



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Rosa Perez Perdomo
Secretary
Commonwealth of Puerto Rico Department of Health
P.O. Box 70184
San Juan, Puerto Rico 00936-8184

OCT 14 2005

Dear Secretary Perdomo:

The purpose of this letter is to respond to the Puerto Rico Department of Health's June 15, 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 Commonwealth 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 Commonwealth'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 Commonwealth's FFY 2003 APR and its July 31, 2005 Progress Report submitted September 12, 2005. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion of OSEP's February 8, 2005 FFY 2002 APR response letter required the Puerto Rico Department of Health (PRDH) to submit, in the FFY 2003 APR and a Progress Report due by July 31, 2005, data and analysis demonstrating progress towards compliance in the following five areas: (1) monitoring (34 CFR §303.501(a) and (b)(1)-(4)); (2) timely resolution of complaints (34 CFR §§303.510-303.512); (3) ensuring that the decision-making process at individualized family service plan (IFSP) meetings was individualized and resulted in infants and toddlers receiving early intervention services in the natural environment (34 CFR §§303.12(b), 303.18 and 303.167(c)(2)), and each IFSP contained a justification when a service is not provided in the natural environment (34 CFR §303.344(d)(1)); (4) transportation was identified and provided as an early intervention service (34 CFR §§303.12(d)(15) and 303.344(d)(2)(ii)); and (5) the timely provision of early intervention services was indicated on the IFSP (34 CFR §§303.340(c), 303.342(e) and 303.344(f)).

The conclusion of OSEP's February 2005 letter also required PRDH to submit the following:

- (1) an analysis of the effectiveness of its data system (§618 of the IDEA);

- (2) data on children participating in the Part C program to determine if they demonstrate improved and sustained functional abilities in the areas of physical, cognitive, communication, social or emotional, and adaptive development;
- (3) data confirming the number or percentage of eligible children and families receiving in a timely manner the services listed on the IFSP (34 CFR §§303.340(c), 303.342(e) and 303.344(f));
- (4) results of strategies implemented to improve early childhood transition;
- (5) data demonstrating compliance with the early childhood transition requirements, including the following:
 - (a) a description of how PRDH will notify the local educational agency (LEA) when a child will shortly reach the age of eligibility for preschool services under Part B (34 CFR §303.148(b)(1));
 - (b) a description of how transition conferences will be conducted between 90 days and up to six months¹ prior to a child's transitioning to Part B (34 CFR §303.148(b)(2)(i)); and
 - (c) a description of how PRDH ensures that the IFSP developed in these transition meetings includes the steps to be taken to support the transition (34 CFR §§303.148(b)(4) and 303.344(h)(1)).

General Supervision

Identification and timely correction of noncompliance

OSEP's February 2005 letter accepted the proposed strategies, projected targets and timeline for the identification and timely correction of noncompliance through PRDH's monitoring system, that were included in the FFY 2002 APR. This letter also required the PRDH to submit: (1) Progress Reports demonstrating progress towards compliance: (a) in the FFY 2003 APR; and (b) by July 31, 2005; and (2) by March 10, 2006 (30 days following one year from the date of that letter), a final report demonstrating compliance.

On pages I-2 through I-14 and page I-26 of the FFY 2003 APR, PRDH reported on its monitoring system and the identification of noncompliance. Data and information were reported for July 2003 through December 2004. On page I-2, PRDH reported that all seven of the Regional Pediatric Centers (RPCs) were monitored between October 8, 2003 and March 19, 2004. On page I-7, PRDH reported that monitoring reports containing findings and corrective actions were issued between eight months and 18 days to five months after the monitoring was completed. On page I-2, PRDH reported that each RPC had 30 days to comment on the findings and to submit an improvement plan that addressed each of the findings. After reviewing the responses, PRDH determined that individual meetings were needed with the RPC medical directors, administrators, and supervisors, to discuss each center's noncompliance and to provide technical assistance regarding the strategies to address each finding. While the meetings were

¹ Section 637(a)(9)(A)(ii)(II) of the IDEA Amendments of 2004 changed the transition conference timeline from "not more than 6 months" to "not more than 9 months" before the child is eligible for preschool services (i.e., before the child's third birthday).

held between September 30, 2004 and December 15, 2004, the time between the monitoring visits and the follow-up meetings ranged from approximately six months and 18 days to approximately 12 months and 3 days.

