



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

Honorable Yvonne Gilchrist
Director
Department of Human Services
P.O. Box 54047
2700 Martin Luther King, Jr. Avenue, SE
Washington, DC 20032-0247

AUG 29 2005

Dear Director Gilchrist:

The purpose of this letter is to respond to the District of Columbia's March 31, 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 District 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

The conclusion of OSEP's December 22, 2004 APR response letter required the District of Columbia Early Intervention Program (DCEIP) to provide in the FFY 2003 APR, data and information on the correction of the remaining seven noncompliance issues from OSEP's June 2002 Monitoring Report, including: (1) child find and public awareness activities were not sufficient to ensure that all infants and toddlers who were eligible for services through Part C were identified, located and evaluated (34 CFR §§303.1(d), 303.128(b), 303.320, and 303.321); (2) initial evaluations to determine eligibility were inadequate or incomplete (34 CFR §§303.322(c)(3)(ii) and 303.344(a)(1)); (3) lack of all required content in Individualized Family Service Plans (IFSPs) (34 CFR §303.344); (4) failure to complete evaluations within 45 days of referral (34 CFR §303.321(e)(2)); (5) failure of service coordinators to coordinate all services (34 CFR §303.23); (6) lack of a smooth and timely transition from Part C to Part B (34 CFR §§303.148 and 303.344(h)); and (7) supervision and monitoring procedures did not ensure compliance (34 CFR §303.501). As noted below, DCEIP has provided data and information that addresses three of these findings (service coordination, incomplete evaluations, and IFSP content), and DCEIP must provide, in the State Performance Plan (SPP), data and information on the correction of the remaining four issues.

General Supervision¹

Identification and timely correction of noncompliance

The June 2002 OSEP Monitoring Report included data and information that indicated the following area of noncompliance: DCEIP's supervision and monitoring procedures did not ensure the identification and correction of noncompliance among participating programs and agencies in the Part C early intervention program. See 34 CFR §303.501. DCEIP submitted a revised Improvement Plan (IP) to OSEP in March 2003. OSEP approved DCEIP's revised IP on June 26, 2003 with the requirement that all areas of noncompliance identified in OSEP's June 18, 2002 Monitoring Report be corrected within a reasonable period of time, not to exceed June 26, 2004.

In its December 22, 2004 letter regarding DCEIP's FFY 2002 APR, OSEP did not identify any further concerns regarding DCEIP's system for identifying noncompliance. However, OSEP was unable to determine the effectiveness of DCEIP's general supervision system because DCEIP did not provide information regarding correction of the noncompliance it identified. In its December 22, 2004 letter, OSEP requested that DCEIP provide, in its FFY 2003 APR, certain information and data regarding its efforts to correct noncompliance it identified.

In the FFY 2003 APR, DCEIP included data and analysis regarding its desk reviews, exit reports, and corrective action plans. On page 9 of the FFY 2003 APR, DCEIP reported that 12 validation visits or calls had been completed in March 2005, and 9 visits were scheduled for April 2005. Due to the timing of the visits, DCEIP was not able to provide data and information regarding the results of those visits or calls in its FFY 2003 APR. In the SPP, DCEIP must include the following information regarding the 12 validation visits or calls that it completed in March 2005 and the 9 visits scheduled for April 2005: (1) a list of each Part C finding of noncompliance identified by DCEIP, (2) the information or data required by DCEIP showing whether the noncompliance had been corrected, and (3) if the noncompliance was not corrected, the specific corrective actions DCEIP is requiring of the sub-grantees to ensure that the noncompliance is corrected within one year of when DCEIP identified it.

Page 10 of this section of the FFY 2003 APR, pages 7, 9, and 15 in the Early Intervention Services in Natural Environments section, and page 3 of the Transition section all contained incremental percentages as targets. DCEIP must ensure that the targets that DCEIP establishes for SPP compliance indicators are for 100% compliance.

