



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

June 30, 2015

Honorable Elizabeth R. Berlin
Acting Commissioner of Education
New York State Education Department
89 Washington Avenue
Albany, New York 12234

Dear Acting Commissioner Berlin:

I am writing to advise you of the U. S. Department of Education's (Department) 2015 determination under section 616 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that New York needs assistance in implementing the requirements of Part B of the IDEA. This determination is based on the totality of the State's data and information, including the Federal fiscal year (FFY) 2013 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

Your State's 2015 determination is based on the data reflected in the State's "2015 Results Driven Accountability Matrix" (RDA Matrix). The RDA Matrix is individualized for each State and consists of: (1) a Compliance Matrix that includes scoring on Compliance Indicators and other compliance factors and a Compliance Score; and (2) a Results Matrix that includes scoring on Results Elements, a Results Score, an RDA Percentage based on both the Compliance Score and the Results Score, and the State's Determination. The RDA Matrix is further explained in a document, entitled "How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2015: Part B" (HTDMD).

OSEP is continuing to use both results data and compliance data in making determinations in 2015, as it did for Part B determinations in 2014. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for your State.) In making Part B determinations in 2015, OSEP continued to use results data related to the participation of children with disabilities (CWD) on regular Statewide assessments and the participation and performance of CWD on the National Assessment of Educational Progress (NAEP). In addition, OSEP used exiting data on CWD who dropped out and CWD who graduated with a regular high school diploma, as reported by States under section 618 of the IDEA. One of the purposes of the IDEA, as set out in section 601(d)(1)(A), is to ensure that all children with disabilities have a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living. Because it is critical that States focus on decreasing the number of CWD that drop out and increasing the number of CWD that graduate with a regular high school diploma, OSEP has added these data as results elements in making determinations in 2015.

You may access the results of OSEP's review of your State's SPP/APR and other relevant data by accessing the SPP/APR module using your State-specific log-on information at osep.grads360.org. When you access your State's SPP/APR on the site, you will find in Indicators 1 through 16, the OSEP Response to the indicator, and any actions that the State is

required to take. The actions that the State is required to take are in two places: (1) any actions related to the correction of findings of noncompliance are in the “OSEP Response” section of the indicator; and (2) any other actions that the State is required to take are in the “Required Actions” section of the indicator. It is important for you to review the Introduction to the SPP/APR, which may also include an OSEP response and/or Required Actions.

You will also find all of the following important documents saved as attachments to the Progress Page: (1) the State’s RDA Matrix; (2) the HTDMD document; (3) a spreadsheet entitled “2015 Data Rubric Part B,” which shows how OSEP calculated the State’s “Timely and Accurate State-Reported Data” score in the Compliance Matrix; (4) a document entitled “Dispute Resolution 2013-14,” which includes the IDEA section 618 data that OSEP used to calculate the State’s “Timely State Complaint Decisions” and “Timely Due Process Hearing Decisions” scores in the Compliance Matrix; and (5) a Data Display, which presents certain State-reported data in a transparent, user-friendly manner and is helpful for the public in getting a broader picture of State performance in key areas.

As noted above, your State’s 2015 determination is Needs Assistance. A State’s 2015 RDA Determination is Needs Assistance if the RDA Percentage is at least 60% but less than 80%. A State would also be Needs Assistance if its RDA Determination percentage is 80% or above, but the Department has imposed Special Conditions on the State’s last three (FFYs 2012, 2013, and 2014) IDEA Part B grant awards, and those Special Conditions are in effect at the time of the 2015 determination.

The State’s determination for 2014 was also needs assistance. In accordance with section 616(e)(1) of the IDEA and 34 C.F.R. § 300.604(a), if a State is determined to need assistance for two consecutive years, the Secretary must take one or more of the following actions: (1) advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance and require the State to work with appropriate entities; (2) direct the use of State-level funds on the area or areas in which the State needs assistance; or (3) identify the State as a high-risk grantee and impose Special Conditions on the State’s IDEA Part B grant award.

Pursuant to these requirements, the Secretary is advising the State of available sources of technical assistance, including OSEP-funded technical assistance centers and resources at the following Web site: <https://osep.grads360.org/#program/highlighted-resources>, and requiring the State to work with appropriate entities. In addition, the State should consider accessing technical assistance from other Department-funded centers such as the Comprehensive Centers with resources at the following link: <http://www2.ed.gov/programs/newccp/index.html>. The Secretary directs the State to determine the results elements and/or compliance indicators, and improvement strategies, on which it will focus its use of available technical assistance, in order to improve its performance. We strongly encourage the State to access technical assistance related to those results elements and compliance indicators for which the State received a score of zero. Your State must report with its FFY 2014 SPP/APR submission, due February 1, 2016, on: (1) the technical assistance sources from which the State received assistance; and (2) the actions the State took as a result of that technical assistance.

Changes correctly made to “meets” letter----- In 2015, States were required to submit a new SPP/APR, which included baseline data and measurable and rigorous targets for FFY 2013 through FFY 2018 for each indicator in the SPP/APR. In addition, under Indicator 17, States

were required to submit a State Systemic Improvement Plan (SSIP) that included activities the State would implement to improve results for children with disabilities. OSEP has reviewed your State's SPP/APR, including Phase I of the SSIP, and determined that it meets the requirements of IDEA section 616(b) to include measurable and rigorous targets, including targets for FFY 2018 that reflect improvement over the State's baseline data. OSEP appreciates the State's work on Phase I of its SSIP. This represents a significant effort to improve results for students with disabilities. We have carefully reviewed your submission and provided feedback during a recent conference call with the State. OSEP will continue to work with your State as it develops Phase II of the SSIP, due April 1, 2016.

As a reminder, your State must report annually to the public, by posting on the State educational agency's (SEA's) Web Site, the performance of each local educational agency (LEA) located in the State on the targets in the SPP/APR as soon as practicable, but no later than 120 days after the State's submission of its FFY 2013 SPP/APR. In addition, your State must: (1) review LEA performance against targets in the State's SPP/APR; (2) determine if each LEA "meets the requirements" of Part B, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part B of the IDEA; (3) take appropriate enforcement action; and (4) inform each LEA of its determination.

Further, your State must make its SPP/APR available to the public by posting it on the SEA's Web Site. Within the next several days, OSEP will be finalizing a State Profile for your State that: (1) will be accessible to the public; (2) includes links to a PDF of the State's SPP/APR, including all of the State's and OSEP's attachments; and (3) the State may use to make its SPP/APR accessible to the public. We will provide you with the link to that profile when it is live.

Further, your State must make its SPP/APR available to the public. Within the next several days, OSEP will be finalizing a State Profile for your State that: (1) will be accessible to the public; (2) include links to a PDF of the State's SPP/APR, including all of the State's and OSEP's attachments; and (3) the State may use to make its SPP/APR accessible to the public. We will provide you with the link to that profile when it is live.

OSEP appreciates the State's efforts to improve results for children and youth with disabilities and looks forward to working with your State over the next year as we continue our important work of improving the lives of children with disabilities and their families. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Leticia Braga, your OSEP State Lead, at 202-453-5660.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a long horizontal line extending to the right.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

cc: State Director of Special Education