



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

OCT - 4 2005

Mr. Michael J. Willden, Director  
Department of Human Resources  
505 East King Street, Room 600  
Carson City, NV 89701-3708

Dear Director Willden:

The purpose of this letter is to respond to the Nevada Department of Human Resources' (NDHR'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 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, including NDHR's submission in response to OSEP's FFY 2002 APR letter. OSEP has set out its comments, analysis and determinations by cluster area.

*Background*

The conclusion of OSEP's November 30, 2004 FFY 2002 APR response letter required the State to submit, within 60 days of that letter, the following:

- (1) information regarding compliance with the 45-day timeline, and
- (2) confirmation that the monitoring conducted by the State in the Spring/Summer of 2004, including monitoring for the implementation of early intervention services (as identified on the IFSP).

NDHR submitted a response to OSEP on January 28, 2005 requesting that OSEP allow it to submit the above information as part of the State's FFY 2003 APR. OSEP approved NDHR's request in an email dated February 3, 2005.

The conclusion of OSEP's November 30, 2005 FFY 2002 APR response letter also required the State to submit, in the FFY 2003 APR:

- (1) data and analysis documenting correction of identified noncompliance, particularly in eliminating waiting lists for initial evaluation and conducting an initial IFSP meeting within 45 days of referral to early intervention;
- (2) data documenting that family supports and services are consistently identified and included on the IFSP;
- (3) status of a plan (or if available, actual data) regarding the percentage of children who demonstrate improved and sustained functional abilities for children receiving early intervention services;
- (4) progress in ensuring all children potentially eligible for Part B have timely transition planning conferences; and
- (5) the State's progress in increasing the effectiveness and ensuring the enforcement of the interagency agreement between NDHR and the Nevada Department of Education (NDE) to ensure transition from Part C to Part B meets IDEA requirements.

During OSEP's focused monitoring visit to Nevada during the week of January 24, 2005, OSEP identified continuing concerns about the State's lack of progress in correcting noncompliance related to the 45-day timeline for conducting evaluations and convening initial IFSP meetings and convening timely early childhood transition planning conferences. Also, pursuant to 34 CFR §80.12, OSEP imposed Special Conditions to ensure correction of the findings above (45-day timeline and 90 day transition conference) on the State's FFY 2005 Part C Grant Award and designated the State as a high-risk grantee. Under the FFY 2005 Part C Special Conditions, the State must submit progress reports by December 2, 2005 and April 14, 2006. OSEP will respond to these progress reports in a separate letter.

### *General Supervision*

#### Identification and timely correction of noncompliance

On pages 1 through 11 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance and improve performance in this area. NDHR described its monitoring procedures (all regions were monitored in April and May of 2004), sources of data, timetable for various monitoring processes, the Tracking Resources and Children (TRAC) data system, organization development and strategic planning activities. However, the State did not include data and/or analysis to document that previously identified noncompliance was corrected to ensure that infants and toddlers were evaluated and initial IFSP meetings convened within 45 days of referral to the Part C program (34 CFR §§34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a)). Further, the State did not provide data to document that previously identified noncompliance was corrected to ensure all children potentially eligible for Part B have timely transition planning conferences (34 CFR §303.148(b)(2)(i)). Thus, the State did not provide documentation in the FFY 2003 APR, as requested in OSEP's November 2004 letter, to ensure the State corrected noncompliance in a timely manner (34 CFR §303.501). These two areas of noncompliance are the subject of the Departments' FFY 2005 Part C grant special conditions and

will be addressed in a separate letter in response to the State's progress reports under the special conditions.

The State must report on its monitoring and correction efforts in the State Performance Plan (SPP), due December 2, 2005.

#### Dispute resolution

On pages 4 through 10 and on Attachment 1 of the FFY 2003 APR, the State included data and analysis demonstrating compliance in this area. NDHR reported that of 15 complaints, 13 had findings and 2 were not investigated (due to withdrawal or a determination that NDHR had no jurisdiction). Of the 13 complaints with findings, 12 had decisions within 60 calendar days and one was resolved beyond 60 days with a documented extension. NDHR also reported that there were no requests for mediation or due process hearings during the reporting period. OSEP looks forward to reviewing the State's data response to this indicator in the SPP, due December 2, 2005.

#### Personnel

On pages 4 through 9 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance and improve performance in this area. NDHR described its efforts to recruit and retain qualified individuals; provided personnel data tables; identified long-term strategies to address personnel shortage areas; and described future strategies to work across programs within Nevada. Future activities included training and technical assistance for staff to effectively implement new policies and procedures developed to address the 45-day timeline requirement. OSEP appreciates the State's efforts in this area.

