with disabilities under the Individuals with Disabilities Education Act (IDEA). DMS is designed to help the U.S. Department of Education (Department) identify potential grantee risk and to assist OSEP in effectively using its resources to monitor State grantees. DMS addresses State-specific and Entity³-specific needs in the areas of results, compliance, State Systemic Improvement Plan (SSIP), and fiscal accountability by differentiating levels of engagement (LOE)⁴ and types of monitoring and support based on each State's and Entity's unique strengths, progress, and challenges in each area.

During OSEP's November 13–15, 2019 on-site DMS Visit with the Louisiana Department of Education (LDOE), OSEP reviewed the State's results data and fiscal systems under Part B of the IDEA with a focus on the State's implementation of the IDEA Part B requirements. In preparation for the visit OSEP reviewed the following:

1. The State's previous IDEA Part B State Performance Plan/Annual Performance Review (SPP/APR) and its State Systemic improvement Plan (SSIP) submissions
2. The State's FFY 2019 annual application for funds under Part B of the Individuals with Disabilities Education Act (IDEA);
3. The State's policies and procedures related to local educational agency (LEA) allocations and subrecipient monitoring;
4. Evidence of the implementation of LEA allocations and subrecipient monitoring;
5. Information related to the implementation of IDEA Part B on the State's website, related, including State policies, procedures, and guidance; and
6. Other pertinent information related to the State's efforts to improve results for children with disabilities such as the State's plan submitted to the Department under the Federal Every Student Succeeds Act (ESSA) and the State's Preschool Development Grant application to the U.S. Department of Health and Human Services.

While on-site, OSEP gathered additional information through interviews with—

1. Jamie Wong — State Director of Special Education;
2. Kristi-Jo Preston — IDEA Policy;
3. Angela Randall — Director of Monitoring;

³ States include each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico and Entities include freely associated States, outlying areas, and the Bureau of Indian Education.

⁴ As described in the cover letter, OSEP sent a DMS notice to all States. That notice provided a level of engagement of universal, targeted, or intensive for each of the four areas OSEP identified for DMS. The levels of engagement in the notice are based on a snapshot of the most recently available data in the corresponding four areas.

4. Catherine Pozniak — Assistant Superintendent of Fiscal Operations and Federal Support;
5. Dortha George — Audit Manager; and
6. Nakia Jason — Federal Audit Supervisor.

During the visit, OSEP focused on the two areas in which the State received intensive levels of engagement: results and fiscal accountability. In our review of fiscal accountability, we determined whether LDOE was in compliance with applicable statutory and regulatory requirements and included findings and required actions to correct noncompliance. In the results portion of our visit, we engaged in a collaborative discussion with LDOE around its work strategy to improve results for students with disabilities. The results section of this letter includes a summary of what OSEP learned based upon the interview and a review of relevant documentation, and recommendations for next steps. We do not include findings or required actions in the results area. In addition, OSEP did not examine the areas of compliance and of the SSIP, for which the State received a level of engagement of universal. However, because LDOE's SSIP addresses the key results area of assessment, during the visit, OSEP and State staff discussed infrastructure improvement strategies and activities to support the use of evidence-based practices as described in the SSIP. LDOE identified strengths and opportunities to improve six infrastructure areas — governance, fiscal/funding, quality standards, professional development/technical assistance, data, and accountability/monitoring — and reported on specific activities to improve the State's infrastructure. OSEP will continue to work with the State on these areas during regular phone calls and virtual engagement and provide universal technical assistance (TA) through National TA calls, webinars and documents posted on our websites.

Overview of Results

OSEP began implementation of its DMS process with notices issued to States' Part B IDEA programs for a truncated period in April 2016 and for an annual period at the start of the Federal fiscal year (FFY) (or DMS cycle) beginning in October 2016. Louisiana's level of engagement for the DMS area of results for each DMS cycle prior to this monitoring period were "targeted" for the truncated period (April–October 2016) and "intensive" for the 2016-2017 and 2018-2019 DMS cycles.

In examining results for States, OSEP draws upon different data sources, including data that is submitted through the data collections required under IDEA Section 618, and data that is submitted under APR indicators (IDEA Section 616). OSEP determines the LOE for results through the Results Driven Accountability (RDA) Results Matrix. This matrix uses IDEA Section 618 exiting data (graduation and drop out), rather than SPP/APR Indicators 1 and 2 respectively, and National Assessment of Educational Progress (NAEP) performance data, rather than State Assessment performance reported in SPP/APR Indicator 3C. In addition, the RDA Results Matrix also considers the percentage of the 4th Grade students with disabilities students with included in the NAEP.⁵

⁵ For more information on the RDA Matrix, see [How the Department Made Determinations, Part B, 2019](#). Also see the enclosed FFY 2018 RDA Matrix for LDOE.

However, as reflected in the chart below, LDOE’s SPP/APR data has also indicated low performance in these areas.

SPP/APR Data for Indicators 1, 2, and 3C

APR Indicator	FFY 13	FFY 14	FFY 15	FFY 16	FFY 17
Graduation (APR Indicator 1)	36.70%	42.80%	44.30%	46.64%	52.50
Drop-Out (APR Indicator 2)	33.96%	27.61%	28.03%	28.54%	24.31%
Reading Proficiency (APR Indicator 3C)	36.98%	36.64%	38.21%	38.70%	34.03%
Math Proficiency (APR Indicator 3C)	40.32%	33.96%	36.06%	35.77%	33.25%

Data Source: SPP/APR 2013-2017

OSEP Results Summary

During the DMS visit, the discussion of results for students with disabilities began with LDOE personnel providing an overview of the State’s organizational structure, and a description of its general supervision activities that are specific to the monitoring and accountability processes intended to improve outcomes for students with disabilities.

