



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

October 1, 2021

Honorable Mike Morath
Commissioner
Texas Education Agency
1701 N. Congress Avenue
Austin, Texas 78701
commissioner@tea.state.tx.us

Dear Commissioner Morath:

In a letter dated January 17, 2017 (enclosed), the U.S. Department of Education (Department) issued a proposed determination that Texas is not eligible for a portion of a future section 611 grant under the Individuals with Disabilities Education Act (IDEA), in the amount of \$33,302,428, because it did not meet its obligation to maintain State financial support for special education and related services in State fiscal year (SFY) 2012. 20 U.S.C. §1412(a)(18)(A)–(B) and (d)(2). The purpose of this current letter is to inform you that the determination is now final, and the Department will reduce Texas’s IDEA section 611 award in a future Federal fiscal year due to the State’s failure to maintain State financial support for special education and related services in SFY 2012. The issuance of this final determination was delayed because of discussions between the Department and the Texas Education Agency (TEA) regarding TEA’s settlement proposal, which had initially included the SFY 2012 shortfall. Those discussions, which ended recently, did not conclude in a settlement.

Here is an overview of the actions on this matter. On February 14, 2017, Texas requested a hearing on the Department’s proposed determination. On May 23, 2018, the Hearing Official, Administrative Law Judge Robert G. Layton, issued an initial decision affirming the Department’s proposed determination. Consistent with the hearing procedures in 20 U.S.C. §1412(d)(2) and 34 CFR §300.182, each party had an opportunity to file comments and recommendations on the initial decision and to respond to the other party’s comments and recommendations. The Hearing Official then forwarded the initial decision and the parties’ comments to the Secretary for review. The Secretary did not review the Hearing Official’s initial decision, which therefore became the final decision of the Secretary on July 9, 2018. 20 U.S.C. §1412(d)(2) and 34 CFR §300.182(g).

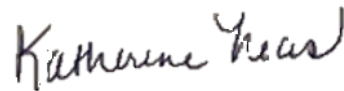
On July 13, 2018, Texas filed a petition for review of the final decision with the U.S. Court of Appeals for the Fifth Circuit. On November 7, 2018, the Fifth Circuit issued a decision denying Texas’s petition for review and upholding the Secretary’s final decision (which had affirmed the Department’s proposed determination). That decision is now final and binding.

As indicated in the January 17, 2017 letter, the IDEA provides that, when a State fails to maintain State financial support for special education and related services at the level required by law, the Department “shall” reduce the allocation of funds to the State under section 611 “for any fiscal year following the fiscal year in which the State fails to comply with the requirement” to maintain State financial support “by the same amount by which the State fails to meet the

requirement.” 20 U.S.C. §1412(a)(18)(B). In that letter, we notified you that the Department made a proposed determination that Texas was not eligible for a portion of its section 611 grant under the IDEA, in the amount of \$33,302,428, because of its failure to maintain State financial support for special education and related services by that amount in SFY 2012. 20 U.S.C. §1412(d)(2). Because our proposed determination is now final, we will reduce Texas’s IDEA section 611 grant by \$33,302,428 in a future Federal fiscal year. In addition, in light of the Texas IDEA State Advisory Panel’s duties in 20 U.S.C. §1412(a)(21)(D), particularly its duty in 20 U.S.C. §1412(a)(21)(D)(i) to “advise the State educational agency of unmet needs within the State in the education of children with disabilities,” we are providing it with a copy of this letter.

Under the provisions included in the Department’s annual appropriations since 2015, the Secretary may apply the reduction specified in 20 U.S.C. §1412(a)(18)(B) over a period of up to five consecutive fiscal years, until the entire reduction is applied. Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, 128 Stat. 2130, 2499 (Dec. 16, 2014). The Department is available to discuss with you any circumstances we should consider in determining how to apply the reduction. Please contact Jennifer Finch at Jennifer.Finch@ed.gov with any questions.

Sincerely,

A handwritten signature in black ink that reads "Katherine Neas". The signature is written in a cursive, slightly slanted style.

