



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

DEC -8 2004

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OSEP 05- 04

**MEMORANDUM**

**TO:** State Directors of Special Education and State Data Managers  
**FROM:** Stephanie Smith Lee *Stephanie Smith Lee*  
Director  
Office of Special Education Programs (OSEP)  
**SUBJECT:** Annual Performance Report for Part B of the Individuals With Disabilities Education Act (Part B) for Grant Year July 1, 2003 through June 30, 2004

**ACTION**

**REQUIRED:** Submission of Annual Performance Report by March 31, 2005

Pursuant to the Education Department General Administrative Regulations (EDGAR), at 34 CFR §80.40, the State education agency in each State is required to submit an Annual Performance Report (APR) on the State's use of Federal funds. This report is to provide: 1) a comparison of actual accomplishments to the objectives established for the reporting period; 2) reasons for slippage if established objectives are not met; and 3) additional pertinent information including future activities. This Annual Performance Report, covering grant year July 1, 2003 through June 30, 2004 is to be submitted no later than March 31, 2005.

The information submitted in this information collection is used by this Office for a variety of purposes, including on going monitoring of the implementation of Part B of the Individuals with Disabilities Education Act (IDEA), background in preparation for OSEP monitoring, data for the Annual Report to Congress on the implementation of the IDEA, data addressing the Part B performance indicators that accompany the Department's annual budget proposal, responses to Congressional inquires, and measuring States' on going self-assessment and improvement planning efforts.

Enclosed are the Part B APR Submission Requirements, that include a Crosswalk<sup>1</sup>, and a Table with supporting Attachments. To complete this report accurately States must read the directions

<sup>1</sup> A table located at the end of the submission requirements provides a cross walk between the cluster questions/probes found in the Part B Annual Performance Report and the cluster objectives/components used in States' Self-Assessments and Improvement Plans. This chart shows the genesis of each cluster area.

carefully and address all Clusters and Probes. We encourage States to carefully review information in both the general and specific instructions.

The FFY 2003 APR must address, at a minimum, each cluster question and any probes. States should consider data from many sources in order to adequately address IDEA Part B requirements in each cluster area. Although the FFY 2003 APR requests data and information from the FFY 2003 reporting period (July 1, 2003 through June 30, 2004), OSEP encourages the State to consider including updated data (current through the State's submission date) if it would help clarify the State's data from the data reporting period and address compliance issues. Please indicate the dates of the reporting period.

In the OSEP's review of States' FFY 2002 APRs, several areas of concern were noted. To assist States in submitting their FFY 2003 APRs, OSEP is providing the following clarification and guidance.

In the Free Appropriate Public Education in the Least Restrictive Environment cluster of the APR, some States have established general numerical goals (either as an aggregate number or a percentage increase) for their State's efforts around identification of children with disabilities in certain categories or placement in certain environments. While it is not inconsistent with Part B of the IDEA to include a numerical goal, the State must monitor to ensure that placement decisions for all children with disabilities are made in conformity with the placement requirements of Part B of IDEA (at 34 CFR §§300.550 through 300.556) and not based upon a numerical goal.

In addressing Disproportionality, it is appropriate for the State to look at policies, procedures and practices in the evaluation and identification process to determine if they are educationally appropriate, consistent with the requirements of Part B and race-neutral. Such an examination would generally include a review of policies, procedures and practices at both the State and local level, with regard to the availability and use of pre-referral intervention services, the selection and use of evaluation instruments and materials, the selection and use of evaluation criteria, and the reasons for referral for special education evaluations. Such reviews would generally examine policies, procedures and practices from both an educational and legal perspective to ensure that any proposed revisions are educationally appropriate and legally consistent with Part B and other civil rights law. Use of numerical or percentage goals based upon race as a means of addressing disproportionality, however, would raise serious concerns under federal civil rights laws and the United States Constitution and would not be an appropriate way to address any potential compliance problems that significant disproportionality may indicate. The Specific Instructions for completing the APR on the disproportionality probe have been revised to provide additional guidance on this topic.

In addressing Suspension and Expulsion, many States reported analysis of their suspension and expulsion data only at the State level. The requirements at 34 CFR §300.146 require that States examine data to determine if significant discrepancies are occurring in the rate of long term suspensions and expulsions of children with disabilities either among LEAs in the State or compared to the rates for non disabled children within the agencies. The State's FFY 2003 APRs must include information indicating that the State examined data for all LEAs to determine whether significant discrepancies were occurring in the LEAs based on either one of the comparisons described above, and that when it identified significant discrepancies it reviewed and, if appropriate, revised (or required the affected State agency or LEA to revise) its policies, procedures and practices consistent with 34 CFR §300.146.

Program effectiveness for the section 619 program is being measured based on the extent to which early language/communication, pre-reading and social-emotional skills of preschool

children with disabilities receiving special education and related services are improving. OSEP recognizes that States are in the process of determining how to collect this data in order to meet State and Federal program needs. Many States are working with the OSEP-funded Early Childhood Outcome Center or utilizing other resources to identify how to collect these data. Although the probe directs States to provide data in the FFY 2003 APR, States still in the planning stages may submit, in lieu of the requested data, a plan that shows how the State will collect and report data. Responses to this probe can include aggregate percentages within the State or, if statistical sampling or other subpopulation methods are used, percentages of preschool children served under Part B who are included in the sample or subpopulation whose improved outcomes are reported (with data notes describing the number of children participating in the method and other explanatory information). We recognize that many States are adopting short-term approaches such as individualized education program goal attainment to address this probe. As this may not be the best measure to use, OSEP is supporting work that will result in long-term approaches that States can utilize to collect data to demonstrate improved and sustained functional abilities of preschool children served by Part B.

In the area of Participation in State or District-wide Assessments, if there is a significant difference between the enrollment data reported in Section A of Attachment 3 and the students with disabilities identified as participating in the assessment in Section B of that attachment, the State should include compliance data regarding the requirements of 34 CFR §§300.347(a)(5) and 300.138.

As part of this on going performance measurement, reporting, and improvement process, OSEP will require that States demonstrate the correction of any noncompliance that OSEP has identified through monitoring or that States identify through their own self-assessment process.

There are two options for submission of the APR:

1. Complete and Fed Ex a copy of APR to the following address:

U.S. Department of Education  
ATTN: Gwendolyn A. Gage / Mail Stop 2600  
7100 Old Landover Road  
Landover, MD, 20785-1506

If available, a corresponding electronic Word file of the Report should be submitted to [OSERS.bapr@ed.gov](mailto:OSERS.bapr@ed.gov)

The submission requirements and tables that should be used to complete the Part C Annual Performance Report can be accessed electronically at <http://www.ed.gov/policy/speced/guid/idea/monitor/index.html>.

**OR**

2. Complete the APR online at the following Internet address [http://wdcrobcolp01.ed.gov/CFAPPS/osep\\_sp\\_public/](http://wdcrobcolp01.ed.gov/CFAPPS/osep_sp_public/).<sup>2</sup>

The online submission of the APR allows input of all required report information into a formatted interactive web environment that may include additional State tables, charts or graphs.

The online APR requires a specific username and password. If you have not received a user name and password for your State, or have specific questions about completing the online APR, please contact your Part C State contact. Regional Resource Centers (RRCs)

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<sup>2</sup> This URL will become active on December 13, 2004.

have also been trained in completion of the online APR and may be an additional source of assistance to States.

If you have any further questions about the APR and/or the submission options listed above, please contact your Part B State contact.

Enclosures

Cc: Federal Resource Center  
Regional Resource Center