



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

June 28, 2016

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

Dear Dr. Wuori:

I am writing to advise you of the U. S. Department of Education's (Department) 2016 determination under sections 616 and 642 of the *Individuals with Disabilities Education Act (IDEA)*. The Department has determined that South Carolina needs intervention in implementing the requirements of Part C of the *IDEA*. This determination is based on the totality of the State's data and information, including the Federal fiscal year (FFY) 2014 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

Your State's 2016 determination is based on the data reflected in the State's "2016 Part C 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;
- (2) Results Components and Appendices that include scoring on Results Elements;
- (3) a Compliance Score and a Results Score;
- (4) an RDA Percentage based on both the Compliance Score and the Results Score; and
- (5) the State's Determination.

The RDA Matrix is further explained in a document, entitled "How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2016: Part C" (HTDMD).

OSEP is continuing to use both results data and compliance data in making determinations in 2016, as it did for Part C determinations in 2015. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for your State.) For 2016, the Department's *IDEA* Part C determinations continue to include consideration of each

400 MARYLAND AVE. S.W., WASHINGTON DC 20202-2600

www.ed.gov

The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

State's Child Outcomes data, which measures how children who receive *IDEA* Part C services are improving functioning in three outcome areas that are critical to school readiness:

- positive social-emotional skills;
- acquisition and use of knowledge and skills (including early language/communication); and
- use of appropriate behaviors to meet their needs.

Specifically, the Department considered the data quality and the child performance levels in each State's Child Outcomes FFY 2014 data.

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 10, 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 "2016 Data Rubric Part C," 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 2014-15," 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 and further explained in the enclosures to this letter, the Department has determined that South Carolina needs intervention in implementing the requirements of Part C of the *IDEA*. The Department identifies a State as needing intervention under *IDEA* Part C if its RDA Percentage is less than 60%. South Carolina's RDA Percentage is 56.25%.

Under *IDEA* sections 616(e)(2) and 642, if the Secretary determines a State to need intervention for three or more consecutive years, the Secretary must take one or more of the six enforcement actions identified in *IDEA* sections 616(e)(2)(B) and 642 and may take, under *IDEA* sections 616(e)(2)(A) and 642, one of the three enforcement actions identified in *IDEA* section 616(e)(1).

Because in 2016, South Carolina received a determination of Needs Intervention for the sixth consecutive year, the Secretary is taking the following enforcement action.

South Carolina must submit a corrective action plan (CAP) by August 1, 2016 to address three areas that contributed significantly to the State's 2016 determination: (1) the collection and reporting of valid and reliable data regarding the timely provision of early intervention services, consistent with 34 CFR §303.342(e); (2) compliance with the 45-day timeline requirements, consistent with 34 CFR §§303.310(a) and (b) and 303.342(a); and (3) correction of findings of noncompliance, consistent with IDEA section 635(a)(10)(A) and 34 CFR §§303.120 and 303.700(e).

Specifically, by August 1, 2016, the State must submit a CAP that sets forth:

- a description of the steps the State is taking to ensure that the data that the State collects for Indicator 1 regarding the timely provision of early intervention services are valid and reliable;
- a description of the steps the State is taking to improve compliance with the 45-day timeline requirements of Indicator 7;
- the status of correction of the 24 remaining FFY 2013 findings,
- The number of findings of noncompliance the State made during FFY 2014 (July 1, 2014 through June 30, 2015),
- The number of findings identified in FFY 2014 for which the State verified the noncompliance was corrected as soon as possible and in no case later than one year after the State's identification of the noncompliance,
- The number of findings identified in FFY 2014 for which the State verified the noncompliance was corrected more than one year after the State's identification of noncompliance (i.e., "subsequent correction"), and
- For any 2013 and 2014 findings not corrected, the State's plan for ensuring full correction of those findings.

Further, with its FFY 2015 SPP/APR, due February 1, 2017, the State must provide OSEP with a report that includes:

- The State's analysis of the extent to which the State's FFY 2015 data for Indicator 1 are valid and reliable, and how the State made that determination;
- If the State's FFY 2015 data for Indicator 7 do not show compliance, the State's root cause analysis of the State's data and the additional steps that it is taking to improve compliance;
- The status of correction of any remaining FFY 2013 findings,
- The status of correction of any remaining FFY 2014 findings, and
- For any 2013 and 2014 findings not corrected, the State's plan for ensuring full correction of those findings.

As required by IDEA sections 616(e)(7) and 642 and 34 CFR §303.706, South Carolina must notify the public within the State that the Secretary of Education has taken the above enforcement actions, including, at a minimum, by posting a public notice on the State lead agency's Web site and distributing the notice to the media and through public agencies.

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 to demonstrate why the Department should change the State's determination. To request a hearing, submit a letter to Sue Swenson, Acting Assistant Secretary for Special Education and Rehabilitative Services, U.S. Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 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.

State submissions of Phase II of the State Systemic Improvement Plan (SSIP) were due to OSEP by April 1, 2016. OSEP provided 60 days beyond the official February 1, 2016 SPP/APR due date to provide States with additional time to complete their Phase II submissions. However, OSEP did receive South Carolina's Phase II SSIP until April 22, 2016. OSEP appreciates the State's ongoing work on its SSIP and its efforts to improve results for infants and toddlers with disabilities and their families. We have carefully reviewed your submission and will provide feedback in the upcoming weeks. Additionally, OSEP will continue to work with your State as it develops Phase III of the SSIP, due April 3, 2017.

As a reminder, your State must report annually to the public, by posting on the State lead agency's web-site, on the performance of each early intervention service (EIS) program located in the State on the targets in the SPP as soon as practicable, but no later than 120 days after the State's submission of its FFY 2014 SPP/APR. In addition, your State must:

- (1) review EIS program performance against targets in the State's SPP/APR;
- (2) determine if each EIS program “meets the requirements” of 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.

Further, your State must make its SPP/APR available to the public by posting it on the State lead agency'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.

OSEP appreciates the State'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 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 Brenda Wilkins, your OSEP State lead, at 202-245-6920.

Sincerely,

/s/ Ruth E. Ryder

Ruth E. Ryder
Acting Director
Office of Special Education Programs

cc: State Part C Coordinator