



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

Honorable Paul G. Pastorek
State Superintendent of Education
Louisiana State Department of Education
P.O. Box 94064
Baton Rouge, Louisiana 70804

JUN - 1 2009

Dear Superintendent Pastorek:

Thank you for the timely submission of Louisiana's Federal fiscal year 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 Louisiana's APR 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), Louisiana needs intervention 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 intervention' for Louisiana were that the State: (1) failed to provide valid and reliable data for compliance Indicators 9 and 10; and (2) the State's continued failure to review policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA for LEAs identified, in FFY 2005, FFY 2006, and FFY 2007 with significant discrepancies in the rates of suspension and expulsions of children with disabilities, as required by 34 CFR §300.170(b).

For Indicators 9 and 10, Louisiana is still not reviewing data to determine if children in various racial and ethnic groups are underrepresented either as children with disabilities or in specific disability categories. This issue also was identified as a problem in OSEP's response to Louisiana's FFY 2006 APR. For this reason, the State has not provided valid and reliable data, consistent with the measurements for these Indicators. Disproportionate representation that is the result of inappropriate identification in special education and in specific disability categories are key compliance indicators under the monitoring and enforcement scheme established under section 616 of the IDEA. Without these data, OSEP and the public cannot assess whether children of various racial and ethnic groups are being denied services they should be receiving as children with disabilities.

The State also again failed to describe in Indicator 4a, as directed in OSEP's response tables for the last two years, its review of policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA for LEAs identified, in FFY 2005, FFY 2006, and FFY 2007 with significant discrepancies in the rates of suspension and

expulsions of children with disabilities, as required by 34 CFR §300.170(b). The State's continued failure to demonstrate that it is meeting these requirements raises serious questions about the State's oversight of special education in Louisiana.

We also note the State's slippage in Indicator 16 (from 100% to 77%) on the percent of signed written complaints with reports that were resolved within 60 days or a timeline extended for exceptional circumstances; and the State's slippage in Indicator 15 (from 92.4% to 71%) in the percentage of identified noncompliance that is corrected within one year of identification. We hope that the State will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides 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/techassistance.html>. 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 each LEA '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 Calendar at: <http://spp-apr-calendar.rrfcnetwork.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.irfnetwork.org/explorer/view/id/656>.

Pursuant to section 616(d)(2)(B) of the IDEA and 34 CFR §300.603(b)(2), a State that is determined to need intervention or need substantial intervention, and does not agree with this determination, may request an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should change the State's determination. To request a hearing, submit a letter to Andrew J. Pepin, Delegated the Authority to Assume the Duties of Assistant Secretary, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW, Room 5106, Potomac Center Plaza, Washington, DC 20202-2600 within 15 days of the date of this letter. The letter must include the basis for your request for a change in the State's determination.

OSEP is committed to supporting Louisiana'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 Jennifer Finch, your OSEP State Contact, at 202-245-6610.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education