



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Brian W. Amy, M.D.  
State Health Officer  
Mississippi Department of Health  
570 Woodrow Wilson  
P.O. Box 1700  
Jackson, Mississippi 39215-1700

SEP 30 2005

Dear Health Officer Brian W. Amy:

The purpose of this letter is to respond to the Mississippi State Department of Health's (MSDH's) April 27, 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 and the State's Improvement Plan submitted on June 30, 2005. OSEP has set out its comments, analysis and determinations by cluster area.

***Background***

OSEP's November 15, 2004 FFY 2002 APR response letter required the State to submit, in the FFY 2003 APR, a final Progress Report demonstrating correction of the longstanding noncompliance identified in OSEP's 1999 monitoring report that are related to the following Part C requirements:

1. The State's monitoring is effective in reviewing compliance with all Part C requirements, in accordance with 34 CFR §303.501, including a summary of the State's monitoring activities, including: (1) a list of the entities MSDH monitored or planned to monitor; and (2) for all entities/health districts monitored through March 31, 2005: (a) a summary of findings of noncompliance with Part C requirements; (b) corrective actions required for each district or provider; and (c) the status of correction of each district or provider;
2. The State is monitoring all agencies providing Part C services, in accordance with 34 CFR §303.501(b)(1)(2);

3. Identified noncompliance is corrected, in accordance with 34 CFR §303.501(b)(4);
4. Children are identified, located and evaluated, in accordance with 34 CFR §303.321(b)(1), including a confirmation that all strategies identified in its Improvement Plan, accepted by OSEP in February 2004, were implemented;
5. Service coordination meeting the requirements of Part C is provided to all eligible children and their families, in accordance with 34 CFR §303.23(a)(2);
6. Within 45 days after it receives a referral, the public agency completes the initial evaluation and assessment activities in 34 CFR §303.322, and holds an initial individualized family service plan (IFSP) meeting, in accordance with 34 CFR §§303.321(e), 303.322(e), and 303.342(a), including the number of providers determined out of compliance with this requirement through March 31, 2005 and, for each provider so identified, the corrective actions required and the status of correction; and
7. All early intervention services to which parental consent is obtained are provided, in accordance with 34 CFR §303.342(e).

In addition, the conclusion to OSEP's letter also directed the State, before OSEP's December 6, 2004 focused monitoring visit to: (1) provide baseline data as to the number (or percentage) of children who were timely receiving their IFSP services; and (2) confirm the State's timeline requirement for initiating IFSP services after the parent has consented to the IFSP.

The conclusion to OSEP's letter also directed the State, as part of the FFY 2003 APR, to: (1) confirm the accuracy of the State's February 2005 Child Count Data Report under IDEA Section 618; (2) confirm implementation of strategies to ensure data accuracy under Section 618; and (3) provide child outcome data on the percentage of children who demonstrated improved and sustained functional abilities.

Further, the conclusion to the letter directed the State to submit, as soon as possible, but no later than May 31, 2005: (1) the final, signed, revised interagency agreement between MSDH and the Mississippi Department of Education (MDE); and (2) documentation that MSDH met all of the public participation requirements of 34 CFR §§303.110 through 303.113 with regard to that interagency agreement. MSDH submitted the agreement, as requested but, at the time of submission (in the FFY 2003 APR), had not completed its public participation requirements. OSEP reviewed the interagency agreement and will respond to MSDH in a separate letter. MSDH's FFY 2005 Grant Award letter required that a revised interagency agreement be submitted to OSEP no later than May 31, 2006.

OSEP's November 2004 letter required the State to provide, within one year from the date of that letter, documentation that it corrected the noncompliance with the service coordination requirements of 34 CFR §303.23(a)(2), including monitoring data, showing: (1) the number of health districts that the State identified as not being in compliance with these requirements; and (2) for those providers found out of compliance, the corrective actions required and the status of

correction. In addition, the State was to provide updated data on the number of available service coordinators and the impact of that number on the provision of service coordination.

