



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

JUN - 3 2010

Honorable Paul G. Pastorek
State Superintendent of Education
Louisiana State Department of Education
P.O. Box 94064
Baton Rouge, LA 70804-9064

Dear Superintendent Pastorek:

Thank you for the timely submission of Louisiana's Federal fiscal year (FFY) 2008 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA).

The Department has determined that, under IDEA section 616(d), Louisiana needs assistance in implementing 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 2008 APR and revised SPP, other State-reported data, and information obtained through verification visits and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2010: Part B" for further details.

The specific factor affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for Louisiana was that the State's FFY 2008 data reflect 85% compliance for Indicator 15. For this reason, we are unable to determine that Louisiana met requirements for FFY 2008 under IDEA section 616(d).

OSEP notes other areas that reflect a high level of performance, which include that Louisiana reported valid and reliable data for all indicators and a high level of compliance for Indicator 9 (0%), Indicator 10 (.94%), Indicator 11 (99.89%), Indicator 16 (100%), Indicator 17 (100%), and Indicator 20 (97.62%). We hope that Louisiana 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 2008 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: (1) the State's reported FFY 2008 data; (2) whether such data met the State's FFY 2008 targets and reflect progress or slippage from prior year's data; (3) if applicable, that the State's data are not valid and reliable; and (4) whether the State corrected findings of noncompliance.

The State's determination for the FFYs 2005, 2006, and 2007 APRs was also needs assistance. In accordance with section 616(e)(1) of the IDEA and 34 CFR §300.604, if a State is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: (1) advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance; (2) direct the use of State-level funds on the area or areas in which the State needs assistance; or (3) identify the State as a high-risk grantee and impose special conditions on the State's Part B grant award.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

Pursuant to these requirements, the Secretary is advising the State of available sources of technical assistance related to Indicator 15 (general supervision). 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.rfcnetwork.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. For the indicator(s) listed above, your State must report to OSEP, with its FFY 2009 APR submission, due February 1, 2011: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance. Also, the State must report to OSEP by October 1, 2010, how the technical assistance selected by the State is addressing the factors contributing to the ongoing noncompliance related to this indicator. The extent to which your State takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under section 616 should your State not be determined to meet requirements next year. We encourage Louisiana to take advantage of available sources of technical assistance in other areas as well, particularly if the State is reporting low compliance data for an indicator.

As required by section 616(e)(7) of the IDEA and 34 CFR §300.606, the State must notify the public within the State that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency’s website and distributing the notice to the media and through public agencies.

As you know, pursuant to IDEA section 616(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(A), 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, 2010. In addition, your State must: (1) review LEA performance against targets in the State’s SPP; (2) determine if each LEA “meets requirements,” of Part B, or “needs assistance,” “needs intervention,” or “needs substantial intervention” in implementing Part B of the IDEA; (3) take appropriate enforcement action; and (4) inform each LEA of its determination. 34 CFR §300.600(a)(2) and (3). For further information regarding these requirements, see the SPP/APR Calendar at <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/656>. Finally, if your State included revisions to baseline, targets or improvement activities in its APR submission, and OSEP accepted those revisions, please ensure that your SPP is updated accordingly and that the updated SPP is posted on the State’s website and made available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B).

OSEP’s March 5, 2010 verification visit letter found that the State’s failure to require all districts with significant disproportionality to do the following was inconsistent with 34 CFR §300.646(b): (1) conduct a review, and if appropriate, revision of policies, procedures, and practices used in identification, placement, or discipline of children with disabilities to ensure compliance with Part B; and (2) report publicly on the revision of policies, procedures, and practices. On January 22, 2010, the State sent to OSEP a draft letter that it would use in the future to expressly require districts with significant disproportionality in all three tiers to meet the requirements of 34 CFR §300.646(b)(1). OSEP’s letter required the State to submit, within 60 days from the date of OSEP’s letter, a written assurance that it revised its policies and procedures regarding the identification of significant disproportionality in accordance with:

1. 34 CFR §300.646(a)(2) and (3) providing for the collection and examination of data with respect to: (a) the placement in particular educational settings of these children; and (b) the incidence, duration and type of disciplinary actions including suspensions and expulsions; and
2. 34 CFR §300.646(b) requiring LEAs determined to have significant disproportionality to: (a) conduct a review, and if appropriate, revision of policies, procedures, and practices used in identification, placement, or discipline of children with disabilities to ensure compliance with Part B; and (b) report publicly on the revision of policies, procedures, and practices.

In its May 2, 2010 response, the State provided this assurance.

As also detailed in OSEP's March 5, 2010 verification visit letter, the State's procedures required that: (1) districts submit a single application for both Part B funds and funds under Title 1 of the Elementary and Secondary Education Act (Title 1); and (2) a district would not be eligible to draw down its Part B 611 and 619 subgrants until portions of the application relating to Title 1 were substantially approvable. In the verification visit letter, OSEP found that not allowing a district eligible to draw down its Part B funds until its application for Title 1 was also substantially approvable was inconsistent with the requirements of 34 CFR §§300.200 and 300.804, which require that an LEA be eligible to receive funds under sections 611 and 619 if the LEA has met Part B eligibility requirements. OSEP's letter required that the State provide a written assurance that it has revised its procedure of not allowing LEAs to draw down its Part B funds although the eligibility requirements for Part B have been met. In its May 2, 2010 response, the State specifically confirmed that it had met those requirements.

OSEP's March 5, 2010 verification visit letter further found that in determining whether LEAs met their local maintenance of effort (MOE) obligation based only on a comparison of State and local funds on either a per capita basis or total basis was inconsistent with the requirements of 34 CFR §300.203(b). OSEP further found the State had not implemented a systematic process to determine whether there are State sources of fiscal support for Part B services beyond special education funds allocated directly to LDE that the State must consider in calculating State level MOE, in accordance with 34 CFR §300.163(a). OSEP's letter required that the State provide:

1. A written assurance that the State will evaluate local MOE consistent with 34 CFR §300.203, including permitting LEAs to demonstrate that they meet their MOE obligation based on a comparison of local funds (and not just State and local funds), on a total or per capita basis;
2. A separate written assurance that the State has met the State MOE requirements in IDEA section 612(a)(18) and 34 CFR §300.163 and has included, in its calculations, funds other agencies provide to the State educational agency (SEA) for special education and related services, funds other agencies provide directly to LEAs for special education and related services, and funds other agencies directly pay to staff or contractors for the delivery of special education and related services pursuant to an IEP; and
3. A copy of the correspondence in which the State has informed its State audit office of the need to review under the State's Single Audit, conducted under the Single Audit Act, the State's procedures to comply with the tracking of the amount of State financial support

provided (made available) to meet the IDEA MOE requirements in IDEA section 612(a)(18) and 34 CFR §300.163.

In its May 2, 2010 response, the State provided the assurances described in 1 and 2, above, and provided a copy of its letter to the State audit office informing that office of the need to review compliance with the State MOE requirements of Part B.

As required by the March 5, 2010 verification letter the State has provided assurances and corrective actions required. Based on our review of the State's May 2, 2010 response and submissions to OSEP, OSEP is satisfied that the noncompliance identified during OSEP's 2009 verification visit has been corrected.

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,

A handwritten signature in black ink that reads "Alexa Posny". The signature is written in a cursive, flowing style.

Alexa Posny, Ph.D.
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education