



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Thomas E. Alt  
Deputy Secretary  
Department of Health and Family Services  
1 West Wilson Street  
P.O. Box 7850  
Madison, Wisconsin 53707

OCT 25 2005

Dear Deputy Secretary Alt:

The purpose of this letter is to respond to Wisconsin's June 2, 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 a final Progress Report dated August 26, 2005. OSEP has set out its comments, analysis and determinations by cluster area.

***Background***

OSEP's July 29, 2004 FFY 2002 APR response letter required the State to provide, no later than 60 days from the date of OSEP's letter, documentation that it had corrected noncompliance that had been identified in its October 18, 2000 Monitoring Report related to: (1) including in individualized family service plans (IFSPs) procedures for measuring progress and evaluating whether services and outcomes required modification; (2) including in IFSPs needed health and medical services and the steps to secure those services; and (3) ensuring that transition planning conferences were held at least 90 days before the child's third birthday. If Wisconsin could not demonstrate compliance in these areas, the State was directed to submit within 60 days of OSEP's July 2004 letter: (1) its analysis of the factors that have impeded correction of the noncompliance; (2) documentation of the specific steps, including any sanctions that it has taken to ensure correction, and the impact of those actions; and (3) if the State determined that additional strategies are needed or that existing strategies must be modified, its proposed strategies, evidence of change data and timelines to ensure compliance as soon as possible.

Wisconsin submitted the required report on September 24, 2004. In a letter dated March 7, 2005, responding to the September 2004 Progress Report, OSEP directed the State to report in its FFY 2003 APR: (1) its progress in ensuring compliance with the requirements of 34 CFR §303.344(c) relating to including, on IFSPs, procedures for measuring outcomes; and (2) its implementation of the activities outlined in its September 2004 letter regarding IFSP teams identifying needed health and medical services and steps to secure those services, and the impact of those activities in ensuring correction of the noncompliance with the requirements of 34 CFR §303.344(e). The March 2005 letter required Wisconsin to continue to report on its strategies to maintain compliance.

OSEP's July 2004 letter also stated that the State was not ensuring that initial evaluations and assessments were completed, and initial IFSP meetings convened, within 45 days after referral, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a), and directed the State to provide two Progress Reports on the status of its correction of this area of noncompliance in three counties, one as part of its FFY 2003 APR, and a final report due on August 28, 2005.

### ***General Supervision***

#### Identification and timely correction of noncompliance

On pages 1 through 5 of the FFY 2003 APR, the State's Lead Agency, the Wisconsin Department of Health and Family Services (DHFS), included data and analysis regarding this area. Wisconsin monitors county programs to ensure that procedures and policies are in place for the implementation of early intervention services, and provides technical assistance to counties. DHFS will monitor each of the State's 72 counties between July 2002 and June 2006. DHFS monitored 19 counties during 2003, and 16 counties during 2004. The Program Review Process includes: (1) a technical assistance approach, rather than a deficiency-based approach, to program review; (2) a Program Review Guide, for the purpose of self-assessment, completed by the county; (3) an exit interview or follow-up meeting with State staff; (4) a written report with findings and priority action areas; and (5) a corrective action plan when the State review team discovers deficiencies or violations related to IDEA compliance.

On page 3 of its FFY 2003 APR, DHFS indicated that it follows up on identified noncompliance, using the Program in Partnership Plan (PIPP) process. Each activity in the PIPP includes a timeline, person responsible, and implications for the county's organizational structure. OSEP appreciates the work of the State in ensuring compliance with these requirements and looks forward to reviewing the State's data in this area in the State Performance Plan (SPP), due December 2, 2005.

#### Dispute resolution

On pages 6 and 7 of the FFY 2003 APR, the State included data and analysis regarding this area. No complaints were filed in 2003. Two complaints were filed in 2004, which were resolved in a timely manner. In Attachment 1, the State reported that it received no requests for mediation or due process hearings during the FFY 2003 reporting period. OSEP appreciates the work of the

State regarding these requirements and looks forward to reviewing the State's data in this area in the SPP due December 2, 2005.