OSEP conducted a focused monitoring visit to MSDH during the week of December 6, 2004 regarding the State's performance and compliance related to settings and the provision of early intervention services in natural environments. In its April 18, 2005 letter reporting on the results of the visit, OSEP directed the State to submit, within 60 days of the letter, a detailed plan to address newly-identified noncompliance regarding the requirement to provide early intervention services in natural environments including the home, and community settings in which children without disabilities participate, and provide early intervention services in a setting other than a natural environment only when early intervention can not be achieved satisfactorily in a natural environment (34 CFR §§303.167(c) and 303.344(d)(1)(ii)). MSDH submitted its Improvement Plan on June 30, 2005.

As detailed in OSEP's July 1, 2005 FFY 2005 Mississippi Part C Grant Award letter, OSEP determined that the State did not provide OSEP with the required documentation or proposed actions to ensure timely correction of the noncompliance related to conducting evaluations and assessments 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)). In the State's FFY 2005 Part C Grant Award letter, OSEP designated the State as a high-risk grantee and imposed Special Conditions on the Grant Award related to that noncompliance. In the Special Conditions enclosure to that letter, OSEP included a detailed analysis of the status of the State's efforts to correct that noncompliance, and specified documentation that the State was to submit in its first Progress Report, due by October 28, 2005 and in its second Progress Report, due by April 14, 2006, demonstrating correction. Therefore, OSEP is not addressing that area of noncompliance in this letter.

### ***General Supervision***

#### **Identification and timely correction of noncompliance**

On pages 3-8 and in Attachments 3 and 4 of the FFY 2003 APR, the State included data and information to demonstrate correction of two areas of noncompliance identified in OSEP's FFY 2002 APR response letter: (1) the State's monitoring is effective in reviewing compliance with all Part C requirements, in accordance with 34 CFR §303.501; and (2) the State is monitoring all agencies providing Part C services, in accordance with 34 CFR §303.501(b)(1)(2). The State demonstrated in the APR that MSDH was utilizing several methods to monitor for all Part C requirements in all agencies providing Part C services. Systemic issues identified include 45-day timelines, natural environments, child find, and early childhood transition.

The State did not include data or analysis to demonstrate the correction of a third area of noncompliance: identified noncompliance is corrected, in accordance with 34 CFR §303.501(b)(4). OSEP's November 2004 letter directed the State to submit corrective actions required for each district or provider with findings of noncompliance, and the status of correction of each district or provider. This data was not included in the FFY 2003 APR. Attachments 3 and 4 included Technical Assistance and Corrective Action Activities but there was no indication whether noncompliance was corrected or what corrective actions were required. OSEP's letter

further required that the final Progress Report, due by March 31, 2005, contain documentation, including data and analysis, that its procedures for ensuring the timely correction of all identified noncompliance were effective. As part of that documentation, MSDH was directed to demonstrate the correction of the outstanding findings from OSEP's 1999 Monitoring Report and State-identified noncompliance. The FFY 2003 APR included data that demonstrated the correction of three of the outstanding findings from OSEP's Monitoring Report. With the SPP, Mississippi must submit data and analysis to OSEP, to demonstrate compliance with 34 CFR §303.501(b)(4), the timely correction of identified noncompliance (i.e., within one year of identification). OSEP will review the information submitted and determine what, if any, further action may be required.

#### Dispute resolution

On page 9 and in Attachment 1 of the FFY 2003 APR, the State included data and analysis demonstrating continued compliance in this area. Mississippi received six complaints and all were resolved within timelines. There were three complaints with findings and three complaints with no findings. MSDH indicated that follow up was conducted to ensure that the decisions were implemented. OSEP looks forward to reviewing the State's data in this area in the State Performance Plan (SPP), due December 2, 2005.

#### Personnel

On page 10 of the FFY 2003 APR, the State included data and analysis regarding its compliance and performance to ensure that sufficient service coordinators were available to meet the identified early intervention needs of all eligible infants and toddlers and their families. On pages 11 and 12 and Attachment 5, the State included data and analysis indicating a need to improve performance to ensure that sufficient service providers were available to meet the identified early intervention needs of all eligible infants and toddlers and their families. MSDH reported that serving some regions of the State was more difficult than others. MSDH included strategies to improve performance. OSEP appreciates the States efforts to improve performance in this area.

