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

JUN 3 2010

Honorable Terrell I. Murphy
Commissioner
Texas Department of Assistive
and Rehabilitative Services
4800 North Lamar Boulevard
Austin, Texas 78756

Dear Commissioner Murphy:

Thank you for the timely submission of Texas'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 sections 616(d)(2)(A)(ii) and 642, Texas needs assistance 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 Office of Special Education Programs' (OSEP's) determination of needs assistance for Texas include that it did not report (or demonstrate verification of) correction of findings for the following indicators, and its FFY 2008 data reflect: (1) 87% compliance with the timely service provision requirements in Indicator 1; (2) 87% compliance with the LEA notification requirements in Indicator 8B; and (3) 84.1% compliance with the timely transition conference requirements in Indicator 8C. In addition, the State's FFY 2008 reported data reflect 66.7% compliance with the timely correction requirements in Indicator 9. For these reasons, we are unable to determine that Texas met requirements for FFY 2008 under IDEA sections 616(d) and 642.

OSEP notes other areas that reflect a high level of performance, which include that Texas reported valid and reliable data for all indicators and FFY 2008 data reflecting a high level of compliance for Indicators 7 (97.3%), 8A (98.7%), and 14 (100%). We hope that Texas will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of the State's FFY 2008 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 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.

The State's determination for the FFY 2007 APR also was needs assistance. In accordance with sections 616(e)(1) and 642 of the IDEA, if a State is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: (1) advise the State of available sources of technical assistance that may help the State address the areas in

which the State needs assistance; (2) direct the use of State-level funds on the area or areas in which the State needs assistance; or (3) identify the State as a high-risk grantee and impose special conditions on the State's Part C grant award.

Pursuant to these requirements, the Secretary is advising the State of available sources of technical assistance related to Indicator 1, timely service provision requirements; Indicator 8B, LEA notification requirements; Indicator 8C, timely transition conference requirements; and Indicator 9, timely correction requirements. 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. For the indicators listed above, your State must report with its FFY 2009 APR submission, due February 1, 2011, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance. The extent to which your State takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under sections 616 and 642 should your State not be determined to meet requirements next year. We encourage Texas to take advantage of available sources of technical assistance in other areas as well, particularly if the State is reporting low compliance data for an indicator.

As required by IDEA sections 616(e)(7) and 642, the State must notify the public that the Secretary of Education has taken the above enforcement action. This notification must be sufficient to notify the public within the State and may include such mechanisms as posting on the agency's website, distribution through the media and distribution through public agencies.

As you know, pursuant to IDEA sections 616(b)(2)(C)(ii)(l) 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 actions; 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)(l) and 642.

OSEP is committed to supporting Texas'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

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

Enclosures

cc: Part C Coordinator