UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATNE SERVICES

AUG 2 7 2018

Honorable Jeffrey C. Riley Commissioner

Massachusetts Department of Elementary and Secondary Education 75 Pleasant Street

Malden, Massachusetts 02148 Dear Commissioner Riley:

The purpose of this correspondence is to provide a summary of the fiscal monitoring and support

activities conducted by the Office of Special Education Programs (OSEP) for the Massachusetts Department of Elementary and Secondary Education (ESE) during May 8 and 9, 2017. 1 In 2016, OSEP began providing differentiated monitoring and support (DMS) to States as part of its Results Driven Accountability (RDA) framework. Under RDA, OSEP made a shift from monitoring based solely on compliance to monitoring and support focused on both compliance and improving results for students with disabilities. OSEP differentiates its approach for each State based on the State's unique strengths, progress, challenges, and needs.

With the DMS process, OSEP conducts an organizational assessment (OA) of risk factors to identify States' progress in meeting performance standards and compliance with the legal requirements of the Individuals with Disabilities Education Act (IDEA), the Education Department General Administrative Regulations and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. OSEP uses the information from the OA and an Engagement Decision Tree to make designations of universal, targeted, or intensive monitoring and support (DMS) for the fiscal year. The 2016 DMS areas were: 1) results; 2) compliance; 3) dispute resolution (Special Focus Area); and 4) fiscal.

On April 26, 2016, OSEP sent Mr. Russell Johnston, ESE's Senior Associate Commissioner, the DMS notice for Massachusetts. That notice provided a designation of universal, targeted, or intensive engagement in each of four areas: results, compliance, dispute resolution, and fiscal. The information in the notice was based on Federal Fiscal Year (FFY) 2014 data in the four areas, along with information about the factors contributing to elevated needs, the support your State has accessed, your State's capacity to improve results and compliance, and additional contextual information. We have attached a copy of the DMS notice for your convenience.

Scope of OSEP's Fiscal Monitoring

OSEP's Fiscal Monitoring that occurred in 2017 examined two areas: Local Education Agency (LEA) Allocations and Subrecipient Monitoring during FFY 2016 (2016-2017). For this monitoring OSEP reviewed information from FFYs 2014, 2015, and 2016, including State-

1 OSEP also conducted monitoring in the area of dispute resolution during the week of May 8, 20 I7. The results of that monitoring activity was issued under separate cover and issued on February 2, 2018.

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Page 2 - Chief State School Officer

submitted documentation and other available information; audits conducted under the Uniform Guidance and those conducted through the Office of the Inspector General (OIG). OSEP conducted both onsite and telephone interviews with State staff.

There are three enclosures with this letter. Enclosure A entitled, the *OSEP Fiscal Monitoring Instrument,* identifies any noncompliance identified during the visit, the IDEA requirements and specific instructions, and any corrective actions the State must take to address the noncompliance. Enclosure B entitled, *Correction of LEA Allocation Finding Identified in FFY 2015,* addresses the ESE's correction of noncompliance identified in OSEP's fiscal monitoring letter dated May 13, 2016. Lastly, Enclosure C, entitled *Local Educational Agency (LEA) Determinations,* identifies additional noncompliance that was identified outside of OSEP's onsite monitoring activities, as well as corrective actions the State must take to address the identified noncompliance.

OSEP appreciates the State's efforts and cooperation in addressing the noncompliance identified in this letter and recognizes that the State has already made significant progress in resolving these matters. OSEP also appreciates your State's efforts to improve results for children with disabilities in Massachusetts. If you have any questions, please contact Dwight Thomas, your OSEP State Lead at 202-245-6238.

Sincerely,

Ruth E. Ryder Acting Director

Office of Special Education Programs

cc: State Director of Special Education Enclosure

FFY 2016 Differentiated Monitoring and Support Engagement {OMS) Decisions Massachusetts

OSEP's Results Driven Accountability System for differentiated monitoring and support is designed to provide differentiated levels and types of monitoring and support based on each State's unique strengths, progress, challenges, and needs. To implement this system, OSEP developed a multi-tiered model for monitoring and providing support that is based on the principle that supports are first provided at a core or universal level to effectively address the needs of all States and is focused on prevention to minimize the need for more targeted or intensive engagement. Targeted monitoring and support is based on OSEP's identification of common needs among multiple States, and intensive monitoring and support is reserved for those State education agencies and Lead agencies experiencing the most intense or complex challenges to implementation.

