



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

June 22, 2022

Honorable Christopher Jones
Executive Director
Department of Human Services
State Capitol, Judicial Wing
600 East Boulevard Avenue, Department 325
Bismarck, North Dakota 58505

Dear Executive Director Jones:

I am writing to advise you of the U.S. Department of Education's (Department) 2022 determination under Sections 616 and 642 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that North Dakota meets the requirements and purposes 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) 2020 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

With the FFY 2020 SPP/APR submission, the Office of Special Education Programs (OSEP) requested that States and Entities report whether and how the data collection for any indicator was impacted by the COVID-19 pandemic. Specifically, OSEP requested that States and Entities include in the narrative for each impacted indicator: (1) the impact on data completeness, validity, and/or reliability for the indicator; (2) an explanation of how COVID-19 specifically impacted the State's or Entity's ability to collect and verify the data for the indicator; and (3) any steps the State or Entity took to mitigate the impact of COVID-19 on the data collection and verification. OSEP appreciates States' and Entities' level of transparency regarding the impact of COVID-19 on the data reported in the FFY 2020 SPP/APR. When making determination decisions for 2022, OSEP considered all information submitted that related to the impact of the COVID-19 pandemic. For 2022 determinations, as with 2021 determinations, no State or Entity received a determination of "Needs Intervention" due solely to data impacted by COVID-19.

Your State's 2022 determination is based on the data reflected in the State's "2022 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

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(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 2022: Part C” (HTDMD).

OSEP is continuing to use both results data and compliance data in making the Department’s determinations in 2022, as it did for Part C determinations in 2015-2021. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for your State.) For 2022, 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;
- 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 2020 data.

In 2022, States were required to submit a new SPP/APR for FFYs 2020 through 2025. The 2022 submission of the SPP/APR is the third six-year SPP and includes baseline data and measurable and rigorous targets for FFY 2020 through FFY 2025 for each indicator in the SPP/APR. OSEP has reviewed and approved your State’s SPP under IDEA Section 616(b) to include measurable and rigorous targets for FFY 2025 that reflect improvement over the State’s baseline data. Any action required by the State is reflected in OSEP’s response.

For the Department’s 2023 determinations, the Department is reviewing and considering whether and how to use existing indicators and/or other available data in making its determinations as part of its continuing effort to prioritize equity and improve results for infants, toddlers and children with disabilities. In April 2022, the Department released an equity action plan as part of its efforts to advance racial equity and support underserved communities. Examples of existing indicators that could be considered and/or be weighted differently include indicators on child find (for Part C) and/or significant discrepancy and disproportionate representation (for Part B). We will offer opportunities for input from the public, including parents, agencies that implement IDEA and other stakeholders, to provide feedback in the coming months, starting with the OSEP Leadership Conference in July 2022 as well as through email submissions and listening sessions open to the public.

As noted earlier, for its 2021 and 2022 determinations, the Department did not issue a determination of “Needs Intervention” to any State because States’ SPP/APR data collections for FFY 2019 and FFY 2020 were impacted by COVID-19. OSEP is considering, but has not yet determined, whether and how a State’s FFY 2021 SPP/APR data collection that was affected by COVID-19 will be considered in the Department’s 2023 determinations.

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:

- (1) the State’s RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled “2022 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 2020-2021,” 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 2022 determination is Meets Requirements. A State’s 2022 RDA Determination is Meets Requirements if the RDA Percentage is at least 80%, unless the Department has imposed Specific Conditions on the State’s last three IDEA Part C grant awards (for FFYs 2019, 2020, and 2021), and those Specific Conditions are in effect at the time of the 2022 determination.

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 early intervention service (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 2020 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/

Valerie Williams
Director
Office of Special Education Programs

cc: State Part C Coordinator