



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

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Dear Secretary Agwunobi:

The purpose of this letter is to respond to the Florida State Department of Health's (FDOH's) June 30, 2004 submission and amendment of July 1, 2004 to its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part C funds used during the grant period July 1, 2002 through June 30, 2003. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (OSEP), within the U.S. Department of Education. The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement activities) and consolidates the self-assessing and improvement planning functions of the CIFMS into one document. OSEP's Memorandum regarding the submission of Part C APRs directed States to address five cluster areas: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition.

Background

In its March 26, 2004 response to Florida's FFY 2001 APR, OSEP reported that FDOH had addressed four of the eleven areas of noncompliance identified in OSEP's April 23, 2001 Monitoring Report.¹ FDOH demonstrated improvement in, but not full compliance with, five of the seven remaining areas². FDOH did not provide sufficient data or information in the FFY

¹ In its FFY 2001 APR, FDOH demonstrated compliance in the following four areas: (1) monitoring procedures to identify noncompliance, as required by 34 CFR §303.501; (2) effective and timely technical assistance, as required by 34 CFR §501(b)(3); (3) effective child find procedures including underrepresented groups and those in rural areas, as required by 34 CFR §303.321; and (4) holding the transition conference at least 90-days prior to the child's third birthday, as required by 34 CFR §303.148(b)(2).

² In its FFY 2001 APR, FDOH submitted data that demonstrated progress, but not compliance in five of seven areas: (1) procedures to correct noncompliance and enforce obligations as appropriate, as required by 34 CFR §303.501(b)(2)(4); (2) ensure ongoing service coordination, including coordinating and documenting other services on the IFSP, as required by 34 CFR §303.23(a)-(d); (3) ensure individualized decisions by the participants at the

2001 APR for OSEP to determine compliance in the two remaining areas.³ OSEP required, in its March 26, 2004 response to the State's FFY 2001 APR, that FDOH submit data to demonstrate compliance with these seven areas of noncompliance.

In its March 26, 2004 response to the FFY 2001 APR, OSEP also requested that FDOH provide baseline data to determine compliance in the following two areas and level of performance in a third area: (1) family outcomes are documented on the IFSP; (2) evaluations and assessments are conducted in all five developmental domains; and (3) the percentage of children participating in the program demonstrating improved and sustained functional abilities.

During the week of September 8, 2003, OSEP visited Florida to verify the State's systems for general supervision and data collection under Section 618 of IDEA. In its January 20, 2004 verification letter to the State, OSEP stated that although the State's general supervision and monitoring systems were reasonably calculated to identify noncompliance, FDOH was required to revise its procedures for resolving formal written complaints, as described below in the General Supervision section of this letter and also to submit data and information demonstrating correction of OSEP and State identified noncompliance.

In its March 26, 2004 APR letter, OSEP accepted the activities and timelines proposed by FDOH in its FFY 2001 APR to address and correct the seven remaining areas of noncompliance identified in OSEP's April 23, 2001 Monitoring Report. The State must provide updated data demonstrating compliance with all seven areas by the FFY 2003 APR deadline (due March 31, 2005). FDOH provided a progress report on the results and outcomes from those activities in its FFY 2002 APR.

The State's APR should reflect the collection, analysis, and reporting of relevant data, and document data-based determinations regarding performance and compliance in each of the cluster areas (as well as any other areas identified by the State to ensure improvement). OSEP's comments are listed by cluster area below.

General Supervision

OSEP previously identified one area of noncompliance and during the verification visit identified one new area of noncompliance: (1) correcting all identified areas of noncompliance, including those areas identified by the State in a timely manner as required by 34 CFR §303.501(b)(4) (from April 23, 2001 Monitoring Report); and (2) providing parents with prior written notice including notice of their procedural safeguards under IDEA as required by 34 CFR §§303.400-423 and 303.510-512 (from January 20, 2004 verification letter).

Individualized Family Service Plan (IFSP) meeting, including natural environments, as required by 34 CFR §§ 303.322(c)(3)(iii) and 303.342(c) and 34 CFR §303.344(d)(i)(ii); (4) documentation of family supports and services on the IFSP, as required by 34 CFR §§303.322(a) and (d)(1) and 303.344(b) and (d); and (5) implementation of early intervention services in a timely manner, as required by 34 CFR §303.344(f).

³ OSEP, requested FDOH provide data in its FFY 2002 APR to demonstrate compliance in the two remaining areas: (1) procedures to ensure the timely evaluations and assessment as required by 34 CFR §§303.321(e)(2) and 303.322(e)(i); and (2) whether IFSPs contained the required transition steps for the child and the family and contained all of the required content relating to transition as required by 34 CFR §303.344(h).

OSEP's March 26, 2004 response to the State's FFY 2001 APR required FDOH submit data to demonstrate compliance with these two requirements.

