



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

April 30, 2015

Dr. Terry Holliday
Commissioner of Education
Kentucky Department of Education
500 Mero Street
Capitol Plaza Tower - 1st Floor
Frankfort, Kentucky 40601

Dear Commissioner Holliday:

I am writing to advise you of the U. S. Department of Education's (Department) 2014 revised determination for Kentucky under section 616 of Part B the Individuals with Disabilities Education Act (IDEA). The Department has changed Kentucky's determination from "needs assistance in implementing the requirements of Part B of the IDEA" to "meets the requirements and purposes of Part B of the IDEA." This revised determination is based on the totality of the State's data and information, including the Federal fiscal year (FFY) 2012 Annual Performance Plan (APR) and revised State Performance Plan (SPP), other State-reported data, and other publicly available information.

This letter replaces the Department's June 23, 2014 Kentucky 2014 Part B determination letter. The change in the State's determination is due to a change in the criteria that the Department used in making determinations in 2014, as reflected in the attached document, entitled "How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2014: Part B, Revised April 2015" (HTDMD, Revised April 2015). This change in criteria, which is explained below, is related to the participation of children with disabilities (CWD) on the National Assessment of Educational Progress (NAEP).

Your State's 2014 determination is based on the data reflected in the State's "2014 Part B Compliance Matrix" and revised "2014 Results Driven Accountability Matrix" (RDA Matrix). Enclosed with this determination letter are the following: (1) the State's "2014 Part B Compliance Matrix" and revised "2014 Results Driven Accountability Matrix;" (2) HTDMD, Revised April 2015, which provides a detailed description of how the Office of Special Education Programs (OSEP) evaluated States' data using the Compliance and revised RDA Matrices; (3) your State's FFY 2012 Response Table (unchanged from the Response Table enclosed with the Department's June 23, 2014 Determination Letter), which provides OSEP's analysis of the State's FFY 2012 APR and revised SPP; and (4) a Data Display (unchanged from the Data Display enclosed with the Department's June 23, 2014 Determination Letter), which presents certain State-reported data in a transparent, user-friendly manner. The Data Display has been posted on OSEP's Web site and is helpful for the public in getting a broader picture of State performance in key areas.

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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.

For the 2014 determinations, the Department is using results data on the participation of CWD on regular Statewide assessments; the proficiency gap between children with disabilities and all children on regular Statewide assessments; and the participation and performance of CWD on the NAEP.

The change in the State’s 2014 determination is due to a change in the criteria that the Department used in making 2014 determinations. Specifically, the Department has changed the way in which it included the participation of CWD on the NAEP as a factor in determinations in 2014. In making the determinations that the Department issued in June 2014, as set forth in the HTDMD enclosed with those determination letters, the Department used the National Center for Education Statistics’ (NCES) “exclusion rate” on the NAEP¹ to measure the participation of CWD on the NAEP. The Department reconsidered this factor in response to the issues raised by a State that appealed its 2014 determination of “Needs Intervention”. The State pointed out that NCES calculated and published both exclusion and inclusion rates for the NAEP. The State argued that the inclusion rate was a more appropriate rate to use for RDA determinations, because while the inclusion rate was based only on IDEA-eligible children with individualized education programs (IEPs), the exclusion rate was based on both IDEA-eligible children with IEPs and children who were not IDEA-eligible but were protected under Section 504 of the Rehabilitation Act of 1973 (Section 504).

The Department carefully reviewed the State’s arguments and NCES’ description of the two rates, and concluded that either would be appropriate to use in making RDA determinations. Based on this review, the Department has decided to use the NAEP inclusion rate, rather than the exclusion rate, in making 2014 RDA determinations. We think it is more appropriate to use the inclusion rate in making 2014 determinations under Part B of the IDEA, because the inclusion rate is based only on IDEA-eligible CWD. Therefore, the Department has changed four of the Results Elements on the 2014 RDA Matrix² to reflect the “inclusion rate,” rather than the “exclusion rate.”

As shown in the enclosed revised HTDMD³ and revised RDA Matrix for Kentucky, this revision results in Kentucky receiving an RDA Percentage of 80%. As noted above, the State’s revised 2014 determination is Meets Requirements. A State’s 2014 RDA Determination is Meets Requirements if the RDA Percentage is at least 80%, unless the Department has imposed Special

¹ As defined in the HTDMD attached to the June 23, 2014 determination letter, this rate is the “reported percentage of identified CWD [children with disabilities], by grade (4 and 8) and subject (math and reading), who were excluded from taking the NAEP in [School Year] (SY) 2012-13.”

² The RDA Matrix includes scoring on Results Elements and a Results Performance Percentage (collectively, “Results Matrix”), a Compliance Performance Percentage, and an RDA Percentage and Determination.

³ As defined in the revised HTDMD, this rate is the “reported percentage of identified CWD [children with disabilities], by grade (4 and 8) and subject (math and reading), who were included in the NAEP testing in [School Year] (SY) 2012-13.” The revised HTDMD document notes that “standard error estimates were reported with the inclusion rates of CWD and taken into account in determining if a State’s inclusion rate was higher than or not significantly different from the National Assessment Governing Board goal of 85 percent.”

Conditions on the State's FFYs 2011, 2012, and 2013 IDEA Part B grant awards, and those Special Conditions are in effect at the time of the 2014 determination.

OSEP appreciates the State's efforts to improve results for children and youth with disabilities and looks forward to working with your State over the next year as we continue our important work of improving the lives of CWD and their families. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Curtis Kinnard, your OSEP State Contact, at 202-245-7472.

Sincerely,

/s/ Melody Musgrove

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

Enclosures

cc: State Director of Special Education