



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

JUN 20 2011

Honorable Clarence H. Carter
Director
Arizona Department of Economic Security
1717 West Jefferson Street, Site Code 010A
Phoenix, Arizona 85007

Dear Director Carter:

Thank you for the timely submission of Arizona's Federal fiscal year (FFY) 2009 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)(iii) and 642, Arizona 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 2009 APR and revised SPP (including targets and improvement activities for each year through FFY 2012), other State-reported data, information obtained through verification visits and the State's submissions under the Special Conditions on the State's FFY 2010 IDEA grant, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Sections 616(d) and 642 of the IDEA in 2011: Part C" for further details.

The specific factor affecting the Office of Special Education Programs' (OSEP's) determination of needs intervention for Arizona was that Arizona has been subject to Departmental enforcement for multiple years for failing to comply with a key IDEA Part C requirement, the noncompliance in this area is longstanding, and the data Arizona reported under its FFY 2010 special conditions demonstrate continued noncompliance with this requirement. The requirement is to ensure the timely provision of early intervention services to infants and toddlers with disabilities and their families, as required by 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1).

OSEP considered the length of time and magnitude of Arizona's failure to meet the timely service provision requirement. The timely service provision requirements were the basis of OSEP's 2000 monitoring report findings and Arizona's 2004 Compliance Agreement with the Department, and the subject of Special Conditions on Arizona's IDEA Part C grant since FFY 2008. Arizona's FFY 2010 IDEA Part C grant included special conditions to ensure compliance with this requirement by three early intervention service (EIS) programs, including the largest Part C EIS program (DDD) in Arizona's largest county, Maricopa County and required two progress reports: one by February 1, 2011 and the final report by May 2, 2011.

Arizona's February 1, 2011 Special Conditions progress report provided, as required, data for this indicator from July through December 2009 for the three EIS programs. That data indicated continued noncompliance. The State's final progress report of May 2, 2011 provided updated data for this indicator for the period January 1 – February 15, 2011 demonstrating 52.2% compliance for the major EIS program (DDD) in Maricopa County. Separately, OSEP's 2010 verification letter found that DDD failed to follow IDEA Part C procedures and had other

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procedures that were inconsistent with IDEA Part C requirements that were directly affecting the timely provision of services. Although the State's July 2010 submission in response to OSEP's 2010 verification letter indicated that DDD has revised its procedures, the updated data of 52.2% compliance from January 1 – February 15, 2011 indicates that the implementation of those procedures has not resulted in an improvement in the provision of IDEA Part C services.

This longstanding noncompliance and very low level of compliance continues to raise concerns about Arizona's ability to provide needed services to infants and toddlers with disabilities and their families. For this reason, OSEP has determined that Arizona needs intervention in implementing the requirements of Part C of the IDEA. We hope that Arizona will be able to meet requirements with its FFY 2010 APR.

The enclosed table provides OSEP's analysis of the State's FFY 2009 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 2009 data; (2) whether such data met the State's FFY 2009 targets and reflect progress or slippage from the 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.

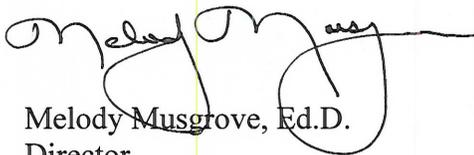
Your State may want to consider taking advantage of available sources of technical assistance. A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the "Technical Assistance Related to Determinations" box on the opening page of "The Right IDEA" Web site at: <http://therightidea.tadnet.org/technicalassistance>. 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.

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 Right IDEA" Web site at: <http://therightidea.tadnet.org/determinations>. Finally, please ensure that your updated SPP is posted on the State lead agency's Web site and made available to the public, consistent with IDEA sections 616(b)(2)(C)(ii)(I) and 642.

Pursuant to sections 616(d)(2)(B) and 642 of the IDEA, 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 the Assistant Secretary to demonstrate why the Department should change the State's determination. To request a hearing, submit a letter to Dr. Alexa Posny, Assistant Secretary, United States Department of Education, 400 Maryland Avenue SW, Washington, DC 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 Arizona'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 Debra Jennings, your OSEP State Contact, at 202-245-7389.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a large loop at the end.

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

Enclosures

cc: Part C Coordinator