

Enclosure C: Local Educational Agency (LEA) Determinations

IDEA section 616(a)(1)(C)(ii) requires States to implement Part B of the IDEA in accordance with section 616(a)(3) and (e). These statutory provisions and 34 CFR §300.600(a)(2) require States to make annual determinations about the performance of each LEA using the categories in 34 CFR §300.603(b)(1) (i.e. Meet Requirements, Needs Assistance, Needs Intervention and Needs Substantial Intervention). IDEA section 616(f) and 34 CFR §300.608(a) require SEAs to prohibit an LEA from reducing its level of expenditures under 34 CFR §300.205(a) if the SEA determines under section 616 that the LEA “needs assistance,” “needs intervention,” or “needs substantial intervention” in implementing the requirements of Part B of the IDEA.

In its May 13, 2016 fiscal monitoring letter, OSEP found that the Massachusetts Department of Elementary and Secondary Education (ESE) did not have policies and procedures to ensure that it prohibits an LEA from reducing the level of expenditures under 34 CFR §300.205(a) if the SEA determines under section 616 that the LEA “needs assistance,” “needs intervention,” or “needs substantial intervention” in implementing the requirements of Part B of the IDEA in accordance with 34 CFR §§300.205(a) and 300.608(a). OSEP noted in its August 8, 2017 letter, that ESE had no provided these policies and procedures.

On September 30, 2016, OSEP issued its “IDEA Part B Local Educational Agency Maintenance of Effort Reduction and Coordinated Early Intervening Services (LEA MOE/CEIS)” letter to ESE, based on an analysis of the State’s 2009 through 2013 data submissions. In that letter, OSEP also found that in several instances, the State had not prohibited an LEA from reducing the level of expenditures under 34 CFR §§300.205(a) and 300.608 when the SEA determined under section 616 that the LEA “needs assistance,” “needs intervention,” or “needs substantial intervention” in implementing the requirements of Part B of the IDEA.

On November 16, 2016, as part of its response to corrective actions required by the September 30, 2016 LEA MOE/CEIS letter, the ESE submitted its “Coordinated Early Intervening Services Procedures”. A review of the information submitted by the State and the State’s current procedures for making annual determinations as reflected in the “2017 Determination of Need for Special Education Technical Assistance or Intervention” indicated that IDEA Part B annual determinations are made using the following six categories: Meets Requirements; Meets Requirements At Risk; Meets Requirements Provisional; Needs Technical Assistance; Needs Intervention; and Needs Substantial Intervention.¹

On a January 25, 2018 conference call with OSEP, ESE confirmed that: (1) ESE previously allowed LEAs to adjust their level of expenditures under 34 CFR §300.205(c) with a determination of “Needs Technical Assistance”, and (2) LEAs determined to be in “Meets Requirements At Risk”² and “Meets Requirements Provisional”³ may be allowed to reduce their level of expenditures under 34 CFR §300.205(a). For these designations, the State allowed

¹ See, “2017 Determination of Need for Special Education Technical Assistance or Intervention” www.doe.mass.edu/accountability/special-edu-determinations.docx, last accessed, June 1, 2018.

² For LEAs with a designation of “Meets Requirements At Risk,” the ESE considers those districts “deemed to be “at risk” for not meeting the needs of the students with IEPs without continued attention to the specific needs of this student population.”

³ For LEAs with a designation of “Meets Requirements Provisional,” the LEA has not been issued “an accountability determination, and therefore will have a “Meets Requirements Provisional” special education determination, unless there are concerns about noncompliance with IDEA requirements.”

LEAs to reduce their level of expenditures despite determining that the LEA is “at risk” for not meeting the requirements of the IDEA, or not determining through the annual LEA determination process that the LEA “meets the requirements” of IDEA.

The State explained that they are currently in the process of revising their accountability system, and agreed to remove the determinations of “Meets Requirements at Risk” and “Meets Requirements Provisional” when making LEA annual determinations under their accountability system.

Further Action Required:

Within 90 days of the date of this letter, the ESE must submit revised policies and procedures to OSEP that demonstrate the State:

- (1) Is no longer using the categories Meets Requirements At Risk and Meets Requirements Provisional in making LEA annual determinations under their accountability system, as required by 34 CFR §§300.600(a)(2) and 300.603(b)(1); and
- (2) Prohibits an LEA from reducing the level of expenditures under 34 CFR §300.205(a) if the SEA determines under section 616 that the LEA “needs assistance”, “needs intervention”, or “needs substantial intervention” in implementing the requirements of Part B of the IDEA in accordance with 34 CFR §§300.205(a) and 300.608(a).