



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

**JUN 28 2012**

Honorable Tom Luna  
Superintendent of Public Instruction  
Idaho State Department of Education  
650 West State Street  
Boise, Idaho 83720-0027

Dear Superintendent Luna:

Thank you for the timely submission of Idaho's Federal fiscal year (FFY) 2010 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)(2)(A)(iii), Idaho 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 2010 APR and revised SPP, other State-reported data, information obtained through continuous improvement visits, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2012: Part B" for further details.

The specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs intervention for Idaho were that the State did not provide valid and reliable FFY 2010 data for Indicator 4B and its FFY 2010 data reflect a very low level of compliance with compliance Indicators 13 at 36%, and 15 at 1.26%.

Indicator 4B measures the percent of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with individualized education programs (IEPs); and (b) policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. Indicator 4B requires States to report on an analysis that they are required to do by 34 CFR §300.170 and provides important information to OSEP, the State and the public on whether discrepancies, by race or ethnicity, in the rate of certain disciplinary measures may be accountable to inconsistent application of IDEA protections.

Idaho did not provide valid and reliable data for Indicator 4B because, while it reported the number of districts it identified with a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs, it did not report that it reviewed, for those districts, policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards. Instead, the State reported that its review: (1) included "functional behavior assessments" rather than positive behavioral interventions and supports; and (2) included "procedural safeguard notices specific [to] the discipline action" rather than procedural safeguards. Without valid and reliable data for this critical indicator, the State is unable to identify and correct problems in these areas that lead to significant discrepancies by

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race and ethnicity in the administration of discipline and the public is unable to determine if the State is in compliance with these requirements. As the 2009-2010 Civil Rights Data Collection conducted by the Department's Office for Civil Rights makes clear, at the national level significant discrepancies continue to exist in the rates of discipline for children with disabilities and children in certain race and ethnic groups.

<http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

For Indicator 13, the State's reported data are 36%. Under Indicator 13, Idaho was required to provide data on the percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority. This is a critical indicator since inclusion of appropriate postsecondary goals and transition services in a student's IEP enables the student to make a successful transition from school to post-school activities, including postsecondary education, vocational education, integrated employment and independent living.

For Indicator 15, which evaluates a State's timely correction of identified noncompliance, the State's reported FFY 2010 data are 1.26%. The State's data are very low because it did not verify that each LEA with noncompliance identified in FFY 2009 is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system. We hope that Idaho will be able to demonstrate that it meets requirements in the next APR.

The enclosed table provides OSEP's analysis of the State's FFY 2010 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 2010 data; (2) whether such data met the State's FFY 2010 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.

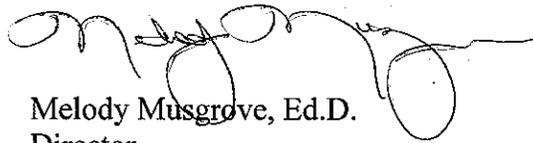
As you know, pursuant to IDEA section 616(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(A), your State must report annually to the public on the performance of each local educational agency (LEA) located in the State on the targets in the SPP as soon as practicable, but no later than June 1, 2012. In 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).

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 to demonstrate why the Department should change the State's determination. To request a hearing, submit a letter to Alexa Posny, Assistant Secretary, United States Department of Education, 400 Maryland Avenue SW, Washington, DC 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 is committed to supporting Idaho'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 Angela Tanner-Dean, your OSEP State Contact, at 202-245-6320.

Sincerely,



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

Enclosures

cc: State Director of Special Education