LDOE described its monitoring process as one of “Continuous Improvement Monitoring.” The January 2018 version of the State document, [IDEA Monitoring — Frequently Asked Questions](#), describes its system as follows:

[t]he Continuous Improvement Monitoring System includes an annual tiered ranking of local education⁶ agencies to determine what level of monitoring activities to assign or to suggest to each local education agencies, driven by a risk-based analysis process... The key indicators of risk are growth of students on performance on statewide academic assessments, graduation rate and dropout rate.”

Interviews with LDOE staff and a review of its monitoring protocols indicate that although LDOE uses performance issues to assign risk and select LEAs for on-site monitoring, LDOE’s actual monitoring activities are all focused on compliance issues and otherwise do not address the performance risk factors identified above.⁷ When asked how LDOE addressed areas of low performance for students with disabilities, staff explained that the primary focus was on improving performance for all students, which have been historically low across all subgroups, including students with disabilities.

⁶ LDOE uses the term local education agencies, although IDEA regulations refer to local educational agencies.

⁷ Resources of LDOE’s special education monitoring, including the Frequently Asked Questions and monitoring protocols, are posted on https://louisianabelieves.com/docs/default-source/students-with-disabilities/special-education-monitoring.pdf?sfvrsn=a5319e1f_10.

As outlined in a PowerPoint presentation staff prepared for OSEP's visit, LDOE's theory of change⁸ for improving performance for all students is as follows:

1. Start the work at a small scale with innovative educators through grants and pilots.
2. Encourage projects to grow to scale, through coherent and aligned incentives like funding and reporting.
3. Nurture and assist the expansion, through regional partnerships, external support organizations and strategic communications.
4. Codify change in policy after learning from pilots and achieving statewide scale.
5. Embed the change in school system planning process and statewide support structures to facilitate local implementation.

State staff discussed and explained the strategies currently being implemented to improve outcomes for children with disabilities, as well as the specific activities underway in the State to address low performance on reading and math assessments, graduation rates, and dropout rates. The LDOE described its approach to improving outcomes for students with disabilities through four strategies detailed in the LDOE strategic plan and State's Every Student Succeeds Act (ESSA) plan:⁹

1. Early and Accurate Identification
2. High-Quality Instruction
3. Specialized Supports and Related Services
4. Coordinated and Effective Transitions¹⁰

As described by LDOE, these four elements are components of local school improvement plans identified for comprehensive and intensive support (CIS) based on ESSA criteria. Schools create improvement plans and submit them to LDOE for approval. Once approved, LDOE utilizes a network of technical assistance providers to work with CIS schools to implement their plans. The LDOE staff reported that network staff help drive district improvement planning, but plans may not necessarily include strategies specific to students with disabilities. Performance outcomes are low for all students in LDOE schools. Improvement efforts are frequently directed toward implementation of high-quality curricula and instructional strategies intended to benefit all students participating in general education settings. Local programs are encouraged by LDOE to

⁸ A theory of change is generally understood to be a comprehensive description and illustration of how and why a desired change is expected to happen in a particular context.

⁹ Section 8302 of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the ESSA, permits the Secretary to establish procedures and criteria under which, after consultation with the Governor, a State educational agency (SEA) may submit a consolidated State plan designed to simplify the application requirements and reduce burden for SEAs. Furthermore, an LEA is required to develop a plan for each school that the SEA identifies as needing comprehensive support and improvement, but the LEA has the freedom to identify the evidence-based interventions it will include in each plan. Likewise, each school that a SEA identifies as needing targeted support and improvement has the freedom to identify the evidence-based interventions it will include in its targeted support and improvement plan.

¹⁰ For more details on these strategies see: [STRATEGIES FOR SUCCESS: A Guidebook for Supporting Students With Disabilities](#).

develop high quality plans based on resource analysis and needs assessments. Those that choose to adopt a recommended evidence-based practice from a list of pre-approved options developed by the LDOE and available through the TA network are rewarded with grants and other incentives to assist with implementation and evaluation. LDOE staff emphasized that it is a collaborative process between staff in special education, general education, and Federal Support and Fiscal Operations to identify and support parishes/schools. The identification process is based on overall performance data as well as the performance of students with disabilities.

Assessment

Overall, LDOE's efforts to improve assessment results for students with disabilities follows the model described below. By focusing on improving assessment results for all students in the State, LDOE believes results will also improve for students with disabilities.

In its SSIP, LDOE has described more specific strategies designed to increase English Language Arts proficiency rates on statewide assessments for students with disabilities in third through fifth grades.¹¹ In its FFY 2017 SSIP, LDOE noted that “[in] FFY 2017, while our overall state proficiency rate for students with disabilities dropped over four percent, our SSIP cohort proficiency rates remained constant and continued to meet established targets.”¹² However, as indicated above, these strategies are implemented in a cohort of schools and not yet implemented to scale across the State. The use of a cohort in implementing the SSIP is a recognized strategy in engaging in system change work. However, in order to make an impact statewide on the proficiency of students with disabilities, LDOE will need to articulate, develop and implement scale up activities.

