



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

DEPUTY COMMISSIONER FOR VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES  
Tel. (518) 474-2714  
Fax (518) 474-8802

September 2006

**TO:** District Superintendents  
Parents and Individuals Concerned with Special Education  
Superintendents of Public Schools  
SETRC Professional Development Specialists  
Commissioner's Advisory Panel for Special Education Services

**FROM:** Rebecca H. Cort 

**SUBJECT:** Targeted Activities to Improve Results for Students with Disabilities

The purpose of this memorandum is to notify school districts of new monitoring, technical assistance and enforcement actions the Office of Vocational and Educational Services with Disabilities (VESID) will be initiating beginning in the fall of 2006. These actions are designed to provide assistance, including, in some cases, grant funds and interventions to school districts to assist them in their efforts to improve their results for students with disabilities.

New York State's (NYS) Part B State Performance Plan (SPP), as required by the Individuals with Disabilities Education Act (IDEA), establishes statewide baselines in key performance and compliance areas relating to the performance of students with disabilities. For each of these areas, NYS has set rigorous targets for improvement for the next six years. NYS must show substantial improvement in performance and compliance. Consistent with the requirements of section 616 of IDEA, NYS will monitor school districts using quantifiable and qualitative indicators of performance to improve results for students with disabilities.

The performance of students with disabilities in some NYS school districts clearly demonstrates the need for VESID to restructure and focus its actions to directly impact on instructional practices to improve results. The 2001 statewide total cohort<sup>1</sup> data and 2004-05 State assessment data show:

---

<sup>1</sup> The statewide total cohort includes all students who first entered ninth grade anywhere in the 2001-02 school year (or for ungraded students with disabilities who reached their 17<sup>th</sup> birthday during the 2001-02 school year) and did not leave the State, transfer to nonpublic schools or die.



- The statewide percentage of students with disabilities who graduated with a regular high school diploma in four years was only 37.3 percent. There are 45 school districts whose graduation rates for students with disabilities were 35 percent or lower.
- The statewide percentage of students with disabilities that drop out of school after four years is 18.9 percent. There are 40 school districts whose drop out rates for students with disabilities are 20 percent or higher.
- There are 49 school districts with performance results for students with disabilities on the 4<sup>th</sup> and/or 8<sup>th</sup> grade English language arts and/or math assessments below the statewide average performance index in at least two areas and that did not make Adequate Yearly Progress (AYP) in those areas.

VESID is taking the following actions to monitor school district performance and improve outcomes for students with disabilities:

1. Tracking performance and compliance data for all school districts.
2. Setting annual State targets for improvement in outcome areas for students with disabilities.
3. Issuing public reports on State and individual school district performance in relation to the State targets.
4. Using performance data on graduation and drop out rates and performance on State assessments to identify school districts with the poorest performance for assistance or intervention.
5. Reviewing the instructional practices of the school districts with the poorest performance to identify the instructional issues impacting on poor student performance and assisting schools to identify specific improvement activities.
6. Directing VESID's technical assistance resources such as Special Education Training and Resource Center (SETRC) professional development specialists to support the school's improvement activities in areas most directly relating to instruction such as literacy, behavioral supports and services and quality delivery of special education services.
7. Identifying successful schools and districts and facilitating the replication of effective practices.
8. Directing school districts to spend their IDEA funds on specific improvement activities when a school district's performance data is significantly below the State targets.

## **1. Tracking Performance and Compliance Data for All School Districts**

- VESID will track school district compliance and performance for students with disabilities. Over a six-year period, we will have data from every school district in 14 indicator areas for students with disabilities. These indicators are described in the State Performance Plan, which is available at:  
<http://www.vesid.nysed.gov/specialed/spp/home.html>
- For the 2006-07 school year, VESID is using 2004-05 data on graduation rates, drop out rates and performance on elementary and middle level English language arts and mathematics State assessments to identify the school districts with the poorest performance.
- VESID will also use data to identify high performing school districts, particularly those with similar demographic characteristics to low performing districts.

## **2. Setting Annual State Targets for Improvement**

- VESID has established a long-range graduation target for students with disabilities of 80 percent.
- NYS's SPP for 2005-11 establishes targets for improvement in important outcome areas for students with disabilities. For example, the State's six-year targets are to:
  - improve the State's four-year graduation rate of students with disabilities from 37.3 percent to 52 percent by 2011; and
  - decrease the State's four-year drop out rate of students with disabilities from 18.9 percent to 15 percent by 2011.
- VESID will annually track school district performance in reaching those State targets each year and use these data to identify school districts needing assistance, intervention or substantial intervention in order to improve performance.