Katherine Neas
Acting Assistant Secretary

Enclosure

cc: Texas IDEA State Advisory Panel



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October 1, 2021

Honorable Mike Morath
Commissioner
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

Dear Commissioner Morath:

I am writing regarding the Texas Education Agency's (TEA) most recent document submission to the Office of Special Education Programs (OSEP) concerning implementation of the State's Corrective Action Response (CAR) and the additional required actions the TEA must take to resolve longstanding noncompliance. A fuller timeline of communications between TEA and OSEP is described in Enclosure A, attached to this letter. On August 27, 2021, OSEP issued a letter identifying areas of longstanding noncompliance and remaining actions that TEA had committed to taking. On September 9, 2021, through an email communication, TEA requested certain clarifications and proposed alternative actions for some of the remaining required actions set forth in our August 27, 2021, letter. On September 16, 2021, OSEP issued a letter to the State answering specific questions and clarifying or modifying some of the required actions. Importantly, because it appeared that the State still required substantial additional time to demonstrate compliance, OSEP once again notified the State that we were considering imposing specific conditions on TEA's grant award related to the areas of longstanding noncompliance. In response to the required actions in OSEPS's August 27, 2021, letter, TEA submitted documents on September 28, 2021. OSEP has reviewed the materials submitted and provided a response to each CAR item submission in the attached Enclosure B.

Over the last three years, OSEP has communicated with TEA about, and reviewed documents regarding, TEA's continued noncompliance with IDEA requirements related to child find, the provision of a free appropriate public education (FAPE), and the exercise of TEA's general supervision and monitoring responsibilities. OSEP has carefully reviewed the actions TEA has taken toward correcting the identified noncompliance and provided the results of our analysis and additional actions required. While OSEP commends steps taken by the State to address areas of noncompliance, specifically, the State's emerging reform of its Dyslexia program, all the items necessary to comply with OSEP's corrective actions demonstrating correction and compliance have not yet been completed. On September 13, 2021, TEA indicated that compliance with the required actions related to dissemination, implementation, and review of its revised Dyslexia program, namely publishing information about, and implementing the program consistent with new State guidelines, finalizing and implementing a Dyslexia monitoring system that aligns with IDEA requirements, and compiling and sharing the results of the State's Dyslexia monitoring with OSEP, are still many months into the future.

Based on this, OSEP concludes that the State has not completed all the required actions necessary to address the findings of longstanding noncompliance. Specifically, TEA has not yet published the revised Dyslexia Handbook and it is not in effect. Further, the State has not yet revised its monitoring protocols for the Dyslexia Program to ensure that the implementation of the Dyslexia Program does not deny or delay IDEA evaluations and the provision of FAPE to eligible children with disabilities, as stated in the required action related to Texas CAR item 3.a.

The provision of FAPE to eligible children residing in the State is a core tenet of IDEA, as is the responsibility of each State to exercise general supervisory responsibilities over its local educational agencies to ensure that IDEA requirements are met. Implementing effective child find procedures is the first step toward ensuring the provision of FAPE to eligible children. These are critical IDEA requirements for which the State was found out of compliance in 2018 and, almost four years later, the State has not demonstrated that it has corrected or fully addressed significant factors contributing to this longstanding noncompliance.

As a result of the longstanding nature of the State's noncompliance with these critical IDEA requirements, OSEP is designating TEA's FFY 2021 IDEA Part B grant award as subject to specific conditions, pursuant to our authority under 2 C.F.R. § 200.208 and sections 603 and 616(g) of IDEA. The specific conditions, reasons for doing so, and specific reporting requirements are detailed in Enclosure A to this letter and are effective immediately.

If you have any questions regarding this letter or the enclosures, or would like to request technical assistance, please contact Jennifer Finch, OSEP's State Lead for Texas, at Jennifer.Finch@ed.gov.

Thank you for your commitment and continued focus on improving education for students with disabilities.

Sincerely,



David Cantrell, Ph.D.
Acting Director, Office of Special Education
Programs

Enclosure A
Enclosure B

Enclosure A IDEA Part B Specific Conditions

I. Background

As explained further below, the Department is imposing specific conditions on TEA's Federal fiscal year (FFY) 2021 grant award under Part B of the Individuals with Disabilities Education Act (IDEA) to ensure that Texas corrects its longstanding noncompliance with regard to its Dyslexia program, so that the program is implemented and monitored consistent with the IDEA's free appropriate public education (FAPE), Child Find, and evaluation requirements.

This background reviews OSEP's monitoring of Texas, beginning in 2017. During the week of February 27, 2017, the Office of Special Education Programs (OSEP) conducted a monitoring visit to Texas, prompted by reports about the declining identification rate in Texas of children with disabilities under the Individuals with Disabilities Education Act (IDEA). As data from the Texas Education Agency (TEA) demonstrated, the number of children identified as children with disabilities under the IDEA significantly declined from the 2003-2004 to 2016-2017 school years from 509,401 to 477,281 students. While this represented a decrease of over 32,000 students, this decline was especially noteworthy given that during those same years, the total enrollment in Texas schools grew from 4,328,028 to 5,359,127 – an increase of 1,031,099 students.¹

Additionally, during this time period, Texas implemented a special education representation indicator in its Performance-Based Monitoring and Analysis System (PBMAS) to measure the percentage of students enrolled in special education and related services in an Independent School District (ISD²) against a standard of 8.5 percent (8.5 percent indicator). As a result, OSEP was interested in determining the extent to which the 8.5 percent indicator contributed to, or influenced, the identification and evaluation of children with disabilities under the IDEA.