#### Collection and timely reporting of accurate data

OSEP's November 2004 letter required the State, as part of the FFY 2003 APR, to: (1) confirm the accuracy of the State's February 2005 Child Count Data Report under §618 of the IDEA; and (2) confirm implementation of strategies to ensure data accuracy under §618. On page 13 of the FFY 2003 APR, the State included data and analysis indicating a need to improve performance in the collection of accurate data. MSDH reports that the full management capacity of the First Steps Information System (FSIS) continues to be explored. Some data issues have been identified and MSDH will continue to look at data in FSIS to determine if there are data collection issues and/or implementation/process issues. The State did not include strategies to improve performance. This is an indicator in the SPP under §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 timely reporting of accurate data under §618 and in the SPP and APRs.

### Fiscal Responsibility

On page 41 of the FFY 2003 APR, the State included data and analysis regarding its performance in this area to ensure the coordination of funding resources within the State that resulted in the provision of early intervention services. MSDH reported that State General funds constituted the greatest financial support. The other sources of funding included: (1) Medicaid; (2) Maternal and Child Health block grant; (3) targeted case management; and (4) State Tobacco Trust Funds. OSEP appreciates the State's efforts in this area.

### ***Comprehensive Public Awareness and Child Find System***

On pages 14-20 of the FFY 2003 APR, the State included data and analysis that demonstrated correction of noncompliance identified in OSEP's FFY 2002 APR response letter in the following area: children are identified, located and evaluated, in accordance with 34 CFR §303.321(b)(1). MSDH confirmed implementation of all strategies that were identified in the Improvement Plan that OSEP accepted in 2004. MSDH reported on coordinated child find efforts with the Mississippi Department of Education (MDE), the Mississippi Department of Mental Health (MDMH), Keesler Air Force Base, the Mississippi Chapter of the American Academy of Pediatrics (AAP), and the Perinatal High Risk Management Infant Service System (PHRM-ISS). MSDH reported that: "using the FSIS to account for any period of active service delivery including intake and evaluation and assessment, the total number of families served can be calculated. The State reported that the number of children served under Part C for 2002 was 3,286 (approximately 2.6% of the 0-3 population) and for 2003 it reached 3,458 (approximately 2.76% of the 0-3 population). During the 2004 reporting period, the number served has increased to 4,888 (approximately 3.19% of the 0-3 population)." According to the annual child count submitted under §618 of IDEA, MSDH served 1.44% of their birth through three population in 2002 and 1.53% in 2003. OSEP appreciates the work of the State in ensuring compliance with these requirements. OSEP looks forward to reviewing the State's data in this area as part of the SPP due December 2, 2005.

### ***Family Centered Services***

On pages 20-21 of the FFY 2003 APR, the State stated that: (1) upon entry into the early intervention system, a parent or other responsible party is provided information about procedural safeguards; (2) the Early Intervention Resource Library is part of the MSDH's ongoing effort to provide appropriate information to families and providers in a variety of formats and make the information readily available statewide; and (3) parent advisors assist each of the Health Districts with Part C implementation at the local level. OSEP appreciates the MSDH's efforts in this area and looks forward to reviewing the State's plan in its SPP for collecting data regarding the percent of families participating in Part C who report that early intervention services have helped the family: (a) know their rights; (b) effectively communicate their children's needs; and (c) help their children develop and learn in the SPP, due December 2, 2005. Baseline data for this indicator is due in the FFY 2005 APR, due February 1, 2007.

### ***Early Intervention Services in Natural Environments***

#### **Evaluation and identification of needs**

As noted above, OSEP addressed this area of noncompliance in Special Conditions attached to State's FFY 2005 Part C Grant Award letter, and will respond to the progress reports due by October 28, 2005 and April 14, 2006 in a separate letter.

#### **Service coordination**

OSEP's November 2004 letter required the State to demonstrate full compliance in the FFY 2003 APR regarding the requirements under 34 CFR §303.23(a)(2), that service coordinators meet their roles and responsibilities delineated in this regulation. On pages 10 and 11 of the FFY 2003 APR, the State included data and analysis demonstrating progress in correcting this area of noncompliance. MSDH reported that 51 of 53 service coordinator positions were filled and Districts V and VI were recruiting to fill the two vacancies. The State did not include data to demonstrate that service coordinators were fulfilling all roles and responsibilities and functions as requested in OSEP's November 15, 2004 letter. Within the SPP, MSDH must include data and analysis demonstrating full compliance specific to service coordination functions in accordance with 34 CFR §303.23(a)(2). OSEP will review the information submitted and determine what, if any, further action may be required.

