



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

June 21, 2023

Honorable Molly Magarik  
Cabinet Secretary  
Delaware Department of Health and Social Services  
1901 North DuPont Highway, Herman M. Holloway Sr. Health and Social Services Campus  
New Castle, DE 19701

Dear Secretary Magarik:

I am writing to advise you of the U.S. Department of Education's (Department) 2023 determination under Sections 616 and 642 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that Delaware needs assistance in meeting 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) 2021 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

Your State's 2023 determination is based on the data reflected in the State's "2023 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 2023: Part C](#)" (HTDMD).

The Office of Special Education Programs (OSEP) is continuing to use both results data and compliance data in making the Department's determinations in 2023, as it did for the Part C determinations in 2015-2022. (The specifics of the determination procedures and criteria are set forth in the HTDMD document and reflected in the RDA Matrix for your State.) For 2023, the Department's IDEA Part C determinations continue to include consideration of each State's Child Outcomes data, which measure how children who receive Part C services are improving functioning in three outcome areas that are critical to school readiness:

- positive social-emotional skills;

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- 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 2021 data.

Prior to issuing the 2023 determinations, the Department asked stakeholders for input regarding how the Department might prioritize equity and improve results for infants, toddlers and children with disabilities. OSEP received input through a variety of sources. For its 2023 determinations, OSEP has factored only programmatic (not Department-wide) specific conditions when scoring the Longstanding Noncompliance element of the Compliance Matrix.

For 2024 and beyond, the Department is considering the weight of existing as well as potential additional factors in making its determinations as part of its continuing effort to prioritize equity and improve results for infants, toddlers, children and youth with disabilities. Potential additional factors include how the Department considers assessment data, such as whether to continue including data on the participation and proficiency of CWD on the NAEP and/or whether to include data on the proficiency of CWD on Statewide assessments. Other potential factors include whether and how to consider child find under Indicators C-5 and C-6 and/or other longstanding noncompliance (such as unresolved findings issued by OSEP during and prior to FFY 2020).

The 2022-23 IDEA Section 618 Part C data will continue to prepopulate the Part C SPP/APR Indicators 2, 5, 6, 9, and 10 as they have in the past. However, please note that there will be changes to the data submission and data quality processes associated with the 2022-23 IDEA Section 618 Part C data under EDFacts Modernization. Under EDFacts Modernization, States are expected to submit high quality IDEA Section 618 Part C data that can be published and used by the Department as of the due date for the applicable IDEA Section 618 data submission. Though the 2022-23 Part C Child Count and Settings, Part C Exiting, and Part C Dispute Resolution data will continue to be submitted via EMAPS, States will be expected to conduct data quality reviews prior to the applicable due date. OSEP will expect States to take one of the following two actions for all business rules that are triggered in the EMAPS system prior to the applicable due date: 1) revise the data entered into the 618 data collection in EMAPS to address the edit; or 2) provide a data note addressing why the data submission triggered the edit. There will not be a resubmission period for the IDEA Section 618 Part C data. The 2022-23 IDEA Section 618 Part C data submitted as of the due date will be used for the FFY 2022 SPP/APR and the 2024 IDEA Part C Results Matrix.

You may access the results of OSEP's review of your State's SPP/APR and other relevant data by accessing the EMAPS SPP/APR reporting tool using your State-specific log-on information at <https://emaps.ed.gov/suite/>. When you access your State's SPP/APR on the site, you will find, in Indicators 1 through 11, 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 the "Required Actions" section of the indicator.

It is important for you to review the Introduction to the SPP/APR, which may also include language in the "OSEP Response" and/or "Required Actions" sections.

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 “2023 Data Rubric Part C,” which shows how OSEP calculated the State’s “Timely and Accurate State-Reported Data” score in the Compliance Matrix; and
- (4) a document entitled “Dispute Resolution 2021-2022,” 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.

As noted above, the State’s 2023 determination is Needs Assistance. A State’s 2023 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 Specific Conditions on the State’s last three IDEA Part C grant awards (for FFYs 2020, 2021 and 2022), and those Specific Conditions are in effect at the time of the 2023 determination.

The State’s determination for 2022 was also Needs Assistance. In accordance with Section 616(e)(1) of the IDEA and 34 C.F.R. § 303.704(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; and/or
- (2) identify the State as a high-risk grantee and impose Specific Conditions on the State’s IDEA Part C 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 websites: [Monitoring and State Improvement Planning \(MSIP\) | OSEP Ideas That Work](#), [Individuals with Disabilities Education Act \(IDEA\) Topic Areas](#), 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: <https://compcenternetwork.org/states>. 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 2022 SPP/APR submission, due February 1, 2024, 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.

As required by IDEA Section 616(e)(7) and 34 C.F.R. § 303.706, your State must notify the public that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on its website and distributing the notice to the media and to early intervention service (EIS) programs.

As a reminder, your State must report annually to the public, by posting on the State lead agency’s website, on the performance of each EIS program 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 2021 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 website. Within the upcoming weeks, OSEP will be finalizing a State Profile that:

- (1) includes the State’s determination letter and SPP/APR, OSEP attachments, and all State attachments that are accessible in accordance with Section 508 of the Rehabilitation Act of 1973; and
- (2) will be accessible to the public via the ed.gov website.

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. Please contact your OSEP State Lead if you have any questions, would like to discuss this further, or want to request technical assistance.

Sincerely,

/s/

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Valerie Williams  
Director  
Office of Special Education Programs

cc: State Part C Coordinator