## **3. Public Reporting of Data**

- VESID will publish its report on the State's performance toward reaching the State's targets beginning in February 2007.
- VESID will issue an annual public report on each school district's performance relative to the State's targets beginning in the spring of 2007.
- These reports will track the State and each school district's progress from year to year.

#### **4. Designation of School Districts for Levels of Intervention by the State**

- School districts that fall significantly below the State's targets each year will be designated as either a "district in need of assistance;" a "district in need of intervention;" or a "district in need of substantial intervention." The attachment to this memorandum provides the criteria for identification.
- For the 2006-07 school year, school districts with the poorest performance data relating to graduation and/or drop out rates and/or performance of students with disabilities on the 4th and 8th grade State assessments in math and ELA will be identified.
- Any school district identified as "in need of assistance" or "in need of intervention" will receive notification from the Deputy Commissioner indicating its status and the resulting required actions.
- The Special Education Quality Assurance (SEQA) Regional Office will determine, with input from the District Superintendents and others, the technical assistance and/or enforcement actions for each school district based on those designations.
- VESID will increase levels of consequences and interventions (e.g., directing or withholding of federal IDEA funds) if adequate progress to meet targets is not achieved.
- A school district's performance and progress in relation to the State's targets will be reviewed annually to determine whether a school district will no longer be identified as "in need of assistance" or "in need of intervention." Additional information on the criteria for removal as a designated school district is included in the attachment to this memorandum.

#### **5. Monitoring Reviews of a School District's Instructional Programs**

- For school districts identified as "in need of assistance" or "in need of intervention," VESID may conduct reviews of their instructional practices determined to be most related to their performance outcomes.
- The breadth and scope of the monitoring reviews have been narrowed to facilitate a more efficient assessment of a district's instructional and compliance issues.
- A streamlined monitoring protocol has been developed to allow an assessment of a school district's policies, procedures and practices for special education that are most directly related to effective instructional practices for students with disabilities. An improvement and/or compliance plan will be developed to address these issues. We will be focusing our review of the school district's practices on three important

areas: literacy instruction for students with disabilities, behavioral supports and services and the delivery of special education services.

- School districts that participate in monitoring reviews will receive a grant from IDEA discretionary funds to support the implementation of their improvement plans.
- In some cases, school districts will conduct self-reviews using State developed monitoring protocols, with SETRC technical assistance. This past year, districts were required to conduct self-reviews based on performance data relating to transition services, suspension rates for students with disabilities and disproportionality data based on race/ethnicity relating to the suspension, identification, classification and/or placement of students with disabilities. The results from these reviews will be available in the fall. VESID will track the correction of noncompliance identified through these reviews.

## **6. Technical Assistance**

- Each SEQA regional office is directing regional technical assistance resources, such as SETRC, to school districts with the poorest performance.
- SETRC's technical assistance will focus primarily on areas most directly relating to instruction.

## **7. Effective Practices**

- VESID will use data and program reviews to identify successful schools and districts and promote the sharing and replication of their effective practices, particularly in the identified areas of literacy instruction, behavioral supports and services and delivery of special education services.
- VESID will offer professional development and assistance to districts in implementing demonstrated effective practices, such as:
  - research-based reading instruction which includes continuous progress monitoring of student performance and which is delivered with increasing intensity if adequate progress is not demonstrated (“response-to-intervention” approach).
  - schoolwide systems of positive behavioral supports and interventions designed to address a range of intensity of student needs.
  - instructional interventions that ensure student access to the general education curriculum, including collaboration between general and special education teachers, specially-designed instruction aligned with the learning standards in content area subjects, and individualized classroom supports and accommodations.

## 8. Directing a School District's Use of IDEA Funds

- Eighty-eight (88) percent of the State's IDEA funds are provided to school districts through IDEA, Part B grants. In cases where school districts are in need of assistance, intervention or substantial intervention, the State may exercise its authority to redirect and/or, in extreme situations of noncompliance, withhold a school district's IDEA funds.

VESID will be focusing its improvement strategies on quality technical assistance to assist school districts to improve results for students with disabilities. We look forward to working with school districts for continuous improvement. Questions regarding this memorandum may be directed to your Regional Associate at one of the following SEQA Regional Offices:

Central New York	(315) 428-3287
Eastern Region	(518) 486-6366
Hudson Valley Region	(914) 245-0010
Long Island	(631) 884-8530
New York City	(718) 722-4544
Western Region	(585) 344-2002

Attachment

## **LEVELS OF INTERVENTION: Targeted Actions to Improve Results for Students with Disabilities**

New York State's (NYS) Part B State Performance Plan (SPP), as required by the Individuals with Disabilities Education Act (IDEA), establishes statewide baselines in key performance and compliance areas relating to the performance of students with disabilities. For each of these areas, NYS has set targets for improvement for the next six years. NYS must show substantial improvement in performance and compliance. Consistent with the requirements of section 616 of IDEA, NYS will monitor school districts using quantifiable and qualitative indicators of performance to improve results for students with disabilities.

