



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

JUN 3 2010

Honorable Patsy A. Hardy
Secretary
West Virginia Dept. of Health and Human Resources
State Capital Complex
Building 3, Room 206
Charleston, WV 25305

Dear Secretary Hardy:

Thank you for the timely submission of West Virginia's Federal fiscal year (FFY) 2008 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA).

The Department has determined that, under IDEA sections 616(d)(2)(A)(i) and 642, West Virginia meets the requirements of Part C of IDEA. The Department's determination is based on the totality of the State's data and information, including the State's FFY 2008 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) and 642 of the IDEA in 2010: Part C" for further details.

Specific factors affecting the determination made by the Office of Special Education Programs (OSEP) that West Virginia meets requirements under IDEA sections 616(d) and 642 include: (1) West Virginia provided valid and reliable FFY 2008 data reflecting the measurement for each indicator; and (2) West Virginia reported high levels of compliance or correction of previously identified findings of noncompliance for Indicators 1, 7, 8A, 8B, 8C, 9, 10, 11, and 14. We commend West Virginia for its performance.

The enclosed table provides OSEP's analysis of the State's FFY 2008 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions the State made to its targets, improvement activities (timelines and resources), and baseline data in the State's SPP. The table also identifies, by indicator: (1) the State's reported FFY 2008 data; (2) whether such data met the State's FFY 2008 targets and reflect progress or slippage from prior year's data; and (3) whether the State corrected findings of noncompliance.

As you know, pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642, your State must report annually to the public on the performance of each early intervention services program (EIS program) located in the State on the targets in the SPP. 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. For further information regarding these requirements, see the SPP/APR Calendar at: <http://spp-apr-calendar.rrfcnetwork.org/explorer/view/id/656>. Finally, if your State included revisions to baseline, targets or improvement activities in its APR submission, and OSEP accepted those revisions, please ensure that your SPP is updated accordingly and that the updated SPP is posted on the State's website and made available to the public, consistent with IDEA sections 616(d)(2)(C)(ii)(I) and 642.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

OSEP is committed to supporting West Virginia's efforts to improve results for children and youth with disabilities and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Barbara Thomas, your OSEP State Contact, at 202-245-7386.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexa Posny". The signature is fluid and cursive, with the first name "Alexa" written in a larger, more prominent script than the last name "Posny".

Alexa Posny, Ph.D.
Acting Director
Office of Special Education Programs

Enclosures

cc: Part C Coordinator

West Virginia Part C FFY 2008 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
<p>1. Percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner.</p> <p>[Compliance Indicator]</p>	<p>The State's FFY 2008 reported data for this indicator are 95.09%. These data represent slippage from the FFY 2007 data of 97%. The State did not meet its FFY 2008 target of 100%.</p> <p>The State reported that all 25 of its findings of noncompliance identified in FFY 2007 for this indicator were corrected in a timely manner.</p>	<p>OSEP appreciates the State's efforts and looks forward to reviewing in the FFY 2009 APR, due February 1, 2011, the State's data demonstrating that it is in compliance with the timely service provision requirements in 34 CFR §§303.340(c), 303.342(e), and 303.344(f)(1). Because the State reported less than 100% compliance for FFY 2008, the State must report on the status of correction of noncompliance reflected in the data the State reported for this indicator.</p> <p>When reporting the correction of noncompliance, the State must report, in its FFY 2009 APR, that it has verified that each EIS program with noncompliance reflected in the data the State reported for this indicator: (1) is correctly implementing 34 CFR §§303.340(c), 303.342(e), and 303.344(f)(1) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has initiated services, although late, for any child whose services were not initiated in a timely manner, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02). In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.</p> <p>If the State does not report 100% compliance in the FFY 2009 APR, the State must review its improvement</p>