Assessment proficiency data for all students with disabilities in reading from FFYs 2013–2018 show a fluctuation of a few percentage points up or down each year but have been essentially flat. Math proficiency data during this period have declined from 40.32% in FFY 2013 to 33.25% in FFY 2018. These data suggest that the State-level strategies to improve assessment proficiency for all students throughout the State do not appear to have had a significant positive impact on students with disabilities.

Graduation

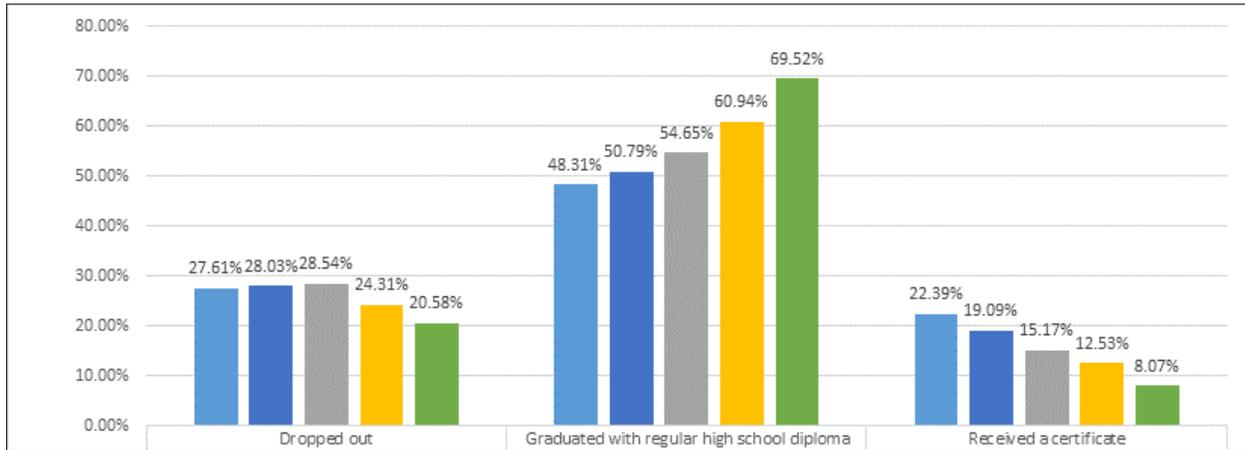
As described by the State, LDOE is focusing its efforts to improve graduation rates for all students. As pointed out by LDOE, the graduation rate with a regular diploma for students with disabilities as reported for Indicator 1 in the FFY 2017 SPP/APR was 52.50%, reflecting an

¹¹ In its FFY 2017 [SSIP](#) report submitted in April of 2019, LDOE identified three coherent improvement strategies: (1) data-informed decision-making; (2) evidence-based literacy practices; and (3) continuous leadership development. Note that LDOE submitted its FFY 2018 SSIP on April 1, 2020 and it is currently under review. In this submission, LDOE notes that the FFY 2018 data reflects a redesigned cohort, making it difficult to compare the data.

¹² FFY 2017 SSIP, pg. 36.

increase of 16.8% over the FFY 2013 baseline data and a 5.86% increase over FFY 2016 data. IDEA Section 618 exiting data, as seen below, also demonstrates improvement.¹³

Bar Graphs Displaying Trend Analysis of Graduation Data from FFY 2013–2018



Source: IDEA Section 618 Data from FFY 2013–2018

Graduation Data from FFY 2013–2018

FFY	Dropped out	Graduated with regular high school diploma	Received a certificate
2013-2014	27.16%	48.31%	22.39%
2014-2015	28.03%	50.79%	19.09%
2015-2016	28.54%	54.65%	15.17%
2016-2017	24.31%	60.94%	12.53%
2017-2018	20.58%	69.52%	8.07%

Source: IDEA Section 618 Data from FFY 2013–2018

LDOE staff reported that one reason for this increase is a change in how Louisiana approaches pathways to graduation. They described two pathways that students may pursue in order to graduate with a high school diploma. Both options are available to students with disabilities. Act 833, passed in the 2014 Louisiana legislative session, gives students with disabilities who have

¹³ Source: U.S. Department of Education, ED Facts Data Warehouse (EDW): “IDEA Part B Exiting Collection,” 2013-14 to 2017–18. Data extracted from: <https://www2.ed.gov/programs/osepidea/618-data/state-level-data-files/index.html#be>. Percentages do not equal 100% due to not including the counts of children who died, graduated with an alternate diploma, or reached maximum age.

persistent academic challenges, such as repeatedly failing state assessments due to their disabilities, the option to pursue an alternative pathway to a regular high school diploma. A small number of graduating seniors was eligible for the alternative pathway beginning in 2015 with full implementation reflected in the 2018 cohort of graduates.¹⁴

OSEP's Recommendations

As described above, LDOE has identified issues with low performance with students throughout the State, including both students with and without disabilities. LDOE argues that its strategies to improve performance for all its students will also help students with disabilities. The steady increase in graduation rates for students with disabilities demonstrates that students with disabilities are improving in some areas. However, the continued low proficiency rates on statewide assessments for students with disabilities suggests the need for additional and more focused strategies for students with disabilities. Since LDOE's SSIP is focused on improving assessment results (specifically for reading in third through fifth grade), one potential next step is to scale up the activities that appear to be successful for the SSIP cohort statewide, and across assessments. In addition, LDOE should consider incorporating a more specific focus on improving results for students with disabilities. LDOE currently includes results data in its risk assessment to determine which LEAs are monitored. A next logical step is to incorporate results discussions, and the development of improvement plans focused on students with disabilities, into its monitoring process in order to focus on areas in which results for students with disabilities can be improved.

