



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Rick Melmer
Secretary of Education
South Dakota Department of Education
700 Governors Drive
Pierre, South Dakota 57501-2291

AUG 29 2005

Dear Secretary Melmer:

The purpose of this letter is to respond to South Dakota's April 1, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part C for the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments that the State made during the reporting period, compared to established objectives. The Office of Special Education Programs (OSEP) has designed the APR under the IDEA to provide uniform reporting from States and result in high-quality information across States. The APR is a significant data source for OSEP in the Continuous Improvement and Focused Monitoring System (CIFMS).

The State's APR should reflect the collection, analysis, and reporting of relevant data, and include specific data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to the State's FFY 2003 APR. OSEP has set out its comments, analysis and determinations by cluster area.

Background

OSEP's February 24, 2004 letter confirmed that the State had completed its Improvement Plan and addressed the seven areas of noncompliance from OSEP's 1999 South Dakota Part C Monitoring Report. The conclusion of OSEP's May 6, 2004 FFY 2002 APR letter required the State to: (1) provide in the General Supervision cluster, data and analysis to support the correction of all noncompliance in the third applicant area¹ regarding content of the prior notice requirements at 34 CFR §303.403(b) and the 45-day timeline requirement at 34 CFR §303.321(e); and (2) provide a plan or responsive data regarding how children participating in the Part C program demonstrate improved and sustained functional abilities in the five developmental areas.

General Supervision

Identification and timely correction of noncompliance

On pages 3-5 of the FFY 2003 APR, the State included data and information regarding identification and timely correction of noncompliance. South Dakota reported that all applicant areas monitored by the State prior to July 1, 2003: (1) corrected all noncompliance identified by

¹ Applicant areas (synonymous to regions) are contracted sites within specific geographic boundaries with responsibility for child find, service coordination, and arranging for the provision of early intervention services.

the State; and (2) provided data verifying the correction of all noncompliance; and therefore, the State closed all improvement plans/corrective action plans. Three applicant areas were monitored between July 1, 2003 and June 30, 2004 and all three had identified noncompliance. Two of the three applicant areas submitted data to support 100% correction of noncompliance within one year of identification. The third applicant area was monitored by the State at the end of the reporting cycle and the timeline for correction of noncompliance had not yet expired. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

Dispute resolution

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 5 and 6 of the FFY 2003 APR, the State included data and analysis demonstrating performance and compliance in this area. On page 5 of the FFY 2003 APR, the State reported one complaint was received during the FFY 2003 reporting period (and no requests for due process hearings or mediation); the State reported that the complaint was resolved less than 60 days after it was received and the corrective action was closed. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

Personnel

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 6 and 7 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure performance and compliance in this area. On page 6 of the FFY 2003 APR, the State reported an increase in full time equivalency (FTE) of personnel who provided early intervention services in 2003 (48.2 FTE) compared to 2002 (41.2 FTE), as a result of more children being served in 2003. In addition, on page 6 of the FFY 2003 APR, the State reported having no waiting lists for services. OSEP appreciates the State's efforts to improve performance in this area.

Collection and timely reporting of accurate data

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On page 7 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure performance and compliance in this area. On page 7 of the FFY 2003 APR, the State reported its data system had been updated to improve the accuracy of data, and that local applicants must verify the accuracy of data prior to submission of Federal data tables. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

Comprehensive Public Awareness and Child Find System

OSEP determined, in a May 6, 2004 letter, that the State had corrected noncompliance identified in its 1999 Monitoring Report in this area. OSEP did not identify any additional noncompliance in this area in the FFY 2002 APR. On pages 8-13 of the FFY 2003 APR, the State included data and analysis regarding its performance in this area. The State reported: (1) the continued distribution of public awareness materials; (2) the use of informed clinical opinion to determine eligibility; (3) an increase in the December 1 child count; (4) an increase in the number of

children identified under the age of one; (5) referral source data by source of referral and age of child; (6) an increase in child find in rural and reservation areas; and (7) collaboration with other programs and agencies. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

Family Centered Services

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On page 16 of the FFY 2003 APR, the State included information indicating a need to improve performance in the area of ensuring that supports and services necessary to enhance the family's capacity to meet the developmental needs of their child are identified and included on the individualized family service plan (IFSP). The State also included strategies to improve performance. In addition, parent survey data indicated that 109 of 114 parents responded that, as a result of early intervention, their families could do more to meet their child's special needs. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

Early Intervention Services (EIS) in Natural Environments (NE)

Service coordination

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On page 18 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure performance and compliance in this area. On page 18 of the FFY 2003 APR, the State reported that one applicant area was found out of compliance with the provision of all service coordination roles and responsibilities as required at 34 CFR §303.23. The applicant area met corrective action and improvement plan requirements within one year of identification. OSEP appreciates the State's efforts to improve performance in this area.

