



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

JUN 20 2011

Honorable Terri Delgadillo
Director
Department of Developmental Services
California Health and Human Services Agency
1600 9th Street, Room 240, MS 2-13
Sacramento, California 95814

Dear Director Delgadillo:

Thank you for the timely submission of California'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, California 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 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 factors affecting the Office of Special Education Programs' (OSEP's) determination of needs intervention for California were its failure to provide valid and reliable data for compliance Indicators 8A, 8B, and 8C, regarding timely transition planning, and the State's very low level of compliance (18%) for Indicator 11. Indicator 11 measures the percentage of due process hearing requests that were fully adjudicated within the applicable (30-day) timeline in 34 CFR §303.420(b). The State's FFY 2009 data of 18% (of 14 due process hearing requests) represent slippage from its FFY 2008 data of 61.54% and reflect that the State is not in compliance with the IDEA Part C due process hearing timeline requirements.

Indicator 8A measures the percentage of children exiting Part C who had an individualized family service plan with appropriate transition steps and services as required by 34 CFR §§303.148(b)(4) and 303.344(h) (IFSP Transition Plan). Indicator 8B measures the percentage of children exiting Part C who are potentially eligible for Part B services and for whom the local educational agency was notified as required by 34 CFR §§303.148(b)(1) (LEA Notification). Indicator 8C measures the percentage of children exiting Part C and potentially eligible for Part B services for whom a timely transition conference was held as required by 34 CFR §303.148(b)(2) (as modified by IDEA section 637(a)(9)(A)) (Timely Transition Conference). For all three of these indicators, California provided data based on a

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review of 34 records from three regional centers that it acknowledged were not “representative” of statewide compliance data for these indicators. Without valid and reliable data for these three critical indicators, California is unable to identify and timely correct noncompliance with the timely transition planning requirements, and OSEP and the public are unable to determine whether the State is in compliance with these requirements.

For these reasons, OSEP has determined that California needs intervention in implementing the requirements of Part C of the IDEA. We hope that California 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 California’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 Rhonda Spence, your OSEP State Contact, at 202-245-7382.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove", written over a circular stamp.

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

Enclosures

cc: Part C Coordinator