On pages I-9 and I-26 of the FFY 2003 APR, PRDH reported eight monitoring data collection areas that related to eight Part C regulations during the July 2003 through December 2004 time period. Data on these areas, including information from family interviews, were reported for all seven RPCs showing the trend of compliance/noncompliance over three data collection periods: (1) baseline data (July 2003); (2) July 2003- June 2004; and (3) July 2004- December 2004. PRDH used this data to determine which issues were specific to individual regions and which were systemic. OSEP will refer to this information in the appropriate sections below.

On pages I-8 and I-14 through I-16 of the FFY2003 APR, PRDH reported that it revised the timelines for monitoring. On-site monitoring visits were completed for all RPCs between February 24, 2005 and March 10, 2005. Draft monitoring reports were issued between 30 and 42 days after the visits (revised timeline was 30 days). Four of the RPCs agreed with the draft reports, and the three that disagreed with the reports, responded to PRDH within the new timeline of 14 days. On page I-14, PRDH reported that monitoring reports with required corrective actions were issued between 56 and 73 days after the monitoring activities were completed (the revised timeline was 60 days).

On pages I-16 through I-18, and on pages I-23 through I-26 of the FFY 2003 APR, PRDH reported on progress and slippage towards full compliance in the area of general supervision along with projected targets, future activities, and projected timelines and resources to ensure compliance as soon as possible. On page I-16 of the APR, PRDH reported that the delay in issuing monitoring reports for the October 2003- March 2004 monitoring period (eight months and 18 days to five months) was due to the excessive amount of data collected and a turnover of monitoring staff during the months of May and June of 2004. The monitoring reports for the on-site visit period of February 24, 2005 through March 10, 2005 demonstrated improvement by being issued between 56 and 73 days after the monitoring activities were completed. Improvement was also shown by an increased percentage of compliance with the eight data collection areas. PRDH reported that RPC directors, administrators, and supervisors would participate in one-day workshops on Quality Assurance and Corrective Action Plans during June 2005. Each RPC would be required to bring its draft improvement plans and all final plans were due to PRDH by June 30, 2005. PRDH reported that RPCs would be required to provide corrective action plan progress reports every other month.

PRDH presented no evidence that identified noncompliance was corrected within one year of the date when the program was officially notified of the noncompliance. On pages I-17 and I-26 of the FFY 2003 APR, PRHD included projected targets that identified IDEA noncompliance would be corrected no later than February 8, 2006. PRDH must ensure that all PRDH identified noncompliance under Part C of IDEA is corrected within one year of identification (the date of the monitoring report, in the case of PRDH's described monitoring system). In the SPP due December 2, 2005, PRDH must provide updated progress data and by March 10, 2006 a final progress report demonstrating correction of noncompliance.

Dispute resolution

OSEP's February 2005 letter accepted the proposed strategies, projected targets and timelines included in the FFY 2002 APR to ensure the resolution of formal written complaints within required timelines (34 CFR §303.512(a)). This letter also required the PRDH to submit: (1) Progress Reports demonstrating progress towards compliance: (a) in the FFY 2003 APR; and (b) by July 31, 2005; and (2) by March 10, 2006 a final report demonstrating compliance by February 8, 2006.

