



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

Honorable William J. Moloney  
Commissioner  
Colorado Department of Education  
201 East Colfax Avenue  
Denver, Colorado 80203

MAR 10 2005

Dear Commissioner Moloney:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) September 28, 2004 visit to Colorado. As indicated in my letter to you on April 26, 2004, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under, Parts B and C of the Individuals with Disabilities Education Act (IDEA).

The purpose of our verification reviews of States is to determine how States use their general supervision, State-reported data collection, and State-wide assessment systems to assess and improve State performance, and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

As part of the verification visit to the Colorado Department of Education (CDE), the State's Part C Lead Agency, OSEP staff met with Ms. Susan Smith, the Part C Coordinator, Ms. Elizabeth Hepp, Early Childhood Supervisor, and members of CDE's early intervention staff who are responsible for the State's general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings), and the collection and analysis of State-reported data. Prior to and during the visit, OSEP staff reviewed a number of documents, including the: State's Part C applications for fiscal years 1999-2003; Colorado's Federal Fiscal Years (FFY) 2002 Annual Performance Report (APR); OSEP's 2001 Monitoring Report, Improvement Plan (IP) and Progress Reports, Local Monitoring Reports, Corrective Action Plans (CAP); and submission of data under section 618 of the IDEA, as well as other information and documents posted on CDE's website.<sup>1</sup> OSEP also conducted conference calls on July 16, 2004 with members of the State Interagency Coordinating Council (SICC) and parent representatives to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision and data collection and reporting. Ms. Smith also participated in the call and assisted us by inviting the participants.

The information that Ms. Smith and her staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our

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<sup>1</sup> Documents reviewed a part of the verification process were not reviewed for legal sufficiency but rather to inform OSEP's understanding of your State's system.

understanding of CDE's general supervision systems and data collection and reporting systems in carrying out the State's administrative and oversight responsibilities regarding the Colorado Early Intervention Program.

***General Supervision:***

Based on OSEP's review of CDE's monitoring system and interviews with CDE administrative and monitoring staff during the verification visit, OSEP believes that the State's systems for general supervision constitute a reasonable approach to the identification and correction of noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether the systems are fully effective in identifying and correcting noncompliance.

In reviewing the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (2) has identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State's ability to identify and correct noncompliance; (3) utilizes guidance, technical assistance, follow-up, and—if necessary—sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

As set forth in OSEP's March 30, 2001 Monitoring Report, OSEP made the following finding related to general supervision: the State's monitoring system was not effective in correcting identified deficiencies as required by 34 CFR §303.501. Based on the FFY 2002 APR and the December 2003 final Progress Report, Colorado has implemented all of the strategies in its Improvement Plan accepted by OSEP on November 12, 2002, and has a system in place reasonably designed to identify and correct State-identified deficiencies and enforce compliance. During the verification visit, OSEP and CDE staff reviewed the following notable improvements in the State's general supervision system that have occurred since OSEP's 2000 monitoring visit: (1) a data-based approach to the monitoring process; (2) lead agency internal accountability efforts; (3) the ongoing role of the SICC Memorandum of Understanding committee as valued partners in the monitoring process and other system initiatives; (4) increased public and provider participation through the State's Web site; (5) a focus on compliance with Part C requirements and on performance in all monitoring and State-wide training activities; (6) involvement of the Local Interagency Councils (LICCs) through local self-assessments; and (7) targeted responsibilities for data collection, transition agreements and corrective action plans included in early intervention provider annual applications for Part C funds.

OSEP confirmed through interviews with CDE staff and SICC members, that CDE has established the necessary components of a coordinated State-wide general supervision system including: (1) a detailed contracting process with local providers that requires a biannual data submission, periodic onsite monitoring visits and year-end reporting to ensure local compliance with Part C requirements and the implementation of technical assistance plans; (2) onsite monitoring on a three-year cycle or more frequently as warranted ; (3) review of Individualized Family Service Plans (IFSPs); (3) parent satisfaction measures; (4) ongoing data collection,

analysis and integration of data for improvement planning, monitoring, verification of change and for submission of section 618 data; (5) implementation of focused monitoring activities; (6) ongoing technical assistance provided by CDE community consultants; (6) service coordination and IFSP training activities conducted by CDE contracted staff; (7) a SICC MOU committee that meets on a monthly basis and is actively involved in Part C system initiatives including monitoring and performance reporting; and (8) an operational Interagency Agreement (described below).