### **Designations of Levels of Intervention for School Districts**

School districts that fall significantly below the State's baseline average each year for the performance of students with disabilities in the areas of graduation, drop out, and performance on the State assessments will be identified for a "level of intervention." The three levels of intervention required by IDEA section 616 are:

- Districts in Need of Assistance
- Districts in Need of Intervention
- Districts in Need of Substantial Intervention

### **Identification Criteria for the 2006-07 School Year:**

For the 2006-07 school year, a school district will be identified for a level of intervention based on its performance results for students with disabilities using 2004-05 school year data in the areas of:

- Graduation rate; and/or
- Drop out rate; and/or
- Performance on the grades 4 and 8 English language arts (ELA) and math assessments for the subgroup of students with disabilities in two or more areas.

#### **1. Graduation and Drop Out Rates:**

For school districts that have at least 30 students with disabilities in the 2001 total cohort:

For the 2006-07 school year, VESID has identified school districts that have at least 30 students with disabilities in the 2001 total cohort whose district data for graduation and/or drop out rates is significantly below (or above) the SPP baseline:

Target Category	State Performance Baseline for 2004-05	District in Need of Assistance	District in Need of Intervention
Graduation (2001 total cohort after four years)	37.3%	Higher than 18.5% but less than or equal to 35%	18.5% or less
Drop Out (2001 total cohort after four years)	18.9%	At least 20% but less than 33%	33% or higher

**AND/OR**

**2. Performance on 4<sup>th</sup> and 8<sup>th</sup> grade ELA and math assessments:**

- A. For school districts that have at least 30 students with disabilities in the 2001 total cohort:

For the 2006-07 school year, VESID has identified school districts that had at least 30 continuously enrolled students with disabilities tested and whose school district performance index is below the statewide average for the students with disabilities subgroup and the district did not make adequate yearly progress (AYP) in two or more areas for this subgroup.

- ***District in Need of Assistance:*** Performance below the statewide average performance index in two or three areas as indicated below and the district did not make AYP for the students with disabilities subgroup in the two or three areas
- ***District in Need of Intervention:*** Performance below the statewide average performance index in four areas as indicated below and the district did not make AYP for the students with disabilities subgroup in each area.

Target Category	Performance Index for Students with Disabilities for 2004-05	Below Statewide Average Performance Index for Students with Disabilities for 2004-05
Grade 4 ELA percent at levels 2, 3 and 4	102	Less than 102
Grade 4 Math percent at levels 2, 3 and 4	141	Less than 141
Grade 8 ELA percent at levels 2, 3 and 4	85	Less than 85
Grade 8 Math percent at levels 2, 3 and 4	82	Less than 82

B. For school districts with less than 30 students with disabilities enrolled in grades 4 or 8 in the 2004-05 school year:

For the 2006-07 school year, school districts with more than 30 students enrolled in 2004-05 for grades 4 and 8 ELA combined and whose combined three-year performance of the percentage of students with disabilities at levels 2, 3 or 4 on the 4<sup>th</sup> and 8<sup>th</sup> grade ELA and math assessments was significantly below the statewide average performance in two or more areas.

- ***District in Need of Assistance:*** Performance significantly below the statewide average in two or three areas as indicated below.
- ***District in Need of Intervention:*** Performance significantly below the statewide average in four areas as indicated below.

Target Category	Statewide Average for 2004-05	Significantly Below the Statewide Average
Grade 4 ELA percent at levels 2, 3 and 4	71.6%	53.7% or lower
Grade 4 Math percent at levels 2, 3 and 4	84.4%	63.3% or lower
Grade 8 ELA percent at levels 2, 3 and 4	70.8%	53.1% or lower
Grade 8 Math percent at levels 2, 3 and 4	57.7%	43.3% or lower

**CRITERIA FOR REMOVAL AS A DESIGNATED SCHOOL DISTRICT**

A school district’s performance and progress in relation to the State’s targets will be reviewed annually to determine whether a school district continues to meet the State’s criteria in a designated year. A district will no longer be identified as a district in need of assistance or a district in need of intervention when it has made sufficient progress in relation to the criteria for identification.

For the 2007-08 school year, the criteria for designation as a school district in need of assistance or as a school district in need of intervention based on graduation rate and/or drop out rate will be the same as the criteria used for the 2006-07 school year. The 2007-08 school year criteria for performance on State ELA and math assessments will be modified based on revisions to the Performance Index and calculations of AYP to accommodate the combined results from grade 3 through grade 8 State testing program results in ELA and math.

**DISTRICTS IN NEED OF ASSISTANCE**

A designation of “In Need of Assistance” indicates that a school district requires technical assistance in order to improve performance.