On pages I-14 through I-18 and I-27 through I-30 of the FFY 2003 APR, PRDH provided data and information on its dispute resolution mechanisms. On page I-27 of the APR, PRDH reported the following trend in the number of complaints filed: (1) 2001, ten; (2) 2002, nine; (3) 2003, seven; and (4) 2004, six. In 2004, seven formal complaints were received but one was withdrawn. For the remaining six complaints, two were resolved and had letters issued within the required 60-day timeline; one was resolved and the letter was issued between 61-90 days; and two were resolved and the letters issued more than 90 days after receipt of the complaint. None of the three complaints exceeding 60 days indicated that an appropriate extension had been granted. On pages I-29 through I-30 of the APR, PRDH reported that the Office of the Ombudsman for Persons with Disabilities (OOPD) did not issue decision/closure letters until the decisions were implemented and the families were satisfied with the results. This is the reason why, even if complaint decisions were rendered within the 60-day timeline, the letters were not issued within the required 60-day timeline.

On page I-29 of the FFY 2003 APR, PRDH reported that, from October 2003 through September 2004, two formal mediation requests, not related to a due process hearing request, were received by the OOPD. Both mediation reports resulted in agreements being executed. During this same time period no requests for due process hearings were received.

On pages I-14 through I-18 and I-29 through I-30 of the FFY 2003 APR, PRDH addressed progress and slippage toward compliance with the dispute resolution requirements. PRDH reported that, on September 30, 2003, a new agreement was signed with OOPD, and OOPD was given the tasks of conducting mediations and due process hearings while PRDH was given the task of resolving formal complaints. PRDH reported that the transition of complaint investigation and resolution from the OOPD to the PRDH did not occur within the proposed timeline due to a ban on personnel recruitment for two months prior and two months after the November 2, 2004 general elections, as required by Puerto Rico electoral law. As of the submission of the FFY 2003 APR, this transition had still not been made.

PRDH sponsored, and the Conflicts Resolution Institute conducted, joint training on mediation techniques with staff from PRDH, the seven RPCs and OOPD.

On-site monitoring of the OOPD was completed on March 23, 2005 by PRDH. As a result, PRDH reported that it "recommended," with respect to the resolution of formal written complaints, that OOPD issue a letter when a decision was reached and that it follow up with a closure letter once implementation of the decision was completed, pending the transition of the responsibility for complaint resolution from OOPD to PRDH. As indicated above, PRDH was

required to submit progress toward compliance with the complaint requirements, in the FFY 2003 APR. The information provided, as outlined immediately above, indicated continued noncompliance with the requirement of 34 CFR §303.512(a) to issue a written decision, with findings of fact and conclusions, within 60 days of the receipt of a formal complaint.

On pages I-18 and I-30 of the FFY 2003 APR, PRDH reported on projected targets, activities, timelines and resources to ensure compliance. PRDH reported that it would monitor OOPD quarterly, and that the first monitoring report on OOPD would be issued by April 2005. Preparation and distribution of a brochure for families and Part C personnel, explaining the procedures for submitting a formal complaint, requesting mediation or a due process hearing, would be developed between July 2005 and February 2006. During that same time period, training would be conducted for service providers, intake and service coordinators regarding those procedures. PRDH would continue to analyze complaint findings.

OSEP is concerned that the responsibility to resolve formal written complaints has not been transferred from OOPD to PRDH and that, pending this transition, no progress was reported in ensuring that the complaints are resolved within required timelines. In the SPP, due December 2, 2005, PRDH will report its progress toward compliance with the requirements of 34 CFR §303.512 and PRDH must demonstrate full compliance with these requirements no later than February 8, 2006, with a final report to OSEP demonstrating that compliance by March 10, 2006.

