



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

Honorable Alice Seagren
Commissioner
Minnesota Department of Education
1500 Highway 36 West
Roseville, Minnesota 55113-4266

OCT 18 2005

Dear Commissioner Seagren:

The purpose of this letter is to respond to the Minnesota Department of Education's (MDE's) May 9, 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 source of data 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 March 7, 2005 FFY 2002 APR response letter required Minnesota, in its FFY 2003 APR, to provide data and information regarding: (1) respite care as an early intervention service; (2) service coordinator requirements; (3) timely completion of the initial evaluation and assessment process and convening the initial IFSP meeting within 45 days of referral to Part C (34 CFR §§303.321(e), 303.322(e), and 303.342(a)); and (4) 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), targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan.

OSEP's March 7, 2005 letter directed the State to provide the specific methods, including monitoring, it would use to ensure that: (1) all Part C-eligible infants and toddlers are identified and evaluated for early intervention services; (2) Part C eligibility determinations for infants and toddlers are made on an individualized basis, consistent with Part C requirements; and (3) Part C funds are not used to serve ineligible children or families. OSEP's letter directed the State to analyze its Part C child count data and evaluate whether the implementation of the State's public awareness and child find systems were ensuring that the State identified, located and evaluated

all eligible infants and toddlers in the State, and to report on the impact of the State's noncompliance in not implementing early intervention eligibility criteria consistent with its approved Part C application and the requirements of 34 CFR §§303.16(a) and 303.300. OSEP will respond to the State regarding these issues in a separate letter.

MDE responded to OSEP in letters on May 24, 2005 and June 17, 2005.

General Supervision

Identification and timely correction of noncompliance

OSEP's March 9, 2005 verification letter and OSEP's March 7, 2005 FFY 2002 APR letter expressed OSEP's concern that the State's standard for ensuring correction was not 100% and that the State was not ensuring timely correction of all identified noncompliance as required by 34 CFR §303.501(b). The State's June 17, 2005 letter confirmed Minnesota's current standard for correction is 100% and that timely corrective actions are required of districts. The State also described its system of sanctions that are imposed when districts have not demonstrated timely correction.

The State's FFY 2003 APR included data raising concerns about whether timely correction of State-identified noncompliance is occurring. On page 7 of the FFY 2003 APR, MDE stated that it had plans to develop a data system to ensure compliance with Federal and State data tracking mandates, and a data system was created to track timelines to increase awareness of corrective action plan (CAP) deadlines. MDE noted on page 7 that, as a result of this effort, the timely implementation of CAPs increased from 40% during 2002-2003 to 60% in 2003-2004; and that further adjustments needed to be made to improve oversight regarding timely implementation of CAPs. On page 9, MDE stated it did not collect data regarding the identification and remediation of systemic issues through the analysis of findings from all available sources including: monitoring, complaint investigations and hearing resolutions, but noted that, through improved communication efforts in recent years, it targeted systemic issues more effectively than it did in prior years and was able to target systemic issues as they arose. In the SPP, the State must provide in response to Indicator #9, data reflecting timely correction (and implementation of CAPs) and if it cannot provide such data or the data indicate noncompliance, the State must also submit with the SPP, a plan, including strategies, proposed evidence of change, targets and timelines, designed to ensure compliance with this requirement within one year of OSEP's acceptance of the plan.

Dispute resolution

In Attachment 1 of the FFY 2003 APR, the State indicated that it received no Part C requests for a due process hearing or mediation during the reporting period. On page 6, the State reported that it: (1) received three complaints during the reporting period; (2) completed two within the 60-day timeline; and (3) completed the third, one day beyond that timeline. On pages 5 and 7-9, the lead agency described its facilitated IFSP process for alternative dispute resolution. OSEP looks forward to reviewing data and information demonstrating compliance in the SPP.

Personnel

On pages 11-13 of the APR, the State included Section 618 personnel and caseload data. On page 11, the State indicated that MDE found no local educational agencies (LEAs) to be in violation of its caseload rules during the reporting period. On page 12, the State reported that Minnesota met its target of decreasing the number of individuals employed by LEAs in positions for which they are less than fully licensed and, under projected targets, Minnesota would maintain a number of service providers proportionate to the number of children identified and receiving early intervention services. OSEP appreciates the State's updates and efforts concerning enhancing personnel development.

