



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

Honorable Kathy Cox
Superintendent of Education
Georgia Department of Education
2066 Twin Towers East
Jesse Hill Jr. Drive, SE
Atlanta, GA 30334

SEP 15 2004

Dear Superintendent Cox:

The purpose of this letter is to respond to Georgia Department of Education's (GDOE) March 30, 2004 submission of its Federal fiscal year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part B funds used during the grant period July 1, 2002 through June 30, 2003 and to the State's revised Improvement Plan (IP) submitted on March 30, 2004 and the Progress Report submitted April 28, 2004. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (OSEP), within the U.S. Department of Education. The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies) and consolidates the self-assessing and improvement planning functions of the CIFMS into one document. OSEP's Memorandum regarding the submission of Part B APRs directed States to address for Part B: five cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education in the Least Restrictive Environment; and Secondary Transition.

Background

Georgia's 2001 Part B Self-Assessment identified one area of noncompliance. Due to delays in initial evaluations, public agencies were not meeting the State timeline of 60 days from referral to placement, and were therefore delaying the provision of a free appropriate public education (FAPE) to some children with disabilities (34 CFR §300.13(b)). The State's original Part B Improvement Plan, received by OSEP in September 2002, identified an additional area of noncompliance: that public agencies were not ensuring that, when a child's behavior impeded his or her learning or that of others, the Individualized Education Program (IEP) team considered, if appropriate, strategies, including positive behavioral interventions, and supports to address that behavior, and include in the IEP a statement regarding any services that the team

determines are necessary to ensure that the child receives FAPE, as required by 34 CFR §300.346(a)(2)(i) and (c). In an October 30, 2003 letter, OSEP directed the State to revise the Improvement Plan to include a detailed plan, including strategies, timelines, and evidence of change, to document correction of these two areas of noncompliance within one year of OSEP's acceptance of the revised Plan. OSEP has reviewed the revised Improvement Plan that GDOE submitted on March 30, 2004, and accepts that revised Improvement Plan, with two exceptions, as further explained below in OSEP's discussion in the cluster related to FAPE in the Least Restrictive Environment. OSEP has also reviewed and commented on the documentation in the Progress Report provided by the State on April 28, 2004 as it relates to the data in the APR.

The State's APR should reflect the collection, analysis, and reporting of relevant data, and document data-based determinations regarding performance and compliance in each of the cluster areas (as well as any other areas identified by the State to ensure improvement). OSEP's comments regarding Georgia's Self-Assessment, Improvement Plan, including the April 28, 2004 Progress Report, and the APR are listed by cluster area.

General Supervision

Timely Identification and Correction of Noncompliance. In July 2003, OSEP visited Georgia to verify the effectiveness of the State's systems for general supervision, collection of data under section 618 of the IDEA, and State-wide assessment. During that visit, GDOE informed OSEP that it was in the process of revising its monitoring system, in order to better address compliance and performance for children with disabilities. In its October 20, 2003 letter to the State, reporting on the results of the verification visit, OSEP stated that it could not determine whether GDOE's revised monitoring procedures were fully effective in identifying and correcting noncompliance, without reviewing GDOE's actual implementation of the system and collecting data at the local level. Because the data submitted in the APR covers the time periods when Georgia was utilizing its previous monitoring system, OSEP's October 20, 2003 statements regarding the State's revised monitoring system remain accurate.

On page 2 of this cluster in the APR, GDOE reported continuing noncompliance in: (1) four of the 42 LSSs it monitored in FY2000-2001; (2) one of the 37 LSSs it monitored in FY 2001-2002; and (3) one of the 36 LSSs it monitored in FY 2002-2003. In the State's April 28, 2004 progress report, the State also reported correction in all but one of the 18 LSSs where it found noncompliance with timelines for initial evaluations during FY 2003. In the next APR the State must report on the status of correction of the continuing noncompliance that it has identified in the APR and the April 28, 2004 progress report.