#### Personnel

On page 8 of the FFY 2003 APR, the State included data and analysis regarding this area. DHFS reported a slight increase in caseload averages occurred between 2003 and 2004. Parents continued to report a high rate of satisfaction with services. The State reported that it will monitor caseload averages on a county-by-county basis to identify trends or concerns and provide technical assistance or a corrective action plan if warranted. OSEP appreciates the State's efforts in this area.

#### Collection and timely reporting of accurate data

On page 9 of the FFY 2003 APR, the State included data and analysis regarding compliance in this area. The Human Service Reporting System (HSRS), an automated information system, was used to report and track county level data on a statewide, aggregated basis. This same reporting system was used by all human service programs in Wisconsin. HSRS reports all information required by OSEP, including the annual child count, as well as referral data and additional information about settings. The required quarterly reporting and the verification needed for the Medicaid enhanced rate resulted in improved timeliness and accuracy of data. The State indicated that it intends to verify HSRS data with each county and utilize those data in analyzing program quality and compliance. OSEP appreciates the work of the State in this area and looks forward to reviewing the State's information in this area in the SPP due December 2, 2005.

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

On pages 10 through 13 of the FFY 2003 APR, the State included data and analysis regarding this area. Wisconsin's data continued to demonstrate an increase in both numbers of children receiving Part C services and the percentage of children in the infant and toddler population. In 2004, infants under age one represented more than one-half of the total growth in the Birth to Three Program. The percentage of children receiving early intervention services between the ages of birth and three years based on the State's December 1, 2004 child count was 2.79%.

On page 12 of the FFY 2003 APR, Wisconsin included the following goal: "The number of infants under the age of one with confirmed hearing loss served in the Birth to 3 Program will account for the largest identified age group increase annually through 2007." On page 11, the State included the following goal: "The percentage of children receiving early intervention services who are identified as Asian will increase from 70% to 90% of the expected populations in identified regions in 2007." The use of a goal for a racial or ethnic subgroup is inconsistent with Federal law. The State may want to examine whether and why infants and toddlers with disabilities in certain subpopulations were not referred, identified and/or determined eligible for services under Part C; however, under Title VI of the Civil Rights Act, it must do so in a race-neutral manner without the use of race- or ethnic-specific goals. The projected target referencing Asian children must be deleted in the SPP. In addition, with respect to hearing-impaired children, the State must monitor that eligibility decisions for infants and toddlers are made in

conformity with the individual evaluation and assessment requirements of IDEA (34 CFR §§303.320 through 303.323).

OSEP appreciates the work of the State in this area and looks forward to reviewing the State's data regarding the percent of infants and toddlers birth to one and birth to three, with IFSPs, compared to States with similar eligibility definitions and compared to national data in the SPP due December 2, 2005.

### *Family Centered Services*

On pages 14 through 17 of the FFY 2003 APR, the State included data and analysis regarding this area. Each year, DHFS surveys families in the counties that have a program review that year. The State reported that many parents stated that the biggest loss from not participating in a center-based program was the opportunity to connect with other parents whose children had developmental delays. As a result, counties were developing other ways to connect families as evidenced by the increase from 27% to 35% of positive responses to the question related to connecting with other families. OSEP appreciates the work of the State in this area and looks forward to reviewing the State's plan in the SPP to collect data regarding the percentage 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.

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

#### Service coordination

On pages 18 and 19 of the FFY 2003 APR, the State included data and analysis regarding this area. All files reviewed in 19 counties in 2003 and 17 counties in 2004 showed that 100% of families were assigned a single service coordinator upon referral to Part C. OSEP appreciates the State's work in this area.

#### Evaluation and identification of needs

In its July 2004 letter, OSEP found, based on data in the FFY 2002 APR, that the State was not ensuring that initial evaluations and assessments were completed, and initial IFSP meetings convened, within 45 days after referral, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a). OSEP directed the State to provide two Progress Reports, one as part of its FFY 2003 APR and a final report due on August 28, 2005, on the status of its correction of this area of noncompliance in three counties.

In Attachment 3 of the FFY 2003 APR, and in its final Progress Report dated August 26, 2005, the State provided information regarding those three counties. All three counties developed PIPPs to address this issue.

