



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

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Director of Health
Rhode Island Department of Health
3 Capitol Hill
Providence, RI 02908

SEP 27 2004

Dear Dr. Nolan:

The purpose of this letter is to respond to Rhode Island's submission of 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 strategies) 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

OSEP's review of Rhode Island's Self-Assessment identified noncompliance in the Comprehensive Public Awareness and Child Find cluster specifically related to Public Awareness. No other areas of noncompliance were found in the State's Self-Assessment. Rhode Island originally submitted an Improvement Plan in July 2002. OSEP accepted Rhode Island's Part C Improvement Plan in a letter dated September 9, 2003 and requested that Rhode Island revise part of its Improvement Plan by November 3, 2003, and submit a Progress Report by February 3, 2004, and a final Progress Report by September 9, 2004. Rhode Island submitted a revised Improvement Plan on November 14, 2003, and indicated in the accompanying letter, that it would submit its first Progress Report on February 3, 2004. OSEP subsequently informed Rhode Island that the State could submit its February 3, 2004 progress report with the FFY 2002 APR, due March 31, 2004. Rhode Island submitted a progress report in its FFY 2002 APR, and requested an extension for its final progress report, which was due on September 9, 2004. The State must submit its final progress report by September 30, 2004.

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. This letter responds to the State's FFY 2002 APR, which includes the State's Improvement Plan progress report. OSEP's comments are listed by cluster.

General Supervision

OSEP identified no noncompliance in this cluster in either the Self-Assessment or the previous APR. In the current APR, Rhode Island provided information regarding its Quality Assurance Plan and its Information System (EIMIS). OSEP will be in the State the last week of September 2004, to conduct an on-sight monitoring visit to verify the State's general supervision and data collection systems. Following the visit, OSEP will issue a separate letter regarding the visit.

The APR stated that 25 complaints were filed between June 2002 and June 2003. Complaint categories included dissatisfaction with services/support from EI provider (43%), disagreement regarding frequency of services (45%), and clarification of State-wide procedures (12%). On page 5 of the APR, the State reported that the average number of days from receipt of the complaint to resolution was 28. Seventeen of twenty-five complaints (68%) were resolved within timelines during the APR reporting period. The remaining eight cases were withdrawn. A single mediation was filed during this reporting period and there were no due process hearing requests filed.

The State should continue to report in the next APR on its strategies to ensure compliance and performance in this cluster area.

Comprehensive Public Awareness and Child Find

As a result of its review of Rhode Island's Part C Self-Assessment and Improvement Plan, OSEP identified Public Awareness as an area of noncompliance in its September 9, 2003 letter. The State proposed strategies to address this issue in its Improvement Plan (submitted in July 2002), however, because the date provided in the State's Improvement Plan for this benchmark was "2005," OSEP requested that the State revise its Improvement Plan to demonstrate full compliance with this requirement within a reasonable period of time, not to exceed September 9, 2004. Rhode Island submitted a revision to its Improvement Plan on November 14, 2003, which included strategies to ensure compliance in this cluster area by September 1, 2004. In its February 24, 2004 letter regarding the State's FFY 2001 APR and the revised Improvement Plan, OSEP approved the State's revised timeline.

As requested in OSEP's February 24, 2004 letter, Rhode Island submitted its progress report regarding this issue in its FFY 2002 APR. The FFY 2002 APR indicated that the State operated a Family Health Hotline staffed by personnel fluent in Spanish, Portuguese and French. This hotline provided families with information specific to the State's early intervention services. Of the seven regional contractors that provided Part C services in the State, five had personnel fluent in multiple languages and the State ensured that each regional provider had culturally and linguistically diverse referral information packets. The State also reported that all regional providers submitted an outreach plan as part of their certification process. Rhode Island published a variety of materials for both pediatricians and family practice physicians, and has received an increased number of referrals from physicians. Additional information was distributed to day care centers, mental health providers and other agencies that serve children and families. OSEP appreciates the State's reporting of its strategies to address this issue.

