



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

Honorable Nancy Grasmick
State Superintendent of Schools
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

JUL 23 2004

Dear Dr. Grasmick:

The purpose of this letter is to respond to the Maryland State Department of Education's (MSDE's) 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. 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. We recognize the time and effort that went into the development of the State's APR and appreciate the State's work to describe MSDE's performance related to serving students with disabilities and their families under IDEA.

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 five cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education in the Least Restrictive Environment; and Secondary Transition.

Background

MSDE's APR incorporated data and information from Maryland's State Improvement Plan final report dated January 31, 2004, in response to areas of noncompliance identified in the OSEP's Monitoring Report issued July 26, 2001.¹ The Improvement Plan was approved by OSEP on August 8, 2002 subject to revisions to the timelines on compliance

¹ The areas of noncompliance identified in OSEP's July 26, 2001 Monitoring Report included failure to ensure that: (1) students with disabilities are not removed from the least restrictive environment (LRE) in order to receive special education services; (2) all related services are provided as a part of a free appropriate public education (FAPE); (3) students with disabilities placed in nonpublic schools participate in State-wide assessments; and (4) State complaint timelines are met, unless exceptional circumstances require extensions beyond the 60-day timeframe.

issues to show full compliance within one year from the date of the approval letter. A revised IP was submitted August 28, 2002. MSDE was required to submit the final evidence of change documents to demonstrate compliance by August 8, 2003. OSEP based its approval on the understanding that the SEA's revised monitoring system could identify and correct all areas of noncompliance. On December 22, 2003, OSEP issued a letter to respond to the State's July 2, 2003 Progress Report. OSEP's review of MSDE's Progress Reports² determined that the strategies did not demonstrate substantial progress toward correcting noncompliance in some areas. OSEP required MSDE to correct the Part B areas of noncompliance and to submit a final report by January 31, 2004. This letter also responds to that final report.

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 each cluster area within the APR are set forth below.

General Supervision

State Complaint Procedures OSEP's 1995 Monitoring Report required the State to submit a corrective action plan that included amending State complaint management procedures to ensure that all complaints are resolved within 60 calendar days unless the timeline is extended because exceptional circumstances exist with respect to a particular complaint. (See, 34 CFR §300.661(a)). As cited on page 42 of the OSEP 2001 monitoring report, MSDE could not document that the State extends the 60-calendar-day timeline only under exceptional circumstances. OSEP's review of the MSDE Complaint Log for the 1998-1999 School Year (SY) noted complaints were not always resolved within the 60-calendar-day timeline.

The State's Improvement Plan identified a number of strategies to address this area of noncompliance: (a) ensuring a sufficient number of staff to complete investigations within the required timelines; (b) determining those circumstances that are unusual and require an extension; (c) identifying complaints that require extensions before the 60th day and informing both parties, in writing, that an extension is needed with an explanation of the exceptional circumstances; and (d) using a data system to track investigations that require an extension. Benchmarks were established to address this area of noncompliance and, as cited in the July 2003 Improvement Plan Progress Report, the rate of complaint investigations and letters of findings issued within the regulatory timelines improved from 62% during the FFY 2001 reporting period to 87% during the FFY 2002 reporting period (through June 15, 2003). Data reported on page 9 of the FFY 2002 APR indicated that 125 of 151 or about 83% of complaints were within timelines for the period July 1, 2002 – June 30, 2003. Finally, the January 2004 Improvement Plan Final Report, page 34, indicated that 89.5% of complaints completed between July 1, 2003 and December 31, 2003 were issued within regulatory timeframes. That report

² MSDE issued State Improvement Plan Progress Reports to OSEP on December 20, 2002 and July 2, 2003.

also indicated additional steps that the State would take to ensure timely handling of complaints. MSDE must continue to report in its next APR on its progress in ensuring full compliance with these requirements.

The State provided data on page 3 of the APR that indicated noncompliance not previously identified by OSEP in the area of timely correction of problems identified through complaint investigations. Under 20 U.S.C. 1232d(b)(3)(E) and the State's general supervisory responsibility for the IDEA Part B program, States are required to correct identified deficiencies in program operations. MSDE did not include in the APR strategies, evidence of change, targets and timelines that will ensure correction of the noncompliance within a reasonable period of time not to exceed one year from the date of OSEP's acceptance of the proposed strategies. Therefore, MSDE must submit a plan containing the required information to OSEP within 60 days of the date of this letter, including strategies, proposed evidence of change, targets, and timelines that will ensure correction of the noncompliance within a reasonable period of time not to exceed one year from the date OSEP accepts the plan.

