



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

DEC - 3 2009

Contact Persons

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OSEP 10-3

MEMORANDUM

TO: Chief State School Officers, State Directors of Special Education, and State Data Managers

FROM: Alexa Posny, Acting Director *AP*
Office of Special Education Programs (OSEP)

SUBJECT: Part B State Performance Plan (Part B – SPP) and Part B Annual Performance Report (Part B – APR)

ACTION

REQUIRED: Submission of the Part B Annual Performance Report and Revisions to the Part B State Performance Plan by February 1, 2010

In accordance with 20 U.S.C. 1416(b)(1) of Part B of the Individuals with Disabilities Education Act (IDEA or Part B), each State has in place a Part B State performance plan (Part B – SPP) that evaluates the State's efforts to implement the requirements and purposes of Part B and describes how the State will improve such implementation. In accordance with 20 U.S.C. 1416(b)(2)(C)(ii) and 34 CFR §300.602, each State must report annually to the public on the performance of each local educational agency (LEA) located in the State on the targets in its Part B - SPP. The State also must report annually to the Secretary on the State's performance under its Part B – SPP. This report is called the Part B Annual Performance Report (Part B – APR).

The enclosed Information Collection 1820-0624, *Part B State Performance Plan (Part B – SPP) and Annual Performance Report (Part B – APR)*, contains both SPP and APR instructions.

The instruction sheet in the enclosed Information Collection is divided into four sections: 1) General Instructions; 2) State Performance Plan; 3) Annual Performance Report; and 4) Related Requirements. States are encouraged to make note of the following due dates and implement a development schedule accordingly:

By February 1, 2010, States must submit:

- 1) Progress data, baseline, targets and improvement activities for Indicator 7 (using the SPP template). In addition, the State must indicate where, on its Web site, a complete copy of the State's revised SPP is available.
- 2) The State's FFY 2008 Part B APR, which must contain actual target data from the FFY 2008 reporting period (July 1, 2008 through June 30, 2009) and other responsive APR information for Indicators 1, 2, 3, 4A, 5, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, and 20. States are not required to report on Indicators 4B, 6, 13 or 14 for FFY 2008.
- 3) Information to address any deficiencies identified in OSEP's letter responding to the State's February 2, 2009 SPP/APR.

When completing the SPP and APR, States will need to use the following parts of Information Collection 1820-0624.

SPP Materials –

- SPP Instructions (See Section II of the enclosed Instructions.)
- Part B Indicator/Measurement Table with Instructions¹
- SPP Template

APR Materials –

- APR Instructions (See Section III of the enclosed Instructions.)
- Part B Indicator/Measurement Table with Instructions
- APR Template

On February 25, 2009 a revised Part B SPP/APR information collection was approved by OMB for use through February 29, 2012. The revised Part B SPP/APR collection was provided to States and discussed in detail on the March 12, 2009 SPP/APR National TA call, at the June 2009 Data Managers' Meeting, and the August 2009 OSEP Leadership Conference. The following are significant changes to the Part B SPP/APR indicator measurement table since the State's submission in 2009. Some of these changes will require the State to revise the SPP.

- Indicators 1 and 2: Data Source and Measurement are now aligned with ESEA; the State is no longer required to compare the graduation and dropout data for youth with disabilities to that of all students; the data will lag one year.
- Indicator 3: Data Source and Measurement are now aligned with ESEA; States may need to establish a new baseline and revise targets and must include information on where to find public reports of assessment results.
- Indicator 4A: Data will lag one year; Indicator 4B: Reporting will begin with the FFY 2009 SPP/APR due February 1, 2011.
- Indicator 6: The indicator has been revised to align with the proposed section 618 State-reported data collection. Reporting will begin with the FFY 2010 SPP/APR due February 1, 2012.

¹ Monitoring Priorities, Indicators, and measurements included on the *Part B Indicator Measurement Table* are to be used to populate designated sections of the SPP and APR Templates. Populated templates can be found at <http://www.ed.gov/policy/speced/guid/idea/bapr/index.html>.

- Indicator 7: The indicator has been restructured, but there has been no change in the data collection; States must provide progress data, baseline and targets in accordance with the two Summary Statements, using the SPP template.
- Indicator 11: Measurement simplified by collapsing previous (b) and (c); States must include a description of the method used to collect the Indicator 11 data.
- Indicator 12: States are not required to report on the exception added to (e) in the Measurement until February 2011, and must include a description of the method used to collect the Indicator 12 data.
- Indicator 13: The indicator has been revised to align with the IDEA secondary transition requirements. Reporting will begin with the FFY 2009 SPP/APR due February 1, 2011.
- Indicator 14: The indicator has been revised to collect more consistent data on the percent of students with IEPs who are no longer in secondary school and are in higher education, competitively employed or in other postsecondary education or employment. Reporting will begin with the FFY 2009 SPP/APR due February 1, 2011.
- Indicator 15: States must include all findings of noncompliance regardless of the specific level of noncompliance, and must use the Indicator 15 Worksheet to report data for this indicator.
- Indicator 20: States must provide information about the actions the State is taking to ensure compliance, including the State's mechanisms for ensuring error free, consistent, valid and reliable data; State are required to use the Indicator 20 Data Rubric for reporting data for this indicator.