Rhode Island was to submit its final progress report on this issue by September 9, 2004; however, the State has requested an extension. The State must submit, by September 30, 2004, its final progress report confirming implementation of the strategies to address the noncompliance in this area.

In addition to providing information regarding the noncompliance issue above, the State reported the following performance information. As compared to all other States, on page 12 of the APR Rhode Island reported that it had the highest percentage of children under the age of 12 months enrolled for Part C services based on the December 1, 2002 child count. Rhode Island reported that it served 2.88% of the State's birth through age two population in 2001 and 3.50% of the State's birth through age two populations in 2002 according to the December 1 child count. On page 9 of the APR, Rhode Island included data that illustrated the percentage of children served, by ethnic group, in Part C.

Family Centered Services

OSEP identified no previous noncompliance in this cluster. On page 14 of the APR, the State reported that it surveyed families over the past three years. In 2001, survey results indicated that 62% of families felt that they knew what to do if they had questions or concerns regarding early intervention services. In 2002 - 2003, 88% of families reported that early intervention services helped their child and family, and 85% of families reported that early intervention services would help them to enhance their child's development.

The APR reported that the State had developed intake and accompanying resource materials for all EI providers. Training for early intervention staff was revised to emphasize family-centered services, family involvement and maximizing learning in natural environments. Family workshops that provided information to the community about transition and accessing various community supports were provided quarterly in a variety of languages. The APR also described how Parent Consultants are involved in various ways to help support families.

The State should continue to report in the next APR on its strategies to ensure compliance and performance in this cluster area.

Early Intervention Services in Natural Environments

OSEP's September 9, 2003 letter to Rhode Island indicated that there were two areas of potential noncompliance in this cluster, and discussed concerns regarding natural environments.

One area of potential noncompliance that OSEP identified in its September 2003 letter was the implementation of IFSPs. Page 74 of the Rhode Island's Improvement Plan indicated, "In 18% of the records it was clear that the IFSP had not been fully implemented." The IP also indicated steps that the State planned to take to address this issue. In its September 2003 letter, OSEP stated that in its first progress report (due with the FFY 2002 APR), Rhode Island must provide to OSEP the data it collected regarding IFSP implementation, and the actions it took to address this issue. On page 26 of the FFY 2002 APR, Rhode Island reported that, according to the family survey results completed in 2003, 377 or 87% of families reported receiving all of the services and supports listed on the IFSP. However, the State did not report on the actions it is taking to address this issue. In the next APR, due March 31, 2005, the State must provide

updated data it collects regarding IFSP implementation, and must also report on the actions it is taking to address this issue.

The second area of potential noncompliance that OSEP identified in its September 2003 letter was the timelines for completing IFSPs. On page 25 of the FFY 2002 APR, the State indicated that 68% of the 192 records reviewed showed that the IFSPs were developed within 45 days of intake or documented a reason for delay. However, from the explanation of the record review in Attachment GS.II.A. to the APR, it appears that the standard that the State set was whether the IFSPs were *completed* within 45 days. IDEA regulations require that evaluations and assessments be conducted and an initial IFSP meeting be held within 45 days after the lead agency receives a referral, see 34 CFR §§ 303.321(e)(2), 303.322(e) and 303.342(a). The Part C regulations do not specify that the IFSP must be completed within 45 days. While the State may require that IFSPs be completed within 45 days of referral, OSEP cannot determine from the data if it demonstrates that the *initial IFSP meeting* is held within 45 days of referral. In the FFY 2003 APR (due March 31, 2005), the State must provide data on whether initial IFSP meetings are convened within 45 days of referral to Part C. If the data indicates noncompliance with the Part C 45-day timeline requirement, a plan (including strategies, proposed evidence of change, targets, and timelines) must be included in the FFY 2003 APR to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan.