West Virginia Part C FFY 2008 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps						
<p>2. Percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or community-based settings. [Results Indicator]</p>	<p>The State revised the indicator and measurement language (consistent with revisions in the Indicator Measurement Table) for this indicator and OSEP accepts those revisions.</p> <p>The State's FFY 2007 reported data for this indicator are 100%. The State's data reflect a high level of performance for this indicator. The State met its FFY 2008 target of 99.412%.</p>	<p>activities and revise them, if necessary.</p> <p>The State's actual target data for provision of services to infants and toddlers in natural environments are at or greater than 95%. There is no expectation that an increase in that percentage is necessary. OSEP appreciates the State's efforts to improve performance and assumes that the State is monitoring to ensure that IFSP teams are making service setting decisions on an individualized basis and in compliance with 34 CFR §§303.12, 303.18, and 303.344(d)(1)(ii).</p>						
<p>3. Percent of infants and toddlers with IFSPs who demonstrate improved:</p> <p>A. Positive social-emotional skills (including social relationship);</p> <p>B. Acquisition and use of knowledge and skills (including early language/communication); and</p> <p>C. Use of appropriate behaviors to meet their needs. [Results Indicator]</p>	<p>The State revised the measurement language (consistent with revisions in the Indicator Measurement Table) for this indicator and OSEP accepts those revisions.</p> <p>The State provided FFY 2008 baseline data, targets, and improvement activities for this indicator, and OSEP accepts the State's submission for this indicator.</p> <p>The State's FFY 2008 reported baseline data for this indicator are:</p> <table border="1" data-bbox="550 971 1444 1242"> <thead> <tr> <th data-bbox="550 971 919 1107">08-09 Infant and Toddler Outcome Baseline Data</th> <th data-bbox="919 971 1192 1107"><u>Summary Statement 1</u>¹</th> <th data-bbox="1192 971 1444 1107"><u>Summary Statement 2</u>²</th> </tr> </thead> <tbody> <tr> <td data-bbox="550 1107 919 1242">Outcome A: Positive social-emotional skills (including social relationships) (%)</td> <td data-bbox="919 1107 1192 1242">71.0</td> <td data-bbox="1192 1107 1444 1242">77.5</td> </tr> </tbody> </table>	08-09 Infant and Toddler Outcome Baseline Data	<u>Summary Statement 1</u> ¹	<u>Summary Statement 2</u> ²	Outcome A: Positive social-emotional skills (including social relationships) (%)	71.0	77.5	<p>The State must report progress data and actual target data for FFY 2009 with the FFY 2009 APR.</p>
08-09 Infant and Toddler Outcome Baseline Data	<u>Summary Statement 1</u> ¹	<u>Summary Statement 2</u> ²						
Outcome A: Positive social-emotional skills (including social relationships) (%)	71.0	77.5						

¹ Summary Statement 1: Of those infants and toddlers who entered or exited early intervention below age expectations in each Outcome, the percent who substantially increased their rate of growth by the time they turned three years of age or exited the program.

² Summary Statement 2: The percentage of infants and toddlers who were functioning within age expectations in each Outcome by the time they turned three years of age or exited the program.

West Virginia Part C FFY 2008 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues				OSEP Analysis/Next Steps																				
	Outcome B: Acquisition and use of knowledge and skills (including early language/communication) (%)	78.7	70.0																						
	Outcome C: Use of appropriate behaviors to meet their needs (%)	82.3	80.2																						
	The State serves infants and toddlers at risk of having substantial developmental delays. The State reported separately in the FFY 2008 APR on aggregate progress data for all of the infants and toddlers it serves under Part C (including developmentally delayed children, children with diagnosed conditions, and at-risk infants and toddlers).																								
4. Percent of families participating in Part C who report that early intervention services have helped the family: A. Know their rights; B. Effectively communicate their children's needs; and C. Help their children develop and learn. [Results Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's reported data for this indicator are:				OSEP appreciates the State's efforts to improve performance.																				
	<table border="1"> <thead> <tr> <th></th> <th>FFY 2007 Data</th> <th>FFY 2008 Data</th> <th>FFY 2008 Target</th> <th>Progress</th> </tr> </thead> <tbody> <tr> <td>A. Know their rights (%)</td> <td>82.2</td> <td>82.4</td> <td>76</td> <td>0.20%</td> </tr> <tr> <td>B. Effectively communicate their children's needs (%)</td> <td>79.7</td> <td>79.6</td> <td>74</td> <td>-0.10%</td> </tr> <tr> <td>C. Help their children develop and learn. (%)</td> <td>88.5</td> <td>89.2</td> <td>86</td> <td>0.70%</td> </tr> </tbody> </table>						FFY 2007 Data	FFY 2008 Data	FFY 2008 Target	Progress	A. Know their rights (%)	82.2	82.4	76	0.20%	B. Effectively communicate their children's needs (%)	79.7	79.6	74	-0.10%	C. Help their children develop and learn. (%)	88.5	89.2	86	0.70%
	FFY 2007 Data	FFY 2008 Data	FFY 2008 Target	Progress																					
A. Know their rights (%)	82.2	82.4	76	0.20%																					
B. Effectively communicate their children's needs (%)	79.7	79.6	74	-0.10%																					
C. Help their children develop and learn. (%)	88.5	89.2	86	0.70%																					
	These data represent progress for 4A and 4C from the FFY 2007 data. The State met all of its FFY 2008 targets for this indicator.																								
5. Percent of infants and toddlers birth to 1 with IFSPs compared to national data. [Results Indicator]	The State revised the measurement language (consistent with revisions in the Indicator Measurement Table) for this indicator and OSEP accepts those revisions. The State's FFY 2008 reported data for this indicator are 2.01%. These data represent slippage from the FFY 2007 data of 2.44%. The State met its FFY				OSEP appreciates the State's efforts to improve performance.																				