OSEP strongly encourages the State to increase oversight of improvement efforts and evaluate the effectiveness of initiatives intended to improve results for children with disabilities. We look forward to further discussions with LDOE regarding its efforts to improve results for students with disabilities in English Language Arts proficiency, Math proficiency, and graduation rates that includes the disaggregation of data specific to children with disabilities and the allocation of resources and technical assistance to support results for students with disabilities in LEAs.

Fiscal Accountability

Background

OSEP's monitoring activities, as described in both the Office of Management and Budget's Uniform Guidance and the Department's Grant Bulletin 14-06, involve a range of activities, including technical assistance (TA) activities and activities intended to assess whether a grantee is complying with applicable statutory and regulatory requirements, including fiscal requirements for pass-through entities (see 2 C.F.R. § 200.331). OSEP's fiscal monitoring activity for Louisiana focused on: 1) LEA allocations; 2) subrecipient monitoring; and 3) the timely obligation and liquidation of IDEA funds. The first two topics were explored with the State through OSEP's LEA allocations and subrecipient monitoring protocols, which were

¹⁴ The LDOE reported that the flexibility provided under Act 833 has allowed more students with disabilities to graduate within 4 years with a regular high school diploma. However, LDOE does not provide monitoring or oversight to LEAs on their implementation of the Act. Rather, the LDOE provides guidance and instruction to LEAs reiterating that the alternate coursework must align with state standards and be specific to the disabilities of the student consistent with supports delineated in his/her IEP.

provided in advance to the State, and the third topic was addressed as a technical assistance activity during the on-site visit.

OSEP identified the need to conduct additional fiscal monitoring activities in the State due to elevated fiscal risk factors as described in OSEP's 2019 DMS levels of engagement notice, issued in August 2019. The DMS area of fiscal systems for Louisiana was designated at the intensive level of engagement, based on a number of fiscal risk factors, including the size of the State's IDEA 611 grant award, the State's submission of Phase II late liquidation requests for both its 611 and 619 grants, and the fact that 60% of the State's LEAs are charter school LEAs. While none of these three factors are necessarily indicative of noncompliance, they each elevate any State's risk that key fiscal requirements will not be met.

In September 2019, OSEP provided LDOE with a list of fiscal and related documents needed for LDOE to demonstrate adequate monitoring activities; in early October, OSEP staff and LDOE staff held a call to review the list and develop the fiscal monitoring agenda; and on October 15 and 16, 2019, LDOE submitted the requested documents. LDOE also submitted two additional documents on November 15, 2019, during the on-site visit, and some additional fiscal documents via email on January 14 and 15, 2020.

LEA Allocations

The IDEA Part B Section 611 and Section 619 funds are provided to assist States and, through them, LEAs in providing special education and related services to children with disabilities.¹⁵ States are required to distribute any Section 611 and 619 funds that the State does not reserve for State-level activities to eligible LEAs for use in accordance with the IDEA. A State's allocation of IDEA Part B funds to LEAs, consistent with the correct formulas, is critical to ensure that IDEA Part B funds are used appropriately for the intended purposes.

Legal Requirements

OSEP's monitoring of Louisiana's LEA allocations included testing six specific components of the LEA allocations process, to ensure that:

1. The State educational agency (SEA) distributes both IDEA Section 611 and Section 619 allocations to eligible LEAs based upon the correct formula for calculating base payments. IDEA Sections 611(f)(1) and (2)(A) and 619(g)(1)(A); 34 C.F.R. §§ 300.705(a)-(b)(1), 300.815-300.816(a);
2. The SEA calculates LEA base payment adjustments under Section 611 and under Section 619 consistent with IDEA requirements. 34 C.F.R. §§ 300.705(b)(2), 300.816(b); 34 C.F.R. Part 76 Subpart H; December 2000 Nonregulatory Guidance on 34 C.F.R. Part 76 Subpart H, titled "How Does a State or Local Educational Agency Allocate Funds to Charter Schools That Are Opening for the First Time or Significantly Expanding Their Enrollment?"

¹⁵ Section 611 funds are provided for the provision of special education and related services for students with disabilities aged 3 through 21. Section 619 funds are provided for the provision of special education and related services for students with disabilities age 3 through 5.

3. The SEA allocates remaining Section 611 and Section 619 funds, if any, to LEAs, including charter school LEAs, based on population and poverty, consistent with IDEA requirements. 34 C.F.R. §§ 300.705(b)(3), 300.816(c) and (d);
4. The SEA allocates IDEA Section 611 and Section 619 funds through subgrants to eligible charter school LEAs that open or significantly expand their enrollment. 34 C.F.R. §§ 300.705(b)(2), 300.816(b), and 76.792–76.793; December 2000 Nonregulatory Guidance on 34 C.F.R. Part 76 Subpart H, titled “How Does a State or Local Educational Agency Allocate Funds to Charter Schools That Are Opening for the First Time or Significantly Expanding Their Enrollment?”¹⁶
6. The SEA reallocates available IDEA Section 611 and Section 619 funds consistent with IDEA requirements. IDEA Sections 611(f)(2)(B) and 619(g)(1)(B); 34 C.F.R. §§ 300.705(c)(3), 300.817; and
7. The SEA allocates Section 619 subgrants to eligible LEAs consistent with IDEA requirements, particularly for years in which Section 619 allocations to States were below the 1997 appropriation level. 34 C.F.R. §§ 300.810(b), 300.815, and 300.816.