1. Correction of OSEP and State Identified Noncompliance

OSEP, during the September 2003 verification visit, identified additional data that demonstrated noncompliance with the requirement to correct identified areas of noncompliance in a timely manner. OSEP's review of FDOH's monitoring protocols and interviews with FDOH staff confirmed that local service areas achieving a compliance rate of 80% with program standards in specific areas were not required to correct any identified areas of noncompliance.⁴ In its January 20, 2004 verification letter, OSEP required FDOH to revise its monitoring protocols and guidance documents to ensure that local service areas that achieved a compliance rate of 80% were required to correct all areas of noncompliance. On pages three through five and seven through nine of the Addendum to the State's FFY 2002 APR and on pages one through four of the State's FFY 2002 APR, FDOH presented data and analysis that demonstrated it has addressed the compliance standard. In the Addendum, FDOH reported that reference to the 80% compliance rate was deleted from its monitoring protocols and described a technical assistance plan to ensure that providers are informed of the requirement of full correction of all identified areas of noncompliance.

On pages one and two of the State's FFY 2002 APR, FDOH presented trend data to demonstrate that in FFY 2001 nine of 16 local service areas were in compliance with Part C requirements. In FFY 2002, six of 10 local service areas demonstrated compliance with Part C requirements. The four local service areas where noncompliance was identified had multiple areas of noncompliance that correspond to OSEP's findings in its 2001 Monitoring Report. Based on identified noncompliance indicated in these data, FDOH required corrective actions from all local service areas where the noncompliance was identified. On page 4 of the March 26, 2004 verification letter, OSEP confirmed that FDOH's corrective action process included strategies to verify correction of the identified areas of noncompliance. FDOH stated that corrective actions included: (1) follow-up monitoring; (2) on-line tracking of compliance data; (3) on-site mentoring; and (4) documentation in the verification plan. On pages one and two of the State's FFY 2002 APR, FDOH presented data to demonstrate progress towards correcting identified areas of noncompliance in the 11 remaining local service areas during the FFY 2002 reporting period.⁵ FDOH reported, as of the end of the FFY 2002 reporting period, seven local service areas identified as noncompliant in FFY 2001, completed 42% to 99% of the corrective actions and the four local service areas, identified as noncompliant in FFY 2002 completed 42% to 90% of the corrective actions. FDOH stated that the data analysis for the remaining 11 local service areas would be reported in the FFY 2003 APR. OSEP requests in the FFY 2003 APR that FDOH disaggregate its data by issue and local service area for the identified areas of noncompliance, in order for OSEP to review this data. OSEP requests that FDOH continue to report on the status of correction for all 11 local service areas in the FFY 2003 APR.

⁴ Programs were not required to correct noncompliance above 80% in the following areas: (1) child records; (2) personnel records; (3) family evaluations; and (4) conducting IFSP meetings.

⁵ The one-year time period to correct the identified areas of noncompliance had not expired during the FFY 2002 APR reporting period.

On pages three and four of the State's FFY 2002 APR, FDOH identified factors that presented challenges for these 11 local service areas and implemented system change initiatives to address these challenges. These initiatives included desk audits, comprehensive on-site reviews, the implementation of technical assistance and verification plans, and increasing technical assistance hours by 265% (from 155 hours in FFY 2001 to 565 hours in FFY 2002). FDOH tracked the progress of these 11 service areas on a quarterly basis to ensure that the activities implemented were consistent with the technical assistance plans and conducted follow-up on-site visits to ensure timely correction. On page four of the State's FFY 2002 APR, FDOH stated that the analysis of these activities would be reported in the FFY 2003 APR. OSEP looks forward to reviewing that analysis in the FFY 2003 APR submission.

2. Resolution of Complaints

On pages six through eight and in the Addendum to the State's FFY 2002 APR, FDOH included data and analysis that demonstrated compliance with the provision to resolve complaints as required by 34 CFR §§303.510-512. During the verification visit, OSEP identified additional data that demonstrated noncompliance with this requirement. In the January 20, 2004 verification letter, OSEP stated FDOH's policy that required a two-tiered complaint process that allows for the filing of a complaint at the local level with 60 days for resolution and an appeal to the State level with an additional 60 days for resolution, was inconsistent with Federal Part C requirements at 34 CFR §303.512. On page eight of the State's FFY 2002 APR, FDOH reported that implementation of the State's complaint policy was discontinued effective February 2004. FDOH stated that all complaints filed under 34 CFR §§303.510-303.512 were required to be filed at the State level and the State had 60 days to render its decision from the date the complaint was filed. FDOH, in the Addendum to the State's FFY 2002 APR, included a copy of the memo and the revised complaint procedures that were issued to all local service areas. OSEP will issue its review of the FDOH's complaint procedures under a separate memo.

