



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

JUN - 1 2009

Honorable Nancy Grasmick
State Superintendent of Schools
200 West Baltimore Street
Baltimore Maryland 21201

Dear Superintendent Grasmick:

Thank you for the timely submission of Maryland's Federal fiscal year (FFY) 2007 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part C of the Individuals with Disabilities Education Act (IDEA). We also acknowledge the revisions to Maryland's APR received on April 6, 2008. We appreciate the State's efforts in preparing these documents.

The Department has determined that, under IDEA sections 616(d) and 642, Maryland 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 2007 APR and revised SPP, other State-reported data, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Sections 616(d) and 642 of the IDEA in 2009" for further details.

Specific factors affecting the Office of Special Education Programs' (OSEP's) determination that Maryland meets requirements under IDEA sections 616(d) and 642 include: (1) The State provided valid and reliable FFY 2007 data reflecting the measurement for each indicator; and (2) The State reported correction of its FFY 2006 findings of noncompliance or high levels of compliance for Indicators 1, 7, 8A, 8B, 8C, 9, 10, 11, and 14. We commend Maryland for its performance.

The enclosed table provides OSEP's analysis of the State's FFY 2007 APR and revised SPP and identifies, by indicator, OSEP's review of any revisions made by the State to its targets, improvement activities (timelines and resources) and baseline data in the State's SPP. The table also identifies, by indicator, the State's status in meeting its targets, whether the State's data reflect progress or slippage, and whether the State corrected noncompliance and provided valid and reliable data.

As you know, 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 pursuant to IDEA sections 616(b)(2)(C)(ii)(I) and 642. In addition, your State must review EIS program performance against targets in the State's SPP, determine if each EIS program 'meets requirements,' 'needs assistance,' 'needs intervention,' or 'needs substantial intervention' in implementing Part C of the IDEA, and 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, as you included revisions to baseline, targets or improvement activities in your APR submission, and OSEP accepted those revisions, please ensure that you update your SPP accordingly and that the updated SPP is made available to the public.

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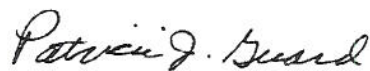
In its October 17, 2008 Memorandum 09-02, "Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the IDEA," OSEP provided Chief State School Officers and Lead Agency Directors with important information regarding: (1) requirements for identifying noncompliance and reporting on the correction of noncompliance in States' APRs; and (2) how OSEP will, beginning with the FFY 2008 APR, due February 1, 2010, consider the correction of noncompliance in making annual determinations for States pursuant to section 616(d) of the IDEA. Most significantly, beginning with our 2010 determinations:

1. OSEP will no longer consider a State to be in substantial compliance relative to a compliance indicator based on evidence of correction of the previous year's noncompliance if the State's current year data for that indicator reflect a very low level of compliance (generally 75% or below); and
2. OSEP will credit a State with correction of noncompliance relative to a child-specific compliance indicator only if the State confirms that it has addressed each instance of noncompliance identified in the data for an indicator that was reported in the previous year's APR, as well as any noncompliance identified by the Department more than one year previously. The State must specifically report, for each compliance indicator, whether it has corrected all of the noncompliance identified in its data for that indicator in the prior year's APR as well as that identified by the Department more than one year previously.

It is important for each State to review the guidance in the memorandum, and to raise any questions with your OSEP State Contact. The memorandum may be found at: <http://spp-apr-calendar.rrfcnetwork.org/explorer/view/id/656>.

