Delaware Department of Education

DEPARTMENT OF EDUCATION

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June 15, 2015

Mr. Edward Emmett
Positive Outcomes Charter School
3337 South DuPont Highway
Camden, DE 19934

RE: LEA Determination Under the Individuals With Disabilities Education Act (IDEA)

Dear Mr. Emmett:

Under the IDEA, the Department is required to review the performance of local education agencies (LEAs) on the targets identified in the State's Performance Plan (SPP) and make annual determinations on LEA performance.

As discussed in the November Chiefs' meeting, the federal Office of Special Education Programs (OSEP) has broadened their focus from holding states accountable for compliance indicators only to now holding states accountable for both compliance and results indicators. Beginning this spring, LEAs are receiving their annual determination based on a combination of the following compliance and results indicators:

- **Compliance:**
  - Indicator 4b — Significant Discrepancy, by Race or Ethnicity, in the rate of Suspensions and Expulsions of greater than 10 days in a school year and policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements
  - Indicators 9 & 10 — Disproportionate Representation related to Identification
  - Indicator 11 — Timely Evaluations
  - Indicator 12 — Early Childhood Transition from Part C/preschool special education services to Part B/school-age special education services
  - Indicator 13 — Transition Planning in the IEP
  - Other — Equitable Services, Needs-Based Funding, Fiscal Monitoring
  - Other — Corrective Action as a result of an Administrative Complaint or Due Process
- **Results:**
  - Indicator 3b — Participation in the State Assessment
  - Indicator 3c — Proficiency on the State Assessment
  - Indicator 4a — Significant Discrepancy in the rates of long-term Suspension of Students with Disabilities
  - Indicator 7 — Early Childhood Outcomes

Based on information from OSEP, Indicator 1/Graduation Rate will be added next year.

As a result of the review of your LEA's data, the Department has determined your LEA **NEEDS INTERVENTION** in implementing the regulations of the IDEA.

Attached, please find an overview of the "IDEA General Supervision & Reporting Requirements" along with an explanation of how your LEA's determination was calculated. The response table provides the Department's analysis of the reported data, and identifies, by indicator, the LEA's status in meeting its targets.

Exceptional Children Resources staff will be in contact with you to discuss next steps including the development of a **Corrective Action Plan**. In the interim, please do not hesitate to contact me by phone at (302) 735-4210, or by e-mail maryann.mieczkowski@doe.k12.de.us.

Sincerely,

Mary Ann Mieczkowski
Director, Exceptional Children Resources

Sincerely,

Michael Watson
Chief Academic Officer

MAM:BJM/bd
Attachment

cc: Mark T. Murphy, Secretary of Education
Penny Schwinn, Chief Accountability Officer
Katherine Villari, Chief Performance Officer
Ryan Reyna, Director , Office of Accountability
Dave Rose, Special Education Director, Positive Outcomes
Jennifer Nagourney, Director, Charter School Office
Barbara Mazza, Education Associate, Exceptional Children Resources
Maria N. Locuniak, PhD., NCSP, Education Associate, Exceptional Children Resources
Dale Matusevich, Education Associate, Exceptional Children Resources

IDEA General Supervision & Reporting Requirements

The Department's General Monitoring Duties Under the IDEA

By way of background, the IDEA requires the Department to monitor the implementation of Part B of the IDEA in the LEAs throughout the State. In addition, the Department is required to annually report to the public on the performance of the State and each LEA. The Department's monitoring activities must primarily focus on: (1) improving educational results and functional outcomes for all children with disabilities and (2) ensuring that public agencies meet the program requirements of Part B, with a particular emphasis on the requirements most closely related to improving educational results for children with disabilities. The Department is responsible for monitoring LEAs using quantifiable indicators in certain priority areas and for using qualitative indicators to allow an adequate measure of performance in each area. IDEA regulations outline the three priority areas as: (1) the provision of FAPE in the least restrictive environment, (2) the State's exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services, and (3) disproportionate representation of racial and ethnic groups in special education and related services to the extent such representation is the result of inappropriate identification.

The State Performance Plan and Annual Performance Reports

The IDEA further requires the State to have a performance plan in place that evaluates the State's efforts to implement the requirements and purposes of Part B of the IDEA and describes how the State will improve the implementation of Part B. As part of its State Performance Plan (SPP), the State must establish measurable and rigorous targets for various indicators under the three priority areas mentioned above. The SPP currently has seventeen indicators and the State must report annually to the U.S. Department of Education on the performance of the State under the SPP.

