



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

Honorable Brent Sherard
Director
Department of Health
2300 Capitol Avenue, Room 117
Hathaway Building
Cheyenne, WY 82002

OCT -7 2005

Dear Director Sherard:

The purpose of this letter is to respond to Wyoming Department of Health's (WYDH) August 15, 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 August 17, 2004 FFY 2002 APR response letter required the State to report, in the FFY 2003 APR, relevant data and to make data-based determinations regarding the current status of, and future activities for, the five APR cluster areas.

General Supervision

Identification and timely correction of noncompliance

The State provided information regarding its general supervision system in its FFY 2003 APR. In the State Performance Plan (SPP), due December 2, 2005, WYDH must report data regarding the State's correction of noncompliance, as requested in indicator 9.

Dispute resolution

On page 9 of the FFY 2003 APR, WYDH reported that no complaints or requests for mediation and due process hearings were received during the FFY 2003 APR reporting period. On pages 2

and 7-10 of the FFY 2003 APR, the State also reported that it had undertaken the following activities to ensure that families were aware of their rights to due process: (1) distributing complaint logs to be completed by regional staff any time a parent had an informal complaint and monitoring these logs to ensure that complaints were resolved; (2) ensuring that all formal complaints were referred to the State for resolution in accordance with the Part C requirements at 34 CFR §§303.510-512; (2) disseminating (widely) the State parent handbook that outlined parents rights to due process; and (3) providing training to service coordinators regarding these matters. OSEP looks forward to reviewing the State's updated data in indicators numbered 9 C through 13 in the SPP.

OSEP's August 2004 letter required the State to report, in the FFY 2003 APR, whether the list of qualified, trained mediators and hearing officers that was to be distributed by June 30, 2004 was made available by June 30, 2004, and was available on an ongoing basis as required by the Part C regulations, to the regional providers. Wyoming did not provide this information in the FFY 2003 APR. In the SPP, the State must report on whether the list of qualified, trained mediators and hearing officers was distributed to regional providers, and is available on an ongoing basis as required by the Part C regulations.

Personnel

On pages 11-13, the State included data regarding the availability of personnel to provide early intervention services to eligible infants and toddlers and their families. OSEP appreciates the State's efforts in this area.

Collection and timely reporting of accurate data

During OSEP's 2003 visit to Wyoming to verify the effectiveness of the State's systems for general supervision and data collection under Section 618 of IDEA, OSEP found that WYDH could not demonstrate that it had a system in place for collecting and reporting data from regional early intervention programs that ensured the accuracy of the data WYDH reported under §618 of IDEA. OSEP's August 2004 letter accepted WYDH's plan that included: (1) adding software edits in WYDH's data base (by December 1, 2004); (2) holding technical assistance calls to all regional staff regarding requirements for reporting data under §618 (by June 30, 2004); (3) providing ongoing assistance to regional staff concerning data requirements; and, (4) setting out a yearly schedule to verify and resolve data discrepancies (by January 15 and June 15 of each year). OSEP requested that WYDH continue to report its strategies to ensure compliance and performance in this area. In the FFY 2003 APR, WYDH did not include any information regarding the accuracy of its data. In the SPP, WYDH must report information related to collecting and reporting accurate data, as required by indicator #14.

Comprehensive Public Awareness and Child Find System

On pages 13-25 of the FFY 2003 APR, the State included data and analysis regarding compliance and performance of the State's public awareness and child find system as required by 34 CFR §§303.320-303.323. Wyoming reported that the number of eligible children, birth to three, increased from 618 infants and toddlers on December 1, 2003 to 672 infants and toddlers

(3.57% of the population) on December 1, 2004. The State also reported that the number of eligible children served, less than one year of age, was 100 children (1.57% of the population). On page 17 of the FFY 2003 APR, the State provided data regarding types and percentages of referral sources that indicated that families' self-referrals accounted for 51.2% of the referrals, although 76% of these families reported that they learned about Part C from their health care providers. The State also reported that 25.2% of the referrals were made directly from health care providers.

On pages 23 of the FFY 2003 APR, the State indicates that it has a target to "maintain or increase the percentage of children served, both overall and for each racial/ethnic group." The use of a goal for a racial or ethnic subgroup is inconsistent with Federal law. The State must not include a reference to racial/ethnic groups in its targets in indicators numbered 5 and 6 in its SPP.

OSEP appreciates the State's efforts in this area and looks forward to the State providing the information regarding child find in accordance with indicators numbered 5 and 6 in the SPP, due December 2, 2005.

