



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

Honorable Richard P. Mills
Commissioner of Education
New York State Education Department
11 Education Building
89 Washington Avenue
Albany, New York 11234

FEB 13 2009

Dear Commissioner Mills:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) verification visit to New York State Department of Education (NYSED) during the week of October 6, 2008. As indicated in my letter to you dated August 7, 2008, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under, Part B and Part C of the Individuals with Disabilities Education Act (IDEA). CIFMS is designed to ensure compliance and improve performance with Parts B and C of the IDEA in accordance with 20 U.S.C. 1416 and 1442. Sections 616 and 642 of the IDEA, require the Department to monitor States with a focus on: (1) improving early intervention and educational results and functional outcomes for infants, toddlers, children, and youth with disabilities; and (2) ensuring that States meet the program requirements, particularly those most closely related to improving educational results for children with disabilities.

The purpose of the verification visit is to verify the effectiveness of the State's systems for general supervision, collection of State-reported data, and fiscal management, as well as the State's systems for improving child and family outcomes and protecting child and family rights. During the verification visit, OSEP: (1) analyzed the components of the State's general supervision, data and fiscal systems to determine the extent to which they are effective in ensuring compliance and improving performance; and (2) reviewed the accuracy of the data the State submitted for selected indicators in the NYSED's FFY 2006 Annual Performance Report (APR)/State Performance Plan (SPP).

As part of the verification visit to New York, OSEP staff met with Dr. Rebecca Cort, State Director of Special Education and State personnel responsible for implementing the general supervision, data or fiscal systems. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) NYSED's Part B Federal Fiscal Year (FFY) 2008 eligibility document submissions; (2) NYSED's SPP submitted to OSEP in December 2005 and updated in June 2007 and October 2008; (3) NYSED's FFY 2006 APR submitted to OSEP in February 2008; (4) OSEP's Verification Visit letter to New York dated March 24, 2004; (5) NYSED's website; and (6) other pertinent information.

OSEP developed critical elements that were used to guide its evaluation of NYSED's general supervision, data, and fiscal systems. OSEP's analysis of each critical element is set out in the enclosure to this letter. If OSEP identifies noncompliance during the verification visit, the enclosure also includes an explanation of the noncompliance with applicable Part B or Part C requirements and the required actions that OSEP has determined the State must take to address the noncompliance. As further detailed in the enclosure to this letter, OSEP found noncompliance, and is requiring the State to take corrective action in the following areas: (1) requirements regarding the timely correction of noncompliance as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E); (2) requirements regarding the full adjudication of due process hearing requests within the 45 day timeline (or 30 day timeline for preschool students) or a timeline that is properly extended by the hearing officer at the request of either party; and (3) requirements regarding the collection and reporting of valid and reliable data in IDEA sections 616(a)(4) and 616(b) and 34 CFR §300.601(b)(1).

We appreciate the cooperation and assistance provided by NYSED personnel during our visit. We look forward to collaborating with the State as you continue to work to improve results for children with disabilities and their families. If you have any questions or wish to request technical assistance, please do not hesitate to call your OSEP State Contact, Angela Tanner-Dean, at 202-245-6320.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

cc: Dr. Rebecca Cort
Deputy Commissioner