To guide our designations for State monitoring and support at the universal, targeted and intensive levels in the areas of results, compliance, the State Systemic Improvement Plan (SSIP), correctional education, and fiscal management, OSEP developed an organizational assessment of States' progress in meeting performance standards and compliance with the legal requirements of the Individuals with Disabilities Education Act, the Education Department General Administrative Regulations and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. Using Federal Fiscal Year 2014 data for results, compliance, and the SSIP, and the most current data available for correctional education and fiscal management, along with information about the factors contributing to elevated needs, the support the State has accessed, the State's capacity to improve results and compliance, and additional contextual information about the State, OSEP determined the level of monitoring and support necessary to meet the needs of each State.

As you are aware, we recently completed our first round of OMS for Part B. For the current year's process, we once again examined results, compliance and fiscal data. In addition, we substituted correctional education for dispute resolution as the special focus area, and added in the SSIP. Our analysis of the SSIP is based on our review of the required elements within the Phase ll submission, as well as information obtained through follow up conversations with the State. Our analysis of correctional education is based on data from the EDFacts Consolidated State Performance Report1, the Civil Rights Data Co lle ctio n2 each State's Annual Performance Report, and each State's data submitted under section 618 of the IDEA3 . The charts below list your designation and anticipated level of engagement in each area.

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1 EDFacts Consolidated State Performance Report 2013-2014: (l)The total number of children with disabilities who were served in a local juvenile corrections or juvenile detention program. (2) The number of students in a local education agency juvenile corrections or detention facility who obtained a high school diploma or GED - In Facility.

1. Civil Rights Data 2013-2014: The total number of hours per year that educational program is offered during the regular school year ln a juvenile justice or detention facility.
2. 618 Data 2013-2014: (1) The percentage of students with disabilities in a State that dropped out of school. (2) The percentage of students with disabilities who were suspended *or* expelled from school within a State.

| Results | | | |
| --- | --- | --- | --- |
| Designation | Fa ctors4 | Existing/Current Engagement | New Engagement |
| Universal |  | OSEP continues to make information and technical assistance (TA) resources available, and provide universal support to all States. In addition, the State receives technical assistance from the IDEA Data Center (IDC), and the Center for IDEA Early Childhood  Data Systems (DaSy). | OSEP will provide universal support. |

| Compliance | | | |
| --- | --- | --- | --- |
| Designation | Factors | Existing/Current Engagement | New Engagement |
| Targeted | State has been identified as meeting criteria specified by GAO audit on dispute resolution. | OSEP continues to make information and TA resources available, and provide universal support to all States. | OSEP will provide targeted monitoring and support on improving dispute  resolution. |

| SSIP | | | |
| --- | --- | --- | --- |
| Designation | Factors | Existing/Current Engagement | New Engagement |
| Universal |  | OSEP continues to make information and TA resources available, and provide universal support to all States. In addition, the State receives technical  assistance from !DC and DaSy. | OSEP will provide universal support. |

| Correctional Education | | | |
| --- | --- | --- | --- |
| Designation | Factors | Existing/Current Engagement | New Engagement |
| Universal |  | OSEP continues to make information and TA resources available, and provide universal  support to all States. | OSEP will provide universal support. |

4 Factors are only listed if a State has been deslgnated as targeted or intensive in a particular area.

| Fiscal | | | |
| --- | --- | --- | --- |
| Designation | Factors | Existing/Current Engagement | New Engagement |
| Intensive | * Size of award * MFS * Unresolved fiscal monitoring   findings | OSEP continues to make information and TA resources available, and provide universal support to all States. OSEP has provided TA on MFS and  unresolved fiscal findings | OSEP will provide intensive monitoring and support using protocols on LEA allocations and fiscal  monitoring. |

**Massachusetts Department of Elementary and Secondary Education (ESE's}, page 1 of 5**

**Enclosure A**

**Office of Special Education Programs (OSEP) Fiscal Monitoring Instrument (FMI): FFY 2016**

**Massachusetts Department of Elementary and Secondary Education (ESE)**

**Please note the following abbreviations are used in the Fiscal Monitoring Instrument (FMI):**

FFY - Federal fiscal year

IDEA - Individuals with Disabilities Education Act LEA - local educational agency

OMB - Office of Management and Budget

OIG - Office of the Inspector General SEA - State education agency

Uniform Guidance - Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards codified in 2

CFR Part 200

Note: Under Part B of the IDEA, funds are awarded to ESE under two separate funding authorities: IDEA section 611 (Grants to States Program) and IDEA section 619 (Preschool Grants Program). At the time of the FFY 2016 monitoring, in Massachusetts the IDEA section 611 grant was administered by the ESE, while the section 619 grant was administered by the Department of Early Education and Care (EEC) with support from the ESE. Under Massachusetts law, the EEC "shall be the state education agency for the purposes of early education and care services under federal law."1 Both ESE and EEC are separate departments overseen by the Office of Executive Education, and each operates under its own governing Board. A memorandum of understanding between the ESE and the EEC establishes how the two departments administer IDEA section 619 subgrants to LEAs.