In addition to its federal submission, the Department is responsible for reporting annually to the public on the performance of each LEA located within the State on the targets described in the SPP. On an annual basis, each LEA must use the targets established in the SPP and the three priority areas mentioned above, to analyze and report on its local performance to the Department. In turn, the Department will review the LEA's performance and assign a determination level.

Based on the Department's analysis of data provided by each LEA and information obtained through audits, monitoring visits, administrative complaints, due process proceedings, and any other publicly available information, the Department assigns one of the following determination levels: Meets the Requirements and purposes of IDEA, Needs Assistance in implementing the requirements of IDEA, Needs Intervention in implementing the requirements of IDEA, or Needs Substantial Intervention in implementing the requirements of IDEA.

Federal and state regulations addressing the SPP, APR, and the LEA's reporting obligations can be found at 34 C.F.R. §§ 300.600-602, 646 and 14 DE Admin Code §§ 927.1.0 through 8.0, and §§ 40.0 through 46.0.

FFY 2013 LEA Annual Determinations

FFY 2013 determinations were made based on a combination of the following compliance and results indicators:

- **Compliance:**
  - Indicator 4b — Significant Discrepancy, by Race or Ethnicity, in the rate of Suspensions and Expulsions of greater than 10 days in a school year and policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements
  - Indicators 9 & 10 — Disproportionate Representation related to Identification
  - Indicator 11 — Timely Evaluations
  - Indicator 12 — Early Childhood Transition from Part C/preschool special education services to Part B/school-age special education services
  - Indicator 13 — Transition Planning in the IEP
  - Other — Equitable Services, Needs-Based Funding, Fiscal Monitoring
  - Other — Corrective Action as a result of an Administrative Complaint or Due Process
- **Results:**
  - Indicator 3b — Participation in the State Assessment
  - Indicator 3c — Proficiency on the State Assessment
  - Indicator 4a — Significant Discrepancy in the rates of long-term Suspension of Students with Disabilities
  - Indicator 7 — Early Childhood Outcomes

Meets Requirements	=	≥ 80% (compliance and results combined)	and	If monitored on-site, LEA is engaged in Prong 1 or Prong 2		
Needs Assistance	=	60% to 79% (compliance and results combined)	and/or	LEA is engaged in a Corrective Action Plan related to any compliance indicator(s)/issues or does not meet targets for results	and/or	Outstanding Noncompliance from On-Site Monitoring (beyond 1 year)
Needs Intervention	=	≤ 59% (compliance and results combined)	and/or	LEA is engaged in an Intervention Plan or Compliance Agreement related to any compliance indicator(s)/issues or does not meet targets for results	and/or	Outstanding Noncompliance from On-Site Monitoring (beyond 2 years)
Needs Significant Intervention	Phase in Spring, 2016					

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Compliance Indicators	Data From: (Time Period)	SPP Target 2013 - 2014	State Data	LEA Data	LEA Score	Possible Points
Indicator 4B: Significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year and policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements. Note - The LEA score is the Rate Ratio which for FFY 2012 had a target of 1.26	2012 - 2013 SY	0.00%	12.82%	Met targets for all races/ ethnicities	1	1
Indicator 9: Disproportionality/All Disabilities	12/1/13	0.00%	4.65%	Met target	1	1
Indicator 10: Disproportionality/Specific Disabilities	12/1/13	0.00%	4.65%	Did not meet target	0	1
Indicator 11: Initial Evaluation Timelines	2013 - 2014 SY	100.00%	99.79%	N/A	N/A	N/A
Indicator 12: Preschool Transition Part C to Part B	2013 - 2014 SY	100.00%	97.00%	N/A	N/A	N/A
Indicator 13: Secondary Transition (LEA - actual percentage)	2013 - 2014 SY	100%	48.43%	80.00%	0	1
Equitable Services/Needs-Based Funding/Fiscal Monitoring					1	1