Collection and timely reporting of accurate data

OSEP's March 2005 letter required the State, in its FFY 2003 APR, to report progress in ensuring the accuracy of the Part C data it reports under Section 618 of IDEA, regarding: (1) personnel; (2) services; and (3) exiting for children who are eligible for Part B. On pages 14-15 of the FFY 2003 APR, the State included data and information regarding the State's data collection and reporting. On page 14, the State reported that MDE continued to collect and report accurate and timely data in the following areas: child count, exiting, and fiscal data. On page 14, MDE set forth projected targets for the next reporting period, to: (1) electronically collect and report accurately and timely data for Part C child count, settings, and early intervention services; (2) develop a strategy to begin the accurate reporting of personnel data beginning with the 2005-2006 reporting year; and (3) utilize existing data to generate Part C data profiles for each local area to guide continuous improvement efforts. The State must include data and analysis in the SPP to address this indicator.

Comprehensive Public Awareness and Child Find System

OSEP's March 2005 letter directed the State to provide the specific methods, including monitoring, it would use to ensure that: (1) all Part C-eligible infants and toddlers are identified and evaluated for early intervention services; (2) Part C eligibility determinations for infants and toddlers are made on an individualized basis, consistent with Part C requirements; and (3) Part C funds are not used to serve ineligible children or families. OSEP's letter directed the State to analyze its Part C child count data and evaluate whether the implementation of the State's public awareness and child find systems were ensuring that the State identified, located and evaluated all eligible infants and toddlers in the State, and to report on the impact of the State's noncompliance in not implementing early intervention eligibility criteria consistent with its approved Part C application and the requirements of 34 CFR §§303.16(a) and 303.300. As noted above, OSEP will respond to the State regarding these issues in a separate letter.

On pages 16-18 of the FFY 2003 APR, the State included child-count data indicating an increase and a positive trend in the numbers and percentages of infants and toddlers, ages from birth through two, identified and served in the State's Part C system each year over the five year period from 1999 through 2003, and a general increase over that five-year period in the number of infants under one year of age identified and served in the Part C program (with a slight

increase or decrease from year-to-year).¹ On page 18, MDE included a brief analysis of its child count data regarding regional differences in identifying and serving infants and toddlers throughout the State and stated that it was currently collecting referral source data from the 95 local Interagency Early Intervention Committees (IEICs) in order to assist local efforts in public awareness and child find. On page 19, the State indicated that MDE provided technical assistance to the local IEICs to augment their child find effectiveness, and MDE used regional and district data profiles to target training and to persistence efforts to the areas of greatest need. On page 20, the State set forth a number of future activities proposed timelines and resources to further enhance State's Part C public awareness and child find outreach efforts. OSEP appreciates the State's efforts in this area and looks forward to reviewing updated data and information responsive to the child count indicator in the SPP.

Family Centered Services.

On pages 22-23 of the FFY 2003 APR, MDE reported that the monitoring data system to address this indicator was not developed. There were, therefore, no data regarding compliance citations for 2003-2004 concerning family centered service performance indicators, but the system would be in place for collecting those data in the future. OSEP appreciates the State's efforts to improve performance in this area. OSEP looks forward to the State's response to the family outcome indicator (#4), in the SPP.

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

Service coordination

OSEP's March 2005 letter requested the State to report on the implementation of service coordinator requirements under Part C. MDE reported on page 25 of the State's FFY 2003 APR that it monitors in this area and no complaints were filed regarding service coordination. The State also reported that its monitoring database would collect data in this area. OSEP appreciates the State's efforts.

Evaluation and identification of needs

OSEP's March 2005 letter directed the State to include, in the FFY 2003 APR, data and analysis regarding the extent to which public agencies convened initial IFSP meetings within 45 days of children's referrals to Part C. The State's FFY 2003 APR did not include the required data or analysis. This is an indicator in the SPP under section 616 that is due December 2, 2005. The State must submit baseline data and analysis to OSEP in the SPP regarding whether initial evaluation and assessments are completed, and initial IFSP meetings convened, within 45 days from referral (34 CFR §§303.321(e), 303.322(e), and 303.342(a)). If the data indicate noncompliance, the State must also submit in the SPP its plan to ensure correction within one year of OSEP's acceptance of the plan.

¹ Rectifying a previous child count problem using a September 1 child count date instead of December 1, MDE recalculated its Part C child counts from 1999 to 2003, using December 1 child count data.