Prior to the site visit, on October 3, 2016, in response to concerns highlighted in an investigative report on special education published in the September 11, 2016, edition of the *Houston Chronicle*, OSEP wrote to TEA to request information regarding the steps the State had taken and would continue to take to address the allegation that the use of the 8.5 percent indicator resulted in a failure to identify and evaluate all children in Texas suspected of having a disability under the IDEA. In that letter, OSEP acknowledged that TEA took steps to address some of the initial issues outlined in the letter, including informing each ISD in the State that it may not violate the rights of children with disabilities by delaying or denying referrals, evaluations, or the provision of special education and related services and announcing that the 8.5 percent indicator would not be used for intervention staging in future years. However, following TEA's November 2, 2016, response, OSEP determined there was a need to conduct listening sessions across the State to provide parents and other members of the public the opportunity to share concerns related to the 8.5 percent indicator.

During the week of December 12, 2016, both OSEP and TEA staff attended sessions held in five locations throughout the State: Dallas, Houston, El Paso, Edinburg, and Austin. Additionally, OSEP created a blog that was open for comment from December 5, 2016, through January 6, 2017. The listening sessions and the blog attracted significant interest, with hundreds of

¹ This information is provided through TEA's enrollment trend reports, available at:

http://tea.texas.gov/acctres/Enroll_2003-04.pdf and http://tea.texas.gov/acctres/enroll_2016-17.pdf.

² The terms 'school district' and 'ISD' are used interchangeably in this document, and meet the definition of public agency in IDEA.

community members attending the listening sessions and 423 individuals providing comments on the blog.³

Comments received during the listening sessions and through the blog raised questions about the State's ability to identify, locate, and evaluate children with disabilities who need special education and related services and the requirement in section 612(a)(1) of the IDEA, to make available a free appropriate public education (FAPE) to all eligible children with disabilities residing in the State. Through the public comments, numerous parents described how their children were unsuccessfully provided interventions through response to intervention (RTI) programs for years before finally being referred for an initial evaluation for special education and related services under the IDEA. Some parents explained that their children were provided related aids and services under Section 504 but continued to encounter educational difficulties. Multiple parents commented that they were informed by school officials that their children's diagnoses of dyslexia indicated that their child's dyslexia was not "severe enough" to warrant an evaluation for special education and related services under the IDEA. Due to the volume of the comments provided by parents, teachers, and other members of the public, OSEP decided to return to Texas to conduct site visits in select ISDs.

During the February 2017 monitoring visit, OSEP staff members, accompanied by TEA staff members, conducted onsite visits at schools and school districts' offices. At each school, OSEP conducted interviews with two teams of teachers and a team of administrators. OSEP also conducted an interview with district administrators at each school district. OSEP gathered additional information about the decline in the State's identification rate for children with disabilities, explaining that the interview would include questions about child find procedures, as well as questions about other programs and services, such as RTI, related aids and services under Section 504, and the State's dyslexia program, that are offered by the school and/or district to serve students in need of additional supports.

Through evidence collected during the monitoring visit, OSEP staff identified situations where ISDs engaged in practices that violated the IDEA's child find requirements, particularly in situations in which districts provided supports to struggling learners in the general education environment through non-IDEA mechanisms and programs including the State's Dyslexia program. Although the students receiving these supports were suspected of having disabilities and needing special education and related services under IDEA, they were either never evaluated under IDEA or their evaluations were delayed. Through the Dyslexia program, students were often receiving specialized instruction through RTI or Section 504 services instead of being referred for a full and individual evaluation under the IDEA. Moreover, the State did not have a system reasonably designed to ensure that LEAs were complying with IDEA's Child Find and evaluation requirements when implementing the State's Dyslexia program. As a result, the Dyslexia program was being implemented and interpreted inconsistently across various LEAs. OSEP's monitoring demonstrated that, as pertained to the Dyslexia program, TEA did not ensure that all ISDs in the State properly identified, located, and evaluated all children with disabilities residing in the State who needed special education and related services, as required by 34 C.F.R.

