



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

June 26, 2018

Honorable Howard Zucker, M.D., J.D.  
Commissioner  
New York State Department of Health  
Corning Tower, Empire State Plaza, 14th Floor  
Albany, New York 12237

Dear Commissioner Zucker:

I am writing to advise you of the U.S. Department of Education's (Department) 2018 determination under sections 616 and 642 of the *Individuals with Disabilities Education Act (IDEA)*. The Department has determined that New York 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) 2016 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

Your State's 2018 determination is based on the data reflected in the State's "2018 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 2018: Part C" (HTDMD).

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

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

[www.ed.gov](http://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.*

- 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 2016 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](http://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) 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 to the Progress Page:

- (1) the State's RDA Matrix;
- (2) the HTDMD document;
- (3) a spreadsheet entitled "2018 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 2016-17," 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 2018 determination is Needs Assistance. A State's 2018 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 Special Conditions on the State's last three *IDEA* Part C grant awards (for FFYs 2015, 2016, and 2017), and those Special Conditions are in effect at the time of the 2018 determination.

States were required to submit Phase III Year Two of the State Systemic Improvement Plan (SSIP) by April 2, 2018. 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 implements the third year of Phase III of the SSIP, which is due on April 1, 2019.

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 2016 SPP/APR. In addition, your State must:

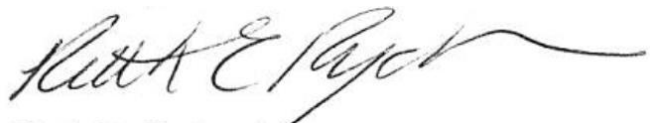
- (1) review EIS program performance against targets in the State's SPP/APR;
- (2) determine if each EIS program "meets the requirements" of Part C, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part C of the *IDEA*;
- (3) take appropriate enforcement 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 next several days, OSEP will be finalizing a State Profile that:

- (1) will be accessible to the public;
- (2) includes the State's determination letter and SPP/APR, and all related State and OSEP attachments; and
- (3) can be accessed via a URL unique to your State, which you can use to make your SPP/APR available to the public. We will provide you with the unique URL 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. Please contact your OSEP State Lead if you have any questions, would like to discuss this further, or want to request technical assistance.

Sincerely,



---

Ruth E. Ryder  
Acting Director  
Office of Special Education Programs

cc: State Part C Coordinator