In the area of natural environments, there are two issues. First, in its September 2003 letter, OSEP indicated that if the State was not ensuring that it was in compliance with the Part C requirements regarding natural environments, then the State was to revise its Improvement Plan to ensure full compliance within a reasonable amount of time, not to exceed September 2004. Page 24 of the FFY 2002 APR continued to include the State's goal that "justification for services that are not in natural environments will be present in all IFSPs when needed by 2007." In the final progress report due September 30, 2004, the State must confirm that it is in compliance with the requirement that justifications for early intervention services that are not in natural environments are present in all IFSPs, when needed. If the State is not in compliance with that issue, the State must submit, by October 31, 2004, a plan (including strategies, proposed evidence of change, targets, and timelines) to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan.

In addition, the FFY 2002 APR includes a goal of increasing the percentage of students served in natural environments to 80% by 2003, 82% by 2004, 84% by 2005, and 86% by 2006. (page 24). States may establish performance goals for providing early intervention services in natural environments provided that they are specifically monitoring to ensure that the establishment of the goal does not override the Part C requirements that service setting decisions are individualized under the Part C regulations. Setting a numerical goal to serve a specific percentage of the State's population in natural environments raises concerns under Part C of IDEA. Therefore, in the next APR, the State must report on the specific monitoring methods it has used to ensure that IFSP service setting decisions are made on an individualized basis, in accordance with the Part C regulations.

The Part C FFY 2001 and FFY 2002 APRs requested data on the percentage of children participating in the Part C program that demonstrated improved and sustained functional abilities (in the developmental areas listed in 34 CFR §303.322(c)(3)(ii)). The FFY 2002 APR reported that, according to Family Survey Results (2003), "385 or 89% of families reported that EI

services enhanced their child's development." (page 28). In the FFY 2003 APR, Rhode Island must continue to provide to OSEP responsive data (whether collected through sampling, monitoring, IFSP review, or other methods), targets for improved performance and strategies to achieve those targets for this area.

Early Childhood Transition

OSEP identified no previous noncompliance in this cluster. The FFY 2002 APR stated that in 2001-2002, there were 656 children leaving early intervention that were eligible for special education, and of those children, 96.6% completed the transition process and entered the school system by their third birthday. Throughout this APR reporting period, the State worked closely with the Rhode Island Department of Education and assigned a full-time coordinator to facilitate transition of children from Part C to Part B. Training, as part of the Comprehensive System of Professional Development, was provided jointly to Part C and Part B staff. The State should continue to report in the next APR on its strategies to ensure compliance and performance in this cluster area.

Conclusion

In its final progress report, due September 30, 2004, the State must:

1. Show that it has implemented the strategies to address the noncompliance in the area of public awareness; and
2. Confirm that it is in compliance with the requirement that justifications for services that are not in natural environments are present in all IFSPs, when needed. If the State is not in compliance with that issue, the State must submit, by October 31, 2004, a plan (including strategies, proposed evidence of change, targets, and timelines) to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan.

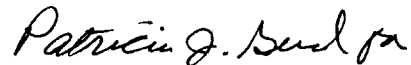
In its next APR, due March 31, 2005, the State must provide to OSEP:

1. Updated data it collects regarding IFSP implementation, and information regarding the actions it is taking to address that issue;
2. Data on whether initial IFSP meetings are convened within 45 days of referral to Part C. If the data indicates noncompliance with the Part C 45-day timeline requirement, a plan (including strategies, proposed evidence of change, targets, and timelines) must be included in the FFY 2003 APR to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan;
3. Information on the specific monitoring methods it has used to ensure that IFSP service setting decisions are made on an individualized basis, in accordance with the Part C regulations; and

4. Responsive data (whether collected through sampling, monitoring, IFSP review, or other methods), targets for improved performance and strategies to achieve those targets for this area.

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 Ginger Johnson at (202) 245.7353.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Ms. Deborah Garneau
Part C Coordinator