West Virginia Part C FFY 2008 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
	2008 target of 2.0%.	
<p>6. Percent of infants and toddlers birth to 3 with IFSPs compared to national data.</p> <p>[Results Indicator]</p>	<p>The State revised the measurement language (consistent with revisions in the Indicator Measurement Table) for this indicator and OSEP accepts those revisions.</p> <p>The State's FFY 2008 reported data for this indicator are 4.24%. These data represent slippage from the FFY 2007 data of 4.79%. The State met its FFY 2008 target of 3.45%.</p>	<p>OSEP appreciates the State's efforts to improve performance.</p>
<p>7. Percent of eligible infants and toddlers with IFSPs for whom an evaluation and assessment and an initial IFSP meeting were conducted within Part C's 45-day timeline.</p> <p>[Compliance Indicator]</p>	<p>The State's FFY 2007 reported data for this indicator are 97%. These data remain unchanged from the FFY 2007 data of 97%. The State did not meet its FFY 2008 target of 100%.</p> <p>The State reported that all three of its findings of noncompliance identified in FFY 2007 for this indicator were corrected in a timely manner.</p>	<p>OSEP appreciates the State's efforts and looks forward to reviewing in the FFY 2009 APR the State's data demonstrating that it is in compliance with the 45-day timeline requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a). Because the State reported less than 100% compliance for FFY 2008, the State must report on the status of correction of noncompliance reflected in the data the State reported for this indicator.</p> <p>When reporting the correction of noncompliance, the State must report, in its FFY 2009 APR, that it has verified that each EIS program with noncompliance reflected in the data the State reported for this indicator: (1) is correctly implementing 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has conducted the initial evaluation, assessment, and IFSP meeting, although late, for any child for whom the 45-day timeline was not met, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-</p>

West Virginia Part C FFY 2008 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
		<p>02. In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.</p> <p>If the State does not report 100% compliance in the FFY 2009 APR, the State must review its improvement activities and revise them, if necessary.</p>
<p>8. Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including:</p> <p>A. IFSPs with transition steps and services;</p> <p>[Compliance Indicator]</p>	<p>The State's FFY 2007 reported data for this indicator are 100%. These data represent progress from the FFY 2007 data of 99%. The State met its FFY 2008 target of 100%.</p>	<p>OSEP appreciates the State's efforts in achieving compliance with the IFSP transition content requirements in 34 CFR §§303.148(b)(4) and 303.344(h).</p>
<p>8. Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including:</p> <p>B. Notification to LEA, if child potentially eligible for Part B; and</p> <p>[Compliance Indicator]</p>	<p>The State's FFY 2008 reported data for this indicator are 100%. These data remain unchanged from the FFY 2007 data of 100%. The State met its FFY 2008 target of 100%.</p>	<p>OSEP appreciates the State's efforts in achieving compliance with the LEA notification requirements in 34 CFR §303.148(b)(1).</p>
<p>8. Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including:</p>	<p>The State's FFY 2008 reported data for this indicator are 95.07%. These data represent slippage from the FFY 2007 data of 99%. The State did not meet its FFY 2008 target of 100%.</p> <p>The State reported that all three of its findings of noncompliance identified in FFY 2007 for this indicator were corrected in a timely manner.</p>	<p>OSEP appreciates the State's efforts and looks forward to reviewing in the FFY 2009 APR the State's data demonstrating that it is in compliance with the timely transition conference requirements in 34 CFR §303.148(b)(2)(i) (as modified by IDEA section 637(a)(9)(A)(ii)(II)).</p>