OSEP is committed to supporting Maryland'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. If you have any questions, would like to discuss this further, or want to request technical assistance, please contact Sheryl Parkhurst, your OSEP State Contact, at 202-245-7472.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Part C Coordinator

Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
1. Percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner. [Compliance Indicator]	The State revised its improvement activities and the methodology used to calculate the timely provision of Part C services (from the projected date of the service from parental consent to the actual initiation date of the service as documented on the IFSP). OSEP accepts these revisions. The State's FFY 2007 reported data for this indicator are 95.8%. OSEP was unable to determine whether there was progress or slippage because the State revised the methodology used to calculate the actual target data for this indicator. The State did not meet its FFY 2007 target of 100%. The State reported that all six of its findings of noncompliance identified in FFY 2006 related to this indicator were corrected in a timely manner.	The State reported that noncompliance findings identified in FFY 2006 with the timely service provision requirements in 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1) were corrected in a timely manner. OSEP appreciates the State's efforts and looks forward to reviewing in the FFY 2008 APR, due February 1, 2010, the State's data demonstrating that it is in compliance with the requirements in 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1), including correction of the noncompliance the State reported under this indicator in the FFY 2007 APR. In reporting on correction, the State must report, in its FFY 2008 APR due February 1, 2010, that it has verified that each EIS program with noncompliance reported by the State under this indicator in the FFY 2007 APR: (1) is correctly implementing the specific regulatory requirements; and (2) has initiated services for each child, although late, 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). If the State is unable to demonstrate compliance in the FFY 2008 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.

Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps																												
2. Percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or programs for typically developing children. [Results Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported data are 91.2%. The State's FFY 2007 data represent progress from the FFY 2006 data of 89.6%. The State met its FFY 2007 target of 89.5%.	OSEP appreciates the State's efforts to improve performance.																												
3. Percent of infants and toddlers with IFSPs who demonstrate improved: A. Positive social-emotional skills (including social relationships); B. Acquisition and use of knowledge and skills (including early language/ communication); and C. Use of appropriate behaviors to meet their needs. [Results Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported progress data for this indicator are: <table><thead><tr><th>07-08 Infant and Toddler Outcome Progress Data</th><th>Social Emotional</th><th>Knowledge & Skills</th><th>Appropriate Behavior</th></tr></thead><tbody><tr><td>a. % of infants & toddlers who did not improve functioning.</td><td>1.4</td><td>1.48</td><td>1.04</td></tr><tr><td>b. % of infants & toddlers who improved but not sufficient to move nearer to functioning comparable to same-aged peers.</td><td>10.52</td><td>19.24</td><td>15.85</td></tr><tr><td>c. % of infants & toddlers who improved to a level nearer to same-aged peers but did not reach it.</td><td>5.45</td><td>22.39</td><td>4.53</td></tr><tr><td>d. % of infants & toddlers who improved functioning to reach a level comparable to same-aged peers.</td><td>14.08</td><td>40.98</td><td>19.06</td></tr><tr><td>e. % of infants & toddlers who maintained functioning at a level comparable to same-aged peers.