³ Comments are available at <https://sites.ed.gov/osers/2016/11/texas-listening-sessions/>

§300.111, and consequently, failed to make FAPE available to all eligible children with disabilities residing in the State, as required by 34 C.F.R. §300.101.

OSEP issued the results of its February 2017 on-site monitoring visit, in its January 11, 2018, monitoring report⁴ and put TEA on notice of its failure to comply with the certain IDEA requirements:

1. TEA failed to ensure that all children with disabilities residing in the State who are in need of special education and related services were identified, located, and evaluated, regardless of the severity of their disability, as required by IDEA section 612(a)(3) and its implementing regulation at 34 C.F.R. § 300.111.
2. TEA failed to ensure that a free appropriate public education (FAPE) was made available to all children with disabilities residing in the State in Texas's mandated age ranges (ages 3 through 21), as required by IDEA section 612(a)(1) and its implementing regulation at 34 C.F.R. § 300.101.
3. TEA failed to fulfill its general supervisory and monitoring responsibilities as required by IDEA sections 612(a)(11) and 616(a)(1)(C), and the implementing regulations at 34 C.F.R. §§ 300.149 and 300.600, along with 20 U.S.C. 1232d(b)(3)(A), to ensure that LEAs throughout the State properly implement the IDEA child find, individual evaluation, and FAPE requirements.

In response to these findings, on April 23, 2018, TEA submitted its corrective action report (CAR) which outlined steps TEA proposed to take to address each of the areas of noncompliance that OSEP had identified in the January 11, 2018, monitoring report. OSEP responded to TEA's CAR by letter dated October 19, 2018. In that letter, OSEP required TEA to take certain additional actions to address, and demonstrate correction of, the findings of noncompliance identified in OSEP's January 11, 2018, monitoring report using the same dates previously specified by TEA. OSEP informed TEA that a follow-up visit would be conducted in 2019 to monitor TEA's implementation of the CAR. By letter dated January 9, 2019, TEA responded to OSEP's October 19, 2018, letter and provided additional information about its implementation of the CAR.

During the week of May 6, 2019, OSEP conducted an on-site follow-up visit to monitor TEA's progress toward implementation of its CAR. OSEP met with TEA staff and other education officials, including representatives from the State's Education Service Centers (ESCs) that support TEA's delivery of technical assistance to LEAs, to review TEA's CAR implementation efforts. OSEP visited six school districts and twelve schools and met with two groups of educators at each school, including general education teachers, special education teachers, and related service providers. OSEP also interviewed administrators at each school, as well as officials at each school district office. TEA and ESC staff accompanied OSEP on these visits as observers to provide TEA and ESC an opportunity to: (1) identify district/LEA training needs; and (2) facilitate follow up in a timely manner if noncompliant policies, procedures, or practices

⁴ A copy of OSEP's January 11, 2018, monitoring report is available at <https://www2.ed.gov/fund/data/report/idea/dmsrpts/index.html>

were discovered during OSEP’s visit.

On October 19, 2020 (2020 monitoring report), OSEP issued a report of the results of its May 2019 on-site monitoring of TEA’s implementation of its CAR. This report also reflected communications between OSEP and TEA and additional ongoing input that OSEP has received from stakeholders. In the 2020 monitoring report, OSEP concluded that TEA had implemented only one of the items included in its April 23, 2018 CAR and had failed to implement the additional required actions specified in OSEP’s October 19, 2018 response to the CAR, although TEA reported to OSEP on October 5, 2020 that the State had completed all actions outlined in its CAR. In response to OSEP’s 2020 monitoring report, TEA submitted numerous documents seeking to demonstrate that it had fully corrected the findings of noncompliance.⁵

On August 27, 2021, OSEP issued its analysis of TEA’s document submissions (2021 response). OSEP’s analysis identified: (a) each specific CAR item; (b) the documents that TEA submitted in response to OSEP’s required actions contained in the October 19, 2020, monitoring report; (c) OSEP’s analysis of TEA’s document submissions; and, (d) the required actions/next steps that TEA must take to address the continuing noncompliance. Additionally, on September 9, 2021, TEA sought clarification regarding specific CAR required actions in its Response Table Work Page. On September 16, 2021, OSEP responded to TEA’s request in which OSEP: (1) answered TEA’s questions regarding TEAs proposed actions; (2) further clarified the required actions/next steps required to address the noncompliance; and (3) reiterated specific CAR items that represent longstanding noncompliance.