#### Collection and timely reporting of accurate data

On pages 1 through 10 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance and improve performance in this area. NDHR described its TRAC data system, including such challenges as data fields that permitted subjective interpretation and an operating system that allowed omission of required fields. To meet these challenges, NDHR also provided information about the development of TRAC III enhancements to ensure future accurate, complete statewide data collection and reporting. OSEP looks forward to reviewing the State's response to this indicator in the SPP, due December 2, 2005.

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

OSEP's November 2004 letter required the State to submit, within 60 days of that letter, information regarding compliance with the 45-day timeline, including: (a) the most recent quarterly data reports for both regions; (b) an analysis of why the timelines have not yet been met; (c) additional or revised strategies to address causes; (d) the availability of personnel to conduct evaluations and assessments; (e) a description of the scheduling procedures for evaluations and assessments (including, for example, whether the Part C program accepts evaluations from medical personnel to establish eligibility); and (f) additional relevant updated monitoring data (i.e. local monitoring reports). As stated above, OSEP approved a request from

the State to submit this data in the FFY 2003 APR. On pages 12 through 26 of the FFY 2003 APR, the State included data and analysis regarding its efforts to improve performance in this area. The State provided data to respond to items (a) through (d) and (f) above.

Tables on pages 14 through 24 showed that new referrals averaged 2.6 times greater than the number of children who exited the program. The State served 1.3% of infants and toddlers compared to the State's resident population of infants and toddlers. The State provided the number of children by region that had an IFSP developed within the 45-day timeline, and the number of children who waited longer than 45 days. The graphs illustrated that the southern region of the State had significant difficulty in meeting the 45-day timeline. For example, graphs on page 16 showed that, in December 2004, only 5 of the 161 children in the southern region had an initial IFSP meeting convened within the 45-day timeline. The northern region had 42 of 97 children waiting beyond the 45-day timeline. On page 24 of the FFY 2003 APR, NDHR reported that the number of children without an initial IFSP meeting convened within 45-days of referral decreased "but that Nevada is still out of compliance." The State attributed the population expansion in the southern region (83% between 1960 and 1990 and 35% between 1995 and 2005) for the State's inability to eliminate waiting lists. The State also described numerous interagency strategies to ensure families in Nevada were informed about the early intervention program.

On page 16 of the FFY 2003 APR, NDHR provided updated data for quarters September 2003 through December 2004. For example, for the quarter ending December 2004, 42 of 97 children had an initial IFSP meeting convened within the 45-day timeline in the northern region of the State and 5 of 161 children had an initial IFSP meeting convened in the southern region. On page 17, NDHR reported that the average number of days from referral to the initial IFSP meeting was 158 days (June, 2004) in the southern region and 84 days in the northern region, "...which still indicates noncompliance."

Pursuant to 34 CFR §80.12, OSEP imposed Special Conditions to ensure correction of the 45-day timeline on the State's FFY 2005 Part C Grant Award and designated the State as a high-risk grantee. Under the FFY 2005 Part C Special Conditions, the State must submit progress reports by December 2, 2005 and April 14, 2006. OSEP's FFY 2005 Part C Grant Award letter to Nevada included Special Conditions regarding conducting timely initial IFSP meetings under 34 CFR §§ 303.321(e)(2), 303.322(e)(1), and 303.342(a). OSEP will respond separately to this issue upon receipt of the State's Progress Reports due under the State's FFY 2005 grant Special Conditions.

### *Family Centered Services*

On pages 27 through 29 of the FFY 2003 APR, the State included data and analysis regarding its efforts to improve performance in this area. NDHR provided a description of the State's survey to gather data about parents' perceptions of their ability to enhance their children's development. Across all regions in the State, families indicated that early intervention increased their ability to support their children's development. The State's focused monitoring activities showed that 81% of the files reviewed in the southern region and 74% of the files in the northern region had family needs assessments (it was not clear if this percentage represented compliance data); outcomes were tied to family needs 73% of the time in the southern region and 62% of the time

in the northern region; and outcomes were based on family priorities and embedded in family routines 69% of the time in the southern region and 63% of the time in the northern region. 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

On pages 30 through 42 of the FFY 2003 APR, NDHR provided the following data and information about service coordination. NDHR reported that it utilized a dedicated service coordinator approach; overall, families expressed satisfaction with services statewide; and that focused monitoring activities revealed service coordinator activities were not always recorded. NDHR identified documentation of service coordination activities as an area needing improvement. Nevada reported on its monitoring efforts to improve performance in this area.