Impartial Due Process Hearings. The State provided data in the APR that indicated noncompliance not previously identified by OSEP in the area of timely due process decisions. On page 11 of the APR, MSDE reported that it was unable to provide a valid and reliable report of the number of untimely decisions or the number of hearings pending during FFY 2000 and FFY 2001. Therefore, MSDE staff collected FFY 2002 data through a review of individual decisions and administrative reports that concluded that twenty-three of 109 hearing decisions were issued after the timeline and extensions expired. Under 34 CFR §300.511, States must ensure that decisions are issued in due process hearings within 45 days of receipt of the request, unless an extension of time is granted at the request of a party. To correct this deficiency, MSDE is using the General Supervision Enhancement Grant to supplement the State's efforts to develop a new database to enable the State to compile and review due process hearing data to ensure timely and effective resolution of IDEA disputes. Additional strategies reported on page 27 of the APR include MSDE meetings with the staff of the Maryland Office of Administrative Hearings to track timelines of both mediation and due process hearings; hiring a dispute resolution data specialist; documenting the provision of technical assistance and professional development; and reporting due process hearing information in school system performance profiles. OSEP accepts these strategies, evidence of change, targets and timelines. MSDE must provide evidence of correction of the noncompliance, including supporting data and analysis in the FFY 2003 APR, and, in addition, a final progress report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but no later than 30 days following one year after the date of this letter.

Probe GS.II in the APR asks States to determine whether systemic issues are identified through analysis of findings from information and data collected from all available sources, including monitoring, complaint investigations and hearing resolutions. The GAO Report "Numbers of Formal Disputes are Generally Low and States are Using

Mediation and Other Strategies to Resolve Conflicts,” September 2003³, identifies Maryland as having high numbers of requests for due process hearings, based on data from 2000. In examining the reason for high numbers of requests for due process hearings, it would be important to determine if there are certain districts with concentrations of requests or if there are certain issues for which hearings are most frequently requested. The FFY 2002 APR does not include an analysis of hearing requests by issue or locality, although the State reports that it is planning a new database that should be able to capture this information. In the FFY 2003 APR, the State should address whether there are particular issues or localities involved in due process hearing requests and identify appropriate strategies to address the results of that analysis.

Mediation MSDE revised its complaint management policies and procedures to address the use of negotiations during the FFY 2001 and FFY 2002, as requested by the OSEP 2001 Monitoring Report. MSDE reported in the APR that local districts did not collect data in a manner that would allow the State to report accurate data. On pages 10 and 21 of the APR, MSDE reported the need to utilize FFY 2003 data from the new database described above, as baseline for mediations. OSEP looks forward to reviewing these data and the State’s analysis of the data in the FFY 2003 report.

The APR, on pages 26-28, included a number of strategies and timelines to improve the identification and remediation of systemic issues through the analysis of data, to update data systems, and to increase the supply of certain categories of qualified personnel. OSEP looks forward to reviewing the State’s implementation of these strategies and their impact on children with disabilities as a part of the next APR.

Monitoring States participating in the Part B program have provided assurances that they will adopt and use proper methods of administering the program, including monitoring and the correction of deficiencies that are identified through monitoring. 20 U.S.C.1232d(b)(3). On pages 18 through 20, and 24 through 27 of the APR MSDE presents some information that indicates that it is conducting some monitoring activities. However, the information presented does not indicate whether MSDE is effectively identifying noncompliance and ensuring correction of noncompliance identified through monitoring, or using monitoring information to identify systemic issues needing correction. MSDE must provide data to address these issues in the FFY 2003 APR.

MSDE also provided information about personnel needs and data collection and strategies to improve performance in these areas. OSEP looks forward to reviewing the State’s implementation of these strategies and their impact on children with disabilities as a part of the next APR.

Early Childhood Transition

The State provided data in the APR that indicated noncompliance not previously identified by OSEP in the area of early childhood transition. See 34 CFR §§300.121 and 300.132. On page 29 of the APR, MSDE reported that the State was unable to obtain data

³ This report is available at <http://www.gao.gov/cgi-bin/getrpt?GAO-03-897>.

from the existing data system regarding the extent to which Local Infant and Toddler Programs and public agencies were conducting IEP Eligibility Determination Meetings at least 90 days prior to the child's third birthday. The APR further reported that neither the Part C nor the Part B data reporting system collected information regarding the date on which an IEP was developed and approved by the IEP team. The Part B data reporting system did not collect information on the specific date of implementation of the IEP. On page 30 of the APR, MSDE reported that the State- and local-level barriers to accurate data collection have been addressed.