Personnel

On pages I-31 through I-43 of the FFY APR, PRDH addressed personnel. PRDH reported that the total number of personnel employed and contracted to provide early intervention services island-wide had decreased from 195.5 in 2001 to 116.0 in 2004. PRDH also reported, for the same time period: (1) an island-wide breakdown of the individual service provider positions (other than service coordinators) employed; (2) a breakdown of individual service provider positions by RPC; (3) an island-wide breakdown of intake and service coordinators; and (4) the total number of intake and service coordinators employed, by RPC. The number of service coordinators remained approximately the same over the four-year period. For 2003 and 2004, PRDH reported the number of children or families receiving each of the early intervention services according to an IFSP, broken down by RPC, along with the number of intake coordinators and service coordinators. The numbers remained approximately the same over those two years. Intake coordinators averaged 13 new referrals per month. The average number of families per service coordinator ranged from 96 in one RPC to 42 in another. PRDH explained that the reduction in service providers between 2001 and 2004 resulted from the redesign of the early intervention delivery system. PRDH reported on projected targets, future activities, projected timelines and resources. One of the future activities was the sampling of individual IFSPs from one RPC to determine at which steps in the process from referral to initial IFSP development (i.e., intake, eligibility determination, family and child assessment, IFSP planning and development) there were issues that resulted in noncompliance with the 45-day timeline, and whether those were related to service coordination, service provision and/or administrative matters. OSEP appreciates the State's efforts in this area.

Collection and timely reporting of accurate data

OSEP's February 2005 letter required PRDH to continue to analyze its data collection system, determine whether it is effective in collecting accurate, valid and reliable data and provide that information to OSEP in the FFY 2003 APR.

On pages I-44 and I-45 of the FFY 2003 APR, PRDH reported on the combined sources of information that were used to ensure the accuracy of data required under §618 of IDEA. PRDH reported that supervisors took data from the electronic system, verified the data with the service coordinators to ensure the data were complete and accurate and, when necessary, checked the data against the IFSPs and service records. Administrators and/or medical directors of each RPC submitted personnel reports on the number and type of personnel employed and contracted. The data manager at the central office analyzed the data to identify any discrepancies or major changes from previous reports, and communicated any concerns to the reporting personnel to verify the requested information, and submit corrected data, when necessary.

OSEP appreciates PRDH's efforts to improve performance in this area and looks forward to reviewing the accuracy and timeliness of its reported data as part of the SPP.

Comprehensive Public Awareness and Child Find System

On pages II-1 through II-9 of the FFY 2003 APR, PRDH reported on the percentage of infants and toddlers, from birth through age two, referred to Part C from 2001-2004; in 2001, it was 2.06% and 3.23% in 2004. On page II-5, PRDH reported on the distribution of referrals by primary referral source for 2001-2004. The following is a list of referral sources for 2004, from largest to smallest: parents/families (also the largest group in 2003); physicians (roughly 2/3 of the number referred by parents/families); other Department of Health Programs (DOH) (less than 1/4 of the number referred by parents/families); and others (e.g., Head Start, visiting nurses, etc.). Of the infants and toddlers referred to Part C, 86.6% were determined eligible for Part C services in 2001, 72.8% in 2002, 77.5% in 2003 and 79.5% in 2004. On pages II-6 through II-8, II-26 and II-27, PRDH analyzed the progress and slippage and future activities for each RPC. PRDH reported that it would revise the monthly referral and eligibility reporting form to include data regarding the age of children at referral, by the each referral agency, in order to identify who refers infants at one year of age or younger.

On page II-28 of the FFY 2003 APR, PRDH reported the percentages of infants and toddlers, birth through two, who were receiving Part C services as of December 1 for 2001-2004. In 2001, it was 2.51% and 1.95% in 2004. On page II-36, PRDH also reported the percentage of infants and toddlers, birth through age two, receiving Part C services as of December 1, for 2001-2004, by age groups. In 2001, 7.4% of all infants and toddlers served, were under one year of age, 28.7% were 1 to 2 years of age, and 63.9% were between 2 and 3 years or age. In 2004, the percentages were 6.8, 26.2 and 67.1, respectively. On page II-39, PRDH reported the percentage of all infants and toddlers under age one receiving Part C services for 2001-2004; in 2001, it was .47%; 2002, .53%; 2003, .34%; and .41% in 2004. PRDH reported the following future activities: (1) identification of strategies for targeting primary referral sources of infants and toddlers (including an emphasis on the requirement of referral within two days of identification);

(2) follow up activities regarding the interagency agreements with Early Head Start/Head Start, Child ACUDEN (Child Care), and Administration for Families and Children (ADFAN), regarding child find activities; (3) establishing linkages with the Birth Defects Registry for the referral of infants with medical diagnosis that may result in developmental delays; (4) training of home-visiting nurses and Child Care providers on early identification and referral of infants less than one year, including the use of “Ages and Stages.”

