



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

June 23, 2014

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

Dear Director Rogers:

I am writing to advise you of the U. S. Department of Education's (Department) 2014 determination, under sections 616 and 642 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that California needs intervention in implementing the requirements of Part C of the IDEA. This determination is based on the totality of the State's data and information, including the State's Federal fiscal year (FFY) 2012 Annual Performance Report (APR) and revised State Performance Plan (SPP), other State-reported data, and other publicly available information.

As you know, the Office of Special Education Programs (OSEP) is implementing a revised accountability framework designed to more directly support States in improving results for infants, toddlers, children and youth with disabilities, and their families. Sections 616(a)(2) and 642 of the IDEA require that the primary focus of IDEA monitoring be on improving early intervention results and functional outcomes for children with disabilities, and ensuring that States meet the IDEA program requirements.

OSEP's previous accountability system placed a heavy emphasis on compliance and we have seen an improvement in States' compliance over the past seven years of IDEA determinations. OSEP's new accountability framework, called Results Driven Accountability (RDA), brings into focus the early intervention results and functional outcomes for children with disabilities while balancing those results with the compliance requirements of the IDEA. Protecting the rights of infants and toddlers with disabilities and their families is a key responsibility of State lead agencies and local early intervention services (EIS) programs and providers, but it is not sufficient if infants and toddlers are not meeting the developmental goals that maximize their capacity to live independently in society.

From the start, OSEP committed to several key principles to guide the development of a new accountability framework, including transparency, stakeholder involvement, and burden reduction. In keeping with those principles, over the past two years we have solicited input from stakeholders on multiple occasions and published a new SPP/APR for FFYs 2013 through 2018. The revised SPP/APR significantly reduces data collection and reporting burden by States, and shifts the focus to improving early intervention results and functional outcomes for infants and toddlers with disabilities by requiring each State to develop and implement a State Systemic Improvement Plan (SSIP).

The Department is committed to supporting States in the development and implementation of the SSIP which is designed to improve results for all children, including children with disabilities, and is investing significant resources toward that commitment. OSEP is implementing a system of differentiated monitoring and support, using data on performance (*i.e.*, results data) and other information about a State to determine the appropriate intensity, focus, and nature of the oversight and support that each State will receive as part of RDA. OSEP's technical assistance network will be a key component of differentiated support to States and, through States, to local EIS programs and providers. We believe that only through a coordinated effort across the early childhood and education systems will we positively affect the early childhood, school, and life trajectories of infants, toddlers, and young children with disabilities.

In making determinations in 2013, the Department used a compliance matrix that included compliance data on multiple factors, thereby allowing us to consider the totality of a State's compliance data. In the 2013 determination letters, OSEP informed States that it would use results data when making its determinations in 2014. In winter 2014, OSEP published a Request for Information to solicit comments regarding how results data could be used in making IDEA determinations in 2014 and beyond. OSEP carefully reviewed these comments and plans to use results data as part of its determination process for IDEA Part C in 2015. For the 2014 IDEA Part C determinations, the Department is continuing to use the compliance matrix to consider the totality of a State's compliance data.

Your State's 2014 determination is based on the data reflected in the State's "2014 Part C Compliance Matrix." Enclosed with this determination letter are the following: (1) the State's "2014 Part C Compliance Matrix;" (2) a document entitled, "How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2014: Part C," which provides a detailed description of how OSEP evaluated States' data using the Compliance Matrix; (3) your State's FFY 2012 Response Table, which provides OSEP's analysis of your State's FFY 2012 APR and revised SPP; and (4) a Data Display which presents certain State-reported data in a transparent, user-friendly manner. The Data Display will be posted on OSEP's Web site and will be helpful for the public in getting a broader picture of State performance in key areas.