Pages 31-33 of the APR specify strategies, evidence of change, targets, and timelines to ensure correction within a reasonable period of time not to exceed one year from the date of this letter. OSEP accepts the State's strategies, evidence of change, targets, and timelines. The State must provide evidence of progress in correcting the noncompliance, including current supporting data and analysis, in the FFY 2003 APR and, in addition, provide a final progress report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but no later than 30 days following one year after the date of this letter.

Parent Involvement

On page 34 of the APR, MSDE reported a lack of coordinated State-level support for local family support services staff due to a two-year vacancy in the State Coordinator position. Partnerships were established with community centers and preschool and school-aged programs that provided support to families. The State reported delays in the reporting and accountability systems for collecting data on the quality and effect of parent involvement on the provision of FAPE. Revisions in State regulations to address local special education advisory councils will be in place by September 2004. On pages 35-36 of the APR, the State identified a timeline and strategies for improved performance. OSEP looks forward to reviewing the State's implementation of these strategies and their impact on children with disabilities as a part of the next APR.

Free Appropriate Public Education in the Least Restrictive Environment (FAPE/LRE)

FAPE in the LRE The OSEP 1995 Maryland monitoring report included a finding that MSDE did not fully meet its responsibility to ensure that to the maximum extent appropriate, children with disabilities, including children in public and private institutions or other care facilities, are educated with children who do not have disabilities, and special classes, separate schooling or other removal of children with disabilities occurs only if the severity of the disability is such that education in regular classes with the use of supplementary aids and supports cannot be achieved satisfactorily. OSEP's July 2001 Monitoring Report stated: (1) that, during IEP meetings, determinations were made of the "intensity level" of the special education services and related services required by a student, and "intensity level" determined whether a child with a disability would be removed from a regular education classroom; (2) placement decisions were made without consideration of accommodations and modifications to permit the child to remain in the regular education classroom with the needed intensity of services; (3) neither the IEP or

any other document in the students' records explained why children were not placed in the regular classroom nor was there documentation that there had been consideration of appropriate supplementary aids and services to promote the children's placement in the LRE; (4) staff lacked understanding of the IEP process or their role in recommending accommodations and supports so that students with disabilities would be successful in the regular education classroom; (5) failure to ensure that all IEP team members (i.e., general educator, when required) attended IEP meetings; and (6) access to the general curriculum depended solely on the site of the special education services.

The State's July 2003 Progress Report provided documentation of ongoing State initiatives and activities to address FAPE/LRE concerns, including verification of data, LRE designated as a grant priority, professional development needs, technical assistance and requiring staffing plans with local applications for Part B funds. The documentation submitted with the progress report includes a numerical goal. While it is consistent with Part B to include a numerical goal to increase the percentages of children with disabilities appropriately placed in less restrictive settings, the State must continue to monitor to ensure that placement decisions for all children are made in conformity with the LRE requirements of Part B and not based upon a numerical goal.

OSEP's December 2003 letter reminded MSDE that its January 2004 final report must include documentation that individual placement decisions were based on the unique needs of the child with a disability, to demonstrate progress toward the elimination of the State's former practice of determining "placement levels." Monitoring information was requested showing that: (a) the State monitors for statements in the children's IEPs explaining the extent, if any, to which the child will not participate with nondisabled children in the regular classroom and documentation in children's records that the IEP team considered appropriate supplementary aids and services to promote the child's placement in the LRE; and (b) MSDE enforces corrective actions when LEAs do not implement the requirements. MSDE also was asked for evidence that all children with disabilities have access to the general curriculum, regardless of placement. The one sample monitoring report included in the January 2004 Final Report identified ongoing noncompliance with individual decision-making. Pages 16 and 18 of the sample monitoring report note that staff interviews indicated that: (1) children have to "earn entrance" into general education; and (2) the "level" or "intensity" of the student's needs dictate placement. Record reviews cited noncompliance with the IEP content requirements specific to the explanation for removal from regular education and documentation of consideration of supplementary aids and services. Failure to include the needed supplementary aids and services in the IEP was cited as well. Although that sample report demonstrates that MSDE is able to identify noncompliance, the State failed to document that it ensured correction, in a timely manner, at the local level.