OSEP appreciates PRDH’s efforts to improve performance in this area and looks forward to reviewing data in the SPP due December 2, 2005 regarding the percent of infants and toddlers, birth to age one and birth through age two, compared to States with like eligibility definitions and compared to National data.

Family Centered Services

On pages III-1 through III-7 of the FFY 2003 APR, PRDH reported on family centered services. PRDH reported that monitoring data from the October 2003 and March 2004 visits to the seven RPCs, showed the following range of percentages related to documentation on IFSPs of families’ concerns, priorities, and resources, for the files reviewed: 100 % (in three RPCs) to 88% (in one RPC). In 2004, files reviewed in the seven RPCs for documentation of expected outcomes for children and families on IFSPs showed 100% for all centers and, for documentation of criteria, procedures and timelines to determine the progress of the child and family, there was a range from 100% (in four RPCs) to 93% (in one RPC). Between July 2003 and July 2004, files reviewed in the seven RPCs for documentation on IFSPs of a statement of progress made by children and families toward achieving outcomes resulted in a range of 88% to 50%, across all RPCs. On this same data collection item, between July 2004 and December 2004, four RPCs achieved 100% and one dropped to 33%.

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. The State should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing PRDH’s response to the SPP indicator related to the percent of families participating in Part C who report that early intervention services have helped the families know their rights, effectively communicate their children’s needs, and help their children develop and learn.

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

OSEP’s February 2005 letter accepted the proposed strategies, projected targets and timelines included in the FFY 2002 APR to address the areas in OSEP’s December 2002 Monitoring Report where PRDH had not ensured compliance with following: (1) the decision-making process at IFSP meetings was individualized and resulted in infants and toddlers receiving services in natural environments as required by 34 CFR §§303.12, 303.18 and 303.167(c)(2), and each IFSP contained a justification when a service was not provided in the natural environment, as required by 34 CFR §303.344(d)(1); (2) transportation was identified and provided as an early intervention service to enable an eligible child and the child’s family to receive early intervention services as required by 34 CFR §§303.12(d)(15) and 303.344(d)(2)(ii); and (3) early intervention services were provided in a timely manner, as required by 34 CFR §§303.340 (c), 303.342(e),

and 303.344(f). OSEP's letter also required PRDH to submit the following in the FFY 2003 APR: (a) a report including baseline and comparison data (whether aggregated for all children or through sampling of child records in specific regions) indicating its progress in the areas listed above, (b) a second Progress Report due July 1, 2005; and (c) a final report demonstrating compliance by March 10, 2006.

In addition, OSEP imposed an evidence of change requirement for noncompliance related to service provision, mentioned above. PRDH was required to provide, in both the July 31, 2005 Progress Report and the final Progress Report, monitoring data confirming the number or percentage of eligible children and families receiving the early intervention services listed on the IFSPs in a timely manner.

Service coordination

In an addendum to the APR, provided to OSEP via email on August 30, 2005, PRDH reported that, by policy, all families have access to a service coordinator who facilitates ongoing, timely early intervention services in natural environments. An intake coordinator is appointed upon referral and this individual provides service coordination until the initial IFSP meeting. At that time, a service coordinator is appointed and the information is documented on the IFSP. Of 118 IFSPs reviewed island-wide, 113 (95.7%) had the service coordinator name and contact information documented on the IFSPs. OSEP appreciates PRDH's efforts in this area.

