



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

JUN - 3 2010

Honorable Deborah Delisle
Superintendent of Public Instruction
Ohio Department of Education
25 South Front St., 7th Floor
Columbus, OH 43215-4183

Dear Superintendent Delisle:

Thank you for the timely submission of Ohio'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), Ohio needs intervention 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 factors affecting the Office of Special Education Programs' (OSEP's) determination of needs intervention for Ohio were the State's failure to provide valid and reliable data for compliance Indicators 12, 16, and 17. The State is required to provide data for Indicator 12 on the percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an individualized education program (IEP) developed and implemented by their third birthday. The State's reported FFY 2008 data for this indicator are 97.4% compliance. However, as explained in OSEP's verification visit letter, issued March 25, 2010, OSEP found that the data that the State collected for this Indicator was not accurate because LEAs were undercounting the number of children who transition from Part C to Part B. Without valid and reliable data for this critical indicator the State is unable to identify and timely correct noncompliance with the early childhood transition requirements in 34 CFR §300.124(b), and OSEP and the public are unable to determine whether the State is in compliance with these requirements.

For Indicator 16, which measures the percent of timely compliant resolutions, and Indicator 17, which measures the percent of timely due process hearing decisions, the State's reported FFY 2008 data are 100% compliance. However, as reflected in its March 25, 2010 letter, OSEP's verification visit revealed, for this same reporting period, that the State could not document that all of the State complaints were timely resolved and that all of the due process hearing decisions were timely issued. Without valid and reliable data for these important indicators, OSEP and the public are unable to determine whether the State is in compliance with the requirements regarding timely resolution of State complaints (34 CFR §300.152) and timely issuance of due process hearing decisions (34 CFR §300.515), and the State is unable to identify problems and take prompt steps to make necessary corrections. We hope that Ohio will be able to demonstrate that it meets requirements in its next APR.

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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.

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.

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.rrfcnwork.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, 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 1, 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.rrfcnwork.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).

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 an appropriate Department official, as designated by the Department, to demonstrate why the Department should change the State's determination. To request a hearing, submit a letter to "IDEA Determination Appeal," Office of the Assistant Secretary for OSERS, United States Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202 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's March 25, 2010 verification visit letter contained a number of findings in the general supervision and data sections for which a response was due within 60 days. On May 25, 2010, the State provided documentation in response to those verification findings. The analysis column under Indicator 16 of the enclosed response table contains OSEP's response to the documentation that the State submitted to address the required actions for the finding related to State complaints contained in the GS-3 section of OSEP's March 25, 2010 verification visit letter.

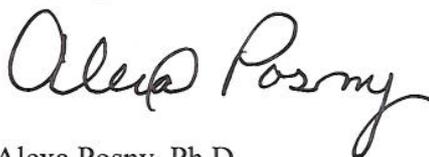
OSEP believes that the documentation that the State submitted in response to the finding relating to the timely placement of children in out-of-State settings addresses the required actions in

OSEP's March 25, 2010 verification letter on that topic and that the State's revised procedures for ensuring a free appropriate public education are consistent with the requirements in 34 CFR §300.101 of the Part B IDEA regulations. Furthermore, based on a review of the submitted documentation, OSEP also believes that the State has addressed the finding in GS-5 in regards to making local determinations, and that the revised procedures the State submitted for making local determinations are consistent with the requirements in 34 CFR §300.600(a)(2) of the Part B IDEA regulations.

We will respond to the State's May 25th letter regarding the findings concerning the State's timely resolution of due process hearings in GS-3 and the State's data system in DS-1 and DS-2 under separate cover.

OSEP is committed to supporting Ohio'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 Daniel Schreier, your OSEP State Contact, at 202-245-6552.

Sincerely,

A handwritten signature in cursive script that reads "Alexa Posny".

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

Enclosures

cc: State Director of Special Education