



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

JUN 6 2008

Honorable Douglas D. Christensen
Commissioner
Nebraska Department of Education
301 Centennial Mall South
P.O. Box 94987
Lincoln, NE 68509-4987

Dear Commissioner Christensen:

Thank you for the timely submission of Nebraska's FFY 2006 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA), as amended in 2004. We also acknowledge the revisions to Nebraska's APR received on April 14, 2008. We appreciate the State's efforts in preparing these documents.

The Department has determined that, under IDEA section 616(d), Nebraska needs assistance in meeting the requirements of Part B of the IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2006 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2008" for further details.

Specific factors affecting OSEP's determination of needs assistance for Nebraska included that although Nebraska had high performance for Indicators 12 and 16 (100% each), demonstrated timely correction of all noncompliance for Indicator 13, and reported valid and reliable data for the first time for Indicator 11 (93.1%), the State: (1) did not report valid and reliable data for Indicators 9 and 10; and (2) reported slippage from 100% to 92.6% for Indicator 15 and did not correct all of the noncompliance from FFY 2005.

For Indicators 9 and 10, the State was required to report on the percent of districts with disproportionate representation of racial and ethnic groups (in special education and related services for Indicator 9 and in specific disability categories for Indicator 10) that is the result of inappropriate identification. For both Indicators 9 and 10, Nebraska failed to complete the required analysis to determine if the two districts identified in FFY 2006 with disproportionate overrepresentation for both Indicators 9 and 10 were the result of inappropriate identification. For Indicator 15, the State reported slippage in its timely correction of noncompliance identified in FFY 2005. For these reasons, we were unable to determine that your State met requirements under section 616(d). We commend the State for its improvement in performance in Indicator 11 and hope that the State will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of the State's FFY 2006 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the State to its targets, improvement activities (timelines and resources) and baseline data in the State's

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SPP. It also identifies, by indicator, the State's status in meeting its targets, whether the State's data reflect progress or slippage, and whether the State corrected noncompliance and provided valid and reliable data.

The State's determination for the FFY 2005 APR also was needs assistance. In accordance with section 616(e) of the IDEA and 34 CFR §300.604, if a State is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: 1) Advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance; 2) Direct the use of State-level funds on the area or areas in which the State needs assistance; or 3) Identify the State as a high-risk grantee and impose special conditions on the State's Part B grant award. Pursuant to these requirements, the Secretary is advising the State of available sources of technical assistance related to Indicator 9 (disproportionate representation – child with a disability), Indicator 10 (disproportionate representation – specific disability categories), Indicator 11 (timely initial evaluations), and Indicator 15 (timely correction of noncompliance). A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the "Technical Assistance Related to Determinations" box on the opening page of the SPP/APR Planning Calendar website at <http://spp-apr-calendar.rfcnetwork.org/>. You will be directed to a list of indicators. Click on specific indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator. For the indicators listed above, your State must report with its FFY 2007 APR submission (due February 1, 2009) 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. We encourage States to take advantage of available sources of technical assistance in other areas as well, particularly if the State is reporting low compliance data for an indicator.

As required by section 616(e)(7) and 34 CFR §300.606, the State must notify the public that the Secretary of Education has taken the above enforcement action. This notification must be sufficient to notify the public within the State and may include such mechanisms as posting on the agency's website, distribution through the media and distribution through public agencies.

As you know, your State must report annually to the public on the performance of each local educational agency (LEA) located in the State on the targets in the SPP under IDEA section 616(b)(2)(C)(ii)(1). In addition, your State must review LEA performance against targets in the State's SPP, determine if each LEA meets the requirements of the IDEA and inform each LEA of its determination. For further information regarding these requirements, see the SPP/APR Calendar at <http://spp-apr-calendar.rfcnetwork.org/>. Finally, if you included revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that you update your SPP accordingly and that the updated SPP is made available to the public.

OSEP is committed to supporting Nebraska's efforts to improve results for children with disabilities and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance,

please do not hesitate to call Rebecca Walawender, your OSEP State Contact, at 202-245-7399.

Sincerely,

A handwritten signature in black ink, appearing to read "William W. Knudsen". The signature is fluid and cursive, with the first name being the most prominent.

William W. Knudsen

Acting Director

Office of Special Education Programs

Enclosures

cc: State Director of Special Education