



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

JUN - 3 2010

Honorable Jim Rex  
State Superintendent of Education  
South Carolina Department of Education  
1006 Rutledge Building  
1429 Senate Street  
Columbia, SC 29201

Dear Superintendent Rex:

Thank you for the timely submission of South Carolina'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), South Carolina 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 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 assistance for South Carolina include that the State's FFY 2008 data reflect 93% compliance for Indicator 12 and did not report correction of all findings, and 77% compliance for Indicator 15. The State also reported outstanding findings from FFY 2006 under Indicators 11 and 12. For these reasons, we are unable to determine that South Carolina met requirements for FFY 2008 under IDEA section 616(d).

OSEP notes other areas that reflect a high level of performance, which include that South Carolina reported valid and reliable data for all indicators and a high level of compliance for Indicator 9 (0%), Indicator 10 (0%), Indicator 11 (96%), Indicator 16 (100%), Indicator 17 (100%), and Indicator 20 (100%). We hope that South Carolina 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 11, timely initial evaluations; Indicator 12, early childhood transition; and 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 indicators 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 South Carolina 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).

In its January 15, 2009 verification visit letter, OSEP required the State to provide, with its FFY 2009 Part B application, due May 11, 2009, documentation that it had corrected the noncompliance with the requirements in 34 CFR §§300.646 (regarding significant disproportionality), 300.226 (regarding coordinated early intervening services (CEIS)), and 300.602(b)(1)(i)(A) (regarding public reporting). As required, the State, with its FFY 2009 Application, provided procedures that met the requirements in 34 CFR §§300.646 (significant disproportionality) and 300.226 (CEIS). In addition, OSEP reviewed the State’s website regarding the public reporting requirements in 34 CFR §300.602(b)(1)(i)(A) and determined that the State was in compliance with those requirements for FFY 2007.

In its Verification Visit Letter, OSEP also found the State made Part B subgrants to Head Start programs, which was inconsistent with the requirements of 34 CFR §300.815, because those programs did not meet the definition of an LEA under 34 CFR §300.28. OSEP required the State to submit documentation, with its FFY 2008 APR, due February 1, 2010, that it had taken the steps necessary to correct this noncompliance. In its letter dated May 14, 2010, the State provided documentation of appropriate distribution of funds.

No further action is required to address these findings. As detailed in the table attached to this letter, the State has resolved the other remaining findings of noncompliance in OSEP's January 15, 2009, South Carolina Verification Visit Letter.

OSEP is committed to supporting South Carolina'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 Dr. Perry Williams, your OSEP State Contact, at 202-245-7575.

Sincerely,

A handwritten signature in black ink, appearing to read "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