As explained in OSEP’s 2021 response, despite TEA’s extensive and multiple document submissions, OSEP determined that TEA had not taken the necessary actions to correct all of the previously identified noncompliance. Specifically, TEA did not satisfy: (1) many of the actions that TEA had committed to in its April 23, 2018 CAR to address the findings of noncompliance contained in OSEP’s January 11, 2018 monitoring report; (2) some of the required actions contained in OSEP’s letter dated October 19, 2018 responding to some aspects of TEA’s April 23, 2018 CAR; and (3) some of the required actions in OSEP’s 2020 monitoring report, summarizing the results of its May 2019 on-site monitoring visit regarding TEA’s implementation of its CAR. In its 2021 response OSEP requested that TEA provide the required additional documentation specified in OSEP’s 2021 response as soon as possible, but no later than 30 days from the date of that letter (i.e., by September 27, 2021. Additionally, OSEP informed TEA that the State’s failure to take all the required actions necessary to address the longstanding noncompliance could result in the imposition of Specific Conditions on TEA’s FFY 2021 IDEA Part B grant award and could affect OSEP’s 2022 determination of the State’s annual performance under section 616(d) of IDEA. On September 24, 2021, TEA requested an extension to provide certain information related to LEA assurances. OSEP accepted TEA’s extension request and required that the relevant information be submitted no later than October 28, 2021.

On September 28, 2021, TEA submitted documentation to show its progress in complying with the required actions stated in OSEP’s August 27, 2021, letter. Based on an analysis of the information submitted, OSEP finds that the State has not satisfied the requirements set forth in

⁵ Specifically, TEA submitted documents to OSEP on October 22, 2020; October 27, 2020; November 1, 2020; November 19, 2020; December 3, 2020; and December 12, 2020. TEA also participated in telephone calls with OSEP on October 21, 2020; November 16, 2020; and November 19, 2020.

the August response letter for the CAR items related to the Dyslexia program and Dyslexia monitoring (CAR items 1.c, 3.a, and 4.a.1). Specifically, with regards to Dyslexia monitoring, the Dyslexia Program Evaluation, submitted by TEA, does not contain any elements related to a detailed description of the process TEA uses to identify LEA noncompliance, and documentation of the specific actions TEA agreed upon or required noncompliant LEAs to take to timely correct findings of noncompliance regarding child find, individual evaluations, and the provision of FAPE consistent with 20 U.S.C. §§ 1232d(b)(3)(E), 1412(a)(11) and 1416(a), 34 C.F.R. § 300.600(e), and OSEP Memorandum 09-02 dated October 15, 2008.

Additionally, the documentation submitted does not demonstrate effective monitoring under the IDEA general supervision and monitoring, child find, and initial evaluation requirements. For example, the Dyslexia Monitoring Overview document highlights the use of the screeners to identify children “Who are at risk of requiring dyslexia intervention and those who have no or low risk.” IDEA recognizes dyslexia as a condition that qualifies a child as having a specific learning disability, as defined in 34 C.F.R. § 300.8(c)(10) and sets out the specific actions that LEAs must take to evaluate such children. This means that children “requiring dyslexia intervention” are also entitled to a full IDEA evaluation consistent with IDEA’s child find requirements in 34 C.F.R. § 300.111, the evaluation requirements in 34 C.F.R. § 300.122, and FAPE requirements in 34 C.F.R. § 300.101. TEA also submitted its Dyslexia Program Evaluation Rubric, which is a tool used to “Monitor LEAs to ensure that districts are complying with the requirement, including the screening program approved by the State Board of Education (SBOE), and develop reasonable and appropriate remedial strategies to address LEA noncompliance.” This tool does not monitor the dyslexia program to ensure that the program is implemented consistent with the IDEA’s child find, evaluation, and FAPE requirements. For example, under the External Dyslexia Program Evaluation Rubric: “(1) Notifications are given to parents of students determined to be at risk for dyslexia or other related disorder based on screening; (2) Parents are notified of the ability to borrow audiobooks through the Texas State Library and Archives Commission for students at risk for dyslexia or other reading disabilities, and (3) Parents are provided a copy or link to the Dyslexia Handbook when a student is suspected to have dyslexia or a related disorder. The IDEA regulations, on the other hand, set out the specific actions that LEAs must take to evaluate such children suspected of having a disability, (including dyslexia as a condition that qualifies a child as having a specific learning disability, as defined in 34 C.F.R. § 300.8(c)(10)) including the IDEA general supervision, and monitoring, child find and initial evaluation requirements. In addition to the IDEA requirements for general supervision, child find and initial evaluation, 20 USC 1232d(b)(3)(A), GEPA section; 2 C.F.R. 200.332(d); and 2 C.F.R. 200.332(d)(2) set out monitoring requirements for pass-through entities, which the monitoring protocols do not address.