Evaluation and identification of needs

On pages 19-20 of the FFY 2003 APR, the State provided data and information indicating potential noncompliance with the requirement at 34 CFR §§303.321(e)(2) and 303.322(e) to complete evaluation and assessment activities in 34 CFR §303.322 and hold an initial IFSP meeting within 45 days of the referral. The State identified barriers to meeting the 45-day timeline and implemented strategies such as training and changes to policy and procedures to address the barriers. During the reporting period, three applicant areas were monitored and found to be in noncompliance with the 45-day timeline. One applicant area submitted data to support 100% compliance within one year of identification. The other two applicant areas submitted quarterly progress reports; their improvement plans were not expected to be closed until Spring 2005. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

Individualized family service plans (IFSPs)

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 14 and 15 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure

performance and compliance in this area. On pages 14 and 15 of the FFY 2003 APR, the State reported that 100% of the three applicant areas monitored: (1) identified other services/family resources, priorities, and concerns; (2) provided all needed early intervention services; (3) continued services at the same frequency/intensity; and (4) addressed transportation needs. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

On page 22 of the FFY 2003 APR, the State reported information indicating that all services needed by the child and family were included on the IFSP. The State did not include data and analysis to support its conclusion. The State must include data and analysis in the SPP to address whether IFSPs include all the services necessary to meet the identified needs of the child and family.

Natural environments

On pages 22-23 of the FFY 2003 APR, the State included data and information regarding the provision of services in natural environments and justifications on IFSPs when services are not provided in natural environments. The State reported that 97% of children received services in natural environments, and 100% of IFSPs had appropriate justifications when services were not provided in natural environments. OSEP appreciates the State's efforts to ensure compliance and improve performance in this area and looks forward to reviewing updated data in the SPP.

Early childhood outcomes

Under the Government Performance and Results Act of 1993, 31 U.S.C. 1116, the effectiveness of the IDEA Part C program is measured based on the extent to which children receiving Part C services demonstrate improved and sustained functional abilities in the cognitive, physical, communication, social or emotional and adaptive developmental areas. The Part C FFY 2001, 2002 and 2003 APRs requested data on the percentage of children participating in the Part C program that demonstrate improved and sustained functional abilities in the developmental areas listed in 34 CFR §303.322(c)(3)(ii). On pages 22-23 of the FFY 2003 APR, the State provided data and information as follows: During the reporting period, the State began efforts to measure improvement. It collected testing data in seven areas on 234 children and found that 72 or 30% of children tested in all areas maintained or improved. In the State's submission of its SPP on December 2, 2005, the State should incorporate and update the data and information collected for and reported in the State's FFY 2001, 2002, and 2003 APRs to address the requirements related to this indicator. In preparing the SPP, the State must determine whether data collected related to this area will be responsive to those requirements. OSEP looks forward to reviewing updated early childhood outcome data in the State's SPP.

Early Childhood Transition

On page 24 of the FFY 2003 APR, the State included data regarding children who exit Part C with Part B eligibility determined by their third birthday. The State reported that 96% of children who exited Part C during the reporting period (who may have been eligible for Part B services) had Part B eligibility determined by their third birthday. OSEP appreciates the State's efforts to improve performance in this area.

On pages 24-25, although the State included information indicating a need to improve performance in the area of transition planning activities occurring prior to the child's third birthday, the State did not include data addressing the three primary transition compliance elements under Part C. The State did not include data in the FFY 2003 APR to address: (1) the transition planning conference timelines for children who may be eligible under Part B under 34 CFR §303.148(b)(2)(i); (2) notifying the local education agency (LEA) of children who may be eligible under Part B under 34 CFR §303.148(b)(1); and (3) establishing a transition plan under 34 CFR §§303.148(b)(4) and 303.344(h). The State must include, in the SPP, data and analysis reflecting compliance with these indicators.

If State data indicates noncompliance in the areas of: (1) timely transition conferences under 34 CFR §§303.148 and 637(a)(9); (2) notification of LEAs under 34 CFR §303.148; and (3) transition planning under 34 CFR §303.344, the State must submit, in the SPP, a plan that includes strategies, proposed evidence of change, targets and timelines to achieve full compliance as soon as possible, not to exceed one year from when OSEP accepts the plan.

Conclusion

In the SPP, due December 2, 2005, South Dakota must submit to OSEP:

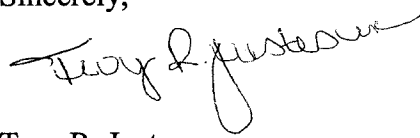
1. In the Early Intervention Services in Natural Environments section: (a) data and analysis in the SPP to address whether IFSPs include all the services necessary to meet the identified needs of the child and family; (b) incorporate and update the data and information collected for and reported in the State's FFY 2001, 2002, and 2003 APRs to address the requirements related to improved and sustained functional abilities; and
2. In the Early Childhood Transition section, data and analysis indicating the status of compliance with: (a) the transition planning conference timelines; (b) notification to the LEA of children who may be potentially eligible for Part B; and (c) IFSP transition planning requirements. If the data indicate noncompliance, the State must submit a plan that includes strategies, proposed evidence of change, targets and timelines to achieve full compliance as soon as possible, not to exceed one year from when OSEP accepts the plan.

IDEA 2004, Section 616, requires each State to submit a SPP that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are, for the most part, similar to the clusters and probes in the APR. OSEP encourages the State to carefully consider the comments in this letter as it prepares its SPP, due December 2, 2005.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State and looks 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 Mary A. Williams at (202) 245-7586.

Sincerely,

A handwritten signature in cursive script that reads "Troy R. Justesen". The signature is written in black ink and is positioned above the typed name.

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Sherrie Fines