On pages six and seven of the State's FFY 2002 APR, FDOH reported that of the three complaints filed in FFY 2002, two were completed within the required 60 days, and the third complaint was withdrawn. FDOH stated that written findings of fact identified 11 allegations in the two investigated complaints that required corrective action plans. FDOH stated that 82% (9 of 11) of the corrective action plans were completed. Based on the State identified noncompliance indicated in these data, FDOH required corrective actions from all local service areas where the noncompliance was identified. FDOH stated that the two remaining corrective actions were being corrected at the time of the submission of the State's FFY 2002 APR and the final data analysis would be reported in the FFY 2003 APR. FDOH reported on page six of the State's FFY 2002 APR that no requests for mediation or due process hearings were filed.

3. Procedural Safeguards

On pages five and 18 of the State's FFY 2002 APR, FDOH reported data and analysis that demonstrated an area of noncompliance not previously identified by OSEP. FDOH's data indicated a slight decrease in compliance with the provision of procedural safeguards as required by 34 CFR §§303.400-423 and 303.510-512. FDOH indicated that, in FFY 2001, 69% of the local service areas were in compliance and 67% in FFY 2002. Eighty-three percent (83%) of families interviewed stated that they were given information about their rights and were encouraged to express satisfaction or dissatisfaction with the services they received, while 50%

of these families stated that their rights were explained to them in a manner that they understood. Based on the identified noncompliance indicated in these data, FDOH required corrective actions from all service areas where the noncompliance was identified. On pages one, two, seven and 19 of the State's FFY 2002 APR, FDOH reported that as of the end of the FFY 2002 APR reporting period, identified noncompliance was corrected or was in the process of being corrected. On page 7 of the State's FFY 2002 APR, FDOH stated that the analysis of the data, from the corrective actions, for the remaining local service areas would be reported in the FFY 2003 APR. OSEP accepts the strategies, targets and timelines identified by FDOH. FDOH must report on the progress of these activities to correct the newly-identified noncompliance, including supporting data and analysis, in the FFY 2003 APR due March 31, 2005, and provide a report to OSEP demonstrating compliance not later than 30 days following one year from the date of this letter.

4. Interagency Agreements

On page three of the State's FFY 2002 APR, FDOH stated that the State-level interagency agreement with the Florida Department of Education was revised. FDOH submitted a signed copy of the revised interagency agreement that constitutes a revision to the FFY 2004 Federal Part C application, to address the provisions at 34 CFR §§303.523 and 303.148(c). OSEP has reviewed FDOH's revised interagency agreement and approves it subject to OSEP's review of the State's policy that will be submitted with the FFY 2004 Part C application and the Part B Eligibility Document Review. In Attachment 2 of the State's FFY 2002 APR, FDOH identified the State's capacity to coordinate various funding resources within the State as required by 34 CFR §303.522, to ensure the provision of early intervention services. FDOH identified the following funding sources that support Part C activities, with the greatest financial support coming from Federal funds: (1) Federal Part B funds; (2) Temporary Assistance to Needy Families (TANF); (3) general supervision enhancement grant (GSEG); (4) Medicaid; (5) State funds; (6) local funds; and (7) private insurance and fees.

5. Comprehensive System of Personnel Development

On pages eight through ten of the APR, FDOH provided data to demonstrate that adequately trained and qualified personnel were available to meet the needs of children and families across the State. FDOH's data indicated that all providers were licensed to practice in their specific profession and met State certification as required by 34 CFR §303.361(b)(1). The State instituted a new personnel classification, the Infant/Toddler Development Specialist, to expand the availability of qualified personnel and to continue its partnership with the Florida Department of Education (FDOE) regarding the State-wide Comprehensive System of Personnel Development (CSPD).

6. Reporting Timely and Accurate Data

In its January 20, 2004 verification letter, OSEP reported that the State's system for collecting and reporting data was reasonably calculated to ensure the accuracy of the data that FDOH reports to OSEP under section 618, except in the area of Early Intervention Services in Natural Environments⁶. On pages ten and 11 of the State's FFY 2002 APR, FDOH included data and

⁶ OSEP, in its January 20, 2004 verification letter required FDOH to submit clarification regarding the location of services, or settings, consistent with the 618 definitions issued by WESTAT. OSEP discusses this issue in the Early Intervention Services in Natural Environments section of this letter.

analysis that identified the lack of timely documentation and submission of service data. FDOH stated that 60% of the local service areas' records contained documentation that data was submitted and entered into the electronic data-based system within 60 days of the date of the service and that 50% of the local service areas ensured that the child's record documented whether services were consistent with the IFSP, delivered by the designated provider and billed to the payer on the IFSP. On page 11 of the State's FFY 2002 APR, FDOH reported that all local service areas needing improvement in this area were required to implement a technical assistance plan to improve performance. FDOH identified strategies to increase performance in this area: (1) the appointment of a new data manager; (2) training of local staff; and (3) securing funding to continue present efforts to standardize data collection and management. On page 11 of the State's FFY 2002 APR, FDOH stated that the analysis of the data from these activities would be reported in the FFY 2003 APR. OSEP looks forward to reviewing the information in the FFY 2003 APR that includes both implementation of activities and the resulting data demonstrating improved performance.