1 Massachusetts General Law Chapter 15D Section 2.

**Massachusetts Department of Elementary and Secondary Education (ESE's}, page 2 of 5**

# IDEA Part B

**Summary of Monitoring Criterion**

**Monitoring Area 1, IDEA Part B: LEA ALLOCATIONS**

iThe IDEA Part B 611 and 619 funds are to assist States, and through them, LEAs, in providing special education and related services to children with disabilities. States are required to distribute any section 611 and section 619 funds that the State does not reserve for State-level activities to eligible LEAs for use in accordance with the IDEA. States' correct allocation of IDEA funds to LEAs, consistent with statutory and regulatory formulas, is critical in helping to ensure that IDEA Part B funds are used appropriately lfor the purposes for which they were intended.

**[Criterion Number] [Description**

**Noncompliance**

**identified?**

**Applicable Requirements**

**Criterion 1.1**

**Criterion 1.2**

**Criterion 1.3**

The SEA distributes IDEA section 611 and section 619 allocations to eligible LEAs based upon the correct formula for calculating base payments.

The SEA calculates LEA base payment adjustments

consistent with IDEA requirements.

The SEA allocates remaining section 611 and/or section 619 funds to LEAs, including charter school LEAs, based on population and poverty consistent with IDEA requirements.

No 34 CFR §§300.705(a)­

(b)(1), 300.815-300.816(a)

No 34 CFR §§300.705(b)(2), 300.815, 300.816(b): 34

CFR Part 76 Subpart H

No 34CFR

§§300.705(b)(3),300.816( c)

and (d)

**Criterion 1.4**

**Criterion 1.5**

The SEA ensures that 1OEA funds are properly allocated to IDEA through subgrants to eligible charter school LEAs that open or significantly expand their enrollment.

The SEA reallocates section 611 and/or section 619 funds to eligible LEAs, including charter school LEAs, consistent with IDEA requirements.

No 134 CFR §§76.792-76.793

No 34 CFR §§300.705(c) and

1 300.817

**Criterion 1.6**

The SEA ensures that FFY 2015 section 619 allocations were made consistent with IDEA requirements although lthe FFY 2015 allocations to States for section 619 grants, were below the 1997 appropriation level.

No 34 CFR §300.816

**Finding:** None.

**Massachusetts Department of Elementary and Secondary Education (ESE's), page** 3 of **5**

|  |  |  |  |
| --- | --- | --- | --- |
| **Monitoring Area 2, IDEA Part B: SUBRECIPIENT MONITORING**  Under the IDEA and Uniform Guidance, SEAs are responsible for oversight of the operations of IDEA supported activities. Each SEA must monitor its own activities, and those of its LEAs, to ensure compliance with applicable Federal requirements and that performance expectations are being achieved. Monitoring must cover each program, function, or activity. Subrecipient monitoring is at the core of the SEA's general supervisory responsibilities, and can help the SEA ensure that its LEAs are in compliance with IDEA and related requirements, as well as aligned with SEA priorities designed to improve results for children with disabilities. The focus of this activity was to review the State's fiscal subrecipient monitoring. | | | |
| **Criterion Number Description** | | **Noncompliance**  **identified?** | **Applicable** |
| **Requirement** |
| **Criterion 2.1** | 'The SEA ensures that every subaward is clearly identified to the subrecipient as a subaward and includes required information at the time of the subaward. If any of the data elements change, the SEA includes the changes in  subsequent. ubaward modification. | Yes | 2 CFR §200.331(a) |
| **Criterion** 2.2 | The SEA evaluates each subrecipient's risk of  noncompliance with Federal statutes, regulations,~~-~~and--the  terms and conditions of the subaward for purposes of  determining the appropriate subrecipient monitoring. | Yes | 2 CFR §200.331(b) |
| **Criterion** 2.3 | The SEA monitors the activities of the subrecipient as necessary to ensure that the subaward is used for  !authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward;  and that subaward performance goals are achieved. | Yes | 2 CFR §200.331(d),  CFR §§300.149 and 300.600 |
| **Criterion 2.4** | Depending upon the assessment of risk posed by the subrecipient, the SEA has policies and procedures that consider monitoring activities of LEAs ranging from technical  assistance to on-site monitoring or conducting agreed-upon­ procedures engagements (audits}. | Yes | 2 CFR §200.331(e) |
| **Criterion 2.5** The SEA conducts monitoring activities that verify that every  subrecipient is audited in accordance with the Uniform Guidance. | | Yes 1 | 2 CFR §200.331(f) |