Timely Complaint and Due Process Hearing Decisions. The State reported data in the APR that indicated an area of noncompliance not previously identified by OSEP. The Part B regulations require, at 34 CFR §§300.661(a) and (b)(1), that the State must resolve all complaints within 60 calendar days, and permit an extension of time for resolution of complaints only if exceptional circumstances exist with respect to a specific

complaint. In Table 7 on page 10 of this cluster of the APR, the State included data demonstrating that GDOE, while it met the timelines in 34 CFR §300.661 for most complaints, did not meet those timelines (including extensions) for the following percentages of complaints: 12.5 percent during FY 2000-2001, 12.9 percent during FY 2001-2002, and 13.1 percent during FY 2002-2003. Based on this information, the State must submit a plan, within 60 days of the date of this letter, that includes strategies, proposed evidence of change, targets and timelines that will ensure compliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. In the next APR, the State must include data and analysis demonstrating progress toward full compliance and provide a report to OSEP, with data and analysis demonstrating full compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Data in Table 7 showed that, for the same three years, 100 percent of hearing decisions were issued within the required timelines.

Sufficient Supply of Personnel to Meet Needs of All Children with Disabilities.

The APR included information that indicated noncompliance not previously identified by OSEP. Under 34 CFR §300.135, each State must develop and implement a comprehensive system of personnel development that includes an analysis of relevant information on current and anticipated vacancies and shortages for personnel to serve children with disabilities, in accordance with, 34 CFR §§300.380(a) and 300.381(b). On pages 12 and 13 of this cluster of the APR, the State reported that: (1) there was no reliable source of data available on the number of special education teaching vacancies; and (2) no data were collected regarding vacancies for related service providers, or paraprofessionals.

On page 13 of the APR, the State also included strategies, proposed evidence of change, targets and timelines designed to ensure compliance within a reasonable period of time, not to exceed one year from the date of this letter. OSEP accepts these proposed strategies. In the next APR, the State must include data and analysis demonstrating progress toward compliance and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Collection and Reporting of Accurate and Timely Data. The State reported, on page 14 of this cluster, that “interpretation of data elements is presently not consistent in all LSSs,” and that “methods of interpreting and/or calculating data frequently vary from division to division in GDOE.” OSEP could not determine from these statements what, if any, impact these problems have on the accuracy of the data that the State reports to OSEP under section 618 of the IDEA. In the next APR, the State must report on the accuracy of the data that it reports under section 618, and, to the extent that it is not accurate, report on the State’s efforts to ensure accuracy.

Early Childhood Transition

The State reported on page 2 of this cluster of the APR, that the monitoring results from the last three years revealed no patterns of State-wide, systemic noncompliance related to early childhood transition. Table 4 on page 8 included monitoring data demonstrating that GDOE found noncompliance related to early childhood transition in: (1) three of the 42 LSSs it monitored in FY 2001; (2) four of the 36 LSSs it monitored in FY 2002; and (3) four of the 37 LSSs it monitored in FY 2003. Because the State included no data regarding the specific Part B requirements found noncompliant in these LSSs or documentation that it had ensured the correction of the identified noncompliance, OSEP cannot determine whether the State was in compliance with the requirements that: (1) each LSS participate in transition planning conferences arranged by the Part C lead agency, as required by 34 CFR §300.132(c); and (2) an IEP is in effect by the third birthday for each eligible child with a disability, as required by 34 CFR §300.121(c).¹ As noted above under the section on general supervision, in the next APR, the State must report on the status of correction of the continuing noncompliance that it has identified in its FFY 2002 APR.

GDOE reported on pages 3 and 7 of this cluster, that it recorded 836 children as transitioning from Part C but that the Part C lead agency, the Georgia Department of Human Resources, reported 1549 children transitioning from Part C to Part B. GDOE noted that this discrepancy could not be "clarified on a case-by-case comparison because of Part C confidentiality requirements." GDOE indicated that it would collect further data to determine whether the discrepancy was due to a pervasive issue of differences in interpretation of the data elements or due to the fact that this was the initial implementation for the GDOE data element. OSEP recommends that GDOE contact the Georgia Department of Human Resources to determine if a more specific transition agreement is needed to ensure effective transition of children from Part C to Part B (including the tracking of such children by both agencies' data programs consistent with the IDEA and FERPA). Additionally, OSEP is contacting the Georgia Department of Human Resources to provide technical assistance regarding the Part C transition requirements at 34 CFR §303.148 and 303.344(h) and to clarify Part C (both IDEA and FERPA) confidentiality requirements.

