



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 15 2007

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

Dear Superintendent Gist:

Thank you for the timely submission of the District of Columbia's 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 appreciate the revisions to the District of Columbia's SPP received on May 7, 2007.

As you know, under IDEA section 616, each State has an SPP that evaluates the State's efforts to implement the requirements and purposes of Part B of the IDEA and describes how the State will improve its implementation of Part B. In the revised SPP due by February 1, 2007, States were required to provide information on: (1) specific new indicators; and (2) correction of any deficiencies identified in the Office of Special Education Programs' (OSEP's) SPP response letter sent to your State last year. States were also required to submit by February 1, 2007, an APR for Federal fiscal year (FFY) 2005 that describes the State's: (1) progress or slippage in meeting the measurable and rigorous targets established in the SPP; and (2) any revisions to the State's targets, improvement activities, timelines or resources in the SPP and justifications for the revisions. We appreciate the State's efforts in preparing the FFY 2005 APR and revised SPP.

The Department has reviewed the information provided in the State's FFY 2005 APR and revised SPP, other State-reported data, information obtained through monitoring visits, and other public information and 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 State should review IDEA section 616(e) regarding the potential future impact of the Department's determination.

The Department's determination is based on the totality of the State's data in its SPP/APR and other publicly available information, including any compliance issues. The factors in States' FFY 2005 APR and February 1, 2007 SPP submissions that affected the Department's determinations were whether the State: (1) provided valid and reliable FFY 2005 data that reflect the measurement for each indicator, and if not, whether the State provided a plan to collect the missing or deficient data; and (2) for each compliance indicator that was not new (a) demonstrated compliance or timely corrected noncompliance, and (b) in instances where it did not demonstrate compliance, had nonetheless made progress in ensuring compliance over prior performance in that area. We also considered whether the State had other IDEA compliance issues that were

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identified previously through the Department's monitoring, audit or other activities, and the State's progress in resolving those problems. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2007" for further details.

Specific factors affecting OSEP's determination of needs intervention for the District of Columbia were that: (1) the State reported 69% compliance for Indicator 15; and (2) the State did not provide FFY 2005 data for Indicator 3A and had no plan for collecting the data.

While the State reported 69% compliance for Indicator 15, because the State made no findings of noncompliance in FFY 2004 (2004-2005), those data are based upon correction of findings of noncompliance that the State made in 2005-2006, rather than correction in 2005-2006 of findings that the State made in 2004-2005, as required by the measurement for this indicator. The State reported that 31 findings of noncompliance were made through investigation of State complaints but the State does not have a mechanism in place to determine if the noncompliance identified through these investigations was corrected in a timely manner. Further, based upon review of monitoring reports for the Elementary School division and nine charter schools submitted with the Special Conditions Progress Report dated February 1, 2007, OSEP continues to have concerns about the State's monitoring system. For example, the State continues to highlight as "significant compliance," areas that should have been identified as noncompliance under IDEA and the State's monitoring reports include conclusions that are not supported by the reported data.

In addition, OSEP considered that the District of Columbia's FFY 2006 grant award under Part B of the IDEA was subject to Special Conditions 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. These issues were initially identified in the 1998-2001 Compliance Agreement between the District of Columbia and the Department. All, with the exception of identification and correction of noncompliance, have been Special Conditions on each grant award from 2001 to the present. The District of Columbia's February 1, 2007 and June 1, 2007 FFY 2006 Special Conditions Progress Report data indicate that the State continues to demonstrate noncompliance with these requirements. OSEP will respond to the District of Columbia's June 1, 2007 final FFY 2006 Special Conditions Progress Report in the State's FFY 2007 grant award letter.

OSEP also considered that due to problems in the District of Columbia's fiscal and program accountability, management systems, and related areas, the Department designated the District of Columbia 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 2007 grant award will again be subject to Department-wide Special Conditions.

OSEP will carefully review DCPS's compliance in these areas. Failure to demonstrate correction of this noncompliance in DCPS's FFY 2006 APR will affect OSEP's determination of DCPS's status under section 616(d) of the IDEA, and will likely result in a finding of needs substantial intervention.

The State reported a high level of compliance for Indicators 16 (100%) and 17 (95.3%). We hope that the State will be able to demonstrate that it meets requirements in its next APR. We encourage the District of Columbia to access technical assistance from the Mid-South Regional Resource Center when preparing the FFY 2006 APR, due February 1, 2008.

The table enclosed with this letter provides OSEP's analysis of the State's FFY 2005 APR and revised SPP and identifies, by indicator, OSEP's review and acceptance 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, and whether the State's data reflect progress or slippage, and whether the State corrected noncompliance and provided valid and reliable data. The table also lists, by indicator, any additional information the State must include in the FFY 2006 APR or, as needed, the SPP due February 1, 2008, to address the problems OSEP identified in the revised SPP or FFY 2005 APR. The State must provide this required information. We plan to factor into our determinations next year whether or not States provided the additional information requested in this table in their FFY 2006 APR, due February 1, 2008, and may take other actions as well, if the State's data, or lack of data, regarding these issues indicates continuing noncompliance.

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). The requirement for public reporting on LEA performance is a critical provision in ensuring accountability and focusing on improved results for children with disabilities. Please have your staff notify your OSEP State Contact when and where your State makes available its public report on LEA performance. In addition, States must review LEA performance against targets in the State's SPP, especially the compliance indicators, determine if each LEA meets the requirements of the IDEA and inform each LEA of its determination. For further information regarding these requirements, see SPP/APR Guidance Materials at <http://www.rfcnetwork.org/>.

We hope that the State found helpful, and was able to benefit from, the monthly technical assistance conference calls conducted by this Office, ongoing consultation with OSEP State Contacts and OSEP-funded Technical Assistance Center staff, materials found on the IDEA 2004 website, and attendance at OSEP-sponsored conferences. OSEP will continue to provide technical assistance opportunities to assist your State as it works to improve performance under Part B of the IDEA. If you have any feedback on our past technical assistance efforts or the needs of States for guidance, we would be happy to hear from you as we work to develop further mechanisms to support State improvement activities.

As noted above, your State has been determined to Need Intervention. 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 John H. Hager, 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 that reads "Patricia J. Guard".

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education