



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

JUN 15 2007

Honorable Shirley J. Neeley  
State Commissioner  
Texas Education Agency  
1701 North Congress Avenue  
Austin, Texas 78701-1494

Dear Commissioner Neeley:

Thank you for the timely submission of Texas 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 Texas' SPP received on May 2, 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), Texas needs assistance 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 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.

OSEP's FFY 2005 determination for Texas of needs assistance, rather than needs intervention, was based on OSEP's recognition of the effects of Hurricanes Katrina and Rita on the State during the FFY 2005 reporting period. During this period, Texas had the additional burden of child find, individualized education program (IEP) development, placement and the provision of special education and related services for thousands of students displaced by the hurricanes.

Although the State reported a high level of compliance for Indicators 15 (95%), 16 (99.5%) and 17 (100%), the specific factors affecting OSEP's determination for Texas included: (1) the State did not provide FFY 2005 data for Indicator 12; and (2) did not provide data, or a plan that would result in the State being able to report data for the FFY 2006 APR for Indicator 7. We also note that the State did not provide valid and reliable FFY 2005 data for Indicators 11 and 13, although it did provide plans to collect those data and report on them in the FFY 2006 APR.

For Indicator 12, the State did not provide any data that would have allowed us to assess the magnitude of the State's compliance with the requirement that eligible children transitioning from the Part C program to the Part B program have an IEP in place and implemented by their third birthdays. Without this data, OSEP and the public cannot determine whether children transitioning from Part C to Part B in Texas are receiving special education and related services by their third birthdays, or whether there are delays in the provision of needed special education and related services for these children. Last year the State reported that it did not have a data collection system to accurately report data for this Indicator. We identified this as noncompliance in OSEP's May 22, 2006 SPP response letter, and advised the State to review and make appropriate revisions to its improvement activities. The State reported that none of the 701 districts that were in intervention under the Performance-Based Monitoring System were identified as having noncompliance issues related to Indicator 12, but acknowledged that this information was not aligned with the Indicator 12 measurement.

For Indicator 7, the State reported that it would begin data collection in the 2007-2008 school year for reporting in the FFY 2007 APR.

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)(1). 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.rrfcnetwork.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.

OSEP is committed to supporting Texas' 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 Hugh Reid, your OSEP State Contact, at 202-245-7491.

Sincerely,



Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures

cc: State Director of Special Education