Parent Involvement

Georgia provided baseline data, on page 2 of the Parent Involvement cluster of the APR, that 86.6 percent of parents responding to a parent satisfaction survey were very satisfied, satisfied or somewhat satisfied with their child's special education services, and 8.5 percent were dissatisfied or very dissatisfied. Georgia concluded on page 3 of this cluster that these baseline data, representing 7,856 parents, demonstrated a positive response to special education services in the State.

¹ Table 3 on page 7 of this cluster indicated that all 836 children "transitioning to Part B from Part C before or during third year" were "receiving all IEP services." From these data, OSEP could not determine whether all eligible children with disabilities had an IEP in effect *by their third birthday*, as required by 34 CFR §300.121(c).

GDOE also stated, on pages 3 and 6 of this cluster, that its data demonstrated that: (1) all of the LSSs and SOPs that GDOE monitored in FY 2003 (20 percent of all systems) provided parent notification of IEP meetings in all cases; and (2) the Parent Mentor Program increased the number of parent mentors from seven in FY 2002 to 24 in FY 2003, but fell short of its target of 35 due to revenue shortfalls and budget cuts. GDOE included strategies, on page 5 of this cluster, to increase parent involvement by redesigning the Parent Mentor Website (June 2004) with an emphasis on developing improved communication between home and school. OSEP looks forward to reviewing the State's implementation of these strategies and their impact on children with disabilities in the next APR.

Free Appropriate Public Education in the Least Restrictive Environment

As noted in the background section above, Georgia's 2001 Part B Self-Assessment identified one area of noncompliance. Due to delays in initial evaluations, public agencies were not meeting the State timeline of 60 days from referral to placement, and were therefore delaying the provision of FAPE to some children with disabilities (34 CFR §300.13(b)). On page 7 of the General Supervision cluster of the APR, the State reported "data collected through the compliance review process indicated that LSSs were having difficulty providing services to children in a timely manner because initial evaluations were not completed within the prescribed timeframe." GDOE'S April 28, 2004 Progress Report included data and analysis that demonstrated its progress in correcting this area of noncompliance. The Progress Report showed that: (1) GDOE conducted follow-up reviews of 18 LSSs during the reporting period, and found that 17 had corrected the noncompliance related to timely completion of initial evaluations; (2) GDOE had placed the one LSS that had not corrected the noncompliance in a graduated sanction phase that required monthly reporting through December 2004; and (3) GDOE intends to require all systems to submit an annual report on timelines, beginning in FY 2005. GDOE must continue to report in the FFY 2003 APR, due March 31, 2005, its progress in correcting the previously identified noncompliance with this requirement.

As noted in the background section above, the State's Part B Improvement Plan identified an additional area of noncompliance. The Improvement Plan reported that public agencies were not meeting the requirements of 34 CFR §300.346(a)(2)(i) and (c), requiring that the IEP team must, when a child's behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, and supports to address that behavior, and include in the IEP a statement regarding any services that the team determines are necessary to ensure that the child receives FAPE. The APR (BF 3 page 16) stated that monitoring results indicated the following percentage of school systems that were out of compliance with this requirement: FY 2001, 20.75% of the school systems; FY 2002, 35% of the school systems; and FY 2003, 16% of the school systems. GDOE noted in the March 30, 2004 APR submission that, "[a]ll noncompliance found in the *previous two years* has been corrected" (emphasis added). GDOE's April 28, 2004 Progress Report included a statement that GDOE had found noncompliance related to the consideration of special

factors in seven LSSs during FY 2003, and that follow-up reviews showed that all seven had corrected the noncompliance. In addition, Georgia reported that it would continue to monitor compliance on this issue annually through the Student Record Review process in its CIMP/Focused Monitoring system. OSEP cannot determine from the APR and Progress Report submissions, whether GDOE is reporting that all of the noncompliance with the requirements of 34 CFR §300.346(a)(2)(i) and (c), found during FY 2001 and FY 2002, has been fully corrected. Within 60 days from the date of this letter, the State must submit either: (1) a clarification that it has corrected the previously identified noncompliance with the requirements of 34 CFR §300.346(a)(2)(i) and (c); or (2) its plan for correcting any continuing noncompliance with these requirements within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. To the extent that the State has not corrected all previously identified noncompliance with these requirements, in the next APR, the State must include data and analysis demonstrating progress toward full compliance and provide a report to OSEP, with data and analysis demonstrating full compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Disproportionality. In its October 30, 2004 letter to GDOE regarding its Improvement Plan, OSEP specified that the proposed use of yearly numerical goals based upon race raises serious concerns under federal civil rights laws and the United States Constitution and is not an appropriate way to address the potential compliance problems that significant disproportionality may indicate. The State revised and resubmitted its Improvement Plan on March 30, 2004. However, as noted below, OSEP still has concerns regarding the strategies and targets for this issue.

