



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

Honorable Veronica C. Garcia  
Secretary of Education  
New Mexico Public Education Department  
300 Don Gaspar  
Santa Fe, NM 87501-2786

JUN 6 2008

Dear Secretary Garcia:

Thank you for the timely submission of New Mexico'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 New Mexico's SPP and 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), New Mexico needs intervention 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.

The specific factor affecting OSEP's determination of needs intervention for New Mexico is the failure to report valid and reliable data for compliance Indicator 11 for FFY 2006. Specifically, the State reported inconsistencies in its data collection and missing or incomplete data in its data system including missing dates of parental consent, missing dates for eligibility determinations and missing data for children who were evaluated but not determined eligible. OSEP also notes that for the FFY 2005 data, the Department also raised concerns under this indicator because New Mexico's reported data for the entire State was based on a review of only 10 initial evaluations. In its submission, the State also reported that the noncompliance identified in FFY 2005 had not been timely corrected. Without valid and reliable data for this indicator, OSEP cannot determine whether children are being timely evaluated for initial eligibility under Part B of the IDEA. Therefore, the State has not demonstrated compliance with the timely evaluations requirements in 34 CFR 300.301(c)(1), a crucial step for ensuring that a free appropriate public education is made available to students with disabilities and their families. We 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 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.

Your State may want to consider taking advantage of available sources of technical assistance. A list of sources of technical assistance related to the SPP/APR indicators is

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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.rrfcnetwork.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.

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)(I). 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.rrfcnetwork.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.

Pursuant to section 616(d)(2)(B) of the IDEA and 34 CFR §300.603(b)(2), a State that is determined to need intervention or need substantial intervention, and does not agree with this determination, may request an opportunity to meet with the Assistant Secretary for Special Education and Rehabilitative Services to demonstrate why the Department should change its determination. To request a hearing, submit a letter to Tracy R. Justesen, Assistant Secretary, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW, Room 5107, Potomac Center Plaza, Washington, DC 20202-2600 within 30 days of the date of this letter and provide in the letter the basis for your request.

OSEP is committed to supporting New Mexico’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 Diana Chang, your OSEP State Contact, at 202-245-6061.

Sincerely,



William W. Knudsen  
Acting Director  
Office of Special Education Programs

Enclosures

cc: State Director of Special Education