



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

JUN - 3 2010

Honorable Carol K. Olson
Executive Director
Department of Human Services
State Capitol, Judicial Wing
600 East Boulevard Avenue
Department 325
Bismarck, North Dakota 58505-0520

Dear Director Olsen:

Thank you for the timely submission of North Dakota's 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, North Dakota 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 factors affecting the determination by the Office of Special Education Programs (OSEP) of needs intervention for North Dakota was the State's very low level of performance reflected in its FFY 2008 data for Indicator 8A, and its lack of progress when compared to the State's FFY 2007 data for this indicator. Indicator 8A requires the State to ensure that, for each toddler with a disability exiting the IDEA Part C program, the individualized family service plan (IFSP) includes appropriate transition steps and services. The State's FFY 2008 data for Indicator 8A are 46.15%, which indicate a very low level of compliance for ensuring that toddlers with disabilities exiting the IDEA Part C program during FFY 2008 had IFSPs that included appropriate transition steps and services. The State's FFY 2008 data represent a lower level of compliance than its FFY 2007 data of 100% for Indicator 8A. For these reasons, OSEP has determined North Dakota needs 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.rrfcnetwork.org/>. 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.

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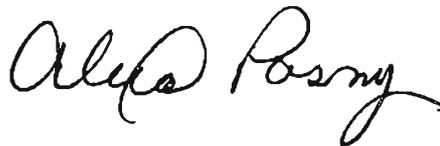
The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

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.rrfcnetwork.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 North Dakota's 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 Susan Kauffman, your OSEP State Contact, at 202-245-6432.

Sincerely,



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

Enclosures

cc: Part C Coordinator