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

JUN 2 0 2011

Dear Dr. Lowery:

Thank you for the timely submission of Delaware's Federal fiscal year (FFY) 2009 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), Delaware 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 2009 APR and revised SPP (including targets and improvement activities for each year through FFY 2012), other State-reported data, and other publicly available information. However, we did not consider whether a State was in compliance with the requirement in section 612(a)(18)(A) to maintain State financial support for special education and related services. This is a key component of a State's eligibility for a grant under Part B of the IDEA. However, because the statute provides a specific remedy when a State is not in compliance with this provision (and the Department is taking action consistent with the statute) and recognizing that this is the first time that a number of States have failed to meet this requirement, the Department decided not to include compliance with this provision in the determinations process this year. The Department is actively considering including a State's compliance with this requirement in the 2012 determinations. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2011: Part B" 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's FFY 2009 data reflect 90% compliance for Indicator 16 and 90.48% compliance for Indicator 20. For these reasons, we were unable to determine that Delaware met requirements for FFY 2009 under IDEA section 616(d).

OSEP notes other areas that reflect a high level of performance, including that Delaware reported valid and reliable data for all indicators and a high level of compliance for Indicator 9 (2.5%), Indicator 10 (0%), Indicator 11 (98.2%), and Indicator 12 (99.%). We hope that Delaware 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 2009 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 2009 data; (2) whether such data met the State's FFY 2009 targets and reflect progress or slippage from the 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 Right IDEA" Web site at: http://therightidea.tadnet.org/technicalassistance. 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)(l) 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, 2011. 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 Right IDEA" Web site at: http://therightidea.tadnet.org/determinations. Finally, please ensure that your updated SPP is posted on the State educational agency's Web site and made available to the public, consistent with 34 CFR §300.602(b)(1)(i)(B).

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,

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education