Evaluation and identification of needs

On pages IV-11 through IV-15 of the FFY 2003 APR, PRDH reported that all RPCs used a curriculum-based-assessment approach in evaluating infants and toddlers. It also reported that the instrument yielded a present level of performance for the following five domains: physical, cognitive, communicative, social/emotional and adaptive development. On page IV-12, PRDH included monitoring data for July 2003 through June 2004 and July 2004 through December 2004, showing the percentage of early intervention records reviewed that documented use of the curriculum-based tool as a part of the child's initial assessment. For the first monitoring period, the percentages ranged from 100% (three RPCs) to 87.1% (one RPC). For the second monitoring period, the percentages ranged from 100% (four RPCs) to 87.5% (one RPC).

On pages IV-11 through IV-15 of the FFY 2003 APR, PRDH also reported it revised its IFSP form to include the recording of present levels of performance for the five domains listed above, as well as the child's status related to vision, hearing, and health. PRDH submitted data for July 2003 showing the percentage of IFSPs reviewed that included a statement of the child's present level of performance in all five areas. The percentages ranged from 100% (three RPCs) to 82% (one RPC).

On page IV-14 of the FFY 2003 APR, PRDH reported monitoring data for all RPCs, on the percentages of IFSPs reviewed that included the services necessary to meet the identified needs of the child and the family: (1) July 2003, 100% (three RPCs) to approximately 80% (one RPC); (2) July 2003 through June 2004, 100% (five RPCs) to approximately 60% (one RPC); (3) July 2004 through December 2004, 100% (six RPCs) to approximately 65% (one RPC). PRDH

indicated the RPCs not in compliance must implement corrective actions. OSEP appreciates PRDH's efforts in this area.

Individualized family service plans (IFSPs)

On pages IV-1 through IV-10 of the FFY 2003 APR, PRDH reported data indicating an area of noncompliance, not previously identified by OSEP, namely with the requirements of 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a), that the evaluations and assessments are completed and an initial IFSP meeting is convened within 45 days of the receipt of a referral to Part C. On page IV-10, PRDH reported the following percentages of compliance with the 45-day timeline in the files reviewed across all seven RPCs: (1) in July 2003, 35.2%; (2) July 2003 through June 2004, 32%; and (3) July 2004 through December 2004, 47.4%. The highest percentage for any RPC for any of the periods was 68.8% and the lowest was 0%. PRDH reported that the supervisors at the RPCs would be responsible for establishing supervision and monitoring mechanisms to ensure the compliance with the 45-day timeline. PRDH also reported it would sample IFSPs from RPCs with the lowest percentages of compliance in this area, to determine at which steps in the process, from referral to the initial IFSP meeting, there were issues that contributed to the noncompliance and whether those issues related to service coordination, service provision or administration. In the SPP, PRDH must include an analysis of the reasons for the noncompliance with the required 45-day timeline, and strategies and activities, targets, evidence of change and timelines to correct the noncompliance within one year from when OSEP accepts the plan.

On page I-21 of the FFY 2003 APR, PRDH reported baseline data, gathered from parents prior to July 2003, on the percentage of families that identified transportation as an issue in their participation in eligibility determinations, assessments and IFSP activities. Data was reported for all seven RPCs and ranged from 33% to 10% and indicated transportation was identified on the IFSP and provided when identified. On page I-24, PRDH reported that eligibility determinations, assessments and initial IFSP development activities were taking place, to some extent, in the RPCs. Because these transportation needs were related to activities prior to the initial IFSP development, they were not reflected on the IFSPs. PRDH reported it developed policies and procedures to facilitate the family's participation in those activities and revised written prior notices to include a statement that urged families to communicate with their intake or service coordinator if transportation and/or related costs were needed to ensure family participation in those activities. OSEP appreciates PRDH's efforts in this area and PRDH has resolved this issue from OSEP's 2002 monitoring report.