It is important to reiterate that in addressing significant disproportionality related to identification, under 34 CFR §300.755², it is appropriate to look at policies, procedures and practices in the referral, evaluation and identification process to determine if they are educationally appropriate, consistent with the requirements of Part B and race neutral. Such an examination generally would include a review of the availability and use of pre-referral intervention services, the selection and use of evaluation instruments and materials, the selection and use of evaluation criteria, and the reasons for referral for special education evaluations.

OSEP notes that both the revised IP and the APR properly included strategies to analyze child find and evaluation procedures. The APR also indicated that the State monitored LSSs to ensure that the IEP team determined the least restrictive environment for each child on an individualized basis, and that the State had targeted its technical assistance to those LSSs that required improvement. However, the APR appears to include goals, at page 2 and at Attachment 4, page 17, 1) requiring that the percentage of children with disabilities receiving special education, disaggregated by race, be comparable to the percentage of children, by race, in the State's general student enrollment when further

² Although 34 CFR §300.755 addresses disproportionality in both identification and placement, GDOE chose to address disproportionality in placement in the cluster on least restrictive environment. Therefore, OSEP's analysis and discussion of the State's data also is included in the section on least restrictive environment, below.

disaggregated by area of disability and educational setting; and 2) to decrease the disproportionate representation of students with disabilities to reflect the demographics of the general population. Further, in addressing disproportionality on page 5 of the Improvement Plan and page 6 of this cluster in the APR, the State set forth a strategy requiring each LSS to self-assess their performance related to disproportionality, and—if the performance is poor—to develop an improvement plan that includes targets to address the poor performance. OSEP is concerned that the State appears to be continuing to utilize, or potentially requiring that each LSS utilize, race-specific numerical goals/targets. Any proposed use of numerical goals/targets based upon race, even where the numerical goal is based upon comparable numbers in the general population, raises the same legal concerns noted above.

GDOE must revise the IP provisions to eliminate the use of race-based numerical goals or targets related to the identification of children with disabilities at either the State or local level as noted above, and to focus its strategies and analysis on the review required under 34 CFR §300.755. OSEP is accepting the IP conditioned upon these modifications. Georgia's FY 2003 APR must include the results of the State's review of the policies, procedures, and practices used in the identification of children with disabilities to ensure that they are consistent with the requirements of Part B.

Drop-out and Graduation. In Table 4 in the APR, Georgia reported trend data indicating that the drop out rate for children with disabilities had decreased since fiscal year (FY) 2001. On page 7 of this cluster, the State reported that it uses different factors to calculate drop out rates for general education and children with disabilities, making direct comparisons impossible.

On page 9 of this cluster in the APR, the State reported data for FY 2003 indicating a decrease from FY 2002 in the graduation rate for children with disabilities (from 41.15 percent to 38.38 percent) and the completion rate for children with disabilities (from 72.86 percent to 69.48 percent). The APR included strategies and activities to improve graduation and drop out rates, including: (1) training to increase effective development of behavior intervention plans through functional behavior analysis; (2) the development of effective secondary transition planning and services; and (3) the development of a new curriculum with differentiated instructional components for children with disabilities. OSEP looks forward to reviewing the State's implementation of these strategies and their impact on children with disabilities in the next APR.

Suspension and Expulsion. Under 34 CFR §300.146, the State must examine data to determine if significant discrepancies are occurring in the rate of long-term suspension and expulsions of children with disabilities either, among the LEAs in the State or compared to the rates for non-disabled children within the agencies. Where the State determines that significant discrepancies are occurring, it must review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures and practices relating to the development and implementation of individualized education programs (IEPs), the use of behavioral interventions, and

procedural safeguards to ensure that the policies, procedures and practices comply with Part B.

