UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUN 6 2008

Honorable Linda McCulloch
Superintendent of Public Instruction
Montana Office of Public Instruction
1227 11th Avenue
Helena, MT 59620-2501

Dear Superintendent McCulloch:

Thank you for the timely submission of Montana's FFY 2006 Annual Performance Report (APR) and revised State Performance Plan (SPP) under Part B of the Individuals with Disabilities Education Act (IDEA), as amended in 2004. We also acknowledge the revisions to Montana's SPP and APR received on April 11, 2008. We appreciate the State's efforts in preparing these documents.

The Department has determined that, under IDEA section 616(d), Montana needs assistance in meeting the requirements of Part B of the IDEA. The Department's determination is based on the totality of the State's data and information including the State's FFY 2006 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) of the IDEA in 2008" for further details.

Specific factors affecting OSEP's determination of needs assistance for Montana included that the State: 1) reported 85.4% compliance for Indicator 11, with slippage from 93%; and 2) reported 61.4% compliance for Indicator 12, with progress from having no data for this indicator for FFY 2005. For these reasons, we were unable to determine that Montana met requirements under section 616(d). OSEP notes the high levels of compliance reported for Indicators 9, 10, and 15, and the correction of noncompliance for Indicator 13. We hope that Montana 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 2006 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. It 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.

The State's determination for the FFY 2005 APR also was needs assistance. In accordance with section 616(e) 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 Indicator 11 (timely initial

evaluation) and Indicator 12 (early childhood transition). 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 indicators listed above, your State must report with its FFY 2007 APR submission (due February 1, 2009) on: 1) the technical assistance sources from which the State received assistance and 2) what 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 we take under section 616 should your State not be identified as meets requirements next year. We encourage States 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) and 34 CFR §300.606, the State must notify the public that the Secretary of Education has taken the above enforcement action. This notification must be sufficient to notify the public within the State and may include such mechanisms as posting on the agency's website, distribution through the media and distribution through public agencies.

As you know, 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 under IDEA section 616(b)(2)(C)(ii)(l). In addition, your State must review LEA performance against targets in the State's SPP, determine if each LEA meets the requirements of the IDEA and inform each LEA of its determination. For further information regarding these requirements, see the SPP/APR Calendar at http://spp-apr-calendar.rrfcnetwork.org/. Finally, if 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.

OSEP is committed to supporting Montana's efforts to improve results for children 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 do not hesitate to call Ken Kienas, your OSEP State Contact, at 202-245-7621.

Sincerely,

William W. Knudsen
Acting Director
Office of Special Education Programs

Enclosures

cc: State Director of Special Education