7. Conclusion

FDOH, in the FFY 2003 APR due March 31, 2005, must provide the results of its data analysis, including data on the corrective actions for the remaining seven local service areas in FFY 2001 and four local service areas in FFY 2002 to demonstrate full compliance with the provision to ensure the timely correction of noncompliance. FDOH must also, in the FFY 2003 APR, provide data to demonstrate progress to correct the one newly-identified area of noncompliance and the one area of improved performance: (1) provision of procedural safeguards; and (2) collecting and reporting accurate and timely data. A final progress report demonstrating compliance on the provision of procedural safeguards is due thirty days from one year from the date of this letter.

Comprehensive Public Awareness and Child Find System

In its April 23, 2001 Monitoring Report, OSEP identified noncompliance with the provision to conduct timely evaluations and assessments to ensure that the initial IFSP meeting was held within 45 days of the referral as required by 34 CFR §§303.320-303.323. OSEP's March 26, 2004 response to Florida's FFY 2001 APR required the State to submit data to demonstrate compliance with this requirement. FDOH included data and analysis to address this area of noncompliance in the Early Intervention Services in Natural Environments cluster in the State's FFY 2002 APR. OSEP's analysis of FDOH's data is described in the Early Intervention Services in Natural Environments section of this letter.

On pages 12-14 of the State's FFY 2002 APR, FDOH included data and analysis demonstrating the effectiveness of the State's coordinated child find and public awareness efforts that resulted in the timely identification and referral of potentially-eligible children and their families as required by 34 CFR §§303.320-321. On page 13 of the State's FFY 2002 APR, FDOH reported that five percent of the State's birth-to-three population was served in the State's Part C system. Based on the State's eligibility criteria, of the children referred during this reporting period, five percent were found eligible based on established conditions and 95% were found eligible based on developmental delays. On pages 12-14 of the State's FFY 2002 APR, FDOH reported that 1% of the Part C-eligible children served were under the age of one, comparable to the State's birth-to-three general population, and that number has remained constant over the past three

years. In addition, the number of infants and toddlers served from underrepresented groups, including those from diverse ethnic groups and those receiving Medicaid, remained constant over the past two years.

FDOH's data did not indicate noncompliance and, based on OSEP's review of the data and information reported in the State's FFY 2002 APR and the Addendum, OSEP did not identify additional concerns in this cluster area. OSEP looks forward to reviewing data and information in the FFY 2003 APR, due March 31, 2005, demonstrating continued performance and compliance in this area.

Family Centered Services

In its April 23, 2001 Monitoring Report, OSEP identified noncompliance with the provision to conduct a family assessment, with the concurrence of the family, to identify the concerns, resources and priorities, and supports and services, and document them on the IFSP as required by 34 CFR §303.322(d)(1). OSEP, in its March 26, 2004 response to the State's FFY 2002 APR, identified the lack of data to determine performance regarding the extent to which family supports and services enhance the family's capacity to enhance outcomes for infants and toddlers. OSEP, in its March 26, 2004 response to the State's FFY 2002 APR required FDOH to provide data to demonstrate compliance and the level of performance with these areas.

1. Documentation of Family Supports and Services on the IFSP

On pages 18 and 20 of the State's FFY 2002 APR, FDOH submitted data and analysis that demonstrated improvement but not full compliance to document family supports and services on the IFSP as required by 34 CFR §303.322(d)(1). FDOH's baseline data indicated: (1) 33% of the IFSPs reviewed contained documentation that a family assessment was conducted prior to the development of the IFSP; and (2) 67% of the local service areas' IFSPs contained a child or family outcome related to a specific skill or ability of the child or a specific family need. FDOH also reported that 67% of the families interviewed indicated that the development of the IFSP included family input and consideration of families' daily routines. Based on the identified noncompliance indicated in these data, FDOH required corrective actions from all local service areas where the noncompliance was identified. On pages one, two, 18, and 20, FDOH reported that as of the end of the FFY 2002 APR reporting period, six of the local service areas completed 100% of the corrective actions required to demonstrate compliance and the remaining four local service areas completed 0% to 90%. In the FFY 2003 APR, FDOH must provide data demonstrating that the remaining four local service areas have completed the required corrective actions and ensure that family assessments are conducted, with the concurrence of the family, and documented on the IFSP.