Dispute resolution

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 4 and 5 of the FFY 2003 APR, DCEIP included data regarding performance in this area. On page 5,

¹ Several documents in the FFY 2003 APR submitted by DCEIP have page numbers that start over at the beginning of each section. When referring to page numbers in this letter, we are referring to the page number in the section of the APR document that corresponds to the cluster area that is being discussed in this letter, unless otherwise indicated.

DCEIP reported that it had received one formal mediation request, and no formal compliant investigations or due process hearings. OSEP looks forward to reviewing DCEIP's data in this area in the SPP.

Personnel

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 5 and 6 of the FFY 2003 APR, DCEIP included information regarding performance in this area. DCEIP reported that it identified and contracted with three new speech language therapist vendors, and DCEIP has approached four other agencies about working with DCEIP in the near future. OSEP appreciates the work of the State regarding performance with this requirement.

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, DCEIP reported that the Management Information System that has been under the direction of the Office of the Information Systems has been operating poorly, so they have decided to adopt the web-based data management system developed by the Mental Retardation and Developmental Disabilities Administration (MRDDA). OSEP looks forward to reviewing updated information regarding the implementation of the new system in the SPP.

Comprehensive Public Awareness and Child Find System

The June 2002 OSEP Monitoring Report included data and information that indicated the following area of noncompliance: child find and public awareness activities were not sufficient to ensure that all infants and toddlers who were eligible for services through Part C were identified, located and evaluated. See 34 CFR §§303.320-.321. OSEP approved DCEIP's revised IP on June 26, 2003. DCEIP proposed the following strategies in its IP: translating public awareness materials into other languages and placing public awareness materials on metro buses. On pages 2-3 of the FFY 2003 APR, DCEIP indicated that all materials were translated in October 2004 but the translations were unacceptable and had to be redone. Page 3 of the FFY 2003 APR also indicated that a Memorandum of Understanding (MOU) with the District of Columbia Public Schools (DCPS) established a collaborative, citywide child find campaign for children birth through age 21. The metro bus strategy was delayed pending execution of the MOU (signed in September 2004). Posters that publicize the child find campaign were scheduled to be displayed on buses in May 2005. In the SPP, DCEIP must include confirmation that it has implemented the following strategies from its IP: correctly translating the additional public awareness materials and placing public awareness materials on metro buses (or DCEIP may include an explanation of why those strategies have been revised, and confirmation that the revised strategies have been completed).

On pages 2 and 3 of the APR, DCEIP included three numerical targets regarding identification of non-Hispanic, language minority children. DCEIP included similar goals in its FFY 2002 APR, and OSEP indicated in its December 22, 2004 letter that DCEIP must

not include those goals in its FFY 2003 APR. In the SPP, DCEIP must delete its numerical targets for identification of non-Hispanic, language minority infants and toddlers.

Family Centered Services

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 2 and 3 of the FFY 2003 APR, DCEIP included data regarding compliance and performance in this area. OSEP looks forward to reviewing DCEIP's updated data in this area in the SPP.

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

OSEP's December 22, 2004 letter indicated that DCEIP must provide additional information in its FFY 2003 APR regarding the following areas on noncompliance that were identified in OSEP's June 2002 Monitoring Report: (1) initial evaluations to determine eligibility were inadequate or incomplete – initial evaluations did not include an evaluation of the child's functional level in all five developmental areas and did not include vision or hearing information (34 CFR §§303.322(c)(3)(ii) and 303.344(a)(1)); (2) a lack of all required content in IFSPs – IFSPs did not include the frequency, intensity and method of delivering services, the projected dates for initiation of services, specific early intervention services including nursing, audiology and transportation needed by the child and family, and medical and "other" services not required by Part C (34 CFR §§303.344(d)-303.344(f)); (3) failure to complete evaluations within 45 days of referral – not all children who were referred received an evaluation within the 45-day timeline (34 CFR §303.321(e)(2)); and (4) failure of the service coordinator to coordinate all services – DCEIP had not ensured that each child's family was assigned one service coordinator who completed all the service coordination functions specified by Federal regulations (34 CFR §303.23). DCEIP's efforts at addressing these areas of noncompliance are discussed below.

