



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

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

JUN 28 2012

Dear Director Delgadillo:

Thank you for the timely submission of California's Federal fiscal year (FFY) 2010 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 2010 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 2012: Part C" for further details.

The State's determination for the FFY 2009 APR was also needs intervention. The State should review IDEA section 616(e)(2) regarding the potential impact of the Department's determination should the State be determined to need intervention in implementing the requirements of IDEA Part C for three consecutive years.

The specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs intervention for California were the State's: (1) failure to provide valid and reliable data for compliance Indicators 1, 7, 8A, 8B, 8C, and 9; and (2) very low level of compliance (26.67%) 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 2010 data of 26.67% (of 15 due process hearing requests) reflect that the State is not in compliance with the IDEA Part C due process hearing timeline requirements.

California reported in its FFY 2010 APR that its FFY 2010 data for six compliance indicators, Indicators 1, 7, 8A, 8B, 8C, and 9, did not include children with solely low-incidence disabilities who were served through Part C by the California Department of Education (CDE) and the State also noted under the data Indicator 14 that the data the State reported under all of these indicators was not valid and reliable.

Indicator 1 measures the percent of children who received their Part C services in a timely manner as required by 34 CFR §§303.340(c), 303.342(e), and 303.344(f)(1) (timely service

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provision). Indicator 7 measures the percent of children who received their initial evaluation, assessments and individualized family service plan (IFSP) meeting within 45 days of referral, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a) (45-day timeline). Indicator 8A measures the percentage of children exiting Part C who had an IFSP 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). Indicator 9 of the FFY 2010 APR measures the timely correction of findings of noncompliance identified in FFY 2009 (July 1, 2009 to June 30, 2010) and corrected in FFY 2010 (July 1, 2010 to June 30, 2011), as required by IDEA section 635(a)(10)(A) and 34 CFR §303.501.

The State reported in its data indicator, Indicator 14, that the data for compliance Indicators 1, 7, 8A, 8B, 8C, and 9 were not valid and reliable. Without valid and reliable data for these critical indicators, California is unable to identify and timely correct noncompliance with these 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 2013 IDEA determination and its FFY 2011 APR.

The enclosed table provides OSEP's analysis of the State's FFY 2010 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 2010 data; (2) whether such data met the State's FFY 2010 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.

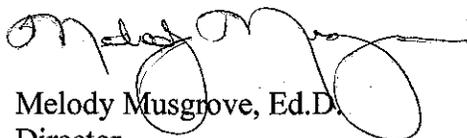
As you know, pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642, your State must report annually to the public on the performance of each early intervention services program (EIS program) located in the State on the targets in the SPP. Pursuant to 34 CFR §303.702(b)(1)(A) in the final Part C regulations published on September 28, 2011, beginning with its reporting on the FFY 2011 performance of EIS programs in 2013, the State must report to the public by June 1. OSEP encourages the State to complete its reporting on the FFY 2010 performance of EIS programs as soon as practicable, if it has not already done so.

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,



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

Enclosures

cc: Part C Coordinator