As further explained in those documents, the Department has determined that California needs intervention in implementing the requirements of Part C of the IDEA. The Department identified a State as needing intervention under IDEA Part C if its 2014 Compliance Matrix percentage is below 75% and if the State also had either very low (below 50%) or not valid and reliable data for a compliance indicator or Special Conditions for multiple years for failing to comply with key IDEA requirements. California's 2014 Compliance Matrix percentage is 65% and its FFY 2012 data for Indicator 8B (Timely transition notification) was 0.0%. Specifically, California scored 65% on its 2014 Part C Compliance Matrix due to its lower performance on the following compliance indicators: Indicator 1 (Timely service provision) (87.7%), Indicator 8A (Timely transition plan) (82%), Indicator 8B (Timely transition notification) (0%), Indicator 8C (Timely transition conference) (74.3%), and timely State complaint decisions (84.6%). California's FFY 2012 data reflecting very low compliance levels reported under Indicator 8B (0% on Timely transition notification) and Indicator 8C (74.3% on Timely transition conference) raise particular concerns about the State's ability to comply with those requirements. The State must take the steps necessary to ensure that it can report compliance with those requirements in the FFY 2013 APR, due February 2, 2015.

Under IDEA sections 616(e)(2) and 642, if the Secretary determines a State to need intervention for three or more consecutive years, the Secretary must take one or more of the six enforcement actions identified in IDEA sections 616(e)(2)(B) and 642 and may take, under IDEA sections 616(e)(2)(A) and 642, one of the three enforcement actions identified in IDEA section 616(e)(1). California also received a determination of “needs intervention” in 2011, 2012, and 2013 for its FFYs 2009, 2010, and 2011 APRs, and this is the fourth consecutive year that California is receiving a determination of “needs intervention.” Accordingly, under IDEA sections 616(e)(2) and 642, the Secretary is requiring California to submit a corrective action plan (CAP). The Secretary is requiring California to submit a CAP because the Secretary has determined that California should be able to correct the problems that are the basis for its “needs intervention” determination by February 2, 2015 (which is within one year from this determination letter).

California must submit a CAP by September 2, 2014 that ensures that it can submit, with its FFY 2013 IDEA Part C SPP/APR, data showing compliance for Indicator 8B (Timely transition notification) and for Indicator 8C (Timely transition conference). The CAP must set forth:

- (1) The specific steps and timelines (including utilizing available technical assistance sources) that California has taken to ensure compliance with:
 - a. The timely transition notification requirements in 34 C.F.R. §303.209(b) in FFY 2013 and, to the extent the State’s FFY 2013 data for Indicator 8B do not reflect compliance with those requirements, the additional actions the State will take to ensure compliance with those requirement in FFY 2014; and
 - b. The timely transition conference requirements in 34 C.F.R. § 303.209(c) in FFY 2013 and, to the extent the State’s FFY 2013 data for Indicator 8C do not reflect compliance with those requirements, the additional actions the State will take to ensure compliance with those requirement in FFY 2014.
- (2) The specific steps and timelines the State lead agency will take to review, revise as necessary, and submit to OSEP as part of Section II.A.10 of its FFY 2014 IDEA Part C grant application, its transition policies and agreement with its State educational agency to ensure that they reflect the requirements in 34 C.F.R. § 303.209(b) and (c);
- (3) That the State will provide OSEP with a progress report due and a final progress report with the FFY 2013 SPP/APR by February 2, 2015 regarding the State’s progress in implementing each of the steps identified in (1) and (2) above according to the specified timelines.

As required by IDEA sections 616(e)(7) and 642 and 34 CFR §303.706, California must notify the public within the State that the Secretary of Education has taken the above enforcement actions, including, at a minimum, by posting a public notice on the State lead agency’s Web site and distributing the notice to the media and through public agencies.

Pursuant to sections 616(d)(2)(B) and 642 of the IDEA and 34 CFR §303.703(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 the Assistant Secretary to demonstrate why the Department should change the State’s determination. To request a hearing, submit a letter to Michael K. Yudin, Acting Assistant Secretary for Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue S.W., 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.

As a reminder, your State must report annually to the public on the performance of each EIS program located in the State on the targets in the SPP as soon as practicable, but no later than 120 days, after the State's submission of its FFY 2012 APR. In addition, your State must: (1) review EIS program performance against targets in the State's SPP; (2) determine if each EIS program "meets the requirements" of 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. Finally, please ensure that your APR, updated SPP, and report on the performance of each EIS program located in the State on the targets in the SPP are posted on the State lead agency's Web site and made available to the public.

OSEP recognizes 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 as we continue our important work of improving the lives of infants, toddlers, and children with disabilities and their families. 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". 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