**Massachusetts Department of Elementary and Secondary Education {ESE's), page 4 of 5**

|  |  |  |  |
| --- | --- | --- | --- |
| **Criterion 2.6** | The SEA considers enforcement actions against noncompliant as required under the Uniform Guidance and IDEA. | Yes | 2 CFR §§200.338 and  200.331(h); 34 CFR  §§300.149, 300.222,  300.600, and 300.604 |

**Finding:** Criterion 2.1: Based on the review of documents, analysis of data, and interviews conducted with ESE staff on May 8 and 9, 2017, OSEP finds that the ESE does not ensure that each subaward is clearly identified to the subrecipient as a subaward and includes the required information at the time of the subaward as specified in 2 CFR §200.331(a). In ESE's grant process, once the LEA's grant application is reviewed and approved by the Special Education Planning and Policy Development Office (SEPP), an initial payment as welt as a "PaymenUNotice of the Award" is sent to the LEA. While the State included some of the required information in the "PaymenUNotice of the Award", it did not have all of the information as required by §200.331(a)(1)(iHxiii).

Specifically, the State did not include: (1) Subrecipient's Data Universal Numbering System (DUNS) number; (2) Federal Award Identification Number (FAIN); (3); Federal Award Date; (4) Subaward Period of Performance Start and End Date; (5) Total Amount of the Federal Award; (6) Name of Federal awarding agency; and (7) Indirect cost rate for the Federal award. Additionally, OSEP found that while ESE allows LEAs to obligate IDEA funds for the entire 27 month period of availability, on the State's notification of the grant award to LEAs, the "project duration" subaward period of performance start and end date is ten months.

**Citation:** As part of its requirements to conduct subrecipient monitoring and management under 2 CFR §§200.330-200.332, the ESE must, under 2 CFR §200.331(a), ensure that *every* subaward is clearly identified to the subrecipient as a subaward and includes specified information in §200.331{a}(1)(i)-{xiii) at the time of the subaward, and if any of these data elements change, include the changes in subsequent subaward modification. There are 13 required items that must be included in the Federal subaward notification.

**Further Action Required:** Within 60 days of the date of this letter, the State must submit to OSEP a revised grant award notification that includes the required information as required by 2 CFR §200.331(a). Further, the "project duration" must be revised to reflect the 27 month period of availability for IDEA subgrants.

**Finding:** Criteria 2.2 - 2.6: Based on the review of documents, analysis of data and interviews with State personnel on May 8 and 9, 2017, OSEP finds that the ESE does not have policies and procedures in their overa!! subrecipient monitoring structure for ensuring that LEAs use IDEA section 619 funds in accordance with the applicable requirements of Part B of the IDEA and the Uniform Guidance, as required by 2 CFR §§200.331(b),(d)-(f) and (h), 200.338, and 34 CFR §§300.149 and 300.600. In Massachusetts the IDEA section 619 grant is administered by the EEC with support from ESE. The EEC receives funding from ESE on an annual basis through an interagency service agreement (lSA) between both parties. Under the ISA, "[t]he ESE authorizes EEC to oversee and implement the Early Childhood Special Education 262 Grant [IDEA section 619 grant]. Under ESE supervision, EEC is responsible for: grant administration, a general work plan to provide guidance and technical assistance to districts, strategic planning and implementation, professional development (PD), technical assistance, and data collection and use." When asked about the current subrecipient monitoring structure and framework, ESE personnel explained that they do not currently include the IDEA section 619 grant in their subrecipient monitoring structure. Further, OSEP could not find evidence that the EEC conducts subrecipient monitoring

**Massachusetts Department of Elementary and Secondary Education (ESE's), page 5 of 5**

of LEAs to ensure that section 619 funds are expended in accordance with the applicable requirements of Part 8 of the IDEA and the Uniform Guidance.2