CDE informed OSEP that the State's current interagency agreement, which emphasizes accountability, has served as a conduit to improve local "buy-in" to policy enforcement. OSEP also verified through interviews with CDE staff, that the MOU among the Departments of Education (CDE's Part B program oversees the implementation of Part C Child Find activities that are conducted by Local Education Agencies for children Birth through 21), Public Health and Environment, and Human Services and Health Care Policy and Financing, is operational at the State and local levels.

CDE informed OSEP that monitoring teams are composed of parents and the MOU group members, which enables the monitoring team to recognize issues that exist in more than one county across the State. CDE uses a number of strategies and mechanisms to ensure compliance with the Part C monitoring requirements such as: (1) focused monitoring to follow-up on comprehensive monitoring (designed to measure the effectiveness of the improvement strategies utilized to correct noncompliance); (2) ongoing tracking of compliance issues and technical assistance provided by community consultants who are assigned geographic areas to ensure accessibility to timely information related to the implementation of Part C requirements; (3) analysis of State-wide data in order to identify potential noncompliance; (4) family focus group data gathered during onsite monitoring visits; (5) LICC participation in data collection to assist the Lead Agency and LICCs in self-assessment and monitoring; (6) joint monitoring with Part B staff specific to Part C evaluation and assessment and child find activities; (7) the identification and synthesis of monitoring data and issues in a facilitated discussion with providers onsite; and (8) the presentation of a written monitoring report to the local community for input within 60 days of the onsite visit.

CDE further informed OSEP that local improvement plans are submitted to the lead agency for approval by the MOU group within six to eight weeks of the identification of noncompliance. Implementation of the improvement plan is monitored by the community consultant through reviews of the following: (1) provider applications for funding in April; (2) local data submissions in June and December; and (3) year end summary reports from providers in August. Ongoing technical assistance and training activities are included in improvement plans and offer additional opportunities for documenting progress. CDE confirmed in interviews with OSEP that they require correction of all noncompliance within one year of identification.

CDE has included sanctions in its contracting process that may be imposed if a provider fails to take the requisite actions, including the authority to: (1) reorganize local contractors; (2) withhold State and Federal funds until the corrective action is taken to ensure compliance; and as a last resort, (3) cancel providers' early intervention contract. OSEP learned from staff interviews that CDE has imposed the withholding of funds and cancellation of a provider's early intervention contract for failure to provide early intervention services in accordance with the Part

C requirements. The staff further stated that although CDE has the authority to impose sanctions, they are more likely to employ other strategies to ensure correction of noncompliance such as increased technical assistance from the community consultants and/or intervention by State level SICC MOU members with local contractors.

CDE stated that its training and technical assistance is based on the results of LICC self-assessments, onsite monitoring visits and issues identified in provider corrective action plans. For example, after identifying noncompliance with IFSP content and timelines, CDE developed an IFSP training model that is being implemented throughout Colorado. State-wide training on evaluation and assessment and child find has also been conducted in response to findings of noncompliance or the need for improvement. As needed, the CDE staff brings in topical experts from State universities as well as outside the State for training purposes.