</td><td>68.54</td><td>15.91</td><td>59.53</td></tr><tr><td>Total (approx. 100%)</td><td>99.99%</td><td>100.00 %</td><td>100.01 %</td></tr></tbody></table>	07-08 Infant and Toddler Outcome Progress Data	Social Emotional	Knowledge & Skills	Appropriate Behavior	a. % of infants & toddlers who did not improve functioning.	1.4	1.48	1.04	b. % of infants & toddlers who improved but not sufficient to move nearer to functioning comparable to same-aged peers.	10.52	19.24	15.85	c. % of infants & toddlers who improved to a level nearer to same-aged peers but did not reach it.	5.45	22.39	4.53	d. % of infants & toddlers who improved functioning to reach a level comparable to same-aged peers.	14.08	40.98	19.06	e. % of infants & toddlers who maintained functioning at a level comparable to same-aged peers.	68.54	15.91	59.53	Total (approx. 100%)	99.99%	100.00 %	100.01 %	The State reported the required progress data and improvement activities. The State must provide baseline data, targets and improvement activities with the FFY 2008 APR, due February 1, 2010.
07-08 Infant and Toddler Outcome Progress Data	Social Emotional	Knowledge & Skills	Appropriate Behavior																											
a. % of infants & toddlers who did not improve functioning.	1.4	1.48	1.04																											
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Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps																				
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's reported data for this indicator are: <table><tr><th></th><th>FFY 2006 Data</th><th>FFY 2007 Data</th><th>FFY 2007 Target</th><th>Progress</th></tr><tr><td>A. Know their rights. (%)</td><td>76</td><td>78</td><td>74</td><td>2.00%</td></tr><tr><td>B. Effectively communicate their children's needs. (%)</td><td>74</td><td>75</td><td>72</td><td>1.00%</td></tr><tr><td>C. Help their children develop and learn. (%)</td><td>81</td><td>86</td><td>82</td><td>5.00%</td></tr></table> The State revised the improvement activities for this indicator and OSEP accepts those revisions. These data represent progress for Indicators 4A, 4B and 4C from the FFY 2006 data. The State met all of its FFY 2007 targets for this indicator. OSEP's June 6, 2008 FFY 2006 SPP/APR response table required the State to include in the FFY 2007 APR, due February 2, 2009 a description of the State's efforts to ensure that its FFY 2007 data are based on a response group that is representative of the State's population. The State included a description of the State's efforts. The State reported that the data for FFY 2007 for this indicator were collected from a response group that was not representative of the population and the State has revised its improvement strategies to address this issue.		FFY 2006 Data	FFY 2007 Data	FFY 2007 Target	Progress	A. Know their rights. (%)	76	78	74	2.00%	B. Effectively communicate their children's needs. (%)	74	75	72	1.00%	C. Help their children develop and learn. (%)	81	86	82	5.00%	OSEP appreciates the State's efforts to improve performance. In the FFY 2008 APR, due February 1, 2010, the State must continue to indicate whether its survey response group is representative of the State's population and, if not, the actions the State has taken to address this issue.
	FFY 2006 Data	FFY 2007 Data	FFY 2007 Target	Progress																		
A. Know their rights. (%)	76	78	74	2.00%																		
B. Effectively communicate their children's needs. (%)	74	75	72	1.00%																		
C. Help their children develop and learn. (%)	81	86	82	5.00%																		
5. Percent of infants and toddlers birth to 1 with IFSPs compared to: A. Other States with similar eligibility definitions; and B. National data. [Results Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported data for this indicator are 1.25%. These data represent slippage from the FFY 2006 data of 1.34%. The State did not meet its FFY 2007 target of 1.50%.	OSEP looks forward to the State's data demonstrating improvement in performance in the FFY 2008 APR, due February 1, 2010.																				

Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
6. Percent of infants and toddlers birth to 3 with IFSPs compared to: A. Other States with similar eligibility definitions; and B. National data. [Results Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported data for this indicator are 3.05%. These data represent progress from the FFY 2006 data of 3.03%. The State met its FFY 2007 target of 2.88%.	OSEP appreciates the State's efforts to improve performance.
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. [Compliance Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported data for this indicator are 94.8%. These data represent progress from the FFY 2006 data of 93%. The State did not meet its FFY 2007 target of 100%. The State reported that all 22 of its findings of noncompliance identified in FFY 2006 related to this indicator were corrected in a timely manner.	The State reported that noncompliance findings identified in FFY 2006 with the 45-day timeline requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a) were corrected in a timely manner. The State must demonstrate, in the FFY 2008 APR due February 1, 2010, that the State is in compliance with the requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a), including correction of the noncompliance the State reported under this indicator in the FFY 2007 APR. In reporting on correction, the State must report, in its FFY 2008 APR due February 1, 2010, that it has verified that each EIS program with noncompliance reported by the State under this indicator in the FFY 2007 APR: (1) is correctly implementing the specific regulatory requirements; and (2) has conducted the initial evaluation, assessment, and IFSP meeting, although late, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-02. If the State is unable to demonstrate

Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
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: A. IFSPs with transition steps and services; [Compliance Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported data for this indicator are 99.1%. The State's FFY 2006 data were 99%. The State did not meet its FFY 2007 target of 100%. The State reported that all four of its findings of noncompliance identified in FFY 2006 related to this indicator were corrected in a timely manner.	compliance in the FFY 2008 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance. The State reported that noncompliance findings identified in FFY 2006 with the IFSP transition content requirements in 34 CFR §§303.148(b)(4) and 303.344(h) were corrected in a timely manner. OSEP appreciates the State's efforts and looks forward to reviewing in the FFY 2008 APR, due February 1, 2010, the State's data demonstrating that it is in compliance with the requirements in 34 CFR §§303.148(b)(4) and 303.344(h), including correction of the noncompliance the State reported under this indicator in the FFY 2007 APR. In reporting on correction, the State must report, in its FFY 2008 APR due February 1, 2010, that it has verified that each EIS program with noncompliance reported by the State under this indicator in the FFY 2007 APR: (1) is correctly implementing the specific regulatory requirements; and (2) has developed an IFSP with transition steps and services, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-02. The State reported that noncompliance findings identified in FFY 2006 with the LEA notification requirements in 34 CFR §303.148(b)(1) were corrected in a timely manner.
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	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported data for this indicator are 99.9%. The State's FFY 2006 data were 99.7%.	The State reported that noncompliance findings identified in FFY 2006 with the LEA notification requirements in 34 CFR §303.148(b)(1) were corrected in a timely manner.

Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
services by their third birthday including: B. Notification to LEA, if child potentially eligible for Part B; and [Compliance Indicator]	The State did not meet its target of 100%. The State reported that all three of its findings of noncompliance identified in FFY 2006 related to this indicator were corrected in a timely manner.	OSEP appreciates the State's efforts and looks forward to reviewing in the FFY 2008 APR, due February 1, 2010, the State's data demonstrating that it is in compliance with the requirements in 34 CFR §303.148(b)(1), including correction of the noncompliance the State reported under this indicator in the FFY 2007 APR. In reporting on correction, the State must report, in its FFY 2008 APR due February 1, 2010, that it has verified that each EIS program with noncompliance reported by the State under this indicator in the FFY 2007 APR: (1) is correctly implementing the specific regulatory requirements; and (2) has provided notification to the LEA, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-02.
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: C. Transition conference, if child potentially eligible for Part B. [Compliance Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported data for this indicator are 95%. The State's FFY 2006 data were 94.7%. The State did not meet its FFY 2007 target of 100%. The State reported that all 16 of its findings of noncompliance identified in FFY 2006 related to this indicator were corrected in a timely manner.	The State reported that noncompliance findings identified in FFY 2006 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)) were corrected in a timely manner. OSEP appreciates the State's efforts and looks forward to reviewing in the FFY 2008 APR, due February 1, 2010, the State's data demonstrating that it is in compliance with the requirements in 34 CFR §303.148(b)(2)(i) (as modified by IDEA section 637(a)(9)(A)(ii)(II)), including correction of the noncompliance the State reported under

Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
		this indicator in the FFY 2007 APR. In reporting on correction, the State must report, in its FFY 2008 APR due February 1, 2010, that it has verified that each EIS program with noncompliance reported by the State under this indicator in the FFY 2007 APR: (1) is correctly implementing the specific regulatory requirements; and (2) has conducted a transition conference for each child potentially eligible for Part B, although late, unless the child is no longer within the jurisdiction of the EIS program, consistent with OSEP Memo 09-02. If the State is unable to demonstrate compliance in the FFY 2008 APR, the State must review its improvement activities and revise them, if necessary to ensure compliance.
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. [Compliance Indicator]	The State revised the improvement activities for this indicator and OSEP accepts those revisions. The State's FFY 2007 reported data for this indicator are 100%. These data remain unchanged from the FFY 2006 data of 100%. The State met its target of 100%. The State reported that all 53 of its findings of noncompliance identified in FFY 2006 were corrected in a timely manner.	OSEP appreciates the State's efforts in timely correcting noncompliance reported by the State under this indicator in the FFY 2006 APR in accordance with IDEA section 635(a)(10)(A) and 34 CFR §303.501. In reporting on correction of noncompliance, the State must report that it has: (1) corrected all instances of noncompliance (including noncompliance identified through the State's monitoring system, through the State's data system and by the Department); and (2) verified that each EIS program with identified noncompliance is correctly implementing the specific regulatory requirements,

Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
		consistent with OSEP Memo 09-02. In addition, in responding to Indicators 1, 7, 8A, 8B, and 8C, in the FFY 2008 APR due February 1, 2010, the State must report on correction of the noncompliance described in this table under those indicators. In reporting on Indicator 9 in the FFY 2008 APR, the State must use the Indicator 9 Worksheet.
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. [Compliance Indicator]	The State reported that it did not receive any signed written complaints during the FFY 2007 reporting period.	OSEP looks forward to reviewing the State's data in the FFY 2008 APR, due February 1, 2010.
11. Percent of fully adjudicated due process hearing requests that were fully adjudicated within the applicable timeline. [Compliance Indicator]	The State reported that it did not receive any signed written requests for due process hearings during the FFY 2007 reporting period.	OSEP looks forward to reviewing the State's data in the FFY 2008 APR, due February 1, 2010.
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]	Not applicable.	This indicator does not apply to the State because the State has not adopted the Part B due process procedures to resolve Part C due process hearing requests.
13. Percent of mediations held that resulted in mediation agreements.	The State reported that no mediations were held during the FFY 2007 reporting period.	OSEP looks forward to reviewing the State's data in the FFY 2008 APR, due

Maryland C FFY 2007 SPP/APR Response Table

Monitoring Priorities and Indicators	Status of APR Data/SPP Revision Issues	OSEP Analysis/Next Steps
[Results Indicator]	The State is not required to provide targets or improvement activities until any FFY in which ten or more mediations are held.	February 1, 2010.
14. State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate. [Compliance Indicator]	The State's FFY 2007 reported data for this indicator are 100%. These data remain unchanged from the FFY 2006 data of 100%. The State met its FFY 2006 target of 100%.	OSEP appreciates the State's efforts in achieving compliance with the 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 2008 APR, the State must use the Indicator 14 Data Rubric.

How the Department Made Determinations under Sections 616(d) and 642 of the Individuals with Disabilities Education Act in 2009: Part C

In making our determination for each State under sections 616(d) and 642 of the Individuals with Disabilities Education Act (IDEA), we considered the State's FFY 2007 Annual Performance Report (APR)/State Performance Plan (SPP) submission, information from monitoring visits, including verification reviews, and other public information, such as the State's performance under any existing special conditions on its FFY 2008 grant or a compliance agreement, longstanding unresolved audit findings, and other State compliance data under the IDEA.

FFY 2007 APR/SPP Submissions

In reviewing the States' FFY 2007 APR/SPP submissions, we considered both the submission of valid and reliable data and the level of compliance or correction.

With respect to data, for Indicators 1 through 13, we examined whether the State provided valid and reliable FFY 2007 data (e.g., the State provided all the required data, the data were for the correct year and were consistent with the required measurement and/or the approved SPP, and the State did not indicate that its data were not valid and reliable). For the results indicators (Indicators 2, 5, 6, 12, and 13), if the State did not provide valid and reliable data, we considered whether the State provided a plan to collect the missing or deficient data for reporting in next year's APR/SPP submission. For Indicators 1, 7, 8, 9, 10, and 11, we examined whether the State provided any FFY 2007 data, and also whether the data were valid and reliable.

