

Contact Persons

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OSEP 13-6

MEMORANDUM

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

FROM: Melody Musgrove, Ed.D.
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 15, 2013

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 as soon as practicable, but no later than 120 days following the State’s submission of its 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 date and implement a development schedule accordingly.

By February 15, 2013, States must submit:

- 1) A revised SPP (using the SPP template) that includes, for Indicator 2, if applicable, and Indicator 6, baseline data, targets (reflecting improvement over the State’s baseline data

for that indicator), and as needed, improvement activities. 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 Federal fiscal year (FFY) 2011 Part B APR, which must contain actual target data from FFY 2011 and other responsive APR information for Indicators 1, 2, 3, 4A, 4B, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, and 19.
- 3) For Indicator 2, States may report using the data source and measurement included in the Part B Indicator Measurement Table that expires July 31, 2015, or the State may choose to report using the same data source and measurement that the State used for its FFY 2010 APR that was submitted on February 1, 2012.
- 4) Information to address any required actions identified in OSEP's June 2012 letter responding to the State's February 1, 2012 submission of its FFY 2010 SPP/APR.

Additionally, in an effort to reduce reporting burden, in the FFY 2011 APR, States:

- 1) Are not required to provide an explanation of: a) progress; b) no change in actual target data from the data for FFY 2010; or c) slippage if the State meets its target.
- 2) Are not required to discuss improvement activities for: a) compliance indicators where the State reports 100% compliance for FFY 2011; and b) results indicators where the State has met its FFY 2011 target.
- 3) May provide one set of improvement activities for the entire APR as long as the Improvement Activities are indexed back to reference the relevant indicators.

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
- Indicator 15 Worksheet
- Indicator 20 Data Rubric (if State chooses to submit data for Indicator 20)²

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

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>.

² As stated in the attached Indicator Measurement Table, States may, but are not required, to report data for Indicator 20. OSEP will use the Indicator 20 Rubric (Attachment 2) to calculate the State's data for this indicator. States will have an opportunity to review and respond to OSEP's calculation of the State's data.

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. Consistent with 34 CFR §300.602(b)(1), the State must: a) report annually to the public on the performance of each LEA located in the State on the targets in the SPP; and b) make the SPP available through public means, including posting on the State educational agency's Web site, distribution to the media, and distribution through public agencies.

The Department will review the information provided in the State's FFY 2011 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 implementing the requirements of Part B of the IDEA. 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. The State should review IDEA section 616(e) regarding the potential enforcement actions required as a result of, and potential future impact of, the Department's annual determination.

As noted in "How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2012: Part B," the Department is considering how it will use data from results indicators in making determinations in the spring of 2013. OSEP is developing a "State Results Matrix" that will be used to examine a variety of results data such as participation rate in general statewide reading and math assessments, proficiency on assessments, improvement in proficiency on assessments, and the gap in proficiency on assessments between students with disabilities and all students. OSEP is also developing a "State Compliance Matrix" that will examine data such as a State's performance on SPP/APR compliance indicators, whether the State met timelines for resolving complaints and hearings, longstanding noncompliance, fiscal issues, such as longstanding audit findings, and whether the State provided valid and reliable data for all indicators.

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 2012 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 2010 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 2011 SPP/APR. OSEP will email each State Director a summary of the State's February 15, 2013 FFY 2011 APR data that OSEP will consider in making the Department's determination under IDEA section 616(d). The State must submit to OSEP by email any corrected data and 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 of the date specified in OSEP's email summary. If the State submits clarifications or corrections to data that were in the original FFY 2011 SPP/APR submission, it must also submit a complete revised SPP/APR submission with any changes redlined or highlighted. Any clarifications or corrected FFY 2011 SPP/APRs must be submitted electronically to OSERS.bapr@ed.gov.

Please note that any State that does not meet the February 15, 2013 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 2012 response letters, the Secretary advised States that were needs assistance for two or more 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 2011 APR submission (due February 15, 2013) 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)