



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

Honorable Peter McWalters  
Commissioner of Education  
Rhode Island Department of Education  
Shepard Building  
255 Westminster Street  
Providence, RI 02903

APR -6 2005

Dear Commissioner McWalters:

The purpose of this letter is to respond to the Rhode Island Department of Education's (RIDE's) March 26, 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.

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***

As part of the Continuous Improvement Monitoring Process, RIDE submitted a Self-Assessment to OSEP on December 19, 2001 and an Improvement Plan on June 26, 2002. OSEP informed RIDE that Improvement Plan progress should be reported in the FFY 2002 APR submission, and expected RIDE to continue to work on improvement activities and include data that indicated maintenance of compliance in these areas in the FFY 2002 APR. Neither OSEP nor RIDE identified areas of noncompliance in the Self-Assessment.

During the week of September 27, 2004, OSEP conducted a visit to the State 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. OSEP has summarized the results of the verification visit in a letter to RIDE that is being issued today under separate cover.

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 are listed by cluster area.

### *General Supervision*

**Timely Identification and Correction of Noncompliance:** RIDE must: (1) ensure that each educational program for children with disabilities administered within the State meets RIDE's standards, including the requirements of Part B (34 CFR §300.600(a)(2)(ii)); and (2) implement proper methods of monitoring to identify and correct noncompliance in a timely manner (within one-year of identification) (20 U.S.C. 1232d). On pages 7 through 12 of the APR, Rhode Island described its collaborative system of focused monitoring, the School Support System (SSS). The SSS operates on a five-year cycle and incorporates a variety of instruments and procedures to ensure identification of noncompliance with State and Federal requirements. Local educational agencies (LEAs) completed self-assessments and data analysis, participated in interviews, surveys and on-site visits. The SSS process included: collecting and reviewing performance data; reviewing a sample of student records; surveying and interviewing administrators, special educators, general educators, parents, and related personnel; and observing and interviewing randomly-selected children with disabilities. The staff of the Office of Special Populations (OSP) worked with districts to evaluate the quality of their special education services and developed support plans to increase student performance. The support plans detailed technical assistance and training needed to enable the schools and districts to strengthen selected educational programs and correct noncompliance. Resources were identified and made available to districts to carry out their support plans. Also included in districts' support plans were action plans, staff responsibilities, timelines for completion, and mechanisms for verification. Districts were required to address noncompliance immediately. The Rhode Island Technical Assistance Legal Coordinator and RIDE liaisons provided on-going technical assistance and assisted districts in targeting improvement strategies based on identified areas of need.

OSEP reported on page 4 of the verification letter that RIDE's monitoring procedures represented a reasonable approach to the identification of noncompliance. However, despite RIDE's efforts to ensure timely correction of identified noncompliance at the Providence School District, RIDE has not provided evidence demonstrating that the Providence School District has corrected previously identified noncompliance within one year of identification. During the OSEP verification visit to Rhode Island in September of 2004, OSEP learned that RIDE would be conducting a verification visit to the Providence School District in November of 2004. In the FFY 2003 APR, due 60 days from the date of this letter, RIDE must submit documentation demonstrating that the District has corrected all identified deficiencies, including the results of its November 2004 verification visit to the District, or provide a plan with strategies, proposed evidence of change, targets and timelines to ensure that the District has corrected all identified deficiencies, as soon as

possible, but not later than thirty days following one year from the date that OSEP accepts RIDE's plan.

**Identification of Systemic Issues and Remediation through Analysis of Complaints, Due Process Hearings, and Monitoring:** On pages 13 through 15 of the APR, RIDE provided information indicating that systemic issues were identified through the analysis of findings collected from monitoring data, complaint resolutions and hearing decisions. For example, individualized education program (IEP) related issues and speech and language entrance and exit criteria were identified as systemic issues. An IEP Network was designed to assist families, children and school personnel in IEP development for children with disabilities, so that they can achieve to the same high standards established for all children. The IEP Network's long-range goal is to have at least one teacher and one parent in every school building in the State as a resource network member. Speech and Language entrance and exit criteria were addressed through the development of a Speech and Language Entrance and Exit Guidebook. A State-wide rollout on the guide book has occurred and on-going professional development is currently underway. RIDE should report on the results of its continued implementation of these strategies in the next APR.

**Timely Resolution of Complaints and Due Process Hearings:** On page 10 of the APR, RIDE indicated that the Rhode Island Technical Assistance Project (RITAP) coordinated the system of dispute resolution, including formal written complaints, mediations and due process hearings. Rhode Island reported a low number of complaints and requests for due process hearings that it attributed to increased awareness by the general public of other dispute resolution options available. The OSP notified the public of dispute resolution options through telephone consultation, direct professional development activities, and written materials, including a resolution options and procedural safeguards document. Training for mediators and hearing officers and the implementation of a new computerized tracking system resulted in a more effective use of all options available, with a concentrated effort by RIDE personnel to work with parties to reach resolution of disputes and address compliance issues. Feedback from local advisory committees and parent organizations resulted in the development of a revised, parent-friendly procedural safeguards and informational brochure that outlined the dispute resolution options.