Results Indicators	Data From: (Time Period)	SPP Target 2013 - 2014	State Data	LEA Data	LEA Score	Possible Points
Indicator 3B Participation Math	Spring, 2014					
Grade 3		95.00%	98.60%	N/A	N/A	N/A
Grade 4		95.00%	98.78%	N/A	N/A	N/A
Grade 5		95.00%	98.76%	N/A	N/A	N/A
Grade 6		95.00%	97.69%	N/A	N/A	N/A
Grade 7		95.00%	97.43%	100.00%	1	1
Grade 8		95.00%	97.78%	100.00%	1	1
Grade 10		95.00%	92.45%	94.74%	0	1
Indicator 3B Participation Reading						
Grade 3		95.00%	96.22%	N/A	N/A	N/A
Grade 4		95.00%	96.60%	N/A	N/A	N/A
Grade 5		95.00%	96.70%	N/A	N/A	N/A
Grade 6		95.00%	96.33%	N/A	N/A	N/A
Grade 7		95.00%	96.41%	100.00%	1	1
Grade 8		95.00%	96.87%	90.00%	0	1
Grade 10		95.00%	90.10%	89.47%	0	1
Indicator 3C Performance Rate Math						
Grade 3		41.80%	36.69%	N/A	N/A	N/A
Grade 4		41.80%	37.00%	N/A	N/A	N/A
Grade 5		41.80%	33.08%	N/A	N/A	N/A
Grade 6		41.80%	23.21%	N/A	N/A	N/A
Grade 7		41.80%	27.61%	12.50%	0	1
Grade 8		41.80%	27.73%	10.00%	0	1
Grade 10		41.80%	30.96%	44.44%	1	1

Positive Outcomes Charter School

Results Indicators	Data From: (Time Period)	SPP Target 2013 - 2014	State Data	LEA Data	LEA Score	Possible Points
Indicator 3C Performance Rate Reading	Spring, 2014					
Grade 3		41.40%	33.87%	N/A	N/A	N/A
Grade 4		41.40%	36.45%	N/A	N/A	N/A
Grade 5		41.40%	38.91%	N/A	N/A	N/A
Grade 6		41.40%	30.32%	N/A	N/A	N/A
Grade 7		41.40%	30.04%	25.00%	0	1
Grade 8		41.40%	29.29%	33.33%	0	1
Grade 10		41.40%	34.56%	58.82%	1	1
Indicator 4A: Significant Discrepancy in the rates of long-term suspension of students with disabilities Note - The LEA score is the Rate Ratio which for FFY 2012 had a target of 1.26	2012 - 2013 SY	0.00%	2.56%	Met target	1	1
Indicator 7A: Early Childhood Outcomes - Social/Emotional	June, 2014					
Percent Increase Rate of Growth		85.20%	86.41%	N/A	N/A	N/A
Percent Within Age Expectation		54.20%	48.81%	N/A	N/A	N/A
Indicator 7B: Early Childhood Outcomes - Knowledge						
Percent Increase Rate of Growth		87.30%	86.63%	N/A	N/A	N/A
Percent Within Age Expectation		49.80%	45.39%	N/A	N/A	N/A
Indicator 7C: Early Childhood Outcomes - Behavior						
Percent Increase Rate of Growth		87.30%	85.60%	N/A	N/A	N/A
Percent Within Age Expectation		65.00%	61.51%	N/A	N/A	N/A

Determination Summary	
Compliance Indicators Score	3
Out of a Possible:	5
Results Indicators Score	6
Out of a Possible:	13
Score Total	9
Out of a Possible:	18
Percentage:	50.0%

Annual Determination: Needs Intervention

District Progress on State Performance Plan Indicators for Students with Disabilities - FFY 2013

Positive Outcomes

Indicator 1 - Graduation Rates

Indicator	School Year	Graduates	Dropouts	Graduation Rate	Target	Met Target?
1	2012			100.00%	87.00%	Yes
1	2013			100.00%	87.00%	Yes
1	2014			100.00%	63.00%	Yes

Indicator 2 - Dropout Rates

Indicator	School Year	Enrollment	DropOuts	Dropout Rate	Target	Met Target?
2	2012	47		2.13%	3.80%	Yes
2	2013				3.80%	
		NCES data was not reported for this LEA for this FFY.				
2	2014	59		0.00%	5.50%	Yes

Indicator 3 - Performance on AYP

Indicator	School Year	School Level	Meets Reading Target?	Meets Math Target?	Meets AYP Target?
3A	2013	All			
		AYP was not calculated for this LEA in FFY 2012.			
3A	2014	All			
		AYP was not calculated for this LEA in FFY 2013.			

