



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

DEC - 3 2009

**Contact Persons**

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**OSEP 10-4**

**MEMORANDUM**

**TO:** Lead Agency Directors, Part C Coordinators, State Interagency Coordinating Council Chairpersons, and State Data Managers

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

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

**ACTION**

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

In accordance with 20 U.S.C. 1416(b)(1) and 1442 of the Individuals with Disabilities Education Improvement Act (IDEA), each State has in place a Part C State performance plan (Part C – SPP) that evaluates the State's efforts to implement the requirements and purposes of Part C and describes how the State will improve such implementation. In accordance with 20 U.S.C. 1416(b)(2)(C)(ii) and 1442, each Lead Agency must report annually to the public on the performance of each early intervention service (EIS) program located in the State on the targets in its Part C – SPP. The Lead Agency also must report annually to the Secretary on the State's performance under its Part C – SPP. This report is called the Part C Annual Performance Report (Part C – APR).

Information Collection 1820-0578, *Part C State Performance Plan (Part C – SPP) and Annual Performance Report (Part C – 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 3 (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 C 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, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14.
- 3) Information to address any deficiencies identified in OSEP's letter responding to the State's February 2, 2009 SPP/APR.
- 4) The attached Interagency Coordinating Council (ICC) Certification of Annual Report (ICC Certification), if the State's ICC is jointly submitting the APR as part of the ICC's annual reporting requirement under IDEA section 641(e)(1)(D) and 34 CFR §303.654. An original signature of the ICC Chairperson(s) is required on the Interagency Coordinating Council Certification of Annual Report.

When completing the SPP and APR, Lead Agencies will need to use the following parts of Information Collection 1820-0578.

SPP Materials –

- SPP Instructions (See Section II of the enclosed Instructions.)
- Part C Indicator/Measurement Table with Instructions<sup>1</sup>
- SPP Template

APR Materials –

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

On November 9, 2009 a revised Part C SPP/APR information collection was approved by OMB for use through November 30, 2012. The revised Part C SPP/APR was provided to States and discussed in detail on the November 12, 2009 SPP/APR National TA call. The following are significant changes to the Part C 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, 7 and 8: The State must include a description of the time period in which the data were collected and how the data accurately reflect data for infants and toddlers with IFSPs for the full reporting period if the FFY 2008 data are drawn from a State database and the State is choosing a particular time period for SPP/APR reporting

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<sup>1</sup> Monitoring Priorities, Indicators, and measurements included on the *Part C 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/capr/index.html>.

purposes. Include a description of the method used to collect data. If the data are drawn from the State's monitoring, describe the procedures used to collect these data.

- Indicators 1, 7 and 8C: The State must account for untimely (a) receipt of services (Indicator 1), (b) evaluations, assessments, and initial IFSP meetings (Indicator 7), and (c) transition conferences (Indicator 8C), but is not required to report on the reasons for delays until February 2011; the inclusion of the number of children for whom the State has identified the cause for delay as "exceptional family circumstances" in the calculation is optional for the numerator but not the denominator; provide detailed information about the timely correction of noncompliance of findings from the prior fiscal year (consistent with OSEP Memorandum 09-02), if applicable.
- Indicator 1: The State must review its timeliness measure to ensure that it meets the standard described in the "Instructions for Indicators/Measurement" column on the Part C Indicator Measurement Table. If there are no changes in the measure and it meets the standard, nothing further is required.
- Indicator 3: The indicator has been restructured, but there has been no change in the data collection; the State must provide baseline and targets in accordance with the two Summary Statements and using the SPP template; reporting on at-risk infants and toddlers must meet the standard in the "Instructions for Indicators/Measurement" column on the Part C Indicator Measurement Table.
- Indicators 5 and 6: The State is no longer required to compare its data to that of other States with similar eligibility criteria.
- Indicator 7: The State must report on the correct group of children and include in the denominator (which has been changed) the number of infants and toddlers with IFSPs evaluated and assessed for whom an initial IFSP meeting was required to be conducted.
- Indicator 8B: If the State has a written "opt out" policy on file with OSEP, the State should exclude from the numerator and denominator in the calculation for Indicator 8B the number of children for whom the parent has opted out; however, the State must provide in the discussion of the data, the number of parents who opted out.
- Indicator 9: The State must include all findings of noncompliance regardless of the specific level of noncompliance; States must use the Indicator 9 Worksheet to report data for this indicator.
- Indicator 14: The State must provide information about the actions the State is taking to ensure compliance if the State has not reached its target, including the State's mechanisms for ensuring error-free, consistent, valid and reliable data; States are required to use the Indicator 14 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. Under Part C, such stakeholder input must minimally include involvement by the State's Interagency

Coordinating Council, given the ICC's role in advising the lead agency and its annual reporting requirement under IDEA section 641(e)(1)(D) and 34 CFR §303.654. 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 EIS program 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 sections 616(d) and 642, if the State meets the purpose and requirements of Part C of the IDEA or needs assistance, needs intervention or needs substantial intervention in meeting the requirements of Part C 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 EIS program has corrected each individual instance of child-specific noncompliance; and (2) the State has verified that the EIS program 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 EIS program 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 Part C Coordinator 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.capr@ed.gov](mailto:OSERS.capr@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 sections 616(d) and 642.

In accordance with sections 616(e) and 642 of the IDEA, 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 sections 616 and 642 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 12<sup>th</sup> St. S.W.  
Washington, DC 20202

**If available, a corresponding electronic text file of the SPP and/or APR should be submitted to [OSERS.capr@ed.gov](mailto:OSERS.capr@ed.gov).**

The submission requirements, tables, and templates that should be used to complete the Part C SPP and/or Part C - APR can be accessed electronically at <http://www.ed.gov/policy/spced/guid/idea/monitor/index.html>.

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

Enclosures

cc: Technical Assistance Coordinating Center (TACC)

Page 6 – Lead Agency Directors, Part C Coordinators, State Interagency Coordinating Council  
Chairpersons, and State Data Managers

Regional Resource Centers

National Early Childhood Technical Assistance Center (NECTAC)