On the service provision finding, PRDH provided data indicating improvement, but continued noncompliance, with the service provision requirements in (34 CFR §§303.340(c), 303.342(e) and 303.344(f)). On page IV-9 of the FFY 2003 APR, PRDH reported the number of days that elapsed between the completion of the initial IFSP and the provision of services. From July 2003 through June 2004, the percent of services that were provided in less than 31 days from completion of the initial IFSP was 59.8%. From July 2004 through December 2004, the percent was 70.6%. PRDH did not provide data on the percent of services that were started in accordance with the initiation dates for services on the IFSPs. In the SPP, PRDH must include updated progress data and analysis regarding the provision of services in a timely manner, along

with a determination of whether existing strategies and activities can fully ensure correction of the noncompliance by February 8, 2006. If PRDH determines that modifications or revisions to the strategies are necessary, it should include those changes in the SPP.

Natural environments

On pages IV-16 through IV-24 of the FFY 2003 APR, PRDH addressed services in natural environments and justifications on the IFSP when services were not provided in the natural environment as required by 34 CFR §303.344(d)(1)(ii). On page IV-16, PRDH presented island-wide data for 1999 through 2004 that showed a change in the location of services from the majority of services provided in RPCs to the majority of services provided in the home. On pages IV-22 through IV-24, PRDH included data for July 2003 through June 2004 and for July 2004 through December 2004, related to whether files included a justification when the IFSP indicated that a service was not provided in a natural environment. The data indicated improvement, but these data also indicated noncompliance. In its final progress report due March 10, 2006, PRDH must provide updated data demonstrating compliance with 34 CFR §303.344(d)(1)(ii). OSEP will provide further technical assistance on this issue.

On page IV-16 of the FFY 2003 APR, PRDH reported a decrease in the instances of early intervention services provided in service provider locations from 86% in 1999 to 1.2% in 2003 and a corresponding increase in the instances of early intervention services provided primarily in settings such as the home and programs with typically developing peers from 13% in 1999 to 98% in 2003. OSEP appreciates PRDH's efforts to improve performance in this area.

Early childhood outcomes

On pages IV-25 through IV-29 of the FFY 2003 APR, PRDH addressed early childhood outcomes. On page IV-25, PRDH reported that, as of July 2003, the following activities occurred: (1) initial and annual child assessments were conducted through a curriculum-based instrument; and (2) six-month reviews of IFSPs were required to include documentation regarding progress of the child and family in achieving the desired outcomes and a revised IFSP form included a section for documenting this information.

From July 2003 through June 2004 and from July 2004 through December 2004, PRDH determined the percentage of six-month IFSP reviews that documented progress toward achieving child and family outcomes. The island-wide percentage was 69.6% for the first monitoring period and 72.2% for the second period.

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). While PRDH provided the data indicated above related to progress in achieving child and family outcomes, PRDH did not provide data in direct response

to this performance indicator related to improved and sustained functional abilities in the cognitive, physical communication, social or emotional and adaptive developmental areas. 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 section 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 February 2005 letter required PRDH to provide the following information to ensure compliance with the Part C transition requirements: (1) the results of specific strategies implemented and regular meetings conducted with Part B and Part C staff to resolve challenges relating to implementation of the new interagency agreement; and (2) monitoring or other data demonstrating compliance with the transition requirements to describe how PRDH: (a) will notify the local educational agency (LEA) for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B, 34 CFR §303.148 (b)(1), (b) in the case of a child who may be eligible for preschool services under Part B, with the approval of the family of the child, convene a conference among the lead agency, the family, and the LEA at least 90 days, and at the discretion of the parties, up to six months, before the child is eligible for the preschool services, to discuss any services that the child may receive as required by 34 CFR §303.148(b)(2)(i), and (c) ensure that the IFSP include the steps to be taken to support the transition as required by 34 CFR §§303.148(b)(4) and 303.344(h)(1).

On page V-3 of the FFY 2003 APR, PRDH reported that the meetings between PRDH and the Puerto Rico Department of Education (PRDE) for joint planning to implement the new interagency agreement did not occur, joint transition training workshops to be held between August and December of 2004 did not occur, and personnel from both Departments were struggling between old and new procedures. PRDH reported that a meeting between the two Departments occurred on February 28, 2005. PRDH reported that PRDE recommended the Transition Training Workshops not take place until June 2005, as it had other trainings scheduled. PRDE also recommended that the joint planning meetings to discuss new transition procedures wait until after April 15, 2005.

