



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

Honorable Thomas E. Alt
Deputy Secretary
Department of Health and Family Services
1 West Wilson Street
Post Office Box 7850
Madison, WI 53707

JUL 29 2004

Dear Deputy Secretary Alt:

The purpose of this letter is to respond to Wisconsin's April 23, 2004 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 submission of the 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 October 18, 2000 Monitoring Report identified the following six areas of Part C noncompliance:

- The Department of Health and Family Services (DHFS) was not ensuring that Individualized Family Service Plan (IFSP) teams identified the services and supports necessary to enhance the family's capacity to meet the developmental needs of their child and to meet the unique needs of the child and family, as required by 34 CFR §§303.322(d) and 303.344(b) (c) and (d).

- DHFS was not ensuring effective implementation of the policies and procedures in its approved Part C application related to the provision of early intervention services in natural environments, as required by 34 CFR §§303.167(c) and 303.344(d)(1)(ii).
- DHFS did not ensure that IFSP teams made individualized decisions for all infants and toddlers with disabilities based on the unique needs of each child and family, as required by 34 CFR §§303.344(d) and 303.344(d)(2)(i).
- DHFS did not ensure that IFSPs documented procedures for measuring progress and evaluating whether services and outcomes required modification, as required by 34 CFR §303.344(c).
- DHFS did not ensure that IFSP teams identified needed health and medical services and the steps to secure these services, as required by 34 CFR §303.344(e).
- DHFS did not ensure that transition planning conferences were held at least 90 days before a child's third birthday for those who may be eligible for Part B, or make reasonable efforts to convene a transition conference for children who were not likely to be eligible for Part B services, as required by 34 CFR §§303.148 and 303.344(h).

OSEP's February 24, 2003 letter to DHFS accepted Wisconsin's Part C Improvement Plan, and directed DHFS to submit documentation to OSEP by February 24, 2004, that it had corrected each of the six areas of noncompliance. DHFS submitted Progress Reports on April 14, 2003 and July 1, 2003, and a final Progress Report on April 30, 2004. As discussed below, DHFS has submitted data to demonstrate correction of three of the six findings.

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 regarding the Improvement Plan Progress Reports and the FFY 2002 APR are listed by cluster area below.

General Supervision

OSEP did not identify any noncompliance in its 2000 Monitoring Report for this cluster area. OSEP's response to Wisconsin's FFY 2001 APR requested that the State include, in its FFY 2002 APR, data-based conclusions regarding DHFS's effectiveness in meeting general supervision responsibilities, including its effectiveness in identifying and correcting noncompliance. On pages 1-4 of the FFY 2002 APR, the State concluded that the general supervision instruments that DHFS used to monitor county programs during this reporting period were effective in identifying and correcting Part C noncompliance in a timely manner. On page 3, the State summarized the findings that it had made in the 17 counties that it monitored during the reporting period. That summary showed that DHFS made findings of noncompliance across a broad spectrum of Part C requirements. On page 3 of the FFY 2002 APR, the State explained that it required each county in which it found noncompliance to develop and implement a Program in Partnership Plan (PIPP), in order to correct the noncompliance. The State did not

include any information in the APR regarding actions taken to determine whether a county had effectively corrected noncompliance, or other data to support its conclusion that it was effective in ensuring the timely correction of identified noncompliance. In the April 2004 Improvement Plan Progress Report, the State documented that the three sites in which OSEP identified noncompliance in its 2002 report had corrected that noncompliance and were implementing procedures for determining and documenting the settings in which infants and toddlers would receive early intervention services.

Wisconsin 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 System

OSEP did not identify any noncompliance in its 2000 Monitoring Report for this cluster area. In the FFY 2002 APR, the State reported trend data from 2000 to 2002 on the change in child count, child count by race/ethnicity, trends in referral sources (including data from the parent and provider surveys related to referral sources), and Human Services Reporting System (HSRS) data. DHFS described activities and strategies to collaborate with other entities to maximize identification efforts. The State reported, on page 14 of the APR, that each county's child count was reviewed during local program reviews to compare to the 2.5% State standard. If a county fell below the 2.5% State standard, discussions were held with the county and DHFS may have required that a child find plan be developed through the PIPP. While it is not inconsistent with Part C to include a numerical goal for the percentage of infants and toddlers with disabilities determined eligible for services, the State must continue to monitor to ensure that eligibility decisions for all infants and toddlers are made in conformity with the individual evaluation and assessment requirements of Part C (at 34 CFR §§303.320 through 303.323) and not based upon a numerical goal.