OSEP has reviewed and analyzed TEA’s other document submissions and has included its responses in Enclosure B.

While OSEP recognizes the efforts TEA has made toward achieving compliance with critical IDEA requirements related to child find, ensuring the provision of FAPE, and meeting its State general supervision responsibility, some actions and changes that the State is currently planning related to the Dyslexia program and the related monitoring protocols will not be finalized or

implemented for at least several months after OSEP’s requested deadline or by the extended deadline requested by TEA. Based on this, OSEP has determined that the imposition of Specific Conditions on the State’s IDEA Part B grant award for FFY 2021 is warranted at this time. The Specific Conditions are set forth below.

II. Specific Conditions

These Specific Conditions are imposed on the State’s Federal fiscal year (FFY) 2021 IDEA grant awards pursuant to IDEA sections 603 and 616(g) and 2 C.F.R. §200.208, by the U.S. Department of Education’s (Department’s) OSEP. They are intended to ensure that the State corrects its longstanding noncompliance with ensuring that the Dyslexia program is implemented and monitored consistent with IDEA’s FAPE, Child Find and evaluation requirements, as discussed in further detail below. TEA indicated that compliance with the required actions related to dissemination, implementation, and review of its revised Dyslexia program, namely: publishing information about, and implementing the program consistent with new State guidelines; finalizing and implementing a Dyslexia monitoring system that aligns with IDEA requirements; and, compiling and sharing the results of the State’s Dyslexia monitoring with OSEP, are still many months into the future.

A. Required Reporting on Areas of Longstanding Noncompliance: TEA must provide additional information and reporting in the areas of longstanding noncompliance, as described below.

TEA must demonstrate that its Dyslexia Handbook and program are being implemented, disseminated, and monitored in compliance with the general supervision and monitoring responsibilities as required by IDEA sections 612(a)(11) and 616(a)(1)(C), and their implementing regulations at 34 C.F.R. §§ 300.149 and 300.600, along with 20 U.S.C. 1232d(b)(3)(A), to ensure that LEAs throughout the State properly implement IDEA’s child find, evaluation, and FAPE requirements. 34 C.F.R. §§ 300.111, 300.122, and 300.300-300.311. TEA must also demonstrate that its Dyslexia Handbook and program are implemented in compliance with IDEA requirements to ensure that FAPE is made available to all children with disabilities residing in the State’s mandated age ranges (ages 3 through 21), as required by IDEA section 612(a)(1) and its implementing regulation at 34 C.F.R. § 300.101.

i. Required initial reporting:

On November 1, 2021, the State must submit to OSEP the following information:

1. A plan to disseminate the revised Dyslexia Handbook and to communicate the changes in the revised Dyslexia Handbook to parents and stakeholders.
2. A plan to provide training to LEAs throughout the State regarding the changes in the revised Dyslexia Handbook.
3. Provide OSEP with any other relevant information relevant to activities the State has completed or is planning related to the Dyslexia Handbook and to revisions to its monitoring protocols of IDEA requirements for the Dyslexia program.

ii. Required reporting on progress: The State must provide periodic updates on the status of the revised Dyslexia Handbook; the development and implementation of revised

monitoring protocols for the Dyslexia program that address the relevant IDEA requirements; and the status of monitoring of ISDs utilizing the revised Dyslexia monitoring protocols. The reporting period for each progress report is reflected below:

Due Date	Reporting Period
December 15, 2021	October 1, 2021 – November 30, 2021
February 15, 2022	December 1, 2021 – January 31, 2022
April 15, 2022	February 1, 2022 – March 31, 2022
June 15, 2022	April 1, 2022 – May 31, 2022

In each progress report, the State must submit the following information:

1. Progress on the State’s dissemination and communication plan to inform parents and stakeholders of the changes made in the revised Dyslexia Handbook.
2. Progress on, or the submission of, the revised monitoring protocols for the Dyslexia program and IDEA requirements, to ensure that the implementation of the State’s Dyslexia program does not deny or delay IDEA evaluations and the provision of FAPE to eligible children with disabilities.
3. All monitoring reports, if any, that reflect TEA’s implementation of its revised monitoring protocols related to the Dyslexia Handbook and program.
4. Reports, letters, or other communications to LEAs that address and/or require the correction of IDEA noncompliance in the areas of child find, individualized evaluations, and the provision of FAPE in accordance with 20 U.S.C. §§ 1412(a)(11) and 1416(a) and 34 C.F.R. §§ 300.149 and 300.600, 20 U.S.C. § 1232d(b)(3)(E) and 34 C.F.R. § 300.600(e), and OSEP Memorandum 09-02.
5. Documentation, information, or communications related to any and all LEAs that have corrected IDEA noncompliance identified under the revised monitoring protocols.

