



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

Honorable Lillian Lowery  
Secretary of Education  
Delaware Department of Education  
401 Federal Street, Suite 2  
Dover, Delaware 19901-3639

Dear Secretary Lowery:

Thank you for the timely submission of Delaware's Federal fiscal year (FFY) 2007 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA). We also acknowledge the revisions to Delaware's APR and SPP received on April 7, 2009. We appreciate the State's efforts in preparing these documents.

The Department has determined that, under IDEA section 616(d), Delaware needs assistance in meeting the requirements of Part B of IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2007 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2009" for further details.

The specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for Delaware were that the State: (1) did not publicly report on the performance of local education agencies on Indicators 9, 10, and 11 based on the FFY 2006-2007 data; and (2) reported 84.1% for Indicator 20. For these reasons, we were unable to determine that Delaware met requirements under section 616(d). OSEP notes that the State reported a high level of performance for Indicators 11, 12, 16, and 17 (95% or better) and was able to report timely correction for all previously identified noncompliance in Indicators 11 and 13. We hope the State will be able to demonstrate that it meets requirements in the next APR.

The enclosed table provides the OSEP's analysis of the State's FFY 2007 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the State to its targets, improvement activities (timelines and resources) and baseline data in the State's SPP. The table also identifies, by indicator, the State's status in meeting its targets, whether the State's data reflect progress or slippage, and whether the State corrected noncompliance and provided valid and reliable data.

Your State may want to consider taking advantage of available sources of technical assistance. A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the "Technical Assistance Related to Determinations" box on the opening page of the SPP/APR Planning Calendar website at <http://spp-apr-calendar.rrfcnetwork.org/>. You will be directed to a list of indicators. Click on specific

indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator.

As you know, your State must report annually to the public on the performance of each local educational agency (LEA) located in the State on the targets in the SPP as soon as practicable, but no later than June 2, 2009, pursuant to IDEA section 616(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(A). In addition, your State must review LEA performance against targets in the State's SPP, determine if 'meets requirements,' 'needs assistance,' 'needs intervention,' or 'needs substantial intervention' in implementing Part B of the IDEA and inform each LEA of its determination. For further information regarding these requirements, see the SPP/APR Planning Calendar website at: <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/656>. Finally, as you included revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that you update your SPP accordingly and that the updated SPP is made available to the public.

In its October 17, 2008 Memorandum 09-02, "Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the IDEA," OSEP provided Chief State School Officers and Lead Agency Directors with important information regarding: (1) requirements for identifying noncompliance and reporting on the correction of noncompliance in States' APRs; and (2) how OSEP will, beginning with the FFY 2008 APR, due February 1, 2010, consider the correction of noncompliance in making annual determinations for States pursuant to section 616(d) of the IDEA. Most significantly, beginning with our 2010 determinations:

1. OSEP will no longer consider a State to be in substantial compliance relative to a compliance indicator based on evidence of correction of the previous year's noncompliance if the State's current year data for that indicator reflect a very low level of compliance (generally 75% or below); and
2. OSEP will credit a State with correction of noncompliance relative to a child-specific compliance indicator only if the State confirms that it has addressed each instance of noncompliance identified in the data for an indicator that was reported in the previous year's APR, as well as any noncompliance identified by the Department more than one year previously. The State must specifically report, for each compliance indicator, whether it has corrected all of the noncompliance identified in its data for that indicator in the prior year's APR as well as that identified by the Department more than one year previously.

It is important for each State to review the guidance in the memorandum, and to raise any questions with your OSEP State Contact. The memorandum may be found at: <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/656>.

OSEP is committed to supporting Delaware's efforts to improve results for children and youth with disabilities and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Christine Pilgrim, your OSEP State Contact, at 202-245-7351.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures

cc: State Director of Special Education