#### **Individualized family service plans (IFSPs)**

OSEP's November 2004 letter required the State to demonstrate full compliance in the FFY 2003 APR regarding the requirements under 34 CFR §303.342(e), to ensure that all early intervention services to which parental consent is obtained are provided. On pages 11 –13 of the FFY 2003 APR, the State included data and information indicating continued noncompliance in this area. The data provided by MSDH on page 12 indicated that 37.96% of children waited over 90 days to begin receiving services identified on their IFSPs. MSDH reported on page 13 that problems continued with the identification of service providers, and other issues related to actual delivery of services for eligible infants and toddlers and their families. Within the SPP, MSDH must submit data and analysis to OSEP, to demonstrate compliance with 34 CFR §303.342(e). OSEP will review the information submitted and determine what, if any, further action may be required.

#### **Natural environments**

The conclusion of OSEP's April 2005 verification letter required the State to submit a detailed plan, within 60 days of the letter, to address newly identified noncompliance regarding the provision of early intervention services in natural environments, including the home, and community settings in which children without disabilities participate, and the provision of early intervention services in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily in a natural environment (34 CFR §§303.167(c) and 303.344(d)(1)(ii)). MSDH submitted a response on June 30, 2005 that included activities and a

work plan regarding the provision of early intervention services in natural environments. MSDH stated that it would identify specific issues at district levels on a continuing basis through data audits, reviews and monitoring visits. Districts would receive a monthly report card that would include rankings, monthly goals, and progress towards goals specific to the provision of early intervention services in natural environments. Each district would be required to develop and implement a work plan for each area identified as needing improvement. The Part C Coordinator would review monthly data reports to determine the overall impact of implementation of the strategies. OSEP has reviewed and accepts the plan. The State must ensure compliance as soon as possible, but no later than one year from the date of this letter. In the SPP, the State must include data and analysis demonstrating progress toward compliance with these requirements. By April 14, 2006, the State must submit a Progress Report including data and analysis demonstrating progress toward compliance and provide a final progress report to OSEP, with data and analysis demonstrating compliance as soon as possible, but not later than 30 days following one year from the date of this letter.

#### 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 29 and 30 of the FFY 2003 APR, MSDH responded to this probe but did not provide OSEP with any data in response to this performance indicator. 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 should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the State's plan for collecting the data, in the SPP.

#### ***Early Childhood Transition***

On pages 30-31 of the FFY 2003 APR, MSDH included information indicating that there were conflicting data from the FSIS and individual chart reviews related to all children receiving the transition planning necessary to support their transition to preschool. MSDH proposes that ongoing service coordinator training on transition planning, cooperation with local educational agencies, new data collection activities with the Mississippi Department of Education and the new interagency agreement would improve this area significantly. OSEP appreciates the State's efforts in this area and looks forward to reviewing updated data and information regarding the State's efforts to ensure compliance with Part C's transition requirements in the SPP.

#### ***Conclusion***

As noted above, with the SPP, MSDH must submit to OSEP data and analysis demonstrating:

1. That identified noncompliance is corrected in a timely manner (34 CFR §303.501(b)(4));
2. Full compliance with service coordination functions (34 CFR §303.23(a) (2)); and
3. Full compliance with the requirement that all early intervention services to which parental consent is obtained are provided (34 CFR §303.342(e)).

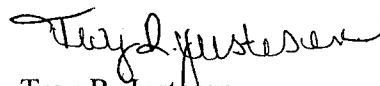
OSEP will review the information submitted and determine what, if any, further action is required. Progress reports on the State's correction of Part C's 45-day timeline requirement are due by October 28, 2005 and April 14, 2006.

In addition, by April 14, 2006 MSDH must submit to OSEP, a progress report regarding compliance with the requirement to provide early intervention services in natural environments, including the home, and community settings in which children without disabilities participate, and provide early intervention services in a setting other than a natural environment only when early intervention can not be achieved satisfactorily in a natural environment (34 CFR §§303.167(c) and 303.344(d)(1)(ii)). A final progress report on this issue is due thirty days following one year from the date of this letter.

IDEA 2004, §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, 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 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 Rhonda Spence at (202) 245-7382.

Sincerely,



Troy R. Justesen  
Acting Director  
Office of Special Education Programs

cc: Danita Munday