Findings

A. Base payment adjustments

During the on-site fiscal review, the LDOE was asked to describe its procedures for making required base payment adjustments consistent with 34 CFR §§ 300.705(b)(2), 300.816(b), and 34 C.F.R. Part 76 Subpart H. The information shared by the SEA, and OSEP’s corresponding review of State documents submitted prior to the visit, indicated that LDOE lacks procedures and practices for making base payment adjustments when a charter school LEA significantly expands its enrollment. LDOE staff explained that the budget analyst for each program office determines if a charter school LEA has significantly expanded, and that if the IDEA budget analyst determines there has been a significant expansion, then the population and poverty amounts are adjusted, but that the base payment is not adjusted. After the on-site visit, LDOE submitted revised allocation procedures in documents titled, IDEA 611 - Methodology with Processes and Procedures and IDEA 619 - Methodology with Processes and Procedures. The documents, submitted on January 15, 2020, describe LDOE procedures for making base payment adjustments when a charter school LEA significantly expands, based on the State definition for significant expansion, in a manner consistent with the legal requirements.

Required Actions/Next Steps

Within 90 days from the date of this letter, LDOE must provide to OSEP documentation demonstrating that any charter school LEA that received less than the amount of Section 611 or

¹⁶ Although the regulatory citations have not been updated to reflect the IDEA Part B regulations issued on August 14, 2006, and December 1, 2008, the substance of the December 2000 Guidance remains applicable and is posted on the Department’s Web site. (See <http://www2.ed.gov/policy/elsec/guid/cschoools/cguidedec2000.pdf>.) See questions 79 and 80 regarding base payment adjustments for charter school LEAs that significantly expand their enrollment.

Section 619 funds to which it was entitled in FFY 2018 and/or FFY 2019 was made whole, or a plan outlining how LDOE will make these charter school LEAs whole during FFY 2020 in accordance with 34 C.F.R. §§ 300.705, 300.816, 76.791-76.793, and 76.796, and the Department's December 2000 Guidance. Please note that the State may: (a) use any remaining FFY 2018, FFY 2019, and FFY 2020 Section 611 and/or Section 619 State set-aside funds; (b) use State funds¹⁷; or (c) make downward adjustments to over-allocated LEAs' future allocations and upward adjustments to under-allocated charter school LEAs' future allocations. If the State chooses either option (b) or (c), the State and affected LEAs must consider the impact on those LEAs' ability to meet the maintenance-of-effort requirement in 34 C.F.R. § 300.203, based on possible changes to those LEAs' expenditures for the education of children with disabilities using State and/or local funds.

B. Reallocation of funds

During the on-site visit, OSEP staff asked LDOE about instances in which available IDEA funds had been reallocated to eligible LEAs. The State reported that IDEA funds had been reallocated when charter school LEAs had closed, either during the school year or at the end of the school year, and that LDOE had then redistributed their available funds among all LEAs in the State "according to the formula," without determining whether the LEAs that received the reallocation were adequately providing special education and related services to all children with disabilities residing in the areas served by those LEAs.

Under the IDEA, if a charter school LEA closes mid-year after establishing eligibility for and accepting IDEA Part B funds, the SEA may: (1) reallocate the funds that have not yet been obligated or expended by the closed charter school LEA to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the area served by those other LEAs;¹⁸ or (2) retain those funds for use at the State level to the extent the State has not reserved the maximum amount it is permitted to reserve for State-level activities pursuant to 34 C.F.R. §§ 300.704 and 300.812. See 34 C.F.R. §§ 300.705(c) and 300.817.¹⁹

Based on the interviews with LDOE staff, OSEP concludes that when a charter school closes, LDOE is not reallocating funds in a manner inconsistent with 34 C.F.R. §§ 300.705(c) and 300.817.

¹⁷ If the State uses State funds to make under-allocated charter school LEAs whole, the State must demonstrate that those State funds are funds that those LEAs would not have otherwise received.

¹⁸ We note that it would be reasonable for the SEA to determine that those LEAs that are now serving the children with disabilities previously enrolled in the closed charter school LEA are not adequately providing special education and related services to all children with disabilities residing in the areas served by those LEAs due to their expanded enrollment.

¹⁹ [See also, Question 46 in "Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act,"](#) December 2016.

Required Actions/Next Steps

Within 90 days of the date of this letter, the State must develop and submit to OSEP policies and procedures that demonstrate the SEA will conduct any reallocations of IDEA Part B funds in accordance with the requirements in 34 CFR §§ 300.705(c) and 300.817. In addition, due to the currently high number²⁰ of charter schools in the State, it is important for LDOE's procedures to include communication regarding the operational status of charter school LEAs to help ensure that grant closeouts, when required, are handled in a timely and appropriate manner.

Subrecipient Monitoring

Under the IDEA and the Uniform Guidance, SEAs are responsible for oversight of the operations of IDEA-supported activities. Each SEA must monitor its own activities, and those of its LEAs, to ensure compliance with applicable Federal requirements and that performance expectations are being achieved. Monitoring must cover each program, function, or activity. Subrecipient monitoring is at the core of the SEA's general supervisory responsibilities and can help the SEA ensure that its LEAs are in compliance with IDEA and related requirements, as well as aligned with SEA priorities designed to improve results for children with disabilities. The purpose of this monitoring activity was to review the State's compliance with fiscal subrecipient monitoring requirements.

