



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Earl C. Hunter  
Commissioner  
Department of Health and Environmental Control  
2600 Bull Street  
Columbia, South Carolina 29201

Dear Commissioner Hunter:

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

The Department has determined that, under IDEA sections 616(d) and 642, South Carolina needs intervention in meeting the requirements of Part C 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 Sections 616(d) and 642 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 sections 616(e) and 642 regarding the potential impact of the Department's determination if the State is determined to need intervention for three consecutive years.

The specific factor affecting OSEP's determination of needs intervention for South Carolina for FFY 2006 is that the State did not provide data in its FFY 2006 APR for Indicator 9 regarding the requirement that the State correct identified noncompliance, as soon as possible, but in no case later than one year from identification, as required by 34 CFR §303.501.

South Carolina submitted a progress report in March 2007, under its 2003 Compliance Agreement with the Department under Part C of the IDEA. The Compliance Agreement required South Carolina to ensure compliance by September 9, 2006 with the timely correction requirements under Indicator 9. The March 2007 submission provided a chronological list of programs monitored, a list of findings (including findings made in FFY 2004, FFY 2005 and FFY 2006), and some correction information and explanation of uncorrected findings. The March 2007 submission also indicated that some FFY 2004 and FFY 2005 findings were outstanding, including: (1) the 45-day timeline requirements in Indicator 7 (from findings made as early as August 2004); and (2) other findings such as the ones referenced in Indicator 7 in the attached response table regarding comprehensive evaluations.

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However, in its FFY 2006 APR, the State reported that it made no findings of noncompliance in FFY 2005 and did not provide the information requested in OSEP's June 15, 2007 FFY 2005 SPP/APR response table, which required the State to provide in its FFY 2006 APR updated correction information for the findings the State had identified in its March 30, 2007 submission under the Compliance Agreement. In addition, the State reported complaints and other data in its FFY 2005 APR that might serve as the basis for other FFY 2005 findings of noncompliance. Given the lack of any timely correction data in the State's FFYs 2004, 2005 and 2006 APRs, OSEP cannot determine whether and how the State is monitoring to identify and timely correct noncompliance with Part C requirements, or the status of correction of the FFY 2004 and FFY 2005 findings that South Carolina reported in its March 2007 submission.

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.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 early intervention service (EIS) program located in the State on the targets in the SPP under IDEA sections 616(b)(2)(C)(ii)(I) and 642. In addition, your State must review EIS program performance against targets in the State's SPP, determine if each EIS program meets the requirements of the IDEA and inform each EIS program 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 sections 616(d)(2)(B) and 642 of the IDEA, 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 South Carolina's efforts to improve results for infants and toddlers with disabilities and their families 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 Dawn Ellis, your OSEP State Contact, at 202-245-6417.

Sincerely,

A handwritten signature in black ink, appearing to read "William W. Knudsen". The signature is fluid and cursive, with a long horizontal stroke at the end.

William W. Knudsen  
Acting Director  
Office of Special Education Programs

Enclosures

cc: Part C Coordinator