2. Family Supports and Services Increase Families' Capacities to Enhance Child Outcomes

On pages 15 and 18 of the State's FFY 2002 APR, FDOH stated that current monitoring protocols did not include standards to determine the level of performance regarding the extent to which family supports, services and resources increase families' capacities to enhance outcomes for infants and toddlers and their families. FDOH provided performance information generated from family interviews that demonstrated early intervention services had an impact on families' capacities to enhance child outcomes. FDOH reported that 67% of the families interviewed

stated that personnel working with their child strengthened and encouraged families to help their child develop to their full potential. On pages 16 and 19 of the State's FFY 2002 APR, FDOH identified strategies to gather additional data to determine the impact of early intervention services on families' capacities to enhance child outcomes and improve performance in this area. These strategies included: (1) training; (2) participating in the pilot project to implement a parent satisfaction survey designed by the National Monitoring Center; and (3) revising the State's quality assurance protocols to include a standard to determine the impact of family-related outcomes to enhance child outcomes. OSEP recommends that FDOH, in implementing the process to determine the extent to which family supports, services and resources increase families' capacities to enhance outcomes for infants and toddlers and their families, ensure that data are reflective of the demographics of the Part C-eligible children and families served in the State. OSEP looks forward to reviewing the data and information in the FFY 2003 APR demonstrating improved performance regarding the impact of family supports, services and resources to enhance the child's outcomes.

Early Intervention Services in Natural Environments

In its April 23, 2001 Monitoring Report, OSEP identified four areas of noncompliance: (1) ongoing service coordination, including the coordination and documentation of other services on the IFSP, as required by 34 CFR §§303.23(a)-(d) and 303.344(e); (2) individualized decision making by the participants at the IFSP meeting, including the decision to determine the natural environment, as required by 34 CFR §§303.12 and 303.344; (3) providing early intervention services consistent with the documentation on the IFSP, as required by 34 CFR §303.344; and (4) conducting evaluations and assessments in all five developmental domains, as required by 34 CFR §§303.322(c) and 303.344(a). OSEP, in its March 26, 2004 response to the State's FFY 2001 APR, required FDOH to provide data to demonstrate compliance with these four areas and identified the need for FDOH to submit data to determine compliance with the following two requirements and with the one area of performance: (1) provide evaluations and assessments in a timely manner to ensure that the initial IFSP meeting is held within 45 days of the referral, as required by 34 CFR §§303.322(a)(1) (2) and 303.321(b); (2) implementation of timely early intervention services, as required by 34 CFR 303.344(c)(1); and (3) the percentage of children participating in the Part C program who demonstrated improved and sustained functional abilities in the five developmental areas. In addition, OSEP, in the January 2004 verification letter, required FDOH to verify that the procedures used to analyze the settings data relative to natural environments were consistent with the requirements of IDEA Section 618.

1. Service Coordination

According to the data presented on pages 15, 17 and 18 of the State's FFY 2002 APR and OSEP's analysis of the data presented in the Family Centered Services and Early Childhood Transition sections of this letter, FDOH demonstrated improvement, but not full compliance with the requirement to ensure ongoing service coordination, including the coordination and documentation of other services on the IFSP, as required by 34 CFR §§303.23(a)-(d) and 303.344(e). FDOH reported that 67% of families interviewed stated that their service coordinator listened to and responded to their needs, and 83% of the families reported that they heard from their service coordinator on a regular basis. FDOH stated that 67% of families interviewed confirmed that service coordinators provided information regarding parent support

services or other services that were based on families' routines and concerns. Fifty percent of IFSPs reviewed contained documentation that an IFSP review was conducted within six months of the initial evaluation, and 83% of IFSPs reviewed contained documentation that a review of the IFSP was conducted every 12 months. On pages one, two, 15, 18 and 19 of the State's FFY 2002 APR, FDOH stated that based on the identified noncompliance indicated in these data, all local service areas where the noncompliance was identified were required to implement corrective actions and develop technical assistance plans. FDOH stated that as of the end of the State's FFY 2002 reporting period, six of the local service areas had completed 100% of the corrective actions to demonstrate compliance and the remaining four local service areas had completed 0% to 90%. In the FFY 2003 APR, FDOH must provide data demonstrating correction by the four local service areas that had not completed the required corrective actions during the FFY 2002 reporting period.