GDOE reported, on page 14 of the APR, that the State average long-term suspension or expulsion rate for children with disabilities in FY 2002 was 1.15 times greater than that of nondisabled children. The State reported that it used a 1.2 comparison ratio for long-term suspension and expulsion rates between students with and without disabilities in each LSS for determining whether there was a significant discrepancy. Using this criterion, 64 out of 178 LSSs, or 35.4%, exceeded the allowable variance. The State reported that “[i]n previous years, GADES tied its compliance review evaluation of suspension/expulsion results to the appropriate provision of services and consideration of special factors.”

OSEP could not determine from the information reported in the APR whether, for those LSSs where the State has determined that a significant discrepancy exists, whether Georgia reviewed and where appropriate revised or required the LSS to revise policies, procedures and practices relating to the development and implementation of individualized education programs (IEPs), the use of behavioral interventions, and procedural safeguards. The State must address this issue in the next APR. If the 2003 APR does not include information indicating that the State has met the requirements of 34 CFR §300.146, then OSEP will conclude that the State is not complying with the regulation.

Participation of Children with Disabilities on Large-Scale Assessments. On pages 18 through 22 (including Attachment 3) of this cluster, the State provided data on the participation and performance of children with disabilities on Georgia’s State-wide and alternate assessments. The State reported that the participation rate for children with disabilities in the Georgia assessment process “was high”; however, the participation rates for the Spring 2003 assessments were below the 95 percent level for the 8th grade math and 11th grade reading and math.³ In Attachment 3 of the APR, the State’s participation data indicated discrepancies between the numbers of children with disabilities with IEPs at each grade level (Sections A and D) and the numbers of children with disabilities who participated on the regular and alternate assessments or whose nonparticipation was documented (Sections B and E). In addition, the reported data (Tables 13-20) included the percentage of nonparticipation of children, labeled as “unknown.” The State indicated that the enrollment data were based upon a child count taken the first Thursday in March and that the “[a]ssessment windows” do not correspond with the March count date.

GDOE presented data (Tables 16 and 20) for the Georgia High School Reading and Math Graduation Tests (GHSRT) showing that approximately 27 percent of its children with

³ Please note that the regulations under the No Child Left Behind Act (NCLBA) provide, at 34 CFR §200.20(c), that, in order to make adequate yearly progress (AYP), a school or LEA must ensure that not less than 95 percent of its students with disabilities in the grades tested participate in the State assessments under 34 CFR §200.2.

disabilities did not participate and were in the "unknown" category. The State reported that, prior to FY 2004, Georgia did not require children with disabilities to participate in an alternate or a non-standard assessment for the GHSGT. As noted in OSEP's October 30, 2003 verification letter, this raised concerns under 34 CFR §300.138. GDOE indicated during the verification visit and in the APR that during the 2003-2004 school year, all 11th grade children not participating in the GHSGT or End of Course Test (EOCT) would have to participate in the Georgia Alternate Assessment (GAA).

In its FFY 2003 APR, Georgia should include complete information on the reasons why children with disabilities are exempted from assessments as requested by the Attachment 3 instructions. Further, OSEP could not determine from the APR whether any students with disabilities did not participate in the State-wide assessment due to a failure by a public agency to meet the requirements of 34 CFR §300.347(a)(5) or 300.138. The State must include an analysis of compliance data related to those requirements as part of its FFY 2003 APR.

Performance of Children with Disabilities on Large-Scale Assessments.

Georgia provided data and analysis on pages 20 through 22 (including Attachment 3) of this cluster of the APR on the performance of children with disabilities in the State-wide assessment and alternate assessment, along with strategies and timelines for improving performance. The State reported that significant gains were made from FFY 2002 to FFY 2003 in closing the gap (Tables 21-22) between nondisabled children and children with disabilities. More specifically, FY 2003 data indicated a decrease in the gap between general education children and children with disabilities meeting and exceeding the minimum standard score on the Criterion Reference Competency Test (CRCT) and the Georgia High School Graduation Test (GHSGT). The data indicated an eight percent decrease in the reading gap between nondisabled children and children with disabilities in the fourth grade on the Georgia CRCT and a six percent decrease for sixth and eighth grade children. The data reported for the math gap on the Georgia CRCT indicated a seven percent decrease for fourth graders, a six percent decrease for sixth graders, and a three percent decrease for eighth graders. In the APR, the State reported strategies to improve the performance of children with disabilities in large-scale assessments. OSEP looks forward to reviewing the State's implementation of these strategies and their impact on children with disabilities in the next APR.