**Citation:** Under 2 CFR §§200.331(b),(d)-(f) and (h), 200.338, and 34 CFR §§300.149, 300.600, the SEA must: (1) Evaluate each subreciplent's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring; {2) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved; (3} Depending upon the assessment of risk posed by the subrecipient, the SEA has policies and procedures that consider monitoring activities of LEAs ranging from technical assistance to on-site monitoring or conducting agreed-upon-procedures engagements (audits); (4) Conduct monitoring activities that verify that every subrecipient is audited in accordance with the Uniform Guidance and IDEA; and (5) Consider enforcement actions against noncompliant subrecipients as required under the Uniform Guidance and IDEA.

**Further Action Required:** Within 90 days of the date of this letter, the State must submit to OSEP:

* 1. Revised policies and procedures for subrecipient monitoring demonstrating that ESE ensures LEAs that receive IDEA section 619 funds expend those funds in accordance with the applicable requirements and are being monitored consistent with the requirements of IDEA and the Uniform Guidance; and
  2. With the 2018 SPP/APR due on February 1, 2020, the State must provide evidence that it has implemented the subrecipient monitoring procedures.

2 In a February 9, 2018 written response to OSEP, the ESE reported that it will resume the administration of Early Childhood Special Education

262 Grant [IDEA section 619 grant].

# Enclosure B

**Correction of LEA Allocation Finding Identified in FFY 2015**

This enclosure addresses the Massachusetts Department of Elementary and Secondary Education's Department of Elementary and Secondary Education's (ESE's) response to the Office of Special Education Programs' (OSEP's) FFY 2015 LEA allocation finding, which was made in the enclosure to the fiscal monitoring letter dated May 13, 2016. OSEP identified six actions that the State was required to take to correct the noncompliance identified in this area (Criterion 1.1) in the May 13, 2016 fiscal monitoring letter. Two of the required actions were completed by ESE and closed out prior to the time OSEP conducted its FFY 2016 monitoring.

At the time OSEP conducted its FFY 2016 monitoring, ESE had not completed the following required actions:

1. Criterion **1.1:** LEA Allocations:
   1. Policies and procedures that demonstrate that the SEA will ensure that each LEA has submitted a plan that provides assurances to the SEA that the LEA meets each of the conditions in 34 CPR §§300.201 through 300.213 before it determines that an LEA is eligible for assistance under Part B of the IDEA for a fiscal year,
   2. Documentation of the amount of the base payment that each LEA was entitled to receive in FFY 2014, FFY 2015, and FFY 2016 based on the amount the LEA would have received under section 619 of the IDEA for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect and the amount of the base payment each LEA actually received in FFY 2014, FFY 2015, and FFY 2016 (based on the amount the LEA would have received for FFY 1997).
   3. For any LEA whose base payment was less than the amount to which it was entitled in FFY 2014, FFY 2015 and/or FFY 2016, a calculation of the difference between the amount the LEA actually received and the amount of the base payment the LEA should have received based on the correct base fiscal year.
   4. Documentation demonstrating that any LEA that received a base payment in FFY 2014, FFY 2015 and/or FFY 2016 that was less than the amount of section 619 funds to which it was entitled was made whole.

Upon reviewing the documentation the State submitted on April 6, 2016, and information provided by ESE personnel during the on-site visit. OSEP has determined that the ESE has provided the required information to address the LEA allocation findings identified in OSEP's fiscal monitoring letter dated May 13, 2016 and no further action is required. In an August 8, 2017 letter, OSEP informed ESE that it had provided the required information related to all of the findings identified in the May 13, 2016 letter, with the exception of the LEA allocation finding and the finding that the SEA did not have policies and procedures to ensure that it prohibits an LEA from reducing the level of expenditures under 34 CFR §300.205(a) if the SEA determines under section 616 that the LEA "needs assistance", "needs intervention", or '11eeds substantial intervention" in implementing the requirements of Part B of the IDEA in accordance with 34 CFR §§300.205(a) and 300.608(a). This finding is addressed in Enclosure C.

Enclosure C: Local Educational Agency (LEA) Determinations

IDEA section 6l 6(a)( I )(C)(ii) requires States to implement Part B of the IDEA in accordance with section 616(a)(3) and (e). These statutory provisions and 34 CFR §300.600(a)(2) require States to make annual determinations about the performance of each LEA using the categories in 34 CFR §300.603(b)(1) (i.e. Meets Requirements, Needs Assistance, Needs Intervention and Needs Substantial Intervention). IDEA section 616(f) and 34 CFR §300.608(a) require SEAs to prohibit m1 LEA from reducing its level of expenditures under 34 CFR §300.205(a) if the SEA determines under section 616 that the LEA '·needs assistance,'' "needs intervention," or "needs substantial intervention" in implementing the requirements of Part B of the IDEA.

