



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

JUN 28 2012

Honorable Janet Barresi
Superintendent of Public Instruction
Oklahoma State Department of Education
2500 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105-4599

Dear Superintendent Barresi:

Thank you for the timely submission of Oklahoma'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), Oklahoma 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 verification visits and/or 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 Oklahoma were that it did not provide valid and reliable data for Indicators 4B and 16, and that its FFY 2010 data reflect a very low level of compliance with compliance Indicator 15 at 0%.

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. 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 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>

Oklahoma 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 ten days in a school year for children with IEPs, it did

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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 it required the districts identified with discrepancies to review only their policies and only for “inappropriate identification”, rather than the three areas specified by the Indicator 4B measurement and 34 CFR §300.170(b).

For Indicator 16, which measures the percent of timely complaint resolutions, the State’s FFY 2010 data reported in the FFY 2010 APR are 100%. However, OSEP’s February 8, 2012 Continuous Improvement Visit Letter found that the State does not have procedures in place and properly implemented to ensure that State complaints filed at the LEA level are properly investigated and a written decision issued consistent with the requirements of 34 CFR §§300.151 through 300.153. Accordingly, the data reported in the FFY 2010 APR are not valid and reliable because they are not inclusive of State complaints filed at the LEA level. Without valid and reliable data for this critical indicator, the State is unable to ensure that it is timely resolving all State complaints and the public is unable to determine if the State is in compliance with these requirements. The State reported that it will report valid and reliable data for FFY 2010 for this indicator in the FFY 2011 APR.

For Indicator 15, which evaluates a State’s timely correction of identified noncompliance, the State’s reported FFY 2010 data are 100%. OSEP recalculated this data to be 0% because the State reported that none of the 963 findings of noncompliance identified in FFY 2009 were corrected in a timely manner, but that all of these findings were subsequently corrected. Therefore, the State did not timely correct identified noncompliance. We hope that Oklahoma 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 Oklahoma'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 Genee Norbert, your OSEP State Contact, at 202-245-7326.

Sincerely,



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

Enclosures

cc: State Director of Special Education