OSEP reviewed CDE's systems for the resolution of State complaints, due process hearings and mediations, and prior written notice documents pursuant to 34 CFR §303.401. Since CDE received no written requests for a due process hearing, OSEP cannot determine if the lack of requests for due process hearings is due to parent satisfaction or due to lack of parental awareness of procedural safeguards. OSEP received the State's prior written notice and found that it provided information on due process hearing requests. CDE reported to OSEP that from 2003 to the time of our visit in September 2004, there has been one request for mediation, one agency complaint filed, and no requests for a due process hearing. However, even though CDE has received no written requests for a due process hearing, CDE receives telephone calls and emails from parents, and has worked with these individuals to resolve their concerns, informally. OSEP suggested that the State develop and maintain a tracking log of issues that are communicated to CDE staff by families and or providers as an additional tool to identify regional or State-wide noncompliance or performance concerns. OSEP also discussed with CDE how parents learn about dispute resolution procedures under Part C of IDEA. CDE staff told OSEP that the family service coordinator is the primary contact for informing parents of the dispute resolution procedures, and that CDE and the State's community consultants provide both technical assistance and monitoring of children's records to ensure the service coordinator provides notice to families regarding dispute resolution procedures.

OSEP concludes that the State's monitoring and dispute resolution systems are reasonably designed to ensure the State's ability to exercise general supervision of its early intervention system in accordance with Part C requirements. CDE is in the process of developing under OSEP's General Supervision Enhancement Grant, a web-based data management system designed to collect information on early intervention service provision, including child outcomes, to ensure the timely identification of noncompliance and to provide accurate data for Federal and State accountability purposes.

#### **Data Collection under Section 618 of the IDEA**

In looking at the State's system for data collection and reporting, OSEP collected information regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local level do so accurately and in a manner that

is consistent with the State's procedures, OSEP guidance, and section 618; (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) has identified any barriers, (e.g., limitations on authority, sufficient staff or other resources, etc.) that impede the State's ability to accurately, reliably and validly collect and report data under section 618.

OSEP believes that CDE's system for collecting and reporting data from the State's early intervention contracted providers is reasonably calculated to ensure the accuracy of the data that CDE reports to OSEP under section 618.

In OSEP's interviews, CDE staff stated that CDE collects timely data under section 618 from thirty-two LICCs in order to meet OSEP's submission timelines. Through a contract with the University of Colorado Health Sciences Center, data are collected locally by county or regionally-based agencies of the State Departments of Human Services, Public Health and Environment and Education, and submitted electronically twice a year. Local data managers or service coordinators can enter data entries that are sent to the State's contracted data analyst which are then aggregated into one State-wide database to generate State-level reports. The database can disaggregate the data submissions using a field that indicates individual LICCs.

CDE further stated that the contractor reports back to each LICC and each LICC is then responsible for checking its own data for accuracy. OSEP also learned that the State has built into the database system a "quick check" button on certain items as a final step before submission to the State contractor. The State contract analyst runs queries for data that is outside of expected parameters and on specified fields to check for accuracy. The data management system is "password protected" on local computers where data is entered into the system, and uses a unique identifier at the State-level CDE website. Data reports are also "password protected." During interviews, the data analyst provided OSEP with a demonstration of the data system's capacity to identify the status of various Part C requirements such as the 45-day timeline, multidisciplinary evaluations and assessments, assignment of service coordinators, and performance indicators such as referral sources.

The State also ensures validity of data using a variety of mechanisms, such as: (1) conducting queries and edit checks at the local level including checks on items that are outside of a set or expected parameters; (2) comparing data to the previous six months, to the annual application for funds, year end reports, and to monitoring data if applicable; (4) providing community consultants to check data sources (child files, IFSPs, etc.) for any data that may be outside expected parameters; (5) clarifying data entry instructions and definitions during conference calls in addition to a tutorial on the provider's computer at the local site; (6) disseminating an on-line manual of the entire database; and (7) providing State-wide access to a Data Managers' list serve.

CDE stated that any existing challenges in data collection at the local level are related to technical problems in hardware that were easily resolved. OSEP recognizes the State's ongoing support and training that has resulted in an effective data management system for reporting accurate 618 data to meet the Federal requirements.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to collaborating with Colorado as you continue to work to improve results for children with disabilities and their families.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard  
Acting Director  
Office of Special Education  
Programs

cc: Susan Smith  
Part C Coordinator