In its May 13, 2016 fiscal monitoring letter, OSEP found that the Massachusetts Department of Elementary and Secondary Education (ESE) did not have policies and procedures to ensure that it prohibits an LEA from reducing the level of expenditures under 34 CFR §300.205(a) if the SEA determines under section 616 that the LEA "needs assistance", "needs intervention", or "needs substantial intervention" in implementing the requirements of Part B of the IDEA in accordance with 34 CFR §§300.205(a) and 300.608(a). OSEP noted in its August 8, 2017 letter, that ESE had not provided these policies and procedures.

On September 30, 2016, OSEP issued its "IDEA Part B Local Educational Agency Maintenance of Effort Reduction and Coordinated Early Intervening Services (LEA MOE/CEIS)" letter to ESE, based on an analysis of the State's 2009 through 2013 data submissions. In that letter, OSEP also found that in several instances, the State had not prohibited an LEA from reducing the level of expenditures under 34 CFR §§300.205(a) and 300.608 when the SEA determined under section 616 that the LEA "needs assistance", "needs intervention", or "needs substantial intervention" in implementing the requirements of Part B of the IDEA.

On November 16, 2016. as a part of its response to corrective actions required by the September 30, 2016 LEA MOE/CEIS letter, the ESE submitted its "Coordinated Early Intervening Services Procedures". A review of the information submitted by the State and the State's current procedures for making annual determinations as reflected in the "2017 Detennination of Need for Special Education Tcclmical Assistance or Intervention" indicates that IDEA Part B annual determinations are made using the follov,,ing six categories: Meets Requirements; Meets Requirements At Risk; Meets Requirements Provisional; Needs Technical Assistance; Needs Intervention; and Needs Substantial Intc rvcntio n.1

On a January 25, 2018 conference call with OSEP, ESE confirmed that: (1) ESE previously allowed LEAs to adjust their level of expenditures under 34 CFR §300.205(c) with a determination of''Needs Technical Assistance·', and (2) LEAs detem1ined to be in "Meets Requirements At Risk" 2 and '"Meets Requirements Provisional" 3 may be allowed to reduce their level of expenditures under 34 CFR §300.205(a). For these designations, the State allowed

1 See, '·2017 Determination ofNeed for Special Education Technical Assistance or Intervention" 111111 do..:: ma -.c\_Ju 1\_1cqH111t,il1i lit\_y,.,pee ial-t;>dt: ,:c1,·1 ,:11 ,:11ion.,\_dl1 \_:\, last accessed, June 1, 201 8

2 For LEAs with a designation of"Mcets Requirements At Risk,'" t\ie ESE considers those districts "deemed to be "at risk" for not meeting the needs of students , ilh IEl's without continued attention to the specific needs of this student population."

:i For Ll.:As with a designation of"Mects Requin:mi.:nl Provisional," the LEA has not been issued "an accountability determination, and therefore will ha1·c a "1\·kcts Requirements Provisional" special education determination, unless there are concerns about nontompli.incc with IDEA requirements."

Page 2

LEAs to reduce their level of expenditures despite determining that the LEA is "at risk" for not meeting the requirements of the IDEA, or not determining through the annual LEA determination process that the LEA "meets the requirements" of IDEA.

The State explained that they are currently in the process of revising their accountability system, and agreed to remove the determinations of "Meets Requirements at Risk" and "Meets Requirements Provisional" when making LEA annual determinations under their accountability system.

# Further Action Required:

Within 90 days of the date of this letter, the ESE must submit revised policies and procedures to OSEP that demonstrate the State:

(I) Is no longer using the categories Meets Requirements At Risk and Meets Requirements Provisional in making LEA annual determinations under their accountability system, as required by 34 CFR §§300.600(a)(2) and 300.603(b)(l); and

(2) Prohibits an LEA from reducing the level of expenditures under 34 CFR §300.205(a) if the SEA determines under section 616 that the LEA "needs assistance", "needs intervention", or "needs substantial intervention" in implementing the requirements of Part B of the IDEA in accordance with 34 CFR §§300.205(a) and 300.608(a).