Based on the data provided in the APR, it appears that the State's activities to identify children continue to have a positive effect on locating, identifying and serving children in the State. Overall, the strategies appear to be results-oriented and OSEP encourages the State to continue to ensure performance in this cluster area and report on its progress in the next APR.

Family Centered Services

OSEP's 2000 Monitoring Report identified one area of noncompliance in this cluster. DHFS was not ensuring that IFSP teams identified the services and supports necessary to enhance the family's capacity to meet the developmental needs of their child and to meet the unique needs of the child and family, as required by 34 CFR §§303.322(d); and 303.344(b), (c) and (d). In its April 6, 2004 letter in response to the State's FFY 2001 APR, OSEP directed the State to include, in the FFY 2002 APR, data-based determinations regarding the State's performance and compliance for this cluster. In order to demonstrate that it had corrected the noncompliance, the State was directed to provide documentation that it was effectively ensuring that each IFSP included any early intervention services that were needed to meet the unique needs of the family to achieve the outcomes of the IFSP.

On pages 1 and 2 of the State's April 30, 2004 Progress Report, the State included data and analysis that demonstrated correction of the noncompliance. The State reported that, as part of its program reviews, DHFS surveyed families and providers; interviewed families, providers and agency administrators; and reviewed early intervention records and IFSPs. 97% of the files that DHFS reviewed from June 2002 to February 2004 had documentation of family strengths, concerns and priorities included at parents' option. Additionally, the State held a number of trainings to address the provision of family centered services. OSEP has determined that no further documentation of correction of this finding is required. OSEP appreciates the work of the State in ensuring compliance with these requirements. In the next APR, the State must continue to report on its strategies to ensure compliance and performance in this area.

Early Intervention Services in Natural Environments

OSEP's 2000 Monitoring Report identified four areas of noncompliance in this cluster:

- DHFS was not ensuring effective implementation of the policies and procedures in its approved Part C application related to the provision of early intervention services in natural environments, as required by 34 CFR §§303.167(c) and 303.344(d)(1)(ii).

OSEP's April 6, 2004 letter directed the State to submit additional data in the final Progress Report and the FFY 2002 APR to demonstrate continued correction and the effective implementation of policies and procedures related to the provision of early intervention services in natural environments. The State submitted data on pages 3-4 of the April 30, 2004 final Progress Report and pages 25-28 of the FFY 2002 APR, that demonstrated correction of the noncompliance. In 2002, 92% of children received services in natural environments and in 2003, 94% of children received services in a natural environment. The State provided documentation on page 3 of the April, 30, 2004 final Progress Report that it had determined that the three sites in which OSEP identified noncompliance in its 2000 report had corrected that noncompliance and were implementing procedures for determining and documenting the settings in which infants and toddlers would receive early intervention services. OSEP has determined that no further documentation of correction of this finding is required. OSEP appreciates the work of the State in ensuring compliance with these requirements and ensuring that infants and toddlers with disabilities receive early intervention services in natural environments. In the next APR, the State must continue to report on its strategies to ensure compliance and performance in this area.

- DHFS did not ensure that IFSP teams made individualized decisions for all infants and toddlers with disabilities based on the unique needs of each child and family, as required by 34 CFR §§303.344(d) and 303.344(d)(2)(i).

OSEP's April 6, 2004 letter directed the State to include in the final Progress Report and the FFY 2002 APR, documentation that it had corrected the noncompliance related to IFSP teams making individualized decisions for all infants and toddlers with disabilities based on the unique needs of each child and family; that IFSPs document procedures for measuring progress and evaluating whether services and outcomes require modification; and that IFSP teams identify needed health and medical services and the steps to secure those services. The State reported correction of the noncompliance and submitted data on page 4 of the April 30, 2004 final Progress Report and

pages 22–25 of the FFY 2002 APR that demonstrated correction of the noncompliance. The State provided data from a thorough review of IFSPs and related documents as part of the program review process. In addition, families and providers interviewed are specifically asked about the decision-making process as part of the IFSP development. OSEP has determined that no further documentation of correction of this finding is required. OSEP appreciates the work of the State in ensuring compliance with these requirements. In the next APR, the State must continue to report on its strategies to ensure compliance and performance in this area.

