



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, New Mexico 87501-2786

JUN 15 2007

Dear Secretary Garcia:

Thank you for the timely submission of New Mexico'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.

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 a justification 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 New Mexico'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), New Mexico 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 (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.

Specific factors affecting OSEP's determination for New Mexico included the following: (1) the State reported 94.4% compliance for Indicator 12; and (2) the State reported 69% compliance for Indicator 15. For these reasons, we were unable to determine that your State met requirements under section 616(d). Balancing these factors were areas reflecting a high level of performance, which include that the State reported: (1) 100% compliance for Indicators 16 and 17; and (2) provided valid and reliable FFY 2005 data for the measurement for the each indicator. In addition, OSEP considered that the State's FFY 2006 IDEA Part B grant award was released subject to Special Conditions as a result of the State's failure to ensure that a free appropriate public education was made available to each child with a disability entering the Part B program by the child's third birthday, including ensuring that an individualized education program or, if appropriate, an individualized family service plan, was in effect by the child's third birthday consistent with 34 CFR §300.124. Pursuant to the grant award letter, the State submitted a second progress report on June 1, 2007 demonstrating 97.2% compliance with this requirement as of March 2006 and resolving the Special Conditions on its Part B grant award. We commend the State for its improvement in performance in Indicator 12 and hope that the State will be able to demonstrate that it meets requirements in its next APR.

The table attached to this letter provides OSEP's analysis of New Mexico'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 target, 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.

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. 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 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 Linda Whitsett, your OSEP State Contact, at 202-245-7573.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education