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

Honorable Terri Delgadillo
Director
Department of Developmental Services
California Health and Human Services Agency
1600 9th Street
Room 240, MS 2-13
Sacramento, California 95814

JUL 0 1 2013

Dear Director Delgadillo:

Thank you for the timely submission of California's Federal fiscal year (FFY) 2011 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA).

The U. S. Department of Education (Department) has determined that, under IDEA sections 616(d)(2)(A)(iii) and 642, California "needs intervention" in implementing the requirements of Part C of the IDEA. The Department's determination is based on the totality of the State's data and information, including the State's FFY 2011 APR and revised SPP, other State-reported data, and other publicly available information. The totality of the State's data is reflected in a new Compliance Matrix (Compliance Matrix), described below.

California's determination is based on the data reflected in the enclosed "2013 Part C Compliance Matrix" that OSEP completed based on the State's data. Also enclosed is the document entitled, "How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2013: Part C," which provides a detailed description of how OSEP evaluated California's data using the Compliance Matrix. The Compliance Matrix reflects the compliance data summarized in the State's FFY 2011 APR/SPP Response Table.

The enclosed California FFY 2011 Response Table provides OSEP's analysis of the State's FFY 2011 APR and revised SPP. The Response Table includes: (1) the Indicators; (2) the Results Data Summary; (3) the Results Data Summary Notes; (4) the Compliance Data Summary; and (5) the Compliance Data Summary Notes. In the Results Data Summary and the Compliance Data Summary, the Response Table sets forth, by indicator, the State's: (1) reported FFY 2010 data; (2) reported FFY 2011 data; and (3) FFY 2011 target(s), in a concise "dashboard" format. The Compliance Data Summary also includes a column that reflects the number of findings of noncompliance identified in FFY 2010, and the correction of those findings. In the "Notes" sections following the Results Data Summary and the Compliance Data Summary, OSEP has provided more detailed information regarding specific indicators, including, where appropriate, information regarding: (1) the State's correction of any remaining findings of noncompliance identified in years prior to FFY 2010; (2) any issues with the validity and reliability of the data that the State reported; and (3) any required actions. It is important that the State read the information for each indicator in the Results Data Summary and the Compliance Data Summary together with any Notes for that indicator.

Determination and Enforcement Action

As further explained in the enclosed documents: "2013 Part C Compliance Matrix," "How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2013: Part C," and the California Part C FFY 2011 SPP/APR Response Table, the specific reasons for the State's determination of needs intervention are that: (1) California's Compliance Matrix percentage, at 55%, is below the criterion of 75%; and (2) California's FFY 2011 reported data for SPP/APR Indicators 8A, 8B, and 8C are not valid and reliable. Indicator 8A measures the percentage of children exiting Part C who had an Individualized Family Service Plan (IFSP) with appropriate transition steps and services, as required by 34 CFR §§303.209(d) and 303.344(h) (IFSP Transition Plan). Indicator 8B measures the percentage of children exiting Part C who are potentially eligible for Part B services and for whom the transition notification was provided, as required by 34 CFR §303.209(b) (Transition Notification). Indicator 8C measures the percentage of children exiting Part C and potentially eligible for Part B services for whom a timely transition conference was held, as required by 34 CFR §303.209(c)(1) (Timely Transition Conference). The State's FFY 2011 data for Indicators 8A, 8B and 8C were not valid and reliable because the State acknowledged that these data did not include children who are served under IDEA Part C through the California Department of Education (CDE).

Pursuant to sections 616(d)(2)(B) and 642 of the IDEA and 34 CFR §303.703(b)(2), a State that is determined to need intervention or need 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 Michael K. Yudin, Delegated the authority to perform the functions and duties of Assistant Secretary for Special Education and Rehabilitative Services, United States 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 the State's determination.

Under IDEA sections 616(e)(2) and 642, if the Secretary determines a State to need intervention for three or more consecutive years, the Secretary must take one or more of the six enforcement actions identified in IDEA section 616(e)(2)(B) and may take, under IDEA section 616(e)(2)(A), one of the three enforcement actions identified in IDEA section 616(e)(1). California also received a determination of needs intervention for FFYs 2009 and 2010, and this is the third consecutive year that California is receiving a determination of needs intervention. Accordingly, under IDEA sections 616(e)(2) and 642, the Secretary is requiring California to submit a corrective action plan (CAP) and to utilize available sources of technical assistance. The Secretary is requiring California to submit a CAP because the Secretary has determined that California should be able to correct the problem that is the basis for its "needs intervention" determination by February 1, 2014 (which is within one year from this determination letter).

