



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

JUN - 3 2010

Honorable John Auerbach
Commissioner
Massachusetts Department of Public Health
250 Washington Street, 6th Floor
Boston, Massachusetts 02108-4619

Dear Commissioner Auerbach:

Thank you for the timely submission of Massachusetts Federal fiscal year (FFY) 2008 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA).

The Department has determined that, under IDEA section 616(d)(2)(A)(iii) and 642, Massachusetts needs intervention in implementing the requirements of Part C of IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2008 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Sections 616(d) and 642 of the IDEA in 2010: Part C" for further details.

The specific factor affecting the determination by the Office of Special Education Programs (OSEP) of needs intervention for Massachusetts was the State's failure to provide valid and reliable data for Indicator 8B. The State acknowledged in its FFY 2008 APR that its FFY 2008 data for Indicator 8B do not reflect the measurement for the indicator. Indicator 8B reflects the requirement in IDEA section 637(a)(9)(A)(ii)(I) and 34 CFR §303.148(b)(1) that the lead agency provide child find notification to the appropriate local education agency (LEA) where the toddler resides, for toddlers with disabilities exiting the Part C program at age three. Without valid and reliable data for this critical indicator, the State is unable to identify and timely correct noncompliance with these LEA notification requirements. Additionally, OSEP and the public are unable to determine whether Massachusetts was in compliance in FFY 2008 with the requirement to ensure that LEA notification was provided in FFY 2008 as part of timely transition planning for toddlers exiting the Part C program. For these reasons, OSEP has determined Massachusetts to be in need of intervention in implementing the requirements of Part C of the IDEA.

The enclosed table provides OSEP's analysis of the State's FFY 2007 APR and revised SPP and identifies, by indicator: (1) the State's reported FFY 2008 data; (2) whether such data met the State's FFY 2008 targets and reflect progress or slippage from 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 SPP/APR Planning Calendar website at <http://spp-apr-calendar.rrfnetwork.org/>. You will be

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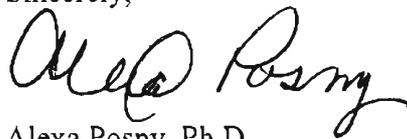
directed to a list of indicators. Click on specific indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator.

As you know, pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642, your State must report annually to the public on the performance of each early intervention services program (EIS program) located in the State on the targets in the SPP. In addition, your State must: (1) review EIS program performance against targets in the State's SPP; (2) determine if each EIS program 'meets requirements' of IDEA Part C, or 'needs assistance,' 'needs intervention,' or 'needs substantial intervention' in implementing Part C of the IDEA; (3) take appropriate enforcement action; and (4) inform each EIS program of its determination. For further information regarding these requirements, see the SPP/APR Calendar at <http://spp-apr-calendar.rfcnetwork.org/explorer/view/id/656>. Finally, if your State included revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that your SPP is updated accordingly and that the updated SPP is posted on the State's website and made available to the public, consistent with IDEA sections 616(b)(2)(C)(ii)(I) and 642.

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 an appropriate Department official, as designated by the Department, to demonstrate why the Department should change the State's determination. To request a hearing, submit a letter to "IDEA Determination Appeal," Office of the Assistant Secretary for OSERS, United States Department of Education, 400 Maryland Avenue SW, Washington, D.C. 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 Massachusetts efforts to improve results for infants and toddlers with disabilities and their families 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 Brenda Wilkins, your OSEP State Contact, at 202-245-6920.

Sincerely,



Alexa Posny, Ph.D.
Acting Director
Office of Special Education Programs

Enclosures

cc: Part C Coordinator