Evaluation and identification of needs

On pages 30 through 42 of the FFY 2003 APR, NDHR reported that all programs in the State received training on the Routines-Based Interview (RBI) process as a strategy to improving the quality of IFSPs. On page 39, the State reported that new staff were added but that "there is not consistency across programs and staff on how the RBI is implemented" and "staff have identified that they often still struggle on how to relate information from the RBI into functional outcomes on the IFSP." The State also reported that infant and toddler assessment addressed the required five domains. OSEP appreciates the State's efforts in this area.

Individualized family service plans (IFSPs)

The conclusion of OSEP's November 2004 letter required the State to submit, in the FFY 2003 APR, data documenting that family supports and services were consistently identified and included on the IFSP. On page 39, the State reported the family survey indicated that parents rated "high," across all regions, the item asking parents to rate how well the IFSP addressed family concerns. Parents also reported that they felt they were partners in the development of their children's IFSPs. OSEP appreciates the State's efforts in this area and looks forward to reviewing the State's data regarding the percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner, in the SPP.

Natural environments

On pages 30 through 42 of the FFY 2003 APR, the State included data and analysis regarding its efforts to improve performance in this area. NDHR stated that services were "consistently" provided in the natural environment in all regions. The State identified future activities to ensure progress in achieving compliance and improvement. NDHR provided data documenting a substantial increase in services in the natural environment. The State provided family survey data documenting that families found services helpful for their children and for their families. OSEP appreciates NDHR efforts in this area and looks forward to reviewing the State's data response to this indicator in the SPP, due December 2, 2005.

### Early childhood outcomes

OSEP's November 2004 letter required the State to submit the status of a plan (or if available, actual data) regarding the percentage of children who demonstrate improved and sustained functional abilities for children receiving early intervention services in the FFY 2003 APR. On page 40 of the FFY 2003 APR, NDHR included a target that the State would "develop a subcommittee to work on developing child outcome data for Nevada" and on page 41, included, "attend Salt Lake City Outcomes meeting in April 2005, Part C staff and 619 coordinator," and "develop a subcommittee to begin working on child outcomes data in August, 2005." On page 35 the State reported that, "Once the Early Childhood Outcomes Center (ECO) was funded, Nevada decided to wait and see what the fast track would look like so that we were not going in the wrong direction contrary to what the national trend was" and that the State "had begun working on a plan for measuring child outcomes utilizing existing outcomes and developing a rating scale for family and child outcomes that demonstrated both child and family outcomes were achieved."

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 §616(d) of the IDEA. 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 this data, in the SPP.

### *Early Childhood Transition*

OSEP's November 2004 letter required the State to submit, in the State's FFY 2003 APR, its progress in ensuring all children potentially eligible for Part B had timely transition planning conferences; and the State's progress in increasing the effectiveness and ensuring the enforcement of the interagency agreement between NDHR and NDE to ensure transition from Part C to Part B meets IDEA requirements. On pages 43 through 48 of the FFY 2003 APR, NDHR provided monitoring data indicating that children were not consistently receiving transition planning through a written plan or a timely transition planning meeting. On pages 47 through 48, NDHR included strategies that the State planned to implement to address early childhood transition noncompliance.

OSEP's November 2004 also required NDHR to submit documentation demonstrating correction of identified noncompliance in this cluster. Data presented in the FFY 2003 APR demonstrated continued noncompliance in ensuring that all transition conferences occur at least 90 days and not more than 9 months<sup>1</sup> prior to the child's third birthday, consistent with 34 CFR §303.148(b)(2)(i).

OSEP's FFY 2005 Part C Grant Award letter to Nevada included Special Conditions regarding conducting timely transition planning conference under 34 CFR §303.148(b)(2)(i). OSEP will

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<sup>1</sup> 20 USC 1437 Section 637(a)(9)(A) changed the transition conference timeline from "not more than 6 months" prior to the child's third birthday to "not more than 9 months" before the child is eligible for preschool services.

respond separately to this issue upon receipt of the State's Progress Reports due under the State's FFY 2005 grant Special Conditions.

*Conclusion*

With the SPP, due December 2, 2005, NDHR must submit data demonstrating progress toward correcting noncompliance in a timely manner, and a final progress report by April 14, 2006 demonstrating correction, in the following areas:

- (1) All evaluations and assessments are completed and initial IFSP meetings are conducted within 45 days of referral to the early intervention program 34 CFR §303.321; 303.322(e)(1); and
- (2) All children potentially eligible for Part B have timely transition planning conferences (34 CFR §303.148(b)(2)(i).

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 Kelly Worthington at (202) 245-7581.

Sincerely,



Troy R. Justesen  
Acting Director

Office of Special Education Programs

cc: Wendy Whipple,  
Part C Coordinator