Legal Requirements

OSEP's monitoring included an examination of information related to each of the following components of LDOE's fiscal subrecipient monitoring system:

1. The SEA ensures that every subaward is clearly identified to the subrecipient as a subaward and includes required information at the time of the subaward. 2 C.F.R. § 200.331(a);
2. The SEA evaluates each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring. 2 C.F.R. § 200.331(b);
3. The SEA monitors the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. 2 C.F.R. § 200.331(d). Also see 34 C.F.R. §§ 300.149 and 300.600;
4. As part of the monitoring activities described above, the SEA issues a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by 2 C.F.R. § 200.331(d)(3). The management decision must clearly state whether or not the audit finding is sustained, the reasons for

²⁰ For the 2017-2018 school year, LDOE reported that 126 of its 200 operational LEAs, or 60.0%, were charter school LEAs. The report was part of the EDFacts Submission, Directory C029, related to DG653 Charter School LEA Status. <https://www2.ed.gov/about/inits/ed/edfacts/index.html>.

the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. 2 C.F.R. § 200.521(a);

5. Depending upon the assessment of risk posed by the subrecipient, the SEA has policies and procedures that consider the monitoring tools set out in 2 C.F.R. § 200.331(e)(1)–(3);
6. The SEA verifies that every subrecipient is audited when required by the Uniform Guidance at 2 C.F.R. § 200.331(f); and
7. The SEA considers taking the enforcement actions set out by 2 C.F.R. § 200.338 against noncompliant subrecipients as required under the Uniform Guidance at 2 C.F.R. § 200.331(h).

Finding

During the on-site visit, LDOE staff reported that the Office of Fiscal Operations and Financial Support/Statewide Monitoring is responsible for issuing a management letter to LEAs with IDEA-related fiscal monitoring or single audit findings. A document entitled “Audit Requirements and Procedures,” submitted to OSEP by the State, includes language citing three requirements for pass-through entities from the Uniform Guidance regarding audit requirements, specifically the requirements at 2 C.F.R. §§ 200.331(f)–(h). However, LDOE’s procedures document does not reference the requirement at 2 C.F.R. § 200.331(d)(3) to issue a management decision for audit findings pertaining to the Federal award provided to the subrecipient according to the requirements for such decisions at 2 C.F.R. § 200.521(a). LDOE provided three samples of management decision letters or notifications from LDOE to districts with audit findings, and the corresponding close-out letters or notifications indicating completed correction. All three samples submitted by the State lacked a description of any appeal process available to the grantee, and two of the samples failed to clearly state whether or not the audit finding is sustained and the reasons for the decision. Both the description of an appeal process and explanation of the audit finding sustainment are required elements of a management decision. 2 C.F.R. § 200.521(a). Therefore, LDOE does not consistently meet the requirements of pass-through entities and does not have policies and procedures that describe these requirements, and the SEA’s implementation of the requirements. Accordingly, OSEP has determined that the State does not have a system reasonably designed to ensure that LEAs comply with the fiscal requirements applicable to Part B of the IDEA, as required under 2 C.F.R. § 200.331(d), 34 C.F.R. §§ 300.149, and 300.600(e).

Required Actions/Next Steps

Within 90 days of the receipt of this letter, the State must submit to OSEP:

1. Revised State policies and procedures for fiscal monitoring, including LEAs’ correction of identified noncompliance and the SEA’s tracking of those corrective actions taken by LEAs, consistent with the requirements of IDEA, the Single Audit Act Amendments of 1996 (31 U.S.C. §§ 7501-7506), and the Uniform Guidance; and
2. A copy of the correspondence in which the State has informed its State audit office that is responsible for conducting audits in accordance with the Single Audit Act and the

Uniform Guidance, of this finding of noncompliance and OSEP's required corrective actions.

With the FFY 2019 Part B SPP/APR, due February 1, 2021, the State must provide evidence that it has implemented these fiscal monitoring procedures.

Timely Obligation and Liquidation of Funds

Background and History

As a result of an OSEP monitoring visit conducted in 2009, with a letter issued on March 5, 2010, OSEP found that LDOE did not have procedures reasonably designed to ensure the timely obligation and liquidation of funds. 34 C.F.R. § 76.709(a) and 2 C.F.R. § 200.343(b). Although the specifics of that finding were related to the State's handling of LEA subgrants, OSEP's letter also included the following language: "Further, OSEP is concerned about the State's continuing pattern of not obligating and liquidating all of its Part B funds in a timely manner ... We also strongly encourage the State to review and revise its procedures to help ensure that all Part B funds are timely obligated and liquidated."

LDOE's 2010 email response to the monitoring letter included the following statements regarding timely obligation and liquidation:

"Regarding the timely obligation of funds, the LDOE has instituted monthly Expenditure Reports detailing the available balances under all grants by sub-recipient. These reports are emailed to each recipient around the first week of each month. The LDOE will continue to emphasize prudent fiscal management policies with all sub-recipients including encouraging each sub-recipient to submit claims for reimbursement at a minimum of one per month."