Indicator 3B - Participation in State Assessments

Indicator	School Year	Grade	Subject	# Eligible	# Tested	% Tested	Target	Met Target?
3B	2012	7	Math			91.67%	98.3%	No
3B	2013	7	Math			100.00%	98.3%	Yes
3B	2014	7	Math			100.00%	95.0%	Yes

District Progress on State Performance Plan Indicators for Students with Disabilities - FFY 2013

Positive Outcomes

Indicator	School Year	Grade	Subject	# Eligible	# Tested	% Tested	Target	Met Target?
3B	2012	8	Math	15	15	100.00%	97.4%	Yes
3B	2013	8	Math	15	15	100.00%	97.4%	Yes
3B	2014	8	Math			100.00%	95.0%	Yes
3B	2012	10	Math			100.00%	95.4%	Yes
3B	2013	10	Math			100.00%	95.4%	Yes
3B	2014	10	Math	19	18	94.74%	95.0%	No
3B	2012	7	Reading			91.67%	98.2%	No
3B	2013	7	Reading			100.00%	98.2%	Yes
3B	2014	7	Reading			100.00%	95.0%	Yes
3B	2012	8	Reading	15	15	100.00%	97.6%	Yes
3B	2013	8	Reading	15	15	100.00%	97.6%	Yes
3B	2014	8	Reading			90.00%	95.0%	No
3B	2012	10	Reading			100.00%	95.8%	Yes
3B	2013	10	Reading			100.00%	95.8%	Yes
3B	2014	10	Reading	19	17	89.47%	95.0%	No

Indicator 3C - Performance on State Assessments

Indicator	School Year	Grade	Subject	# Tested	# Meets	% Meets	Target	Met Target?

District Progress on State Performance Plan Indicators for Students with Disabilities - FFY 2013

Positive Outcomes

Indicator	School Year	Grade	Subject	# Tested	# Meets	% Meets	Target	Met Target?
3C	2012	7	Math			36.36%	36.00%	Yes
3C	2013	7	Math			12.50%	41.80%	No
3C	2014	7	Math			12.50%	41.80%	No
3C	2012	8	Math	15		40.00%	36.00%	Yes
3C	2013	8	Math	15		33.33%	41.80%	No
3C	2014	8	Math			10.00%	41.80%	No
3C	2012	10	Math			20.00%	36.00%	No
3C	2013	10	Math			8.33%	41.80%	No
3C	2014	10	Math	18		44.44%	41.80%	Yes
3C	2012	7	Reading			36.36%	35.60%	Yes
3C	2013	7	Reading			50.00%	41.40%	Yes
3C	2014	7	Reading			25.00%	41.40%	No
3C	2012	8	Reading	15		46.67%	35.60%	Yes
3C	2013	8	Reading	15		40.00%	41.40%	No
3C	2014	8	Reading			33.33%	41.40%	No
3C	2012	10	Reading			30.00%	35.60%	No

District Progress on State Performance Plan Indicators for Students with Disabilities - FFY 2013

Positive Outcomes

Indicator	School Year	Grade	Subject	# Tested	# Meets	% Meets	Target	Met Target?
3C	2013	10	Reading			33.33%	41.40%	No
3C	2014	10	Reading	17		58.82%	41.40%	Yes

Indicator 4A - Disproportionality in Students Suspended > 10 Days

Indicator	SY	Spec Ed Enroll	Reg Ed Enroll	Spec Ed Suspend	RegEd Suspend	Met Target?	Rate Ratio
4A	2013	3	46	0	2	Yes	0

For FFY 2013 a Rate Ratio over 1.26 with cell size over 15 will trigger.

Indicator 4B- Disproportionality in Students Suspended > 10 Days by Race/Ethnicity

Indicator	School Year	Race	Special Ed Enrolled	Spec Ed Suspend>10 days	Rate Ratio	Target	Met Target?
4B	2013	Afr.American	25		0.00	1.26	Yes
4B	2013	AI/AK			0.00	1.26	Yes
4B	2013	Asian			0.00	1.26	Yes
4B	2013	Hispanic			0.00	1.26	Yes
4B	2013	Multi.Racial			0.00	1.26	Yes
4B	2013	Nat.Haw./PI			0.00	1.26	Yes
4B	2013	White	44		0.00	1.26	Yes

An LEA can exceed the Rate Ratio with less than 10 students in the sub-category and not miss target.

Indicator 5A - LRE Ages 6 to 21 - Outside Regular Class < 21% of the Day

Indicator	School Year	Total	# Outside < 21%	% Outside < 21%	Target	Met Target?
5A	2012	74	74	100.00%	66.00%	Yes
5A	2013	76	74	97.37%	68.00%	Yes
5A	2014	79	74	93.67%	67.00%	Yes

District Progress on State Performance Plan Indicators for Students with Disabilities - FFY 2013

Positive Outcomes

Indicator 5B - LRE Ages 6 to 21 - Outside Regular Class >60% of the Day

Indicator	School Year	Total	# Outside > 60%	% Outside > 60%	Target	Met Target?
5B	2012	74		0.00%	17.50%	Yes
5B	2013	76		0.00%	17.30%	Yes
5B	2014	79		5.06%	15.60%	Yes

Indicator 5C - LRE Ages 6 to 21 - Separate Settings

Indicator	School Year	Total	# Separate	% Separate	Target	Met Target?
5C	2012	74		0.00%	3.60%	Yes
5C	2013	76		2.63%	3.50%	Yes
5C	2014	79		0.00%	5.20%	Yes

Indicator 6 - LRE Ages 3 to 5 - With Typical Peers (Early Childhood, Home, Part-time Early Childhood Part-Time Early Childhood Special Education)

Indicator	FFY	Total EC	# with Peers	% with Peers	Target	Met Target	
6	2013				45.0%		This indicator does not apply to this LEA.