On page 60 of the APR, MSDE provided data and information indicating that guidance was provided to local school districts regarding staff development activities and that local programs were requesting training and engaging in cooperative partnerships to improve LRE. MSDE required LEAs to: (1) demonstrate a greater awareness of LRE data and its use to support LEA requests for funds in grant applications; (2) demonstrate commitment

to requiring LRE data to develop goals to address appropriate decision making about LRE in systemic Master Plans; (3) respond to corrective actions addressing LRE issues with either corrective action plans or special education improvement plans; and (4) request technical assistance, as appropriate.

On pages 19 – 21 of the January 2004 Final Report, MSDE provided guidance and monitoring strategies and interventions to address LRE. OSEP has determined that there was insufficient data provided in the Final Report or the APR to demonstrate that MSDE ensures that the removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. See 34 CFR §300.550(b)(1) and (2). While MSDE identified the strategies it adopted for correction, there is insufficient evidence that placement decisions were being made consistent with the LRE requirements or that MSDE is ensuring timely correction of identified deficiencies in LRE decision-making. The State must submit to OSEP, within 60 days of the date of this letter, data and analysis that support the conclusion that the identified noncompliance has been corrected. MSDE can satisfy this requirement by providing documentation of the LEA corrective action plans developed to correct the noncompliance and subsequent follow-up activities with documentation demonstrating that correction occurred.

Failure to provide all related services needed as a part of FAPE OSEP's July 2001 Monitoring Report cited delays in the provision of special education and related services for children with disabilities. The delays were attributed to personnel shortages (mental health counselors and speech pathologist) and to teacher's lack of experience in implementing specific accommodations, modifications and supports.

In the March 2002 Improvement Plan, MSDE established the goal that 100% of children with disabilities will receive related services as specified on their IEPs, as evidenced by data from State monitoring of local school systems. Strategies incorporated in the Improvement Plan included: (1) revision of the data system; (2) analysis and dissemination of staffing report data; (3) development of State Staffing Plan Guidelines; (4) surveys for local school systems to determine the number of service providers used; (5) standardization of the format to measure levels of satisfaction with State-provided staff development; (6) identification of current promising practices; and (7) development and implementation of staff development activities for related service providers. MSDE indicated that, by August 2003, data from the State's monitoring system would provide evidence that the appropriate related services were documented in the IEPs of children with disabilities.

OSEP's December 2003 letter required MSDE to submit in its January 2004 Final Report monitoring information and other documentation demonstrating: (1) the provision of special education and related services; and (2) eliminating any delays in service provision due to staff shortages including: (a) psychological counseling; (b) speech therapy; and (c) implementation of specific accommodations, modifications, and supports in accordance with IEPs. MSDE was required to include how corrective actions led to compliance at

the local level. On pages 27-29 of the Final Report, the State provided baseline and current data, strategies and interventions, summary of evidence of changes and next steps to monitor the provision of related services and supports for students with disabilities and local school systems staffing plans to determine if the school districts have sufficient staff, to include related services providers, to meet the requirements for implementing IEPs. However, no data regarding impact on appropriate services for children with disabilities and whether they were effective was provided.

On page 16 of the APR, MSDE reported increases in the number of full-time staff including teachers, administrators and related services providers. MSDE planned to analyze local school system staffing plans for progress and slippage in staffing needs and link the plans to local district grant awards to improve data collection from public agencies regarding how FAPE is provided when there are staff vacancies. Implementation is planned for September 2004. MSDE has implemented strategies to increase the number of qualified staff. However, MSDE has not submitted documentation to demonstrate that FAPE is provided when staff vacancies occur.

While MSDE identified the strategies it adopted for correction, there is insufficient evidence that children are receiving appropriate related services based on their needs. The State must submit to OSEP, within 60 days of the date of this letter, data and analysis demonstrating that the identified noncompliance has been corrected. MSDE can satisfy this requirement by providing documentation that it monitors to ensure that FAPE is provided when staff vacancies occur, and of the LEA corrective action plans developed to correct the noncompliance and subsequent follow-up activities with documentation demonstrating that correction occurred.

Lack of participation in statewide assessments of students placed in non-public schools.

As cited in the July 2001 OSEP Monitoring Report, all State administrators and local special education directors interviewed by OSEP said that children with disabilities placed by the local school district in a nonpublic school did not participate in the Maryland State-wide assessment program.