With respect to compliance, we examined Indicators 1, 7, 8, 9, 10, 11 and 14. With respect to these indicators, we looked for evidence that the State demonstrated substantial compliance either through reporting a very high level of compliance (generally 95% or better) or full correction of its FFY 2006 findings of noncompliance for Indicators 1, 7, and 8. If the State did not demonstrate either a very high level of compliance or full correction, we examined whether it nonetheless had maintained current levels, or made progress in ensuring compliance over its performance for that indicator as reported in its FFY 2006 SPP/APR submission. We considered "progress" to include reporting higher compliance numbers or reporting more accurate and complete compliance data compared to the data provided in the prior year's submission. Indicator 9 evaluates "timely" correction, so for this indicator we specifically examined whether the correction was timely. For the other compliance indicators, we considered both whether the State timely corrected its FFY 2006 findings of noncompliance and whether the State subsequently corrected findings of noncompliance. We did not consider Indicators 10 and 11 if the State reported less than 100% compliance, but fewer than 10 complaints or 10 fully adjudicated hearings, in recognition of the inequities in basing decisions on small numbers.

Generally, and absent any other issues (see below), we considered a State to "meet requirements" if it provided valid and reliable FFY 2007 data consistent with, or substantially the same as, the measurement for each indicator and/or the approved SPP, and demonstrated substantial compliance for Indicators 1, 7, 8, 9, 10, 11, and 14. We determined that a State demonstrated substantial compliance if it provided data showing a very high level of compliance (generally 95% or better) or that it had fully corrected previously identified noncompliance. (Beginning with the Department's determinations in 2010, we will require States to demonstrate correction of previously identified noncompliance consistent with OSEP's Memorandum, 09-02, dated October 17, 2008 and will not consider a State in substantial compliance based on correction if

its FFY 2008 reported data are low (generally 75% or below.) If a State did not meet these standards for only one indicator, we considered the State to “meet requirements” if the compliance level for this indicator was high (generally 90% or better) or, for a data issue for a results indicator, if the State provided a plan to collect the data for next year. In no case, however, did we place a State in “meets requirements” if it failed to provide valid and reliable FFY 2007 data for compliance Indicators 1, 7, 8, 9, 10, and 11

Generally, and absent any other issues (see below), we considered a State to be “in need of intervention” if it demonstrated very low performance for Indicators 1, 7, 8, 9, 10, and 11 (generally 50% or below, and such performance did not represent progress (as defined above) over the prior year’s compliance data), and did not demonstrate full correction of its FFY 2006 findings of noncompliance. We also identified a State “in need of intervention” if it did not provide any FFY 2007 data on Indicators 1, 7, 8, 9, 10, and 11 or if the data for these indicators were not valid and reliable (as defined above). We also identified a State “in need of intervention” if it did not provide valid and reliable FFY 2007 data on one of the results indicators and did not provide a plan to collect and report that data.

We would identify a State as “in need of substantial intervention” if its substantial failure to comply significantly affected the core requirements of the program, such as the delivery of services to children with disabilities or the State’s exercise of general supervision, or if the State informed the Department that it was unwilling to comply with an IDEA requirement. In making this determination, we would consider the impact of any longstanding unresolved issues on the State’s current implementation of the program. We would also consider identifying a State “in need of substantial intervention” for failing to submit its APR/SPP.

We determined that States that did not “meet requirements” and were not “in need of intervention” or “in need of substantial intervention” were “in need of assistance,” absent any other issues (see below).

Monitoring Data and Other Public Information

We also considered other public information available to the Department, including information from OSEP monitoring activities, performance under pre-existing special conditions, and longstanding audit findings. We did not consider a State to “meet requirements” if the State had unresolved special conditions that were imposed as a result of the State being designated as a “high risk” grantee, outstanding OSEP monitoring findings, including verification visit findings, or longstanding audit issues or a compliance agreement. We considered the length of time the problem had existed, the magnitude of the problem, and the State’s response to the problem, including progress the State had made to correct the problem, in determining whether the State should be identified as “in need of assistance,” “in need of intervention,” or “in need of substantial intervention.” Finally, for States with a current Compliance Agreement covering the requirements of one or more indicators, we did not consider the State to be “in need of intervention” based on those same indicators if the Compliance Agreement provided for the State to demonstrate compliance beyond the reporting period.