



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

JANUARY 19, 2017

Honorable Mike Morath
Commissioner
Texas Education Agency
1701 N. Congress Ave
Austin, Texas 78701

Dear Commissioner Morath:

This letter is a follow-up to the U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) recent visit to Texas, regarding serious concerns about Texas's declining identification rate for students found eligible as children with disabilities under the Individuals with Disabilities Education Act (IDEA). Specifically, as discussed in our October 3, 2016 letter to you, OSERS is concerned that the use of Indicator 10 in the Texas Education Agency's (TEA) Performance Based Monitoring Analysis System (PBMAS) has resulted in districts' failure to identify, locate and evaluate all children suspected of having a disability who are in need of special education and related services.

We appreciate TEA's November 2, 2016 response to our October 3, 2016 letter. We are in the process of reviewing the letter as well as the additional attachments included with the letter. We also want to thank you for meeting with us on December 15, 2016 during our visit to Austin and for sharing your views on how to improve outcomes for students with disabilities in Texas. TEA coordinated the five listening sessions held in Texas the week of December 12, 2016, which we appreciated. We noted an extremely high level of interest in the listening sessions and a high number of individuals who chose to make statements during the sessions. OSERS also set up a blog on the Department's website to provide additional opportunity for members of the public to comment on the issue. The blog was open for comments for one month -- from December 5, 2016 through January 6, 2017 -- and we received 421 individual comments during this time. A majority of the comments we received, both during the listening sessions and through the blog, raised serious concerns about the State's compliance with the child find requirements under section 612(a)(3) of IDEA and the requirement under section 612(a)(1) of IDEA to make a free appropriate public education available to all eligible children with disabilities residing in the State.

As we mentioned during our December 15, 2016 meeting with you and members of your staff, OSERS plans to return to Texas to conduct site visits in selected districts. The purpose of these

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visits is to collect district-level and school-level data on referral, child find and evaluation procedures and practices. We anticipate that we will collect and examine State-level, district-level, school-level, and child-specific data, as well as policies and procedures, in order to conduct our review of these practices. We will also interview selected staff involved with the referral, child find and evaluation processes in districts we select.

In addition, we will be requesting certain documents in connection with this matter. We have determined that the most efficient way to make our document request is to first examine documents for a sample district to familiarize ourselves with specific State, district and school procedures and practices. This will help us to identify the documents that will be particularly helpful to us. After we have completed that review for a sample district, we will make a document request for all of the districts selected for visits. We intend to review those documents prior to our site visit to Texas. Our plan is to conduct the on-site visit during the week of February 27, 2017. We will be in contact with your staff within the next two weeks regarding the provision of needed documents and making arrangements for the district visits.

Finally, we will need to schedule time with TEA staff to conduct interviews. We anticipate that the interviews will focus on TEA's oversight of district special education programs, specifically issues regarding referral, child find and evaluation of students suspected of having disabilities. We will also want to interview TEA staff involved with complaints, due process hearings, and technical assistance and guidance documents related to our area of inquiry.

We appreciate your support as we conduct this review. Please feel free to contact me at any time should you have questions about our plans to visit Texas.

Sincerely,

/s/

Ruth E. Ryder

Acting Director

Office of Special Education Programs