Education Environments for Children with Disabilities. On page 23 of this cluster of the APR, Georgia stated that the State made significant gains in serving children in the LRE for the last three years but most notably in the <21 percent removed category (Table 23). In addition, the State noted that nationally, Georgia compared favorably in educating children with disabilities ages 6 through 21 in the LRE. The State attributed this to an emphasis on technical assistance and training in providing collaborative services. Georgia also noted that the four-by-four block schedules of many high schools might adversely affect LRE data because any child with a disability receiving one block of special education service for 25 percent of the day was not reported in the <21 percent environment category. In addition, the State further reported that an analysis of disaggregated data indicated disproportional representation for

Hispanic children removed from the general education environment for 21-60% of the instructional day; and Black and Hispanic children removed from this setting for more than 60% of the day (Attachment 2).

As noted above, under 34 CFR §300.755, where the State identifies significant disproportionality with respect to the placement in particular educational settings of children based upon race, the State must provide for the review and, if appropriate, revisions of policies, procedures and practices used in the placement to ensure that the policies, procedures and practices comply with the requirements of Part B. OSEP cannot determine from the data and statements in the APR, whether the State determined that there was significant disproportionality, thereby triggering a review of the policies, procedures and practices. In the next APR, GDOE must make a determination of whether there is significant disproportionality in placement in particular settings based upon race, and, if so, report on the outcome of its review of the policies, procedures and practices related to placement. If the 2003 APR does not include this information, OSEP will conclude that the State is not complying with the regulation.

On pages 24 and 26 of this cluster of the APR, Georgia reported that trend data over the last three years indicated improvement in serving young children (ages 3-5) in the LRE (Table 24). The State further reported that LRE data, including early childhood education, was one of the ten performance goals for the State and all LSSs would be evaluated as part of the compliance review process. OSEP looks forward to reviewing the State's implementation of these strategies and their impact on children with disabilities in the next APR.

Early Language/Communication, Pre-reading, and Social-Emotional Skills.

On pages 28 to 30 of the APR, Georgia reported on the participation and performance of children with disabilities on the Georgia Kindergarten Assessment Program-Revised (GKAP-R), including an analysis of data indicating that the performance of children with disabilities is comparable to the overall performance of all children assessed with regard to first-grade readiness. In addition, the State reported that the percentage of children with disabilities considered "not ready" for first grade decreased by 1% each year over the last three years. On page 29 of this cluster, the State included data and analysis that indicated the combined percentage of children with disabilities ready to enter first grade and ready to enter first grade with assistance is comparable to the percentage of all students ready to enter first grade. GDOE included a strategy to increase the percentage of children with disabilities "ready" to enter first grade and "ready" to enter first grade with assistance. The State also reported the planned formation of a Language Curriculum Task Force to help identify and correct language deficits of young children in general education settings. OSEP looks forward to reviewing the State's implementation of these strategies and their impact on children with disabilities in the next APR.

Secondary Transition

Table 3, on page 5 of this cluster of the APR, included monitoring data showing that GDOE found noncompliance related to secondary transition in: (1) ten of the 42 LSSs it

monitored in FY 2001; (2) 21 of the 37 LSSs it monitored in FY 2002; and (3) nine of the 36 LSSs it monitored in FY 2003. Because the State included no data regarding the specific Part B requirements found noncompliant in these LSSs or documentation that it ensured the correction of this noncompliance, OSEP cannot determine whether the State was in compliance with the secondary transition requirements of 34 CFR §§300.347(b), 300.29, 300.344(b), 300.345(b)(2) and (3), and 300.348. Within 60 days from the date of this letter, the State must submit either: (1) documentation that it has ensured the correction of its findings of noncompliance related to secondary transition; or (2) a plan, that includes strategies, proposed evidence of change, targets and timelines that will ensure correction of the identified noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. To the extent that noncompliance has been identified, in the next APR, the State must include data and analysis demonstrating progress toward compliance and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

On page 2 of this cluster of the APR, GDOE indicated that according to compliance review data, children with disabilities were invited to participate in their IEP development, but reported that it did not currently collect data on the actual number of children attending and participating in the process. The State reported, on page 3 of this cluster, that it will develop a mechanism for collecting information to capture these data by FY 2005.

