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

JUN - 3 2010

Honorable Armando Vilaseca
Commissioner
Vermont Department of Education
120 State Street
Montpelier, Vermont 05620-2501

Dear Commissioner Vilaseca:

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

The Department has determined that, under IDEA section 616(d), Vermont needs assistance in implementing the requirements of Part B 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 information obtained through verification visits, and other publicly available information. See the enclosure entitled "How the Department Made Determinations under Section 616(d) of the IDEA in 2010: Part B" for further details.

The specific factors affecting the Office of Special Education Programs' (OSEP's) determination of needs assistance for Vermont include that the State did not report (or demonstrate verification of) correction of findings of noncompliance for the following indicator and its FFY 2008 data reflect: 82.50% compliance for Indicator 11. Further, the State's FFY 2008 data reflect 84.34% compliance for Indicator 15; and (2) 90% compliance for Indicator 20, as recalculated by OSEP. For these reasons, we are unable to determine that Vermont met requirements for FFY 2008 under IDEA section 616(d).

OSEP notes other areas that reflect a high level of performance, which include that Vermont reported valid and reliable data for all indicators, with the exception of Indicator 20, 0% compliance for Indicators 9 and 10, 98.80% compliance for Indicator 12, and 100% compliance for Indicator 16. We hope that Vermont will be able to demonstrate that it meets requirements in its next APR.

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 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: (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; (3) if applicable, that the State's data are not valid and reliable; and (4) whether the State corrected findings of noncompliance.

The State's determination for the FFY 2007 APR also was needs assistance. In accordance with section 616(e)(1) of the IDEA and 34 CFR §300.604, 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; (2) direct the use of State-level funds on the area or areas in which the State needs assistance; or (3) identify the State as a high-risk grantee and impose special conditions on the State's Part B grant award.

Pursuant to these requirements, the Secretary is advising the State of available sources of technical assistance related to Indicators 11 (timely initial evaluations), 15 (timely correction of noncompliance), and 20 (submission of timely and accurate data). 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 SPP/APR Planning Calendar website at http://spp-apr-calendar.rrfcnetwork.org/. You will be directed to a list of indicators. Click on specific indicators for a list of centers, documents, web seminars and other sources of relevant technical assistance for that indicator. For the indicator(s) listed above, your State must report with its FFY 2009 APR submission, due February 1, 2011, 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. The extent to which your State takes advantage of available technical assistance for these indicators may affect the actions OSEP takes under section 616 should your State not be determined to meet requirements next year. We encourage Vermont to take advantage of available sources of technical assistance in other areas as well, particularly if the State is reporting low compliance data for an indicator.

As required by section 616(e)(7) of the IDEA and 34 CFR §300.606, 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 website and distributing the notice to the media and through public agencies.

As you know, pursuant to IDEA section 616(b)(2)(C)(ii)(l) and 34 CFR §300.602(b)(1)(i)(A), your State must report annually to the public on the performance of each local educational agency (LEA) located in the State on the targets in the SPP as soon as practicable, but no later than June 2, 2010. In addition, your State must: (1) review LEA performance against targets in the State's SPP; (2) determine if each LEA "meets requirements," of Part B, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part B of the IDEA; (3) take appropriate enforcement action; and (4) inform each LEA of its determination. 34 CFR §300.600(a)(2) and (3). 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 34 CFR §300.602(b)(1)(i)(B).

This letter also addresses the State's May 10, 2010 submission, which responded to the required actions resulting from the findings in OSEP's January 13, 2010 verification visit letter and enclosure, not otherwise addressed in the FFY 2008 SPP/APR response table. OSEP has reviewed the State's response to the findings contained in the GS-5 section of the verification letter and has determined that the State's submission addresses the required actions relating to the findings regarding local determinations and significant disproportionality. In response to OSEP's finding regarding its local assessments, the State has also provided a plan that its local educational agencies ensure the participation of children with disabilities in local assessments, including publicly reporting this information, in accordance with 20 U.S.C. 1412(a)(16) and 34

CFR §300.160 because these local assessments appear to OSEP to be districtwide assessments which are subject to these IDEA requirements.

OSEP also found in the GS-5 section of the verification letter that, as required by 34 CFR §300.160(f), the State did not report to the Secretary and to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children at the district and school level, the number of children with disabilities participating in the regular assessment, the number of those children taking that regular assessment with accommodations, provided that publicly reporting such information would not yield personally identifiable information, and the number of children with disabilities participating in the State's alternate assessment. Although VTDOE's May 10, 2010 submission did not adequately address this finding, VTDOE subsequently informed OSEP in an email message transmitted on May 28, 2010 from Michael Bailey, VTDOE's data manager and Coordinator to Matthew Schneer, OSEP's Part B State contact for Vermont, that VTDOE will publicly report the required information by June 18, 2010. OSEP looks forward to information demonstrating that VTDOE is meeting the public reporting requirements in 34 CFR §300.160(f) for Statewide assessments at the district and School level by the date specified. VTDOE's failure to publicly report this information by June 18, 2010 could affect the State's FFY 2010 Part B grant award.

VTDOE has responded in its May 10, 2010 submission and subsequent written assurance to the finding in the fiscal section of the verification letter that the State was not including expenditures from State agencies other than the State educational agency for special education and related services in its calculation for maintenance of State financial support under 34 CFR §300.163(a). OSEP will address the State's response to this finding under separate cover.

OSEP is committed to supporting Vermont'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 Matthew Schneer at 202-245-6755.

Sincerely,

Alexa Posny

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

Enclosures

cc: State Director of Special Education