Service coordination

In its June 2002 Monitoring Report, OSEP found that DCEIP had not ensured that each child's family was assigned one service coordinator who completed all service coordination functions required by Part C. In its FFY 2002 and 2003 APRs, DCEIP reported on the strategies that it has completed to remediate the noncompliance. OSEP has not identified further concerns regarding this issue.

Evaluation and identification of needs

1. Initial evaluations

In its June 2002 Monitoring Report, OSEP found that initial evaluations did not include an evaluation of the child's functional level in all five developmental areas and did not include vision or hearing information. In its December 2004 letter, OSEP indicated that DCEIP must provide, in its FFY 2003 APR, the corrective action plans submitted by the provider who DCEIP had determined was not conducting adaptive or social assessments, and the status of those plans (approved, implemented, etc.). DCEIP indicated in its FFY 2003 APR that it conducted its own analysis and found that the provider identified in the FFY 2002

APR had actually conducted adaptive or social assessments. OSEP has not identified further concerns regarding this issue.

2. Completing evaluations and assessments within the 45-day timeline

In its June 2002 Monitoring Report, OSEP found that not all children who were referred for early intervention services received an evaluation within the 45-day timeline. DCEIP submitted a revised IP to OSEP in March 2003. OSEP approved DCEIP's revised IP on June 26, 2003 with the requirement that all areas of noncompliance identified in OSEP's June 18, 2002 Monitoring Report be corrected within a reasonable period of time, not to exceed June 26, 2004.

In its December 2004 letter, OSEP indicated that DCEIP must provide, in its FFY 2003 APR, further information regarding the status of the corrective actions taken with regard to the providers DCEIP identified as having failures in meeting the deadline (CNMC, Little Feet and HSC). On pages 12-14, DCEIP reported that its monitoring data indicated that CNMC and Little Feet completed evaluations within timelines or showed justification for missed timelines due to a lack of parental cooperation. DCEIP reported that HSC, a Medicaid provider not under contract with DCEIP, continued to experience challenges with meeting the evaluation timeline, but had made some improvement. DCEIP reported that 37 of the 52 referrals to HSC during the reporting period had evaluations completed within timelines. DCEIP indicated that it provided technical assistance to HSC and requested assistance from MAA to address the ongoing challenge. In the SPP, DCEIP must include updated data from HSC demonstrating compliance with the 45-day timeline for evaluations.

In its December 2004 letter, OSEP also indicated that DCEIP must clarify, in its FFY 2003 APR, whether the data provided in its FFY 2002 APR represented the number of evaluations completed within the 45-day timeline. In the FFY 2003 APR, DCEIP provided the following data regarding the completion of evaluations within 45 days of referral to Part C: of the 363 children reported by DCEIP as "referred for evaluation," 78 (or 21.5%) appear to not have appropriately met the 45-day timeline.² In the SPP, DCEIP must provide updated record review data demonstrating compliance with the 45-day timeline for evaluations. If the data continues to demonstrate noncompliance, DCEIP must also include in its SPP its plan to ensure compliance as soon as possible.

Individualized family service plans (IFSPs)

In its June 2002 Monitoring Report, OSEP found a lack of all required content in IFSPs. DCEIP reported on page 10 of its FFY 2003 APR that a review of 44 randomly selected IFSPs revealed that all 44 were correctly completed. OSEP has not identified further concerns regarding this issue.

² DCEIP provided the following information regarding evaluations that did not meet the timeline: of the children found not eligible, 8 missed timelines due to issues related to Medicaid, 4 due to DCEIP contractors, and 3 because of the Part C office; of the children found eligible, 25 missed the timeline due to issues related to Medicaid, 13 due to DCEIP contractors, and 6 because of the Part C office; and of the pending cases, 16 were pending due to issues related to Medicaid, and 3 were pending due to the DCEIP contractor.