IV. Evidence Necessary for Specific Conditions to be Removed

These Specific Conditions require TEA to submit information, data, and documentation, as outlined above, demonstrating that the State’s Dyslexia Handbook and program are being implemented, disseminated, and monitored consistent with IDEA’s: (1) Child Find and individualized evaluation requirements; (2) FAPE requirements; and (3) general supervision requirements applicable to States, including proper identification and correction of noncompliance.

The Department will remove these Specific Conditions if, at any time prior to the expiration of the FFY 2021 grant year, the State provides documentation, satisfactory to the Department, that it has fully met the requirements and conditions set forth above.

V. Method of Requesting Reconsideration

The State can write to OSEP’s Acting Director, David Cantrell, PhD, if it wishes the Department to reconsider any aspect of the Specific Conditions. The request must describe in detail the changes to the Specific Conditions sought by the State and the

reasons for those requested changes.

VI. Submission of Reports

The Commissioner of Education or other authorized official of Texas shall certify the completeness and accuracy of each report. TEA must submit all reports required under these Specific Conditions by email to: Jennifer.Finch@ed.gov.

Jennifer Finch
U.S. Department of Education
Office of Special Education and Rehabilitative Services
Office of Special Education Programs – MSIP
550 12th Street, S.W., Room 5171
Washington, D.C. 20202

Enclosure B

OSEP Analysis of Texas Education Agency Outstanding Corrective Action Response Items

On September 28, 2021, TEA submitted documentation required by OSEP's August 27, 2021 letter (August letter) and September 16, 2021 (September Letter).

- I. The required actions *CAR 1.a. Communicating Child Find and FAPE Requirements and Obligations Under IDEA to All LEAs* are set forth in the August and September letters and are incorporated herein by reference.

In response to *CAR 1.a*, TEA submitted the following links: (1) Senate Bill 138 of the 86th Texas legislature; (2) TEA website for information regarding IDEA, MTSS, Dyslexia and Section 504; and (3) Compensatory Services Information for Families. TEA proposed to select a representative sample of LEAs to review and provide OSEP with an assurance of compliance by October 31, 2021.

OSEP Response: OSEP accepts TEA's proposed next steps and looks forward to the State's submission to satisfy this required item with one caveat. Regarding the representative sample, TEA must conduct a review and ensure that the sample is representative, reasonable, and statistically sound. As OSEP had mentioned previously, a sample size of 25 is not appropriate.

- II. The required actions for *CAR 1.b. Ensuring All LEAs Have Policies, Procedures, and Programs that Meet IDEA's Child Find and FAPE Requirements*, are set forth in the August and September letters and are incorporated herein by reference.

In addressing *CAR 1.b.*, TEA submitted the following links: (1) Published Errata, adding the required assurance to the FFY 2021 IDEA Part B Grant applications for LEAs; (2) Grants Opportunities section of the TEA website; and (3) Legal Framework website for which LEAs will confirm that they have in place local policies, procedures, and programs that are consistent with IDEA's child find requirements in 34 C.F.R. § 300.111, the evaluation requirements in 34 C.F.R. § 300.122, and FAPE requirements in 34 C.F.R. § 300.101. TEA proposed to provide OSEP an assurance of compliance by October 31, 2021. Additionally, TEA will provide copies of the revised FFY 2022 LEA applications demonstrating that TEA requires each LEA to submit appropriate assurances of compliance with all applicable IDEA requirements related to child find, individual evaluations, and FAPE, as required by 34 C.F.R. §§ 300.200-300.201, specifically, 34 C.F.R. §§ 300.111 (child find), 300.122 (evaluation), and 300.101 (free appropriate public education).

OSEP Response: OSEP accepts TEA's proposed next steps and looks forward to the State's submission to satisfy this required item.

- III. The required actions for *CAR 1.c. Revising Monitoring and Document Review Requirements to Ensure Appropriate General Supervision of LEA's Implementation of Child Find and FAPE*, are set forth in the August and September letters and are incorporated herein by reference.

In response to *CAR 1.c. Revising Monitoring and Document Review Requirements to Ensure Appropriate General Supervision of LEA's Implementation of Child Find and FAPE*, TEA submitted the following links: (1) Dyslexia Program Evaluation, (2)

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Dyslexia Monitoring Overview, (3) Dyslexia Monitoring One Pager; and (4) Dyslexia Parent Survey Questions.