For the 2006-07 school year, if a school district is designated as a district in need of assistance based on the above criteria, the State will take **one or more** of the following actions. The determination of the district's required actions will be based upon consistent statewide parameters and made by the Special Education Quality Assurance (SEQA) Regional Office in consultation with the District Superintendents and/or the school districts. SEQA may make any one or more of the following determinations for a district in need of assistance:

- ◆ Conduct a Focused Review (FR) of the school district, which will result in a Quality Improvement Process (QIP) and Corrective Action Plan (CAP).
- ◆ Require the school district to work with the Special Education Training and Resource Center (SETRC) Professional Development Specialists and enter into a QIP.
- ◆ Require the school district to obtain technical assistance from SEQA, other units within VESID, VESID funded networks, or other offices within NYSED.
- ◆ Require the school district to use its IDEA Part B funds to obtain technical assistance in the areas in which the district needs assistance, including explicit plans for addressing the area of concern within a specified period of time.
- ◆ Require the school district to obtain assistance in identifying and implementing professional development, instructional strategies and methods of instruction that are based on scientifically based research.
- ◆ Require the school district to redirect its fiscal or human resources to the area(s) in which the district needs assistance.
- ◆ Require the school district to conduct a self-review of its policies, procedures and practices related to the target area.
- ◆ Require the district to address the identified performance area(s) with district-developed strategies that must be written into a separate, explicit plan or incorporated into existing improvement/performance plans with planned review of data, specified time frames and progress monitoring review.
- ◆ Prohibit the school district from reducing the level of expenditures for the education of students with disabilities made by the school district from local funds below the level of those expenditures for the preceding fiscal year under IDEA section 613(a)(2)(C) for any fiscal year (required action).

## **DISTRICTS IN NEED OF INTERVENTION**

A designation of "In Need of Intervention" means that a school district's performance is so far below the target that it requires directed assistance or intervention in order to improve performance or compliance.

If a district is designated as a district in need of intervention based on the above criteria, the State will take **one or more** of the actions listed below. The determination of the district's required actions will be based upon consistent statewide parameters by SEQA in consultation with the District Superintendents and/or the school districts.

- ◆ Take any of the actions listed above for a district designated as a district in need of assistance.
- ◆ Require the district to prepare a corrective action plan or improvement plan if the State determines that the district should be able to correct the problem within one year.
- ◆ For each year of the determination, withhold not less than 20 percent and not more than 50 percent of the school district's IDEA funds until the State determines the district has sufficiently addressed the areas in which the district needs intervention.
- ◆ Prohibit the school district from reducing the level of expenditures for the education of students with disabilities made by the school district from local funds below the level of those expenditures for the preceding fiscal year under IDEA section 613(a)(2)(C) for any fiscal year (required action).

## **DISTRICTS IN NEED OF SUBSTANTIAL INTERVENTION**

The State may designate a school district as "In Need of Substantial Intervention" under the following circumstances:

- ◆ Incidents of significant failure to provide students with disabilities with a free appropriate public education (FAPE), actions which result in loss of an educational opportunity or interfere with the opportunity of the parents or guardians to participate in the formulation of the individualized education program (IEP);
- ◆ A history of chronic noncompliance or continued and substantial failure to achieve progress in a particular area; or
- ◆ A systemic agency-wide problem of noncompliance and/or poor performance for students with disabilities.

At any time the State determines that a school district needs substantial intervention, the State will take **one or more** of the following actions:

- ◆ Take any of the actions listed above for a district designated as a district in need of assistance or a district in need of intervention.
- ◆ Withhold, in whole or in part, any further payments of IDEA funds to the LEA. Note: Prior to withholding IDEA funds, the school district must have reasonable notice and an opportunity for a hearing. Pending the outcome of the hearing, the State may suspend payment to a recipient, suspend the authority of the recipient to obligate funds, or both. Withholding or suspending of funds is limited to the programs or projects or portions of programs or projects that affected the State's determination.
- ◆ Prior to withholding IDEA funds, the school district must have reasonable notice and an opportunity for a hearing. Pending the outcome of the hearing, the State may suspend payments to a recipient, suspend the authority of the recipient to obligate funds, or both. Withholding or suspending of funds is limited to the programs or projects or portions of programs or projects that affected the State's determination.
- ◆ Prohibit the school district from reducing the level of expenditures for the education of students with disabilities made by the school district from local funds below the

level of those expenditures for the preceding fiscal year under IDEA section 613(a)(2)(C) for any fiscal year (required action).

- ◆ Issue a Commissioner's Order for compliance.

In addition to any of the actions identified for the three levels of intervention, the State may utilize any other authority available to it to enforce the requirements of IDEA.