

Contact Persons

Name: Gregg Corr
Telephone: 202.245.7309

OSEP 13-7

MEMORANDUM

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

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

In accordance with 20 U.S.C. 1416(b)(2)(C)(ii)(II) and 1442 of the Individuals with Disabilities Education Act (IDEA), each State lead agency must report annually, through the Part C Annual Performance Report (Part C – APR) to the Secretary on the State's performance under its Part C State Performance Plan (Part C – SPP). The Part C – SPP 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)(I) and 1442 and 34 CFR §303.702, each Lead Agency must also 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, as soon as practicable, but no later than 120 days following the State's submission of its Part C – APR.

The enclosed 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 15, 2013, States must submit:

- 1) A description of where, on its Web site, a complete copy of the State's Part C – SPP, including any revisions, is available as well as where the State has reported to the public

on the performance of each EIS program in the State against the State’s targets in its Part C – SPP.

- 2) The State’s Federal fiscal year (FFY) 2011 Part C APR, which must contain actual target data from FFY 2011 and other responsive APR information for all indicators.
- 3) 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 APR.
- 4) The attached Interagency Coordinating Council (ICC) Certification of Annual Report (ICC Certification), signed by the Chairperson(s) of the State’s ICC, if the 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 §303.604(c).

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) or 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, Lead Agencies will need to use the following parts of Information Collection 1820-0578.

SPP Materials (if the State has revised its SPP since the SPP that it submitted with its FFY 2010 APR in 2012) –

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

APR Materials –

- APR Instructions (See Section III of the enclosed Instructions.)
- Part C Indicator Measurement Table with Instructions
- APR Template
- Indicator 9 Worksheet
- Indicator 14 Data Rubric (If State chooses to submit data for Indicator 14)²

¹ Monitoring Priorities, indicators, and measurements included on the *Part C Indicator Measurement Table* are to be used to complete designated sections of the SPP and APR Templates. Templates containing monitoring priorities, indicators, and measurements can be found at http://therightidea.tadnet.org/assets/browse_by_folder?folder=56&folder_name=Submission+Tools-+Part+C

² As stated in the attached Indicator Measurement Table, States may, but are not required, to report data for this indicator. OSEP will use the Indicator 14 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.

The final IDEA Part C Regulations were published in *76 Federal Register* 60140 on September 28, 2011 (IDEA Part C Final Regulations). States were not required to implement the new regulatory requirements until the date on which States received their FFY 2012 IDEA Part C grant funds (i.e., July 1, 2012 for almost all States). However, States could, but were not required to, implement the IDEA Part C Final Regulations during FFY 2011; thus, if a State elected to implement the new regulatory requirements for any portion of FFY 2011, it would impact its FFY 2011 APR in two ways.

First, the attached Instructions include, in Section IV, two Related Requirements documents:

- A. For States that did not elect to implement the IDEA Part C Final Regulations during FFY 2011, this document is based on the regulations as they existed prior to the revisions in the Final Regulations. If a State implemented the new regulatory requirements during FFY 2011, it should apply the attached Related Requirements IV.A during that period.
- B. For States that elected to implement the IDEA Part C Final Regulations during FFY 2011, this document is based on the regulations as set forth in Final Regulations published on September 28, 2011.

Second, the IDEA Part C Final Regulations reflect changes in the timely transition requirements for Indicators 8A and 8B in the FFY 2011 IDEA Part C SPP/APR. The measurements for Indicators 8A and 8B, as set forth in the attached Indicator Measurement Table, reflect such revisions. Specifically, Indicator 8A now measures timely transition plans in the Individualized Family Service Plan (IFSP) that are developed within the new 90-day timeline. (Note that the transition plan must also meet the revised transition-related content requirements in new 34 CFR §303.344(h).) Indicator 8B now: (1) measures the timely transition notification to not only the local educational agency (LEA) but also the State educational agency (SEA); and (2) applies a new 90-day timeline. Note also that while the language of Indicator 8C, regarding timely transition conferences, has also been revised slightly, the underlying reporting requirements for Indicator 8C have not changed. Collecting data on each of these measurements in Indicator 8 is contingent upon the State's implementation of the transition requirements in new 34 CFR §§303.209 and 303.344(h), which did not take effect until FFY 2012, unless the State elected to adopt them in FFY 2011.

In reporting in the FFY 2011 APR, due February 15, 2013, States may choose whether to: (1) report data for Indicators 8A and 8B using the measurements for those indicators included in the prior Indicator Measurement Table, as set forth below; or (2) report data for Indicators 8A and 8B using the measurements for those indicators as set forth in the attached Indicator Measurement Table (with the expiration date of August 31, 2014). Whether a State can choose the latter option will depend on whether the State elected to implement during FFY 2011 the early childhood transition requirements in new 34 CFR §§303.209 and 303.344(h), and was able to obtain valid and reliable data from FFY 2011 following implementation.

If a State chooses to report data for FFY 2011 for Indicators 8A and 8B using the measurements for those indicators as set forth in the prior Indicator Measurement Table, it must use the following measurements:

A. Percent = [(# of children exiting Part C who have an IFSP with transition steps and services) divided by the (# of children exiting Part C)] times 100.

B. Percent = [(# of children exiting Part C and potentially eligible for Part B where notification to the LEA occurred) divided by the (# of children exiting Part C who were potentially eligible for Part B)] times 100.

In reporting in the FFY 2012 APR, due February 1, 2014, States must report data for Indicators 8A and 8B using the measurements for those indicators as set forth in the attached Indicator Measurement Table (with the expiration date of August 31, 2014).

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 ICC, 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 §303.604(c)(1). 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, including the ICC, related to new indicators and revisions to the SPP; and 2) disseminated the SPP to the public. Consistent with 34 CFR §303.702(b)(1), the State must – a) report annually to the public on the performance of each EIS program located in the State on the targets in the SPP; and b) make the SPP available through public means, including posting on the Lead Agency's Web site, distribution to the media, and distribution to EIS programs.

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 sections 616(d) and 642, if the State meets requirements and purposes of Part C of the IDEA or needs assistance, needs intervention, or needs substantial intervention in implementing the requirements of Part C of the IDEA. 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. The State should review IDEA section 616(e) regarding the potential enforcement actions required as a result of, and the potential future impact of, the Department's annual determination.

As noted in "How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2012: Part C," the Department is considering how it will use data from results indicators (in addition to compliance 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 early childhood outcomes and family involvement. OSEP is also developing a "State Compliance Matrix" that will examine compliance 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. In addition, we will consider whether the State has reported publicly on the performance of each EIS program 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 APR. OSEP will email each Part C Coordinator 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 sections 616(d) and 642. 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 APR submission, it must also submit a complete revised SPP/APR submission with any changes redlined or highlighted. Any clarifications or corrected FFY 2011 APRs must be submitted electronically to OSERS.capr@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 sections 616(d) and 642.

In accordance with sections 616(e) and 642 of the IDEA, 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 IDEA 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 4166
550 12th St. S.W.
Washington, D.C. 20202

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

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

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/speced/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 Coordination Center (TACC)
Regional Resource Centers
National Early Childhood Technical Assistance Center (NECTAC)