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

JUN 20 2011

Honorable Dan Wuori, PhD.
Chief Program Officer
South Carolina First Steps to School Readiness
1300 Sumter Street
Concord Building, Suite 100
Columbia, South Carolina 29201-3340

Dear Dr. Wuori:

Thank you for the submission of South Carolina's Federal fiscal year (FFY) 2009 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA).

The Department has determined that, under IDEA sections 616(d)(2)(A)(iii) and 642, South Carolina needs intervention in implementing the requirements of Part C of IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2009 APR and revised SPP (including targets and improvement activities for each year through FFY 2012), other State-reported data, the State's submissions under the Special Conditions on the State's FFY 2010 IDEA grant, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Sections 616(d) and 642 of the IDEA in 2011: Part C" for further details.

The specific factor affecting the Office of Special Education Programs' (OSEP's) determination of needs intervention for South Carolina under Part C of the IDEA was that South Carolina has been subject to Departmental enforcement for multiple years for failing to comply with a key IDEA Part C requirement, the noncompliance in this area is longstanding, and the data South Carolina reported under its FFY 2010 special conditions demonstrate continued noncompliance with this requirement. The requirement is to ensure the timely correction of findings of noncompliance as required by IDEA section 635(a)(10)(A) and 34 CFR §303.501. Under this requirement, South Carolina must monitor all programs and activities (including early intervention service (EIS) programs and EIS providers) that are used to carry out Part C in South Carolina to ensure compliance with Part C requirements, enforce obligations required by Part C, and timely correct any deficiencies identified through monitoring.

OSEP considered the length of time and magnitude of South Carolina's failure to ensure timely correction. The timely correction requirements were the basis of South Carolina's 2003 Compliance Agreement and subject of Special Conditions on South Carolina's Part C grant awards for FFY 2008, FFY 2009, and FFY 2010. Under the FFY 2010 Special Conditions, South Carolina was required to submit, and submitted, progress reports due on

February 1, and May 2, 2011. Both progress reports and the State's clarified FFY 2009 APR reflect the following data, which indicate continued noncompliance with this requirement. South Carolina reported that a 35% compliance rate or the timely correction of 30 of 65 FFY 2008 findings of noncompliance and did not report verifying correction of those findings consistently with OSEP Memorandum 09-02, dated October 17, 2008. The State's FFY 2009 data of 35% represent slippage from the State's initially reported data in its FFY 2008 APR of 63% and recalculated FFY 2008 data reported in its FFY 2009 APR of 49%. For these reasons, OSEP has determined South Carolina needs intervention in implementing the requirements of Part C of the IDEA. We hope that South Carolina will be able to meet requirements with its FFY 2010 APR.

The enclosed table provides OSEP's analysis of the State's FFY 2009 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. The table also identifies, by indicator: (1) the State's reported FFY 2009 data; (2) whether such data met the State's FFY 2009 targets and reflect progress or slippage from the prior year's data; (3) if applicable, that the State's data are not valid and reliable; and (4) whether the State corrected findings of noncompliance.

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 Right IDEA" Web site at: http://therightidea.tadnet.org/technicalassistance. 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, pursuant to IDEA sections 616(b)(2)(C)(ii)(l) and 642, your State must report annually to the public on the performance of each early intervention services program (EIS program) located in the State on the targets in the SPP. In addition, your State must: (1) review EIS program performance against targets in the State's SPP; (2) determine if each EIS program "meets requirements" of IDEA Part C, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part C of the IDEA; (3) take appropriate enforcement action; and (4) inform each EIS program of its determination. For further information regarding these requirements, see "The Right IDEA" Web site at: http://therightidea.tadnet.org/determinations. Finally, please ensure that your updated SPP is posted on the State lead agency's Web site and made available to the public, consistent with IDEA sections 616(b)(2)(C)(ii)(l) and 642.

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 to demonstrate why the Department should change the State's determination. To request a hearing, submit a letter to Dr. Alexa Posny, Assistant Secretary, United States Department of Education, 400 Maryland Avenue SW, Washington, DC 20202 within 15 days of the date of this letter. The letter must include the basis for your request for a change in the State's determination.

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 contact Rhonda Spence, your OSEP State Contact, at 202-245-7382.

Sincerely,

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

Enclosures

cc: Part C Coordinator