As noted in the conference report to HR 1350, it is Congress' expectation that SPPs, indicators, and targets will be developed with broad stakeholder input and public dissemination. Therefore, the State is required to provide information in the Overview to State Performance Plan Development section of the SPP template to specify how the State: 1) Obtained "broad input" from stakeholders related to new indicators and revisions to the SPP; and 2) Disseminated the SPP to the public. Similarly, in the APR, the State is to provide a description of the process the State used to develop the APR. The description must include how and when the State will report annually to the public on: 1) the State's progress and/or slippage in meeting the "measurable and rigorous targets" found in the SPP; and 2) the performance of each LEA located in the State on the targets in the SPP.

The Department will review the information provided in the State's FFY 2008 APR, other State-reported data, information obtained through monitoring visits, and other public information and will determine, under IDEA section 616(d), if the State meets the purpose and requirements of Part B of the IDEA or needs assistance, needs intervention or needs substantial intervention in meeting the requirements of Part B of the IDEA. The State should review IDEA section 616(e) regarding the potential future impact of the Department's determination.

The Department's determination will be based on the totality of the State's data in its APR and other publicly available information, including any compliance issues. The factors in each State's FFY 2008 APR submission that the Department will consider in making its determination are whether the State: (1) provided valid and reliable FFY 2008 data that reflect the measurement for each indicator; and (2) for each compliance indicator, whether the State: (a)

demonstrated compliance or timely correction of noncompliance, and (b) in instances where it did not demonstrate compliance, had nonetheless made progress in ensuring compliance over prior performance in that area. States should carefully review OSEP Memorandum 09-02: “Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the IDEA” for detailed information related to reporting on the correction of noncompliance. When reporting on correction in the APR, include confirmation that: (1) each LEA has corrected each individual instance of child-specific noncompliance; and (2) the State has verified that the LEA is currently correctly implementing the specific regulatory requirement. In addition, OSEP Memorandum 09-02 explains how we will factor evidence of correction into our analysis of whether the State has demonstrated substantial compliance for purposes of the 2010 determinations under sections 616 and 642 of the IDEA. We will also consider whether the State has other IDEA compliance issues that were identified previously through the Department’s monitoring, audit or other activities, the State’s progress in resolving those problems and whether the State provided the additional information requested in OSEP’s June, 2009 response table. In addition, we will consider whether the State has reported publicly on the performance of each LEA on the State’s FFY 2007 SPP targets. If we have not been able to locate this public reporting on your Web site, we will contact you shortly to notify you of this issue.

Prior to finalizing the Department’s determination, OSEP will offer the State the opportunity to clarify or correct the data submitted in its FFY 2008 SPP/APR. OSEP will email each State Director a summary of the State’s February 1, 2010, FFY 2008 data that OSEP will consider in making the Department’s determination under IDEA section 616(d). The State will have one week to submit to OSEP by e-mail any corrected data and to clarify any misunderstandings by OSEP about the data submitted. In order for the State’s clarifications or corrections to data to be considered, the State’s response must be received by OSEP no later than close-of-business one week from receipt of OSEP’s summary. If the State submits clarifications or corrections to data that were in the original FFY 2008 SPP/APR submission, it must also submit a complete revised SPP/APR submission with any changes redlined or highlighted. Any clarifications or corrected FFY 2008 SPP/APRs must be submitted electronically to OSERS.bapr@ed.gov.

Please note that any State that does not meet the February 1, 2010 timeline for submission will not be permitted to submit clarifications or corrections for purposes of the Department’s determination under IDEA section 616(d).

In accordance with section 616(e) of the IDEA and 34 CFR §300.604, in the June, 2009 response letters, the Secretary advised States that were needs assistance for two consecutive years (FFYs 2006 and 2007) of available sources of technical assistance related to the indicator(s) that resulted in the determination of needs assistance. For the indicator(s) that resulted in the determination of needs assistance, the State must report with its FFY 2008 APR submission (due February 1, 2010) on: (1) the technical assistance sources from which the State received assistance; and (2) what actions the State took as a result of that technical assistance. The extent to which your State takes advantage of available technical assistance for these indicators may affect the actions we take under section 616 should your State not be identified as meets requirements next year.

To submit an SPP and/or APR:

Submit a copy of the SPP and/or APR to the following address:

U.S. Department of Education
Office of Special Education Programs
Potomac Center Plaza
Mail Stop 2600, Room 4129
550 12th St. S.W.
Washington, DC 20202

If available, a corresponding electronic text file of the SPP and/or APR should be submitted to OSERS.bapr@ed.gov.

The submission requirements, tables, and templates that should be used to complete the Part B - SPP and/or Part B - APR can be accessed electronically at:

<http://www.ed.gov/policy/speced/guid/idea/monitor/index.html>.

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

Enclosures

cc: Technical Assistance Coordinating Center (TACC)
Regional Resource Centers
National Early Childhood Technical Assistance Center (NECTAC)