- County A was taking a greater oversight role with the provider to ensure that initial IFSP meetings were scheduled within 45 days of the initial referral. In January 2004, 8 of 10

files reviewed met the 45-day timeline; in August 2004, 6 of 10 met the 45-day timeline, with 3 files with documented reasons; in March 2005, 14 of 20 files reviewed and 2 of 2 files reviewed met the 45-day timeline, and, in July 2005, 7 of 7 met the 45-day timeline.

- County B was not clear about when the 45-day timeline began and the referral date was not always evident in children's records. In 2003, the county developed a database that signaled the 45-day timeline and tracked the reasons for delays. Of 344 children starting the program in 2004, 292 (85%) had their initial IFSP meeting within 45 days of referral to Part C. Of the remaining 52 children, 25 (7%) had documentation of legitimate family reasons for the delay of the IFSP, and 27 (8%) had reasons related to staff problems. In its August 2005 Progress Report, the State provided data concerning the 45-day timeline in County B, showing that 93 of 102 (91%) IFSPs were developed within 45 days of referral and the remaining 9% had appropriate justifications for not meeting the timeline. OSEP no longer has concerns with respect to meeting the 45-day timeline in County B.
- With respect to County C, the State indicated that its initial concern was that there was inadequate documentation of dates and causes for delays. However, Wisconsin noted that it only recently became aware that there were many children not receiving an initial IFSP meeting within the timeline, and has begun closely monitoring this County. In its Final Progress Report, the State reported that the County has shown improvement, but remains under a plan of correction. In addition to staff turnover, there has been a 37% increase in referrals in this County over the last 3 years. The State did not provide any data in the Final Progress Report on the number or percentages of children who are receiving evaluations, assessments and initial IFSP meetings within 45 days of referral.

In addition to the information supplied regarding these three counties, Wisconsin reported on pages 20-21 of the FFY 2003 APR data and analysis concerning the 45-day timeline. The State reported that it was putting an increased emphasis on the 45-day timeline. During program reviews, only a sample of files is reviewed. Consequently, the State required the referral date and IFSP date to be reported for every child on the statewide information system. The State reported that 15 out of 16 counties reviewed in 2004 were in compliance with the 45-day timeline. However, the State's targets in this area raise concerns. On page 20 of the FFY 2003 APR, the State reported that its target for 2005 is: "80% of children statewide will have the [initial] IFSP [meeting] scheduled within 45 days of the referral date. On page 21 of the FFY 2003 APR, the State reported a target for 2006 that "100% of children will have the IFSP scheduled within 45 days of the referral date or there will be documentation of the exceptional circumstances preventing the timeline from being met." The State also reported that RESource staff will be notified of all counties with more than 20% of IFSPs not meeting the timeline and will provide technical assistance and develop a PIPP with those counties. OSEP notes that the State may not set a target of less than 100% compliance for Part C requirements.

OSEP remains concerned about the status of Counties A and C. In the SPP due on December 2, 2005, the State must provide: (1) data on the number of children in Counties A and C who: (a) were referred in 2005 for an evaluation and assessment, (b) of those children, the number who received evaluations and assessments and an initial IFSP meeting within 45 days of referral, and (c) if applicable, an analysis of the reasons the 45-day timeline was not met; and (2) updated

information on the status of County C's implementation of its plan of correction. OSEP will review this information and determine what further action, if any, is required.

#### Individualized family service plans (IFSPs)

There are two findings of noncompliance in this area that remain outstanding from OSEP's 2000 Monitoring Report, related to including in IFSPs: (1) procedures for measuring progress and evaluating whether services and outcomes required modification, as required by 34 CFR §303.344(c); and (2) needed health and medical services and the steps to secure those services, as required by 34 CFR §303.344(e).

With respect to including procedures in IFSPs for measuring progress and evaluating whether services and outcomes required modification, the State, in its September 2004 Progress Report, identified additional strategies to ensure compliance. In its March 2005 letter to the State, OSEP asked the State to continue to report on its progress in ensuring full compliance with the requirements of 34 CFR §303.344(c). With respect to whether IFSPs include needed health and medical services and the steps to secure those services, as required by 34 CFR §303.344(e), in its September 2004 letter, DHFS indicated that it would revise the target, and outlined additional actions that the State would take to reach compliance. The FFY 2003 APR did not address either of these findings. With the SPP, the State must confirm implementation of all strategies identified in the State's September 2004 letter to correct these findings.