California must submit a CAP by August 15, 2013 that ensures that the State will submit with its FFY 2012 IDEA Part C APR valid and reliable data for the early childhood transition Indicators 8A, 8B, and 8C. The CAP must include the specific actions (including utilizing available technical assistance sources, see below) the State lead agency will take to ensure that it will submit, with the State's FFY 2012 APR, due February 1, 2014, valid and reliable

data for Indicators 8A, 8B and 8C showing compliance with the respective timely transition planning requirements under those indicators, and the timelines for those actions.

The CAP must set forth:

(1) The specific steps that the California State lead agency will take to ensure that it will be able to provide in its FFY 2012 APR, due February 1, 2014, FFY 2012 valid and reliable data for Indicators 8A (Transition plan), 8B (Transition notification), and 8C (Transition conferences) that includes data on children served under IDEA Part C through CDE and that such data for Indicators 8A, 8B, and 8C reflect compliance with the applicable requirements in 34 CFR §§303.209 and 303.344(h);

(2) The specific timelines for completing each of the steps identified in (1) above; and

(3) That the State will provide OSEP with reports by October 31, 2013 and February 1, 2014 on the State's progress in implementing each of those steps according to the specified timelines.

As noted above, the CAP must reference how the State is utilizing available technical assistance sources. A list of sources of technical assistance related to the SPP/APR indicators is available by clicking on the "Technical Assistance Related to Determinations" box on the opening page of "The Right IDEA" Web site at: http://therightidea.tadnet.org/technicalassistance. You will be directed to a list of indicators. Click on Indicators 8A, 8B, and 8C for a list of centers, documents, Web seminars and other sources of relevant technical assistance for each of those indicators.

As required by sections 616(e)(7) and 642 of the IDEA and 34 CFR §303.706, the State must notify the public within the State that the Secretary of Education has taken the above enforcement action, including, at a minimum, by posting a public notice on the agency's Web site and distributing the notice to the media and through public agencies.

Conclusion

Pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642 and 34 CFR §303.702(b)(1)(A), your State must report annually to the public on the performance of each early intervention service program (EIS program) located in the State on the targets in the SPP as soon as practicable, but no later than 120 days after the State's submission of its FFY 2011 APR. In addition, your State must: (1) review EIS program performance against targets in the State's SPP; (2) determine if each EIS program "meets 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. *See*, IDEA sections 616(a)(1)(C) and 642 and 34 CFR §303.700(a)(2) and (3). For further information regarding these requirements, see "The Right IDEA" website at: http://therightidea.tadnet.org/determinations. Finally, please ensure that your updated SPP is posted on the State lead agency's Web site and made available to the public, consistent with IDEA sections 616(d)(2)(C)(ii)(I) and 642 and 34 CFR §303.702(b)(1).

As you know, OSEP is redesigning its accountability system to more directly support States in improving results for infants, toddlers, children and youth with disabilities, and their families. Section 616 of the IDEA requires that the primary focus of IDEA monitoring must be on improving educational results and functional outcomes for children with disabilities,

and ensuring that States meet the IDEA program requirements. The monitoring system implemented between 2004 and 2012 placed a heavy emphasis on compliance and we are moving towards a more balanced approach that considers results as well as compliance.

OSEP is committed to several key principles to guide the development of a results-driven accountability system, including transparency, stakeholder involvement, and burden reduction. In support of these principles, we are taking a number of steps. First, we solicited input from special education, early intervention, assessment, and early childhood outcomes experts, and gathered input from the public through conference calls, a blog on the Department's Web site, and through multiple meetings and conferences. Next, OSEP published for comment a new SPP/APR package for FFYs 2013 through 2018 that significantly reduces data collection and reporting burden by States, and shifts the focus of the SPP/APR to improving educational results and functional outcomes for children with disabilities. Third, as explained above, this year OSEP has incorporated compliance data into a matrix that is helpful in simultaneously processing multiple sets of data, and has used this matrix in making determinations. This Compliance Matrix includes a color-coded system (green, yellow, red) that provides a visual representation of a State's performance. Finally, as we move forward in using results data in determinations, OSEP will provide the public with an opportunity to comment on how we will use results when making determinations in 2014 under section 616.

OSEP recognizes California'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. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Rhonda Spence, your OSEP State Contact, at 202-245-7382.

Sincerely,

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosures

cc: Part C Coordinator