On page V-1 of the FFY 2003 APR, PRDH reported that it was complying with 34 CFR §303.148 (b)(1). PRDH reported that, as of September 2004, it was providing demographic and services information monthly to the PRDE for all children aged two years and older receiving Part C services through electronic transmission during the first ten days of each month. The data allowed PRDE to identify a child by town and health region.

On pages V-2 through V-5 of the FFY 2003 APR, PRDH reported revising its electronic data system to allow recording of the date of the transition planning meeting. From July 2003 through June 2004 and again from July 2004 through December 2004, PRDE reviewed records in all seven RPCs and reported the highest percentage of transition planning meetings held at

least 90 days before the child's third birthday was 33% (one RPC) and the lowest was 0% (four RPCs).

On pages V-2 through V-5 of the FFY 2003 APR, PRDH reported that it reviewed records in all seven RPCs for the percent of transition plans that included the steps to be taken to support the transition process. During the July 2004 through December 2004 monitoring cycle, the percentages ranged from 80% (one RPC) to 0% (three RPCs). PRDH reported that monitoring activities in 2005 showed that not all of the required transition steps were being completed on IFSPs. In some cases, the service coordinators were using the Outcomes Review and Service Modifications section of the IFSP, Section 13, to document the steps of the transition plans.

The data and information included in the FFY 2003 APR identifies noncompliance not previously identified by OSEP in the areas of: (1) timely transition conferences under 34 CFR §303.148(b)(2)(i); and (2) transition planning under 34 CFR §§303.148(b)(4) and 303.344(h)(1). PRDH included strategies, proposed evidence of change, targets and timelines designed to ensure compliance with the transition requirements listed above on pages V-3, V-4, and V-5 of the FFY 2003 APR. OSEP accepts PRDH's plan to address these two transition areas. PRDH must submit an updated progress report with the SPP by December 2, 2005 on these two areas (Indicator #8 in the SPP) and submit 30 days following one year from the date of this letter, data and information demonstrating compliance with these requirements.

Conclusion

In the State Performance Plan (SPP), due December 2, 2005, PRDH must include data regarding progress in ensuring compliance with the requirements in (1) through (5) listed below, and a plan to ensure compliance with the new area of noncompliance in (6) listed below:

- (1) monitoring (timely correction of PRDH-identified noncompliance as well as OSEP noncompliance) (34 CFR §303.501(b)(1)-(4));
- (2) timely resolution of complaints (34 CFR §303.512);
- (3) the timely provision of Part C services (34 CFR §§303.340(c), 303.342(e) and 303.344(f));
- (4) timely transition conferences (34 CFR §303.148(b)(2)(i));
- (5) transition planning on IFSPs (34 CFR §§303.148(b)(4) and 303.344(h)(1)); and
- (6) the 45-daytime timeline requirements (34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a)).

PRDH must submit by March 10, 2006 a final progress report with data demonstrating compliance in the areas listed below:

- (1) monitoring (timely correction of PRDH-identified noncompliance as well as OSEP noncompliance) (34 CFR §303.501(b)(1)-(4));
- (2) timely resolution of complaints (34 CFR §303.512);
- (3) the timely provision of Part C services (34 CFR §§303.340 (c), 303.342(e) and 303.344(f)); and

- (4) provision of Part C services in the natural environment or child-outcome based justification on the IFSP (34 CFR §303.344(d)(1)).

In addition, PRDH must submit a final report 30 days following one year from the date of this report for the following two areas of noncompliance:

- (1) timely transition conferences (34 CFR §303.148(b)(2)(i)); and
- (2) transition planning on IFSPs (34 CFR §§303.148(b)(4) and 303.344(h)(1)).

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, similar to clusters and probes in the APR. OSEP encourages PRDH 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 Linda Whitsett at (202) 245-7573.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Dr. Naydamar Perez de Otero