2. IFSP Decision Making

On pages 15, 17, 18, 22 and 23 of the State's FFY 2002 APR, FDOH presented data and analysis that demonstrated continuous improvement, but not full compliance with the provision to ensure that individualized decisions were made by participants at the IFSP meeting, as required by 34 CFR §303.344, including the provision to ensure services were provided in the natural environments as required by 34 CFR §§303.12 and 303.344(d). FDOH reported that 67% of families interviewed confirmed that their IFSP contained services based on their concerns, priorities and the families' daily routines. Sixty-seven percent of the local service areas demonstrated that IFSPs contained a child or family outcome related to a specific skill or ability of the child or family. In addition, 83% of families stated that they were encouraged to express satisfaction and dissatisfaction with the services they received. On pages one, two, 15, 18, and 23 of the State's FFY 2002 APR, FDOH stated that, based on the identified noncompliance in these data, local service areas where the compliance was identified implemented corrective actions and developed technical assistance plans. FDOH stated that as of the end of the FFY 2002 reporting period six of the local service areas have completed 100% of the corrective actions to demonstrate compliance and the remaining four local service areas completed 0% to 90%. In the FFY 2003 APR FDOH must provide data demonstrating that the four local service areas have completed the required corrective actions and ensure that IFSP decisions are individualized and made by the IFSP meeting participants.

3. Natural Environments

OSEP's 2001 Monitoring Report identified that Florida did not ensure that IFSP meeting participants made individualized decisions to determine the service setting. On pages 22 and 23 of the State's FFY 2002 APR, FDOH stated that significant improvement was made in the way the State collected and analyzed the data to determine compliance with this requirement, however the data indicated noncompliance persisted. FDOH stated that the reporting of the State's 618 data on the natural environments tables one through five, was inconsistent with the requirements of IDEA Section 618, and the current service delivery model did not ensure the provision of services in the natural environment. FDOH reported that, through its data verification process, previously-reported data regarding natural environments was corrected to be consistent with the requirements of IDEA Section 618. As a result of the State reconciling its settings data a significant increase was noted in the percentage of Part C-eligible children receiving early intervention services in the service provider location, from 13% in FFY 2001 to

57% in FFY 2002, and a significant decrease in the percentage of children receiving services in the home, from 60% in FFY 2001 to 31% in FFY 2002. FDOH's data also indicated a significant decrease in the percentage of children receiving early intervention services in programs designed for typically developing children, from 17% in FFY 2001 to 2% in FFY 2002. FDOH reported that 17% of the local service areas were in compliance with the natural environment provision or had a justification when early intervention services could not be satisfactorily provided in natural environments.

FDOH presented strategies in its FFY 2002 APR, including a revised copy of its natural environments Service Delivery Policy and Guidance to address and correct these areas of noncompliance. On pages 23-24 of the FFY 2003 APR and on page 15 of the Service Delivery Policy and Guidance, FDOH identified State-wide initiatives to correct this area of noncompliance. FDOH stated that guidelines would be issued to clarify the data reporting requirements, and instructor-led training was conducted for all service providers, service coordinators and other relevant personnel. FDOH stated that payment for early intervention services in a center-based day program at the developmental day rate would be discontinued as of July 2005. OSEP, in conjunction with the Department of Education's Office of General Counsel, held a conference call with FDOH staff on September 1, 2004 to discuss revisions needed to ensure that the Service Delivery Policy and Guidance were consistent with the requirements at 34 CFR §§303.12 and 303.344(d). OSEP's response to FDOH's revised Service Delivery Policy and Guidelines on natural environments is included as an Attachment to this letter. FDOH must submit data in the FFY 2003 APR, due March 31, 2005, to demonstrate full compliance with this long-standing area of noncompliance, including supporting data and its analysis, regarding the provision of services in natural environments. Examples of this data can include sampling of monitoring data, IFSP reviews, etc.

4. Provision of Early Intervention Services in the IFSP

On pages ten, 11, 21 and 22 of the State's FFY 2002 APR, FDOH provided information regarding the requirement to ensure that early intervention services provided were consistent with the documentation on IFSPs as required by 34 CFR §303.344. From the data and information provided by FDOH in the APR, OSEP could not determine compliance with this requirement. FDOH identified barriers to acquiring these data. FDOH reported: (1) current monitoring protocols did not include an indicator to determine whether IFSPs documented all services necessary to meet the identified needs of the child and the family; (2) only 50% of the child's records reviewed documented whether services were consistent with the IFSP; (3) 33% of the local service areas ensured that child records contained evidence that services included on the IFSP were initiated within three weeks of the family signing the IFSP or that a justification for the delay was documented; (4) 33% of the local service areas were in compliance with the provision to ensure that child records contained evidence that services included on the IFSP were initiated within three weeks of the family signing the IFSP or that a justification for the delay was documented; and (5) data resulting from a family survey indicated 83% of families interviewed confirmed that their child and family were currently receiving all services documented on the IFSP. On pages 11, 21 and 22 of the State's FFY 2002 APR, FDOH identified activities, targets and timelines to acquire monitoring data to support the results of the parent survey and to ensure compliance in this area. FDOH stated that: (1) early intervention service data was downloaded from the electronic data system for analysis; (2) an indicator was

added to the State's monitoring protocols to target this requirement; and (3) the current IFSP forms were revised. OSEP accepts these strategies. In the FFY 2003 APR FDOH must provide its baseline data and its analysis resulting from the implementation of these strategies to demonstrate that local service areas ensure that early intervention services are provided to eligible children and their families consistent with their IFSPs.