- DHFS did not ensure that IFSPs documented procedures for measuring progress and evaluating whether services and outcomes required modification, as required by 34 CFR §303.344(c).

OSEP's April 6, 2004 letter directed the State to submit data to demonstrate that IFSPs documented procedures for measuring progress and evaluating whether services and outcomes required modification. On page 5 of the April 30, 2004 Progress Report, the State reported that "85% of IFSPs reviewed from June 2002 – February 2004 contained outcomes and criteria and timelines for determining progress and any needed modifications." Neither the APR nor the April 30, 2004 Progress Report included data or analysis to support the State's conclusion that the noncompliance has been corrected. The State must, no later than 60 days from date of this letter, provide documentation to OSEP that it completed correction of the noncompliance related to including in IFSPs procedures for measuring progress and evaluating whether services and outcomes required modification, as required by 34 CFR §303.344(c). If the State cannot demonstrate compliance by that date, the State must provide within 60 days from the date of this letter: (1) its analysis of the factors that impeded correction of the noncompliance; (2) its documentation of the specific steps, including any sanctions that it has taken to ensure correction, and the impact of those actions; and (3) if the State determines that additional strategies are needed or that existing strategies must be modified, its proposed strategies, evidence of change data and timelines to ensure compliance as soon as possible. OSEP will review this information and determine what, if any, further action is required.

- DHFS did not ensure that IFSP teams identified needed health and medical services and the steps to secure these services, as required by 34 CFR §303.344(e).

OSEP's April 6, 2004 letter directed the State to include in the final Progress Report and the FFY 2002 APR, documentation that IFSP teams identified needed health and medical services and the steps to secure those services. The State submitted data on pages 5–6 of the April 30, 2004, final Progress Report and pages 23-25 of the FFY 2002 APR, but the data did not provide evidence of correction of the noncompliance. In addition, the State set a target that only 90% of records reviewed during the 2002-2006 program review cycle would include the child's health and medical services where appropriate. The State must revise its target to 100% compliance. Further, the State must, no later than 60 days from date of this letter, provide documentation to OSEP that it corrected the noncompliance related to including in IFSPs needed health and medical services and the steps to secure these services. If the State cannot demonstrate compliance by that date, the State must include: (1) its analysis of the factors that impeded correction of the noncompliance; (2) documentation of the specific steps, including any sanctions that it has taken to ensure correction, and the impact of those actions; and (3) if the State

determines that additional strategies are needed or that existing strategies must be modified, its proposed strategies, evidence of change data and timelines to ensure compliance as soon as possible. OSEP will review this information and determine what, if any, further action is required.

Data in Wisconsin's FFY 2002 APR on pages 20-21 indicated the following area of noncompliance, not previously identified by OSEP: the State was not ensuring that public agencies completed an initial evaluation and assessment, and convened an initial IFSP meeting, within 45 days after a referral is received, as required by 34 CFR §§303.321(e), 303.322(e) and 303.342(a). On page 21 of the FFY 2002 APR, the State reported that three out of seven counties reviewed in the 2002 review cycle had issues relating to timeliness of services. All have implemented corrective action plans. Counties reviewed reported problems with getting prescriptions for therapy evaluations, scheduling therapists, and one unnecessarily screened all children referred, thus likely resulting in delays in eligibility determinations and scheduling the initial IFSP meeting. On pages 21-23 of the APR, the State also included strategies, targets and timelines designed to ensure compliance by the next APR. This letter serves as acceptance by OSEP of the strategies and timelines proposed by the State to ensure correction of the noncompliance. The State must submit two Progress Reports on the status of its correction of this area of noncompliance by the three counties the State identified as out of compliance on the 45-day timeline in the FFY 2002 APR. The first Progress Report must be provided as part of the next APR (for FFY 2003, due on March 31, 2005). In that Progress Report, the State must include data and analysis demonstrating progress of these three counties toward compliance with the 45-day timeline. A final Progress Report is due to OSEP within 30 days from one year from the date of this letter, and must include data and analysis demonstrating full compliance with Part C's 45-day timeline requirement, as soon as feasible, but no later than one year from the date of this letter.

