



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

Honorable Deborah Gist
Superintendent
Office of the State Superintendent
Government of the District of Columbia
441 4th Street NW
Suite 350N
Washington, DC 20001

JUN 17 2008

Dear Ms. Gist:

Thank you for the timely submission of the District of Columbia'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 the District of Columbia'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), the District of Columbia 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 State's determination for the FFY 2005 APR was also needs intervention. The State should review IDEA section 616(e) regarding the potential impact of the Department's determination if the State is determined to need intervention for three consecutive years.

The specific factors affecting OSEP's determination of "needs intervention" for the District of Columbia were that the District: (1) did not provide valid and reliable data for compliance Indicator 17; and (2) reported 0% compliance for Indicator 15. We also note that the District of Columbia continues to be a "high-risk" grantee subject to Department-wide Special Conditions regarding fiscal accountability and financial management and has failed to satisfy the long-standing programmatic Special Conditions on its FFY 2007 grant award under Part B of the IDEA.

Under Indicator 17, the State was required to report on the percent of fully adjudicated due process hearing requests that were fully adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party. While the State reported 81.9% compliance with Indicator 17, these data are not valid or reliable because the State used the wrong measurement. The District of Columbia reported on the percent of due process hearing requests that resulted in fully adjudicated hearings, rather than the percent of fully adjudicated hearing requests that were fully adjudicated within the required timeline. This improper measurement makes the data submitted for this indicator significantly flawed, and not valid or reliable.

Under Indicator 15, the State was required to report the percent of noncompliance corrected within one year of identification. The District of Columbia reported that none of the findings of noncompliance identified in FFY 2005 (2005-2006) were corrected in a timely manner. The failure of the State's general supervision system to effectively identify and correct noncompliance has been addressed in the Special Conditions on the District of Columbia's grant award since 2005. The development and implementation of a general supervision system that is capable of monitoring the implementation and enforcement of Part B is one of the State's most critical functions under IDEA.

We note that due to problems in the District of Columbia's fiscal and program accountability, management systems, and related areas, the Department designated the District a "high risk" grantee under all grants received from the Department. The District of Columbia continues to work on the Department's fiscal and programmatic concerns and its FFY 2008 grant award will again be subject to Department-wide Special Conditions.

We have significant concerns about the items outlined above, and we continue to have very serious concerns regarding the District of Columbia's failure to satisfy the Special Conditions placed on its FFY 2007 grant award under Part B of the IDEA related to the District's noncompliance with the requirements to: (1) provide timely initial evaluations and reevaluations; (2) implement due process hearing decisions in a timely manner; (3) ensure placement in the least restrictive environment; and (4) identify and correct noncompliance with the requirements of Part B of the IDEA. Our determination to place the District of Columbia in "needs intervention," rather than "needs substantial intervention," was based in large part on the information recently provided in the June 2, 2008 Special Conditions Report. The Report identifies several reform initiatives the Office of the State Superintendent of Education (OSSE) is undertaking to address these long-standing areas of noncompliance, and the underlying problems that result in low levels of compliance in these areas.

Several of these initiatives have been developed as part of the Blackman-Jones Backlog Reduction Plan. The District of Columbia reported the following key reform initiatives are currently in progress or in development: (1) creating guidelines and State policy on implementation of hearing officer determinations to ensure uniformity across all local educational agencies (LEAs); (2) conducting a pilot of the Quality Services Review process to evaluate the way individual students are provided services by the District; (3) contracting with a private case management organization to implement a pilot case management program for students in the District; (4) funding and supporting the creation of Full Service Schools that will be implemented in eight DCPS middle schools and will provide coordinated behavior management and behavioral health intervention and services; and (5) contracting to implement the school-wide application model in eight elementary schools in order to more fully integrate special education students in the general education program. In addition, OSSE reported that it is in the process of creating a Special Education Data System, which is expected to be completed prior to the beginning of the 2008-2009 school year. OSSE also reported that it has recently hired a

new Director of Monitoring and Compliance and will be creating a better way of tracking correction of noncompliance, which will allow this data to be reported in the future.

While the February 1, 2008 and June 2, 2008 Progress Reports indicate that serious noncompliance with the requirements addressed in the Special Conditions continues, we recognize that OSSE has begun implementing several ambitious reform initiatives that could have a positive impact on its ability to comply with these requirements. According to the information provided, the District of Columbia has committed substantial fiscal and programmatic resources to ensure these plans are successfully implemented. We expect the District to make significant progress during the 2008-2009 school year in satisfying the Special Conditions and meeting the requirements of IDEA, and we intend to require significant reporting from the District on its progress, and to carefully review the District's level of progress, to determine if further corrective measures are necessary.

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 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.rrfnetwork.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 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.rrfnetwork.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 the District of Columbia'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 Lisa Pagano, your OSEP State Contact, at 202-245-7413.

Sincerely,

A handwritten signature in cursive script, appearing to read "William W. Knudsen".

William W. Knudsen
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education