

June 6, 2008

Honorable Robert Scott
State Commissioner
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701-1494

Dear Commissioner Scott:

Thank you for the timely submission of Texas' FFY 2006 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 acknowledge the revisions to Texas' SPP and APR received on April 14, 2008. We appreciate the State's efforts in preparing these documents.

The Department has determined that, under IDEA section 616(d), Texas needs intervention in meeting the requirements of Part B of the IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2006 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2008" for further details.

Specific factors affecting OSEP's determination of needs intervention for Texas included the failure of the State to report any data for two compliance indicators -- Indicators 11 and 12.

With respect to Indicator 11, the State was required to report the percent of children with parental consent to evaluate, who were evaluated within 60 days (or a State-established timeframe). The State did not report this data for FFY 2005 either, but presented a plan in the SPP, as revised in April 2007, to report FFY 2006 data in the FFY 2006 APR. OSEP's June 15, 2007 letter to the State required the State to report these data in the FFY 2006 APR. Instead, the State reported that the data system could not be completed in time to collect the data for the 2006-2007 school year. Without these data, OSEP and the public cannot determine whether children whose parents have consented to an evaluation are evaluated in a timely manner, or whether delays in evaluations may be resulting in denials of appropriate services to children who have disabilities and need special education and related services.

Under Indicator 12, the State was required to report the percent of children referred by Part C prior to age 3, who are found eligible for Part B and who have an individualized education program (IEP) implemented by their third birthdays. Although the February 2008 SPP indicates that Texas recognizes the importance of facilitating a timely and effective transition from Part C services to Part B services for eligible children, the State did not report FFY 2006 data in its SPP or APR. Instead, the State reported that its data system could not be completed in time to collect the data for the 2006-2007 school year. Without these 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. We hope that the State will be able to demonstrate that it meets requirements in its next APR.

The enclosed table provides OSEP's analysis of the State's FFY 2006 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. It also identifies, by indicator, the State's status in meeting its targets, whether the State's data reflect progress or slippage, and whether the State corrected noncompliance and provided valid and reliable data.

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 SPP/APR Planning Calendar website at <http://spp-apr-calendar.rfcnetwork.org/>. 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, 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)(I). In addition, your State must review LEA performance against targets in the State's SPP, determine if each LEA meets the requirements of the IDEA and inform each LEA of its determination. For further information regarding these requirements, see the SPP/APR Calendar at <http://spp-apr-calendar.rfcnetwork.org/>. Finally, if you included revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that you update your SPP accordingly and that the updated SPP is made available to the public.

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 for Special Education and Rehabilitative Services to demonstrate why the Department should change its determination. To request a hearing, submit a letter to Tracy R. Justesen, Assistant Secretary, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue SW, Room 5107, Potomac Center Plaza, Washington, DC 20202-2600 within 30 days of the date of this letter and provide in the letter the basis for your request.

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 Matthew Schneer, your OSEP State Contact, at 202-245-6755.

Sincerely,

/s/ William W. Knudsen

William W. Knudsen
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education