#### Natural environments

On page 22 of the FFY 2003 APR, the State included data and analysis regarding this area. Wisconsin reported that it continued to increase the number of children receiving Part C services primarily in the home or programs for typically developing children. In 2004, the number of children served in the Part C program was 5,756. Of that number, 95.9% were served in natural environments, and there were appropriate justifications for the remaining 4%. OSEP appreciates the work of the State regarding these requirements and looks forward to reviewing the State's data in this area in the SPP, due December 2, 2005.

#### 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 23 of the FFY 2003 APR, the State provided data and information as follows: The Birth to Three Program continued to make progress toward the goal of increasing the number of children exiting the program because they met all developmental goals and were no longer in need of services. The emphasis on working with families to help their child during each day's normal activities increased the functional skills of children. In the years 2002, 2003, and 2004, the total number of children exiting the program

was 4,887, 5,200, and 5,544 respectively. The percent of children who no longer had a delay upon program exit for the same years was 15.9%, 17.8%, and 18.3% respectively. 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 this data in the SPP.

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

In its July 2004 letter, OSEP informed the State that within 60 days from the date of that letter, it must provide documentation to OSEP that it corrected the noncompliance related to ensuring that transition planning conferences are held at least 90 days before a child's third birthday for those who may be eligible for Part B, and making reasonable efforts to convene a transition conference for children who were not likely to be eligible for Part B services, as required by 34 CFR §303.148(b)(2).<sup>1</sup>

In its March 2005 letter in response to Wisconsin's September 2004 letter, OSEP concluded that it had not identified any additional concerns with transition planning in Wisconsin, and directed the State to continue reporting on its strategies to maintain compliance and performance in this area in its FFY 2003 APR. On pages 26 and 27 of the FFY 2003 APR, the State provided the following information regarding this area: (1) clarification at the Spring 2005 Regional meetings of exit codes in order to improve the accuracy of transition data; (2) continuation of the *Ready, Set, Go* trainings with Birth to Three Programs, school districts and families; (3) monitoring by DHFS and other program review staff for transition activities as part of individual file review (when a transition planning conference was not held, staff would probe for the specific reasons and request a corrective action plan where warranted); (4) determining why parents did or did not pursue a referral to Part B services for their child who might be eligible; (5) sending additional written information to counties regarding transition planning conferences, including the requirement for an individual meeting in 2004; and (6) linking with the Department of Public Instruction's (DPI's) monitoring where local educational agency administrators are asked about attendance at transition planning conferences, with DPI following up with DHFS with any concerns. OSEP appreciates the State's efforts in this area.

### ***Conclusion***

With the State Performance Plan due on December 2, 2005, Wisconsin must:

1. With respect to the 45-day timeline, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a), submit: (1) data on the number of children in Counties A and C who: (a) were referred in 2005 for an evaluation and assessment; (b) of those children, the number who received evaluations and assessments and an initial IFSP meetings within 45 days of referral; and (c) if applicable, an analysis of the reasons the

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<sup>1</sup> 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).

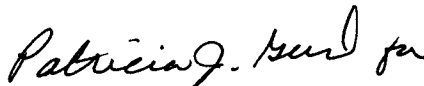
45-day timeline was not met; and (2) updated information on the status of County C's implementation of its plan of correction;

2. With respect to IFSPs including procedures for measuring progress and evaluating whether services and outcomes required modification, as required by 34 CFR §303.344(c), confirm implementation of all strategies identified in the State's September 2004 letter;
3. With respect to whether IFSPs included needed health and medical services and the steps to secure those services, as required by 34 CFR §303.344(e), confirm implementation of all strategies identified in the State's September 2004 letter; and
4. Delete the projected child find target referencing Asian children.

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, for the most part, are similar to the 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 Barbara Route at (202) 245-7510.

Sincerely,



Troy R. Justesen  
Acting Director  
Office of Special Education Programs

cc: Susan Abbey, Part C Coordinator