Individualized family service plans (IFSPs)

OSEP's March 2005 letter requested the State to report on respite care as an early intervention service. The State reported on its provision of respite care as an early intervention service in its Section 618 report and identified in Attachment II to its FFY 2003 APR funding for respite care.

The FFY 2003 APR required States to provide data on the timely provision of Part C services on IFSPs. Pages 24-26 of the State's FFY 2003 APR address IFSP requirements, but do not include any data or analysis regarding whether all IFSPs included all services necessary to meet the identified needs of the child and family and whether all early intervention services on IFSPs were timely provided. The percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner is Indicator #1 in the SPP under Section 616 that is due December 2, 2005. In the SPP, the State must provide baseline data on the percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner. If the data indicate noncompliance, the State must also submit in the SPP its plan to ensure correction within one year of OSEP's acceptance of the plan.

Natural environments

On pages 24-26 of the FFY 2003 APR, the State included Section 618 Settings data from December 1, 2003 indicating that: (1) more than 90% of infants and toddlers received early intervention services in natural environments; and (2) 83% of two-year old children received services either at home or in a program designated for children without disabilities. On page 26, the State indicated that, during the FFY 2003 reporting period, Minnesota served 14.5% of two-year-olds in programs designed exclusively for children with disabilities, which was a decrease from 20% in 2002. OSEP looks forward to reviewing the State's performance data in Indicator #2 as part of 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 page 26 of the FFY 2003 APR, the State included statements that: "Outcomes on IFSPs will be linked to child and family needs identified in the evaluation process," and "MDE implemented data collection strategies on child and family outcomes, family satisfaction and involvement in the IFSP during the reporting year." The State did not provide data in response to this performance indicator and/or specific information regarding the development of its strategic plan to collect and measure child and family outcome data.

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. The State must make a determination whether

plans currently in place to collect data related to this area will be responsive to those requirements. 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. OSEP looks forward to reviewing the State's plan for collecting these data, in the SPP.

Early Childhood Transition

On page 27 of the FFY 2003 APR, the State included its December 1, 2003 Section 618 exiting data, showing that: (1) 74.27% of the children exiting the Part C system were Part B-eligible; (2) 19.24% of the children exiting Part C completed their IFSPs prior to reaching their third birthdays; (3) 1.4% of the children exited Part C with Part B eligibility yet to be determined; (4) 1.01% of children exiting Part C were withdrawn by the parent/guardian; and (5) the remaining 4.42% of the children exiting Part C either moved out of State (3.41%) or died (0.67%). On page 28, the State noted that 93.51% of the children exiting Part C either were eligible for Part B services upon their third birthdays or exited the Part C system because they met IFSP outcomes. The State further reported that no monitoring data were currently available regarding early childhood transition, and that the data system to capture these data would be developed in 2004-2005 and set forth future activities to design and implement such a data system for monitoring.

This is an indicator in the SPP under Section 616 that is due December 2, 2005. In preparation for the submission of the SPP on December 2, 2005, 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 the percentage of children exiting Part C who received timely transition planning to preschool and other appropriate community services by their third birthday, including: (1) IFSPs with transition steps and services; (2) notification to the LEA, if the child was potentially eligible for Part B; and (3) a transition conference, if the child was potentially eligible for Part B.

Conclusion

As noted above, the State must include data and analysis in the SPP, due December 2, 2005, to address indicator #14. (regarding the collection and reporting of accurate and timely data). The State must provide the following information in the SPP, and, if the data indicate noncompliance, the State must also submit in the SPP its plan to ensure correction within one year of OSEP's acceptance of the plan:

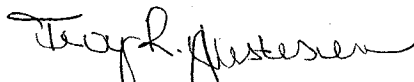
1. In response to Indicator #9, data reflecting timely correction (and implementation of CAPs);
2. Baseline data and analysis regarding whether the initial evaluation and assessment are completed, and the initial IFSP meeting convened, within 45 days from referral (34 CFR §§303.321(e), 303.322(e), and 303.342(a)); and

3. Baseline data on the percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner.

IDEA 2004, Section 616, requires each State to submit an SPP that measures performance on monitoring priorities and indicators established by the U.S. Department of Education. These priorities and indicators are, for the most part, the same as 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 Part C 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 your OSEP Part C State Contact, Rhonda Spence, at 202-245-7382.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Karen Carlson