The Part C FFYs 2001 and 2002 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)). The State provided OSEP with limited data in response to this performance indicator by reporting exit data and parent/provider survey data. Please provide to OSEP in the next APR (for FFY 2003 due on March 31, 2005) responsive data (whether collected through sampling, monitoring, individual IFSP review, or other methods) that demonstrate how children participating in the Part C program demonstrate improved and sustained functional abilities in the five developmental areas.

Early Childhood Transition

OSEP's 2000 Monitoring Report identified one area of noncompliance in this cluster: DHFS had not ensured that transition planning conferences were held at least 90 days before a child's third birthday for those who may be eligible for Part B, or make reasonable efforts to convene a transition conference for children who were not likely to be eligible for Part B services, as required by 34 CFR §§303.148 and 303.344(h).

In its April 6, 2004 letter, OSEP directed the State to include, in the FFY 2002 APR and final Progress Report, documentation of data and analysis to demonstrate that the noncompliance was

corrected and future activities to maintain good performance. The State submitted data, on pages 6-7 of the April 30, 2004 final Progress Report and pages 30-32 of the FFY 2002 APR, related to the IDEA requirements for early childhood transition. The State reported on page 31 of the FFY 2002 APR and in the April 30, 2004 final Progress Report, that: (1) 69 % of families responding to a survey reported that their family participated in a transition planning conference at least 90 days before their child's third birthday; (2) five of seven counties that DHFS monitored "contained appropriate transition information and contained information regarding transition planning conferences;" and (3) the two counties in which DHFS found noncompliance had approved corrective action plans. This documentation does not demonstrate that DHFS corrected the noncompliance. The State must, no later than 60 days from date of this letter, provide documentation to OSEP that it has corrected the transition planning conference noncompliance and include copies of the corrective action plans from the two counties found out of compliance on early childhood transition and data from these counties indicating correction. If the State cannot demonstrate compliance by that date, the State must include: (1) its analysis of the factors that have impeded correction of the noncompliance; (2) documentation of the specific steps, including any sanctions that it has taken to ensure correction, and the impact of those actions; and (3) if the State determines that additional strategies are needed or that existing strategies must be modified, its proposed strategies, evidence of change data and timelines to ensure compliance as soon as possible. OSEP will review this information and determine what, if any, further action is required.

Conclusion

As noted above, the State must, no later than 60 days from date of this letter, provide documentation to OSEP, that it has corrected noncompliance related to: (1) including in IFSPs procedures for measuring progress and evaluating whether services and outcomes required modification; (2) including in IFSPs needed health and medical services and the steps to secure these services; and (3) ensuring that transition planning conferences are held at least 90 days before the child's third birthday. If the State cannot demonstrate compliance with any of these requirements by that date, the State must include: (1) its analysis of the factors that have impeded correction of the noncompliance; (2) documentation of the specific steps, including any sanctions that it has taken to ensure correction, and the impact of those actions; and (3) if the State determines that additional strategies are needed or that existing strategies must be modified, its proposed strategies, evidence of change data and timelines to ensure compliance as soon as possible. OSEP will review the information and determine what, if any, further action is required.

In addition, in the next APR, the State must provide: (1) its Progress Report (including data) on how the three counties it identified in the FFY 2002 APR as being in noncompliance with Part C's 45-day timeline requirement are correcting this noncompliance; and (2) early childhood outcome data that demonstrate what percentage of children demonstrate improvement in functional abilities in the Part C developmental areas.

Finally, within 30 days following one year from the date of this letter, the State must provide a final progress report (including data) demonstrating full compliance with Part C's 45-day timeline requirement for the initial IFSP meeting.

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 and their families. If you have any questions, please contact Rhonda Spence at (202) 245-7382.

Sincerely,

A handwritten signature in black ink that reads "Stephanie Smith Lee". The signature is written in a cursive style.

Stephanie Smith Lee
Director
Office of Special Education Programs

cc: David Sorenson
Part C Coordinator