West Virginia Part C FFY 2008 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
<p>C. Transition conference, if child potentially eligible for Part B. [Compliance Indicator]</p>		<p>Because the State reported less than 100% compliance for FFY 2008, the State must report on the status of correction of noncompliance reflected in the data the State reported for this indicator.</p> <p>When reporting the correction of noncompliance, the State must report, in its FFY 2009 APR, that it has verified that each EIS program with noncompliance reflected in the data the State reported for this indicator: (1) is correctly implementing 34 CFR §303.148(b)(2)(i) (as modified by IDEA section 637(a)(9)(A)(ii)(II)) (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has conducted a transition conference, although late, for any child potentially eligible for Part B whose transition conference was not timely, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-02. In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.</p> <p>If the State does not report 100% compliance in the FFY 2009 APR, the State must review its improvement activities and revise them, if necessary.</p>
<p>9. General Supervision system (including monitoring complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification.</p>	<p>The State's FFY 2008 reported data for this indicator are 100%. These data remain unchanged from the FFY 2007 data of 100%. The State met its target of 100%.</p> <p>The State reported that all 99 of its findings of noncompliance identified in FFY 2007 were corrected in a timely manner.</p>	<p>OSEP appreciates the State's efforts in timely correcting noncompliance identified in FFY 2007.</p> <p>In reporting on correction of noncompliance in the FFY 2009 APR, the State must report that it verified that each</p>

West Virginia Part C FFY 2008 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
[Compliance Indicator]		<p>EIS program with noncompliance identified in FFY 2008: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-02. In the FFY 2009 APR, the State must describe the specific actions that were taken to verify the correction.</p> <p>In responding to Indicators 1, 7, and 8C in the FFY 2009 APR, the State must report on correction of the noncompliance described in this table under those indicators.</p> <p>In addition, in reporting on Indicator 9 in the FFY 2009 APR, the State must use the Indicator 9 Worksheet.</p>
<p>10. Percent of signed written complaints with reports issued that were resolved within 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint.</p> <p>[Compliance Indicator]</p>	<p>The State's FFY 2008 reported data for this indicator are 100%. These data are based on one complaint. The State met its FFY 2008 target of 100%.</p>	<p>OSEP appreciates the State's efforts in achieving compliance with the timely complaint resolution requirements in 34 CFR §303.512.</p>
<p>11. Percent of fully adjudicated due process hearing requests that were fully adjudicated within the applicable timeline.</p> <p>[Compliance Indicator]</p>	<p>The State reported that it did not receive any requests for due process hearings during the reporting period.</p>	<p>OSEP looks forward to reviewing the State's data in the FFY 2009 APR.</p>

West Virginia Part C FFY 2008 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
<p>12. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements (applicable if Part B due process procedures are adopted). [Results Indicator]</p>	<p>Not applicable.</p>	<p>Not applicable.</p>
<p>13. Percent of mediations held that resulted in mediation agreements. [Results Indicator]</p>	<p>The State reported that no mediations were held during the reporting period. The State reported fewer than ten mediations held in FFY 2008. The State is not required to provide targets or improvement activities except in any fiscal year in which ten or more mediations were held.</p>	<p>OSEP looks forward to reviewing the State's data in the FFY 2009 APR.</p>
<p>14. State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. [Compliance Indicator]</p>	<p>The State's FFY 2008 reported data for this indicator are 98.6%. However, OSEP's calculation of the data for this indicator is 100%. These data remain unchanged from the FFY 2007 data of 100%. The State met its FFY 2008 target of 100%.</p>	<p>OSEP appreciates the State's efforts in achieving compliance with the timely and accurate data reporting requirements in IDEA sections 616, 618, and 642, and 34 CFR §§76.720 and 303.540. In reporting on Indicator 14 in the FFY 2009 APR, the State must use the Indicator 14 Data Rubric.</p>