



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

June 18, 2019

Honorable Justa Encarnacion, RN, BSN, MBA/HCM
Commissioner Designee
USVI Department of Health
1303 Hospital Ground Suite 10
Charlotte Amalie, St. Thomas, VI 00802

Dear Commissioner Encarnacion:

I am writing to advise you of the U.S. Department of Education's (Department) 2019 determination under sections 616 and 642 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that Virgin Islands 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) 2017 State Performance Plan/Annual Performance Report (SPP/APR), other State-reported data, and other publicly available information.

Your State's 2019 determination is based on the data reflected in the State's "2019 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 2019: 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 2019, as it did for the Part C determinations in 2015, 2016, 2017, and 2018. (The specifics of the determination procedures and criteria are set forth in the HTDMD and reflected in the RDA Matrix for your State.) For 2019, 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 2017 data.

The Secretary is considering broadening the factors the Department will use in making its determinations in June 2020 as part of its continuing emphasis on results for children with disabilities. Sections 616(a)(2) and 642 of the IDEA require that the primary focus of IDEA monitoring be on improving educational and early intervention results and functional outcomes for all children with disabilities, and ensuring that States meet the IDEA program requirements, with an emphasis on those requirements that are most closely related to improving educational and early intervention results for infants, toddlers, and children with disabilities.

For the 2020 Part C determinations, we are proposing to include as additional factors State-reported data on family outcomes and the State Systemic Improvement Plan (SSIP) to the results component for Part C. The inclusion of family outcomes is consistent with the statutory intent that the Part C early intervention program enhance and support the capacity of families to meet the unique needs of their infants and toddlers with disabilities. The inclusion of the SSIP as a results factor would continue OSEP's emphasis on incorporating a results-driven approach as States identify evidence-based practices that lead to improved outcomes for infants and toddlers with disabilities and their families. Further, we are proposing changes to how we calculate the results percentage for child outcomes within the Part C determinations to include using the number of infants and toddlers with disabilities who did not receive services at least six months before exiting Part C as part of the Data Completeness Score calculation. As we consider changes to how we use the data under these factors in making the Department's 2020 determinations, OSEP will provide parents, States, entities, early intervention service (EIS) providers, and other stakeholders with an opportunity to comment and provide input through OSEP's Leadership Conference in July 2019 and other meetings.

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. 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 “2019 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 2017-18,” 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 2019 determination is Needs Assistance. A State’s 2019 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 or Specific Conditions on the State’s last three IDEA Part C grant awards (for FFYs 2016, 2017, and 2018), and those Specific Conditions are in effect at the time of the 2019 determination.

The State’s determination for 2018 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 Special 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 website: <https://osep.grads360.org/#program/highlighted-resources>, 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: <http://www2.ed.gov/programs/newccp/index.html>. 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 2018 SPP/APR submission, due February 3, 2020, 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 EIS programs.

States were required to submit Phase III Year Three of the SSIP by April 1, 2019. 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 fourth year of Phase III of the SSIP, which is due on April 1, 2020.

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 2017 SPP/APR. In addition, your State must:

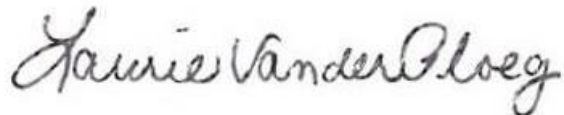
- (1) review EIS program performance against targets in the State's SPP/APR;
- (2) determine if each EIS program "meets the requirements" of Part C, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part C of the IDEA;
- (3) take appropriate enforcement 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,



Laurie VanderPloeg
Director
Office of Special Education Programs

cc: State Part C Coordinator