



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

NOV 28 2011

Contact Persons

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OSEP 12-4

MEMORANDUM

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

FROM: Melody Musgrove, Ed.D. *MM*
Director
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, 2012

In accordance with 20 U.S.C. 1416(b)(2)(C)(ii)(II) of the Individuals with Disabilities Education Act (IDEA or Part B), each State must report annually, through the Part B Annual Performance Report (Part B – APR) to the Secretary on the State’s performance under its Part B State Performance Plan (Part B – SPP). The Part B – SPP 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)(I) and 34 CFR §300.602, each State also 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 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 date and implement a development schedule accordingly.

By February 1, 2012, States must submit:

- 1) A revised SPP (using the SPP template) if the State has made any revisions to the SPP since the SPP that it submitted with its FFY 2009 APR in 2011.
- 2) The State's FFY 2010 Part B APR, which must contain actual target data from the FFY 2010 reporting period (July 1, 2010 through June 30, 2011) and other responsive APR information for Indicators 1, 2, 3, 4A, 4B, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20. States are not required to report on Indicator 6 for FFY 2010.
- 3) Information to address any actions required in OSEP's letter responding to the State's February 1, 2011 submission of its FFY 2009 SPP/APR.

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

SPP Materials (if the State has revised its SPP since the SPP that it submitted with its FFY 2009 APR in 2011) –

- 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

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. Under Part B, such stakeholder input must minimally include input from the State advisory panel, given the State advisory panel's role in advising the State educational agency under 34 CFR §300.167. 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 2010 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

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://therightidea.tadnet.org/assets/browse_by_folder?folder=176&folder_name=Submission+Tools+Part+B

Part B of the IDEA or needs assistance, needs intervention or needs substantial intervention in implementing the requirements of Part B of the IDEA. The State should review IDEA section 616(e) regarding the potential enforcement action required as a result of, and potential future impact of, the Department's annual 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 outstanding compliance issues. The factors in each State's FFY 2010 APR submission that the Department will consider in making its determination are whether the State: (1) provided valid and reliable FFY 2010 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. 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 2012 IDEA Part B determinations under section 616 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, 2011 response table. Further, we will consider a State's failure to maintain State financial support for special education and related services as required in section 612(a)(18)(A) of the IDEA as a factor in making the State's determination. In addition, we will consider whether the State has reported publicly on the performance of each LEA on the State's FFY 2009 SPP targets. If we have not been able to locate this public reporting on your Web site, we will contact you during the clarification process, described further below 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 2010 SPP/APR. OSEP will email each State Director a summary of the State's February 1, 2012, FFY 2010 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 email 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 issuance of OSEP's email summary. If the State submits clarifications or corrections to data that were in the original FFY 2010 SPP/APR submission, it must also submit a complete revised SPP/APR submission with any changes redlined or highlighted. Any clarifications or corrected FFY 2010 SPP/APRs must be submitted electronically to OSERS.bapr@ed.gov.

Please note that any State that does not meet the February 1, 2012 timeline for submitting data for each indicator 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 2011 response letters, the Secretary advised States that were needs assistance for at least two consecutive years 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 2010 APR submission (due February 1, 2012) 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 4166
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 Coordination Center (TACC)
Regional Resource Centers
National Early Childhood Technical Assistance Center (NECTAC)