Family Centered Services

On pages 28-30 of the FFY 2003 APR, the State reported that the results from the statewide parent survey (1,700 families surveyed, 440 returned) indicated that 405 families reported that early intervention services increased their family's capacity to enhance their child's development and 379 families reported that family supports, services and resources enhanced outcomes for infants and toddlers and their families. OSEP appreciates the State's efforts regarding performance in this area. OSEP looks forward to the State's response to the family outcome indicator (#4) in the SPP.

Early Intervention Services in Natural Environments

Service coordination

On pages 32 - 35 of the FFY 2003 APR, the State included data and information regarding performance in this area. WYDH reported that the results from the statewide parent survey (1,700 families surveyed, 440 returned) indicated that 382 families reported that service coordinators helped them to get the services they needed and 325 families reported that services were coordinated to meet the needs of their children and families. OSEP appreciates the State's efforts in this area.

Evaluation and identification of needs

On pages 37 - 39 of the FFY 2003 APR, the State provided information regarding evaluations and assessments of infants and toddlers. OSEP looks forward to the State providing the information regarding evaluations and assessments in accordance with indicator #7 in the SPP, due December 2, 2005.

Individualized family service plans (IFSPs)

It is unclear whether the State is in compliance with the requirement to provide early intervention services listed on IFSPs, in a timely manner, as required by 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1). On page 40 of the FFY 2003 APR, the State reported that 82% of the IFSPs reviewed indicated that all required services were delivered based on a sample of three months. On page 42, the State reported that 97.3% of the parents surveyed reported that the services on their child's IFSP were provided in a timely manner. In the SPP, the State must provide updated data regarding this issue, as required by indicator #1. If the data indicates noncompliance, the State must include in its SPP a plan, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan.

Natural environments

On pages 45-46 of the FFY 2003 APR, the State included data and analysis regarding the provision of services in natural environments. Wyoming reported that 99.1% of the 209 IFSPs reviewed indicated that all services were conducted in natural environments. The State also monitored these files to ensure that justifications were included for services not provided in the natural environments. OSEP appreciates the State's efforts in this area and looks forward to the State providing the information regarding early intervention services in natural environments in accordance with indicator #2 in the SPP, due December 2, 2005.

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 49-51 of the FFY 2003 APR, the State reported that it would continue "to identify mechanisms to determine the most appropriate formula to measure change [in child development] in such a way that it can be disaggregated into the six curriculum-based domains."

The SPP instructions establish a new indicator in this area, for which States must provide entry data in the FFY 2005 APR due February 1, 2007. Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under section 616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

Early Childhood Transition

On page 6 of the FFY 2003 APR, Wyoming reported that "transitioning" was an area that potentially could evolve into noncompliance. It appears that the data on page 58 of the FFY

2003 APR are incomplete with regard to the following Part C transition requirements: (1) holding transition meetings in accordance with 34 CFR §303.148(b)(2)(i); (2) including transition steps on the individualized family service plan in accordance with 34 CFR §303.344(h); and (3) notifying the LEA that a child would shortly reach the age of eligibility for preschool services under Part B as required by 34 CFR §303.148 (b)(1). This is an indicator in the SPP under section 616 that is due December 2, 2005. In preparation for the submission of the SPP, the State should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements. The State must submit responsive baseline data regarding indicator 8 in the SPP. The absence of baseline data in this area will be considered in OSEP's decision about approval of the State's SPP.

In addition, based on the information on page 60 of the FFY APR, it is unclear how WYDH implements the requirements for notifying the LEA for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B, as required by 34 CFR §303.148(b)(1). OSEP has enclosed, for your information, a copy of its February 11, 2004 letter to Elder, which discusses the limited disclosure of personally identifiable information for purposes of meeting IDEA's child find mandate. OSEP can provide technical assistance to WYDH on this matter.

Conclusion

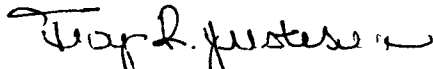
In the SPP, due December 2, 2005, Wyoming must:

1. Report on whether the list of qualified, trained mediators and hearing officers was distributed to regional providers, and is available on an ongoing basis as required by the Part C regulations;
2. Report information related to collecting and reporting accurate data, as required by indicator #14; and
3. Provide updated data regarding the timely provision of early intervention services, as required by indicator #1. If the data indicates noncompliance, the State must include in its SPP a plan, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan.

IDEA 2004, §616, requires each State to submit a State Performance Plan (SPP) that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are, for the most part, similar to 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 Sheryl Parkhurst at (202) 245-7472.

Sincerely,



Troy R. Justesen
Acting Director

Office of Special Education Programs

Enclosure

cc: Kerri Alley
Acting Part C Coordinator