OSEP Response: Based on an analysis of the submitted information, OSEP finds that the State has not satisfied the requirements set forth in the August and September letters and is imposing Specific Conditions. This is discussed further in Enclosure A.

- IV. The required actions for *CAR 2.a. Requiring All LEAs to Distribute Information to Each Student's Family*, are set forth in the August and September letters and are incorporated herein by reference.

In response to *CAR 2.a.* the State submitted documentation to OSEP that it has completed the required actions referenced above in *CAR 1.a.*

OSEP Response: See the response to *CAR 1.a.* above.

- V. The required actions for *CAR 2.b. Providing Guidance and Information Regarding LEA's Legal Responsibilities Under State and Federal Law*, are set forth in the August and September letters and are incorporated herein by reference.

Under *CAR 2.b.*, the State submitted their Delayed or Denied Evaluation Compensatory Education, Information for ARD Committees in draft form.

OSEP Response: TEA has provided the required information as a draft. After the document is finalized and distributed TEA must submit an assurance or other documentation that the final document is in effect and widely disseminated.

- VI. The required actions for *CAR 2.c. Requiring LEAs to Collect and Retain Data on Requests for Evaluations and Outcomes of Those Request*, are set forth in the August and September letters and are incorporated herein by reference.

In response to *CAR 2.c.*, the State submitted additional child find data for years 2019-2020 and 2020-2021 as well as a summary of actions taken thus far and actions that will be taken in the future.

OSEP Response: OSEP has determined that the TEA has provided the required information, and no further action is required.

- VII. The required actions for *CAR 3.a Facilitating a Process to Revise the State's Dyslexia Handbook* are set forth in the August and September letters and are incorporated herein by reference.

In response to *CAR 3.a*, the State submitted the following documents: A letter to administrators, Technical Assistance: 504, Technical Assistance: Child Find and Evaluation, Dyslexia Fact Sheet for Families, August 2019 Special Education Newsletter, Dyslexia, Dysgraphia, and Dyscalculia in the IEP, Administrator Addressed letter June 2018, Dyslexia: A TEA Professional Learning Course, Special Education Referral for an Initial Evaluation Process, Triangulating Data in the FIE: Telling the Student's Story, Training video titled Increasing Support for Special Education Improving Reading

Outcomes, and the Dyslexia Allotment, Dyslexia and Related Disorders in the IEP, Evaluating Dysgraphia in the FIE, Dyslexia Program Evaluation, Dyslexia Monitoring Overview, Dyslexia Monitoring One Pager, and additionally, TEA informed all LEAs of the upcoming changes to the Dyslexia Handbook by sending the To the Administrator Addressed Letter, posted September 23 as well as a link to a webinar conducted on September 23, 2021 which included information related to the upcoming changes.

OSEP Response: Based on our analysis of the submitted information, OSEP finds that the State has not satisfied the requirements set forth in the August and September letters and is imposing Specific Conditions. This is discussed further in Enclosure A.

- VIII. The required actions for *CAR 3.c. Creating a Suite of Information to Share with Parents of Children Suspected of Having a Disability under IDEA* are set forth in the August and September letters and are incorporated herein by reference.

In response to 3.c, the State referenced the documentation described above in *CAR 1.a.*

OSEP Response: TEA has provided the required information, and no further action is required.

- IX. The required actions for *CAR 4.a.1., TEA Restructuring of Agency Oversight with Increased Capacity and Monitoring Expertise* are set forth in the August and September letters and are incorporated herein by reference.

In response to *CAR 4.a.1.*, the State submitted: (1) Dyslexia Monitoring Overview; (2) Dyslexia Performance Plan; and (3) Dyslexia Performance Plan Quick Reference.

OSEP Response: Based on our analysis of the submitted information, OSEP finds that the State has not satisfied the requirements set forth in the August and September letters and is imposing Specific Conditions. This is discussed further in Enclosure A.

- X. The required actions for *CAR 4.a.2. Capacity and System to Identify and Correct noncompliance by all LEAs IDEA Requirements in a Timely Manner* are set forth in the August and September letters and are incorporated herein by reference.

In response to *CAR 4.a.*, the State explained that “TEA does not aggregate noncompliance data specifically as requested by OSEP to account for all instances of noncompliance, including instances of noncompliance identified through the Differentiated Monitoring and Support (DMS) system and data collected through the State’s data system. Therefore, the requested data will take some time to compile. The Department of Review and Support will submit the requested reports by the end of October 2021.”

OSEP Response: OSEP accepts TEA’s proposed next steps and looks forward to the State’s submission to satisfy this required item.