Indicator 7 - Percent of pre-school children aged 3 though 5 who demonstrate improved Positive Social-Emotional Skills; Acquisition and use of Knowledge Skills; and use of Appropppriate Behaviors to meet their needs.

	School Year	% Increase Rate of Growth	Target Increase Rate of Growth	Met Growth Target?	% Within Age Expectation	Target within Age	Met Age Target?	Skillset
7	2012							

This indicator does not apply to this LEA.

	School Year	% Increase Rate of Growth	Target Increase Rate of Growth	Met Growth Target?	% Within Age Expectation	Target within Age	Met Age Target?	Skillset
7	2013							

This indicator does not apply to this LEA.

	School Year	% Increase Rate of Growth	Target Increase Rate of Growth	Met Growth Target?	% Within Age Expectation	Target within Age	Met Age Target?	Skillset
7	2014							

This indicator does not apply to this LEA.

District Progress on State Performance Plan Indicators for Students with Disabilities - FFY 2013

Positive Outcomes

Indicator 8 - Percent of parents with a child receiving Special Education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

Indicator	School Year	Agree	Disagree	Total	% Agree	Target	Met Target?
8	2012	12	2	14	85.71%	87.00%	No
8	2013	12	0	12	100.00%	87.00%	Yes
8	2014	11	0	11	100.00%	87.00%	Yes

Indicator 9 - Percent of LEA's with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification. Disproportionate representation data are found in the APR.

Indicator	School Year	Disprop representation is result of inappropriate identification	Target	Met Target
9	2012	No	0.0%	Yes
Indicator	**School Year**	**Disprop representation is result of inappropriate identification**	**Target**	**Met Target**
9	2013	No	0.0%	Yes
Indicator	**School Year**	**Disprop representation is result of inappropriate identification**	**Target**	**Met Target**
9	2014	No	0.0%	Yes

Indicator 10 - Percent of LEA's with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.

Indicator	School Year:	Disprop. Rep. is result of Inaprop. Identification	Target	Met Target
10	2012	No	0.0%	Yes
Indicator	**School Year:**	**Disprop. Rep. is result of Inaprop. Identification**	**Target**	**Met Target**
10	2013	No	0.0%	Yes
Indicator	**School Year:**	**Disprop. Rep. is result of Inaprop. Identification**	**Target**	**Met Target**
10	2014	Yes	0.0%	No

Indicator 11 - Percent of children with parental consent to evaluate, who were evaluated and eligibility determined within 45 school days or 90 calendar days, whichever is shorter.

Indicator	School Year	W/In Timelines	Not W/In Timelines	% Within	Target	Met Target?

District Progress on State Performance Plan Indicators for Students with Disabilities - FFY 2013

Positive Outcomes

Indicator	School Year	W/In Timelines	Not W/In Timelines	% Within	Target	Met Target?
11	2012				100.00%	N/A
	No initial evaluation data was reported during this reporting period by this LEA.					
11	2013	2	0	100.00%	100.00%	Yes
11	2014				100.00%	N/A
	No initial evaluation data was reported during this reporting period by this LEA.					

Indicator 12 - Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.

Indicator	School Year	Referred Less Not Eligible and Parent Refusals	# Services By Age 3	% Services by Age 3	Target	Met Target?
12	2012				100.00%	
	This indicator does not apply to this LEA.					
12	2013				100.00%	
	This indicator does not apply to this LEA.					
12	2014				100.00%	
	This indicator does not apply to this LEA.					

Indicator 13 - Percent of youth aged 16 and above with an IEP that includes coordinated, measureable, annual IEP goals and transition services that will reasonably enable the student to meet the post-secondary goals.

Indicator	School Year	IEP's Reviewed	IEP's Meeting Standard	% Meeting Standard	Target	Met Target?
13	2012	19	14	74.00%	100.0	No
13	2013				100.0	
	Data was not reviewed for this reporting period.					
13	2014	10	8	80.00%	100.0	No