Natural environments

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 3 and 4 of the FFY 2003 APR, DCEIP included data and analysis regarding compliance and performance in this area. OSEP looks forward to reviewing DCEIP's data in this area 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 5 and 6 of the FFY 2003 APR, DCEIP provided information as follows: DCEIP provided the following three-part plan to improve outcome documentation in order to demonstrate improved and sustained functional abilities among children served: (1) observation and mentoring of service coordinators as they carry out periodic IFSP reviews; (2) a functional outcomes pilot; and (3) promoting the use of standardized instruments. The SPP instructions establish a new indicator in this area, for which States must provide baseline 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

The June 2002 OSEP Monitoring Report identified one area of noncompliance in this cluster: a lack of smooth and timely transition from Part C services to Part B services. See 34 CFR §303.148. In its December 2004 letter, OSEP did not identify any further concerns regarding two parts of that issue (IFSP transition content and notifying the LEA). However, with regard to transition conferences, in its December 2004 letter, OSEP indicated that DCEIP must clarify whether the data in its June 2004 IP Progress Report related to the requirements of 34 CFR § 303.148(b)(2)(i) by providing the number of children who may be eligible for Part B services, and of those children, how many families agreed to have the transition conference, and of those families, how many had timely conferences.

On page 7 of its FFY 2003 APR, DCEIP reported that 95.8% of transition conferences were held on time (139 out of 163) when lack of parental cooperation is factored out (18 families contributed to the missed deadline). On page 6, DCEIP reported that 235 children may have been eligible for Part B services, and of those children, eight families refused a conference, 59 cases were closed prior to conference time, five children were discharged prior to conference time, and six timelines were missed due to provider noncompliance. On pages 6 and 7, DCEIP reported on the steps it had taken regarding compliance with the requirements at 34 CFR §303.148(b)(2)(i). In the SPP, DCEIP must include data demonstrating compliance with this requirement.

Conclusion

As noted in this letter, DCEIP has provided data and information that addresses three of the findings from OSEP's June 2002 Monitoring Report (service coordination, incomplete evaluations, and IFSP content), and DCEIP must provide, in the SPP, data and information on the correction of the remaining four issues.

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

1. Information regarding the 12 validation visits or calls that it completed in March 2005 and the 9 calls scheduled for April 2005, including: (1) a list of each Part C finding of noncompliance identified by DCEIP, (2) the information or data required by DCEIP showing whether the noncompliance had been corrected, and (3) if the noncompliance was not corrected, the specific corrective actions DCEIP is requiring of the sub-grantees to ensure that the noncompliance is corrected within one year of when DCEIP identified it;
2. Confirmation that it has implemented the following strategies from its IP: correctly translating the additional public awareness materials and placing public awareness materials on metro buses (or DCEIP may include an explanation of why those strategies have been revised, and confirmation that the revised strategies have been completed);
3. Updated data from HSC demonstrating compliance with the 45-day timeline for evaluations; and updated record review data demonstrating compliance with the 45-day timeline for evaluations. If the data continues to demonstrate noncompliance, DCEIP must also include in its SPP its plan to ensure compliance as soon as possible;
4. Data and analysis demonstrating progress in ensuring compliance with 34 CFR §303.148(b)(2)(i).

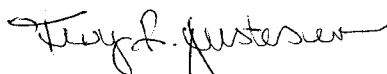
In addition, in the SPP, due December 2, 2005, DCEIP must:

5. Ensure that the targets that it establishes for SPP compliance indicators are for 100% compliance; and
6. Delete its numerical targets for identification of non-Hispanic, language minority infants and toddlers.

IDEA 2004, §616, requires each State to submit an 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 DCEIP 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 District 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,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Ellen M. Yung-Fatah