5. Complete Evaluations and Assessments

On pages 19 and 20 of the State's FFY 2002 APR, FDOH provided information that demonstrated progress but not full compliance regarding the requirement to conduct evaluations and assessments in all five developmental domains, as required by 34 CFR §§303.322(c) and 303.344(a). FDOH stated that 58% of local service areas documented the required information in all five developmental domains. FDOH stated that based on the identified noncompliance in these data, local service areas, were required to develop technical assistance plans and implement corrective actions. Six of the local service areas have completed 100% of the corrective actions to demonstrate compliance and the remaining four local service areas completed 0% to 90%, as of the end of the FFY 2002 reporting period. In the FFY 2003 APR FDOH must provide data demonstrating that the four local service areas have completed the required corrective actions and that evaluations and assessments are conducted in all five developmental domains.

6. 45 Day Timeline

On pages 17, 19 and 20 of the State's FFY 2002 APR, FDOH provided data and analysis to demonstrate compliance with the requirement to administer timely evaluations and assessments to ensure that the initial IFSP meeting was held within 45 days of the referral to Part C, as required by 34 CFR §§ 330.321(e)(2), 303.322(e)(1) and §303.342(a). FDOH stated: (1) 92% of the initial evaluations and assessments were completed prior to holding the initial IFSP meeting; and (2) 50% of the local service areas ensured that the IFSP documented holding the initial IFSP meeting within 45 days of the referral to Part C. On pages one, two, 17 and 20 of the State's FFY 2002 APR, FDOH stated that based on the identified noncompliance in these data, local service areas, where the noncompliance was identified, were required to develop technical assistance plans and implement corrective actions. Six of the local service areas have completed 100% of the corrective actions to demonstrate compliance and the remaining four local service areas completed 0% to 90%, as of the end of the FFY 2002 reporting period. In the FFY 2003 APR FDOH must provide data demonstrating that the four local service areas have completed the required corrective actions and conduct evaluations and assessment and hold the initial IFSP meeting within 45 days of the referral to Part C.

7. Early Childhood Outcomes

On page 24 of the State's FFY 2002 APR, FDOH indicated that current monitoring protocols did not include indicators or a method to determine the percentage of children in the Part C program who demonstrated improved and sustained functional abilities. FDOH reported that its FFY 2001 plan and strategies were not effective in providing the needed data and information. FDOH stated that the data collection method was cumbersome, inconsistent and reliable data was not being reported, resulting in unacceptable practices. FDOH presented targets and timelines to revise the method of data collection, through the electronic data system to determine the level of performance in this area. OSEP recommends that FDOH, in determining the process to acquire and analyze these data, ensure that the data are reflective of the demographics of the Part C-

eligible children served in the State. OSEP looks forward to reviewing information in the FFY 2003 APR that includes both implementation of strategies and the resulting data demonstrating improvement.

Conclusion

FDOH must, in the FFY 2003 APR, due March 31, 2005, provide data to: (1) ensure the correction of noncompliance in the five areas identified in this cluster area, for the four local service areas where noncompliance was identified; and (2) an update on administering evaluations in all areas. FDOH must provide in the FFY 2003 APR updated responsive data (if available and obtained through IFSP reviews, sampling or other methods) or on the status of its plan to collect and report by the FFY 2004 APR (expected to be due March 31, 2006) on data regarding the percentage of children who demonstrate sustained and improved functional abilities.

Early Childhood Transition

OSEP, previously identified noncompliance in its April 23, 2001 Monitoring Report with the requirement to hold a transition planning meeting at least 90 days, and up to 6 months, before the child's third birthday with the concurrence of the family as required by 34 CFR §§ 303.148 and 303.344(h). OSEP in its March 26, 2004 response to the State's FFY 2001 APR stated that FDOH provided data that demonstrated compliance with this requirement and requested that FDOH provide updates on its efforts to ensure compliance in this area. OSEP required, in its March 26, 2004 response to the State's FFY 2001 APR, that FDOH provide data to determine compliance with the requirement to include steps to support the transition of the child and family on the IFSP, as required by 34 CFR §303.344(h).

