



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

June 23, 2020

Honorable Dr. Matthew L. Blomstedt  
Commissioner of Education  
Nebraska Department of Education  
301 Centennial Mall South,  
P.O. Box 94987  
Lincoln, Nebraska 68509

Dear Commissioner Blomstedt:

I am writing to advise you of the U. S. Department of Education's (Department) 2020 determination under section 616 and 642 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that Nebraska 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) 2018 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

Your State's 2020 determination is based on the data reflected in the State's "2020 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) a Results Matrix that includes 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 Section 616(d) and 642 of the Individuals with Disabilities Education Act in 2020: Part C" (HTDMD).

The Office of Special Education Programs (OSEP) is continuing to use both results data and compliance data in making determinations in 2020, as it did for Part C determinations in 2014, 2015, 2016, 2017, 2018, and 2019. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for your State.) For 2020, the Department's IDEA Part C determinations continue to include consideration of each State's

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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 2018 data.

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 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) 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 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 "2020 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 2018-2019," 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, the Department has determined that Nebraska needs intervention in implementing the requirements of Part C of IDEA. The Department identifies a State as needing intervention under IDEA Part C if its RDA Percentage is less than 60%. Nebraska's RDA Percentage is 48.21%. The major factors contributing to the Nebraska's 2020 Needs Intervention determination are: (1) the State's low performance under Indicator 8A (timely transition plan); and (2) the State's RDA score of zero for the child performance data elements.

### **1. Low Performance under Indicator 8A**

The data that the State provided in its FFY 2018 SPP/APR demonstrate noncompliance with the transition requirements under sections 636(a)(3) and (d)(8) and 637(a)(9)(c) of the IDEA and 34

C.F.R. §§ 303.209(d) and 303.344(h). Under Indicator 8A the State was required to provide data on the percentage of toddlers with disabilities exiting Part C with timely transition planning for whom the Lead Agency has developed an individualized family service plan (IFSP) with transition steps and services at least 90 days, and at the discretion of all parties, not more than nine months, prior to the toddler's third birthday. In its FFY 2018 SPP/APR, the State's reported FFY 2018 data for Indicator 8A were 51.85 percent. These data reflect slippage from the FFY 2017 data of 93.06 percent the State reported for Indicator 8A in its FFY 2017 SPP/APR.

## **2. RDA Score of Zero for Certain Results Elements**

In the 2020 Part C Results Matrix, the State received a score of zero on both child performance data elements (i.e., comparing the State's FFY 2018 outcomes data to other State's FFY 2018 outcome data and comparing the State's FFY 2018 data to the State's FFY 2017 data). This means that the State's FFY 2018 child outcome results data were low relative to the data provided by other grantees for FFY 2018 and low compared to the State's own FFY 2017 child outcomes data.

Pursuant to section 616(d)(2)(B) and 642 of the IDEA and 34 C.F.R. § 303.703(b)(2), a State that is determined to be "needs intervention" or "needs 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 Mark Schultz, Delegated the authority to perform the functions and duties of the 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 your State's determination.

States were required to submit Phase III Year Four of the SSIP by April 1, 2020. OSEP appreciates the State's ongoing work on its SSIP and its efforts to improve results for students with disabilities. We have carefully reviewed and responded to your submission and will provide additional feedback in the upcoming weeks. Additionally, OSEP will continue to work with your State as it implements the fifth year of Phase III of the SSIP, which is due on April 1, 2021.

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 2018 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.

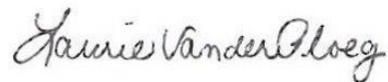
Further, your State must make its SPP/APR available to the public by posting it on the SEA's website. Within the upcoming weeks, OSEP will be finalizing a State Profile that:

(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 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,



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Laurie VanderPloeg  
Director  
Office of Special Education Programs

cc: State Part C Coordinator