The March 2002 Improvement Plan included a goal that 100% of children with disabilities attending nonpublic schools would participate in State- and district-wide testing programs, or alternate assessments, as specified to their IEPs. Strategies included: (1) disseminating a second memorandum; (2) developing and disseminating guidance to local school districts; (3) submission by local school systems of summary data regarding the number of children with disabilities in nonpublic schools participating in State- and district-wide assessments, or alternate assessments; (4) monitoring of local school systems to ensure compliance, including on-site visits to review records and conduct interviews; and (6) implementing professional development activities. The July 2003 Improvement Plan progress report cited data collection, technical assistance, professional development, and monitoring as its major activities during that reporting period.

OSEP's December 2003 letter required MSDE to include in its January 2004 final report, monitoring information and other documentation regarding: (1) participation and

performance of all publicly-placed children with disabilities in nonpublic schools on State- and district-wide assessment systems; and (2) documentation that when an IEP team decides a child will not participate in all or part of that assessment, the IEP includes a statement of why that assessment is not appropriate for the child and how the child will be assessed. Further, if the State identified noncompliance, in these areas, it must also include information demonstrating that the State is ensuring implementation of corrective actions for the identified noncompliance.

On pages 31-32 of the January 2004 Final Report and page 46 of the APR, MSDE reported, that children with disabilities in nonpublic settings in grades 3, 5, 8, 10 or 11 participated in the 2003 administration of Maryland State Assessment (MSA) or alternate MSA. Data relative to student participation and performance in Special Placement Schools (i.e., nonpublic schools in which public agencies or parents have placed children with disabilities, State-operated programs, and Department of Juvenile Justice schools) is available on the School Improvement in Maryland website. The data and analysis provided by the State demonstrated correction of the noncompliance. As noted on pages 37 – 39 of the APR, the State goal was to establish baseline data and related information specific to performance and participation of students with disabilities on the basis of the 2003 MSA. OSEP looks forward to reviewing the outcome of the State's strategies to achieve the goal of 100% of students achieving proficiency in the core academic courses by the end of the school year 2013-2014.

Disproportionality. In addressing evidence of disproportionate representation, it is appropriate for the State to look at policies, procedures and practices in the evaluation and identification process to determine if they are educationally appropriate, consistent with the requirements of Part B and race neutral. Such an examination would generally include a review of policies, procedures and practices at both the State and local level, with regard to 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. Such reviews would generally examine policies, procedures and practices from both an educational and legal perspective to ensure that any proposed revisions are educationally appropriate and legally consistent with Part B and other civil rights law. The past and current activities that the State describes on pages 52-53 and 62-63 appear to be generally consistent with these principles. For example, MSDE described future activities including: (1) soliciting a consultant to conduct evaluations of the effort and effect of technical assistance and support to targeted local school systems; (2) developing action plans based on the results of the evaluations; and (3) continuing funding and supporting training of local school system staff to include competitive grant awards. Use of numerical or percentage goals based upon race as a means of addressing disproportionality, however, would raise serious concerns under federal civil rights laws and the United States Constitution and would not be an appropriate way to address any potential compliance problems that significant disproportionality may indicate. In the FFY 2003 APR MSDE must revise the targets and goals concerning disproportionality (currently expressed on pages 37, 38, 51, and 61 of the FFY 2002 APR as percentages of children, by race/ethnicity, within

'expected ranges' compared to their percentages in the general school population) consistent with these principles.

In the following areas the State also identified need for, and provided strategies to achieve improved performance. OSEP looks forward to reviewing the implementation of these strategies and their impact on children with disabilities as part of the next APR.

Increase Graduation and Decrease Dropout Rates. On pages 63-64 of the APR, the State identified a number of strategies it would implement to improve graduation rates and decrease the rates of students dropping out before school completion, including developing a voluntary curriculum as a framework for instruction, developing a new exit document for students who complete their education but will not receive a regular diploma, and discretionary grants to LEAs to address graduation, drop-out and transition issues.

Suspension and Expulsion rates. On page 64 of the APR describes activities and timelines to achieve projected targets include requiring local school systems to submit written reports of results of internal audits concerning suspension and expulsion rates; audits to be conducted by State for targeted districts; increased training in positive behavior intervention; and focused monitoring for several local school systems.