1. Timely Transition Conference

On page 25 of the State's FFY 2002 APR, FDOH reported data that demonstrated recurrence of noncompliance with the requirement to hold a transition planning meeting for children potentially eligible under Part B at least 90 days, and up to 6 months, before the child's third birthday with the concurrence of the family as required by 34 CFR §§ 303.148(b)(2) and 303.344(h). FDOH's data indicated a decrease from 100% in FFY 2001 to 83% percent compliance in FFY 2002 with this requirement. On pages one through two, four and 26 of the State's FFY 2002 APR, FDOH stated that the reasons for the current noncompliance were not the same as the initial noncompliance, however FDOH did not provide information to explain the slippage in this area. FDOH reported that local service areas where the noncompliance was identified were required to develop technical assistance plans and implement corrective actions. Six of the local service areas have completed 100% of the corrective actions to demonstrate compliance and the remaining four local service areas completed 0% to 90%, as of the end of the FFY 2002 reporting period. FDOH identified strategies, targets and timelines to ensure correction of this requirement. In the FFY 2003 APR FDOH must provide data demonstrating that the four local service areas have completed the required corrective actions and implemented strategies to maintain compliance with the requirement to ensure that for children potentially eligible for Part B, a transition planning meeting is held at least 90 days before the child's third birthday.

2. IFSP Transition Content

On page 25 of the State's FFY 2002 APR, FDOH provided data and analysis that demonstrated noncompliance with the requirement to include steps to support the transition of the child and family from Part C to Part B on the IFSP, not previously identified by OSEP. FDOH stated that none of the local service areas monitored were in compliance with this requirement. FDOH stated that the results of the corrective actions would be reported in the FFY 2003 APR. On page 26 of the State's FFY 2002 APR, FDOH identified strategies, targets and timelines designed to obtain baseline data. OSEP accepts these strategies. In the FFY 2003 APR FDOH must provide its baseline data and its analysis resulting from the implementation of these strategies to demonstrate that local service areas ensure that IFSPs include the required steps to support the transition of the child and family.

FDOH must report on the progress being made to correct the newly-identified area of noncompliance, including supporting data and analysis, in the FFY 2003 APR, due March 31, 2005, and provide a report to OSEP demonstrating compliance not later than 30 days following one year from the date of this letter.

Conclusion

FDOH must submit in the FFY 2003 APR, due March 31, 2005, the results from local service areas to demonstrate compliance with the following:

- **General Supervision:** ensuring timely correction of identified areas of noncompliance, as required by 34 CFR §303.501(b)(4).
- **Family Centered Services:** ensuring that family assessments are conducted, with the concurrence of the family, and documented on the IFSP, as required by 34 CFR §303.303.322(d)(1).
- **Early Intervention Services in Natural Environments:** (1) ensuring ongoing service coordination, including the coordination and documentation of other services on the IFSP, as required by 34 CFR §§303.23(a)-(d) and 303.344(e); (2) ensuring individualized decisions by participants at the IFSP meeting, including the decision to determine the provision of services in natural environments, as required by 34 CFR §303.344 and 34 CFR §§303.12 and 344(d); (3) revising the Service Delivery Policy and Guidelines on natural environments (See Attachment); (4) conducting evaluations and assessments in all five developmental domains, as required by 34 CFR §§303.322(c) and 303.344(a); (4) ensuring timely evaluations and assessments and conduct the initial IFSP meeting within 45 days of the referral to Part C, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and §303.342(a); and (5) ensuring the provision of services in a timely manner as required by 34 CFR §303.344(f).
- **Early Childhood Transition:** holding the transition meeting, with concurrence from the family, at least 90-days before the child's third birthday, as required by 34 CFR §§ 303.148 and 303.344(h).

FDOH must submit, in the FFY 2003 APR, data and required information to demonstrate progress towards correcting the two newly-identified areas of noncompliance and the one area with insufficient data to determine compliance:

- General Supervision: ensuring parents are informed of their procedural safeguards, as required by 34 CFR §§303.400-423 and 303.510-512.
- Early Intervention Services in Natural Environments: ensuring that local service areas provide early intervention services to eligible children and their families consistent with their IFSPs, as required by 34 CFR §303.344.
- Early Childhood Transition: ensuring IFSPs included steps to support the transition of the child and family, as required by 34 CFR §303.344(h).

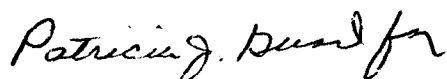
FDOH must submit data in the FFY 2003 APR to demonstrate improved performance in the area of Family Centered Services and to determine the status of improvement in the two remaining areas of performance:

- General Supervision: ensuring the reporting of timely and accurate data.
- Family Centered Services: the extent to which family supports and services enhance the family's capacity to enhance outcomes for infants and toddlers.
- Early Intervention Services in Natural Environments: the percentage of children participating in the Part C program who demonstrate improved and sustained functional abilities in the five developmental areas.

FDOH will also be required to make any revisions necessary to its compliant procedures that OSEP will issue under a separate memo.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State, and we look forward to collaborating with you as you continue to improve results for infants and toddlers with disabilities and their families. If you have questions, please contact Alma McPherson at (202) 245-7443.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

Attachment

cc: S. Elizabeth Ford
Monica Rutkowski