More recently, on multiple occasions since 2015, OSEP notified LDOE of balances in its Section 611 and Section 619 grant awards indicating that funds were not obligated and liquidated in a timely manner. OSEP encouraged LDOE to ensure timely obligation and liquidation of the funds. Funds for both grant awards were fully liquidated for FFYs 2010, 2011, and 2012. Unliquidated balances for more recent years were as follows:

LOUISIANA’S UNEXPENDED PART B FUNDS	FFY 2013	FFY 2014*	FFY 2015**	FFY 2016
PART B 611	\$48,280	\$357,381	\$1,490,106	\$18,932
PART B 619	\$114,489	\$1,232,101	\$410,221	\$0

**LDOE made a Phase 2 late liquidation²¹ request in 2019 for FFY 2014 funds; after approval, lapsed fund balances were \$0 (611) and \$1,204,899 (619).*

***LDOE made a Phase 1 late liquidation request in 2019 for FFY 2015 funds; after approval, balances were \$1,342,591 (611) and \$346,191 (619).*

On at least two occasions between 2015 and 2018, OSEP requested a conversation with LDOE to help identify why there were ongoing problems regarding their ability to liquidate funds for their intended purposes. OSEP explained that it would be helpful that the conversation include both program and fiscal staff/offices to discuss the day-to-day processes and procedures impacting the issue and to learn more about their policies and procedures around Section 619 subgrants going out, as well as overall fiscal procedures with an impact on obligation and liquidation. On both occasions LDOE staff told OSEP that there was no need to discuss this topic because the problem had been solved. It was after these requests from OSEP that LDOE submitted the two late liquidation requests referenced above.

State’s Description of Current Practices

During the on-site visit, LDOE staff explained the steps that it had taken to address previous problems in obligating and liquidating IDEA. During the visit, LDOE shared its root cause analysis of this issue and provided specific information about strategies and process changes made in 2019 to address the problems that had led to the need for the most recent late liquidation requests.

During the discussion, LDOE explained that the need for the Phase 2 Late Liquidation Request was a result of a key staff position becoming suddenly and unexpectedly vacant leaving “no one to send an alarm.” To improve the timely obligation and liquidation of funds LDOE took the following steps:

²¹ Under the Department’s June 5th, 2007 Policy Memorandum, requests to liquidate U.S. Department of Education (Department) grant funds beyond the 90 days after the period of availability (late liquidation requests) are divided into Phase I requests and Phase II requests. A Phase I request can be considered by the principal operating component (POC) within the Department up to 18 months after the end of the Tydings period (i.e., 15 months after the end of the normal liquidation period). A Phase II request will only be considered under extraordinary circumstances and only the Chief Financial Officer (CFO) has the authority to approve or disapprove the request in conjunction with the Office of the Deputy Secretary, the Office of the Under Secretary, and the Office of the General Counsel.

1. A structural reorganization designed to improve ownership of the functions;
2. The implementation of monthly IDEA budget meetings inclusive of staff representatives from Special Education Policy, Appropriation Control, and Grants Management staff, as well as the Assistant Superintendent for Fiscal Operations and Federal Support;
3. Changes were made in its financial system, reducing budget lines for State-level IDEA funds from 36 to two (Administration, and Other State-level Activities); and
4. A review process of timely obligations and liquidations is now initiated in spring, instead of in the fall as was done previously.

Recommendations/Next Steps

OSEP acknowledges the attention that LDOE has given to resolving longstanding problems regarding the timely obligation and liquidation of IDEA funds and recognizes progress made by the State. Given the longstanding nature of this issue, OSEP recommends the State continue to review its processes and further refine its written policies and procedures as appropriate to include references to pertinent statutory and regulatory requirements, and specific staff positions/office communications, roles, and responsibilities. In particular, given the issues that arose due to staffing changes, OSEP recommends that LDOE consider including multiple reviewers to ensure timely attention to these matters when personnel changes occur. OSEP is willing to engage in further technical assistance around this issue, or to refer the State to an appropriate technical assistance provider upon request.

DMS NOTICE

Differentiated Monitoring and Support Engagement Decisions: *Louisiana* 2019–2020

This year we have selected four States for on-site visits as part of OSEP’s Differentiated Monitoring and Support (DMS) system. These selections were based on the relative number of intensive and targeted Levels of Engagement (LOEs) across all states. **Your State has been selected for an on-site visit.**

OSEP’s Differentiated Monitoring and Support (DMS) system is a component of Results Driven Accountability. DMS is designed to identify potential grantee risk to the Department and to assist OSEP in effectively using its resources to monitor grantees. DMS addresses State-specific needs in the areas of results, compliance, State Systemic Improvement Plan (SSIP), and fiscal by differentiating levels and types of monitoring and support based on each State’s unique strengths, progress, and challenges in each area.

DMS is a multi-tiered model for monitoring and providing support based on the principle that supports are first provided at a core or universal level to effectively address the needs of all States. Targeted monitoring and support are generally based on OSEP’s identification of common needs among multiple States. Intensive monitoring and support are reserved for those States with the most intense or complex challenges to implementation.

OSEP has assessed States’ and Entities’ progress in meeting performance standards and compliance with the legal requirements of the Individuals with Disabilities Education Act, the Education Department General Administrative Regulations and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. This information was used to help OSEP make decisions about a State’s or Entities’ levels of engagement for monitoring and support.

The charts below specify your State’s level of engagement in each area — results, compliance, fiscal and SSIP.