Performance of Children with Disabilities on State-wide Assessments. On pages 64-65, MSDE identifies strategies to improve performance of children with disabilities on State-wide assessments, including implementation of voluntary State curriculum, joint visits with Division of Instruction staff to LEAs to review reading and math instruction, and identifying and disseminating effective practices from schools making AYP for students with disabilities.

Early Language/Communication, Pre-reading, and Social-Emotional Skills. On page 50 of the APR, Maryland reported that, since the 2001-2002 school year, it has administered a State-wide kindergarten-readiness checklist to all children enrolled in their kindergarten year, including children with disabilities, and provides data comparing the performance of children with disabilities to other students. On page 61, the State identified strategies it is using to improve performance of children with disabilities on this assessment, including kindergarten-readiness staff development plans and use of results for instructional planning, including linkages with a student's IEP.

Secondary Transition

On page 67 of the APR, MSDE reported the participation of the graduating class of 2002 in the High School Graduate Follow-up Study. The data provides student information regarding plans for post-secondary activities. Discretionary Grants were awarded to nine local school systems, for FFY 2003, to assist in the development of programs to address issues including drop-out and seamless transition. Post-secondary programs have been developed in eleven of twenty-four local school systems to promote interaction and instruction in an age-appropriate setting with nondisabled peers at local community

colleges. By July 2008, to support students with disabilities who do not meet regular diploma requirements, a Maryland High School Certificate will be offered with a companion document to provide information pertaining the graduate's skills and educational experiences.

On page 70 of the APR, MSDE reported that it was collaborating with the Division of Career Technology and Adult Learning to develop a K-16 Voluntary State Curriculum entitled Maryland Career Development Model. LEAs have the option to adopt the Model which integrates career development activities in the educational experiences of children beginning at the kindergarten level and four years beyond graduation from high school. By August 2004, MSDE staff will meet with special education teachers to write curricular objectives.

The State provided data and information in the APR on the percentages of children participating in various post-school activities compared to nondisabled students, and reported on State plans to conduct one year follow-up surveys beginning with the class of 2004. The State identified the establishment of partnerships with post-secondary education programs and local school systems as further advancing the State's goal of increasing the number of children with disabilities who participate in meaningful post-school activities. OSEP looks forward to reviewing the State's implementation of these strategies and their impact on children with disabilities as a part of the next APR.

Conclusion

As noted above, MSDE must submit to OSEP:

1. General Supervision Cluster

- a) State Complaint Procedures - MSDE must submit a plan containing the required information to OSEP within 60 days of the date of this letter, including strategies, proposed evidence of change, targets, and timelines that will ensure correction of the noncompliance within a reasonable period of time not to exceed one year from the date OSEP accepts the plan.
- b) Impartial Due Process Hearings - MSDE must provide evidence of correction of the noncompliance, including supporting data and analysis in the FFY 2003 APR, and, in addition, a final progress report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but no later than 30 days following one year after the date of this letter.
- c) Monitoring - MSDE must provide data addressing whether MSDE is effectively identifying noncompliance and ensuring correction of noncompliance identified through monitoring, and using monitoring information to identify systemic issues needing correction in the FFY 2003 APR.

2. ***Early Childhood Transition Cluster*** - The State must provide evidence of progress in correcting the noncompliance, including current supporting data

and analysis, in the FFY 2003 APR and, in addition, provide a final progress report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but no later than 30 days following one year after the date of this letter.

3. ***Free Appropriate Public Education in the Least Restrictive Environment Cluster***

- a) **FAPE/LRE** - The State must submit to OSEP, within 60 days of the date of this letter, data and analysis that support the conclusion that the identified noncompliance has been corrected. MSDE can satisfy this requirement by providing documentation of the LEA corrective action plans developed to correct the noncompliance and subsequent follow-up activities with documentation demonstrating that correction occurred.
- b) **Provision of all related services** - The State must submit to OSEP, within 60 days of the date of this letter, data and analysis demonstrating that the identified noncompliance has been corrected. MSDE can satisfy this requirement by providing documentation that it monitors to ensure that FAPE is provided when staff vacancies occur, and of the LEA corrective action plans developed to correct the noncompliance and subsequent follow-up activities with documentation demonstrating that correction occurred.

OSEP plans to conduct a verification visit in the State during the spring of 2005. One of the primary purposes of this visit will be to evaluate the implementation of the State's monitoring system and assess its effectiveness in ensuring correction of identified noncompliance.

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 Michael F. Slade at (202) 205-8969.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Dr. Carol Ann Baglin