GDOE reported that children with disabilities who graduated in May 2001 represented a first attempt to collect post-school data from all systems in the State. The State provided data and information, on page 2 of this cluster, which indicated a slippage from May 2001 to May 2002 in the graduation data. GDOE attributed this decrease to the change in reporting practices of post-secondary transition activities from a duplicated to an unduplicated count. In light of this, the State reported that it did not have confidence in the data collection procedures. Therefore, the State included strategies to increase the validity of the data as part of the compliance review process by including a review of the data collection process by the LSS. OSEP looks forward to reviewing the State's implementation of these strategies and their impact on children with disabilities in the next APR.

Conclusion

Within 60 days of the date of this letter, the State must submit a plan that includes strategies, proposed evidence of change, targets and timelines that will ensure compliance with the requirements relating to the timely resolution of complaints (34 CFR §§300.661(a) and (b)(1)), within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. In the next APR, the State must include data and analysis demonstrating progress toward full compliance and provide a report to OSEP, with data and analysis demonstrating full compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Within 60 days from the date of this letter, the State must also submit either: (1) a clarification that there is no continuing noncompliance with the requirements of 34 CFR §300.346(a)(2)(i) and (c) as identified in the State's previous monitoring; or (2) its plan for correcting any continuing noncompliance with these requirements within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. To the extent that the State has not corrected all previously identified noncompliance with these requirements, in the next APR, the State must include data and analysis demonstrating progress toward full compliance and provide a report to OSEP, with data and analysis demonstrating full compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Within 60 days from the date of this letter, the State must further submit either: (1) documentation that it has ensured the correction of the findings of noncompliance related to secondary transition that it made through its monitoring; or (2) a plan, that includes strategies, proposed evidence of change, targets and timelines that will ensure compliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. To the extent that the State has not corrected all previously identified noncompliance with the secondary transition requirements, in the next APR, the State must include data and analysis demonstrating progress toward compliance and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one-year timeline.

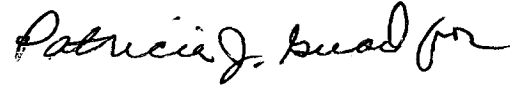
In the next APR, the State must report on its progress toward compliance with the requirement of 34 CFR §300.135. By not later than 30 days after one year from that date of this letter, the State must provide a report to OSEP, with data and analysis demonstrating compliance with the requirement that the State develop and implement a comprehensive system of personnel development, that includes an analysis of relevant information on current and anticipated vacancies and shortages for personnel to serve children with disabilities (34 CFR §§300.380(a) and 300.381(b)).

In the next APR the State must report on: 1) the status of correction of all previously-identified noncompliance, including any noncompliance related to early childhood transition and timely initial evaluations; 2) its analysis of compliance with 34 CFR §300.347(a)(5) and 300.138 related to State-wide assessments; 3) its analysis of significant disproportionality in placement in particular settings based upon race, thereby triggering a review of the policies, procedures and practices and, if appropriate, the results of any such reviews; 4) the outcome of its review of the policies, procedures and practices relating to the development and implementation of individualized education programs (IEPs), the use of behavioral interventions, and procedural safeguards for LSSs where significant discrepancies exist in the rate of long-term suspension and expulsions of children with disabilities; 5) the outcome of its review of the policies, procedures and practices relating to the identification of children with disabilities; and 6) its analysis of the accuracy of Section 618 data.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State and we look forward to collaborating with you as you continue to

improve results for children and youth with disabilities and their families. If you have questions, please contact Perry Williams at (202) 245-7575.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie Smith Lee". The signature is written in a cursive style with a large, looped initial 'S'.

Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Marlene Bryar
Interim State Director