Results | Level of Engagement: *Intensive*

Factors	Existing/Current Engagement
<ul style="list-style-type: none"> ● Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress – 27%. ● Percentage of 4th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress – 30%. ● Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress – 18%. ● Percentage of 8th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress – 78%. 	<p>OSEP continues to make information and technical assistance (TA) resources available and provide universal support to all States.</p>

New Engagement

OSEP will offer to provide the State, in collaboration with OSEP’s technical assistance providers, intensive technical assistance and support in its work to improve the State’s data quality and child performance outcomes related to positive social relationships, skills, and knowledge. OSEP’s support may include establishing a schedule of regular contact, engaging in conversations to explore improvement activities, and discussing the progress and effectiveness of activities currently underway in the State to improve outcomes for students with disabilities. OSEP may also work with the State to conduct a root cause analysis of the factors that contribute to low results outcomes for infants, toddlers, and their families.

Fiscal | Level of Engagement: *Intensive*

Factors	Existing/Current Engagement
<ol style="list-style-type: none"> 1. The State's IDEA 611 award is between \$100,000,000 - \$200,000,000. 2. State submitted a Phase II Late Liquidation request for either 611 or 619 grants during the past year. 3. 32% or more of State’s LEAs are charter school LEAs. 	<p>OSEP continues to make information and TA resources available and provide universal support to all States.</p>

New Engagement

OSEP will contact the State and discuss the level of engagement. OSEP may also request additional documentation from the State and collect additional publicly available information. Based upon discussions with the State, technical assistance or additional data collection may be conducted on-site or virtually.

Compliance | Level of Engagement: *Universal*

Factors	Existing/Current Engagement
Factors are only listed when the level of engagement is targeted or intensive.	OSEP continues to make information and TA resources available and provide universal support to all States.

New Engagement

OSEP will provide universal support related to IDEA compliance.

SSIP | Level of Engagement: *Universal*

Factors	Existing/Current Engagement
Factors are only listed when the level of engagement is targeted or intensive.	OSEP continues to make information and TA resources available and provide universal support to all States.

New Engagement

OSEP will provide universal support related to the State’s SSIP.

2019 RDA MATRIX

Louisiana

2019 Part B Results-Driven Accountability Matrix

Results-Driven Accountability Percentage and Determination²²

Percentage (%)	Determination
61.67	Needs Assistance

Results and Compliance Overall Scoring

	Total Points Available	Points Earned	Score (%)
Results	24	8	33.33
Compliance	20	18	90

2019 Part B Results Matrix

Reading Assessment Elements

Reading Assessment Elements	Performance (%)	Score
Percentage of 4th Grade Children with Disabilities Participating in Regular Statewide Assessments	85	1
Percentage of 8th Grade Children with Disabilities Participating in Regular Statewide Assessments	82	1
Percentage of 4th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	25	1
Percentage of 4th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	84	1
Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	27	0
Percentage of 8th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	82	1

Math Assessment Elements

Math Assessment Elements	Performance (%)	Score
Percentage of 4th Grade Children with Disabilities Participating in Regular Statewide Assessments	85	1
Percentage of 8th Grade Children with Disabilities Participating in Regular Statewide Assessments	82	1
Percentage of 4th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	30	0
Percentage of 4th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	86	1
Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	18	0
Percentage of 8th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	78	0

²² For a detailed explanation of how the Compliance Score, Results Score, and the Results-Driven Accountability Percentage and Determination were calculated, review "How the Department Made Determinations under Section 616(d) of the *Individuals with Disabilities Education Act* in 2019: Part B."

Exiting Data Elements

Exiting Data Elements	Performance (%)	Score
Percentage of Children with Disabilities who Dropped Out	24	0
Percentage of Children with Disabilities who Graduated with a Regular High School Diploma ²³	61	0

2019 Part B Compliance Matrix

Part B Compliance Indicator ²⁴	Performance (%)	Full Correction of Findings of Noncompliance Identified in FFY 2016	Score
Indicator 4B: Significant discrepancy, by race and ethnicity, in the rate of suspension and expulsion, and policies, procedures or practices that contribute to the significant discrepancy and do not comply with specified requirements.	0	N/A	2
Indicator 9: Disproportionate representation of racial and ethnic groups in special education and related services due to inappropriate identification.	0	N/A	2
Indicator 10: Disproportionate representation of racial and ethnic groups in specific disability categories due to inappropriate identification.	0	N/A	2
Indicator 11: Timely initial evaluation	98.59	No	2
Indicator 12: IEP developed and implemented by third birthday	96.16	No	2
Indicator 13: Secondary transition	100	N/A	2
Timely and Accurate State-Reported Data	83.33		1
Timely State Complaint Decisions	100		2
Timely Due Process Hearing Decisions	100		2
Longstanding Noncompliance			1
Special Conditions	None		
Uncorrected identified noncompliance	Yes, 2 to 4 years		

²³ Graduated with a regular high school diploma as defined under the *IDEA* Section 618 State-reported data: These students exited an educational program through receipt of a high school diploma identical to that for which students without disabilities are eligible. These students met the same standards for graduation as those for students without disabilities. As defined in 34 CFR §300.102(a)(3)(iv), in effect prior to June 30, 2017, “the term regular high school diploma does not include an alternative degree that is not fully aligned with the State’s academic standards, such as a certificate or general educational development credential (GED).”

²⁴ The complete language for each indicator is located in the Part B SPP/APR Indicator Measurement Table at: <https://osep.grads360.org/#communities/pdc/documents/17415>