Part B requires States to have procedures for ensuring that a written decision on each complaint is issued within 60 days after a complaint is filed, unless the timeline is extended because exceptional circumstances exist with respect to a particular complaint (34 CFR §300.661(a) and (b)(1)). On page 2 of the APR, the State provided data regarding the number of complaints and requests for due process hearings and mediations. RIDE reported that between July 1, 2002 to June 30, 2003, all written complaints but one were resolved within required timelines (34 CFR §300.661). On page 3 of the APR, data indicated that the number of complaints decreased from 155 in 2000 to 71 in 2003. However, as indicated in OSEP's letter to RIDE regarding its September 2004 verification visit, data provided to OSEP during the verification visit indicated that in calendar year 2003, 12 of 71 complaints were not resolved within the 60-day timeline (34 CFR §300.661(a)), and there was no documentation provided to determine if RIDE had extended the 60-day timeline because exceptional circumstances existed with respect to a

particular complaint (34 CFR §300.661(b)(1)). For purposes of comparison, OSEP analyzed RIDE's calendar year 2002 and 2003 complaint logs and determined that for complaint data reviewed from July 1, 2002 to June 30, 2003, there were approximately 72 complaints. Of those, fifty-six were resolved within 60 days, while for 16 the 60-day time limit was exceeded.<sup>1</sup>

In the FFY 2003 APR, due 60 days from the date of this letter, RIDE either must submit data for all Part B complaints demonstrating that complaints were resolved within the 60-day timeline or provide documentation that the timeline was extended because exceptional circumstances existed with respect to a particular complaint. If data do not demonstrate compliance, RIDE must include in the FFY 2003 APR a plan to ensure correction of the noncompliance identified during the verification visit, including strategies, proposed evidence of change, targets and timelines to ensure the resolution of all Part B complaints within the 60-day timeline or within properly extended timelines, as soon as possible, but not later than thirty days following one year from the date that OSEP accepts RIDE's plan.

RIDE must ensure that a final decision is reached in a due process hearing, and a copy mailed to each of the parties within 45 days from the date of receipt of the hearing request, unless the hearing officer extends the 45-day timeline for a specific period of time at the request of a party to the hearing (34 CFR §300.511(a) and (c)). A State educational agency must also ensure that if a hearing exceeds the 45-day timeline, there is documentation that the hearing officer extended the timeline at the request of a party and for a specific period of time. On page 2 of the APR, data indicated that for the period July 1, 2002 through June 30, 2003, there were 113 mediation requests with 111 agreements reached. Two requests were related to due process hearings. The State also reported on page 2 of the APR that 41 requests for due process hearings were filed during the FFY 2002 reporting period, that one hearing request was pending, and that with regard to the remaining 40 hearing requests, all decisions were reached within the required timelines (34 CFR §300.511).

However, the information provided in RIDE's APR is inconsistent with data provided to OSEP during the verification visit. In the letter to RIDE regarding the verification visit, OSEP indicated that in calendar year 2002, out of 47 hearing requests, ten decisions were reached. In three instances, the timeline was extended; for the remaining seven hearing requests, the 45-day timeline was exceeded, and there was no documentation of extensions granted. OSEP's analysis of due process hearing logs, provided during the verification visit, demonstrated that for that APR reporting period (July 1, 2002 to June 30, 2003) there were approximately 44 hearing requests. For only 11 of these hearing requests, data indicated that a decision was reached; five decisions were issued beyond the 45-day time limit but extensions had been granted, while six decisions were issued beyond 45-day time limit; there was no documentation of extensions. Of the 33 requests that were either

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<sup>1</sup> In analyzing data for this probe, OSEP reviewed calendar year data for 2002 through 2004 obtained during OSEP's verification visit to Rhode Island in September 2004 as well as the data submitted by RIDE for the FFY 2002 APR reporting period, July 1, 2002 through June 30, 2003. Based on OSEP's analysis of the data obtained during the verification visit, which also covered the APR reporting period, OSEP identified a discrepancy in the data submitted for the APR and the data reviewed during the verification visit.

settled or withdrawn, 12 were completed within the 45-day timeline. For the 21 hearings settled or withdrawn beyond the 45 day time limit, 16 had extended timelines, and for 5 hearing requests, there was no documentation that the hearing officer had extended the timeline for a specific period of time at the request of a party (no decision was reached for one hearing request).

In those instances where there had been extensions, OSEP could not determine from the documentation provided whether the hearing had been completed, settled, or withdrawn within the extended timeline or for a longer period of time, whether the hearing officer granted a specific extension at the request of a party, and whether the hearing was completed, settled, or withdrawn within the timeline specified by the hearing officer.<sup>2</sup>

In the FFY 2003 APR, due 60 days from the date of this letter, RIDE must submit data demonstrating that all due process hearings are completed, including those that are settled or withdrawn, within the 45-day timeline or within an extended timeline, including documentation that the hearing officer granted the extension at the request of a party and for a specific period of time. If data do not demonstrate compliance, RIDE must include in the FFY 2003 APR a plan, including strategies, proposed evidence of change, targets and timelines, to ensure the completion of all due process hearings, including those settled or withdrawn, within the 45-day timeline or within properly extended timelines, as soon as possible, but not later than thirty days following one year from the date that OSEP accepts RIDE's plan.

**A Sufficient Supply of Qualified Personnel:** On pages 20 through 22 of the APR, RIDE discussed the status of sufficient numbers of qualified personnel to meet the educational needs of all children with disabilities in the State (34 CFR §§300.300(a) and 300.380(b)). The December 2001 self-assessment process did not reveal any concerns regarding RIDE's ability to maintain sufficient numbers of personnel and other providers to meet the identified educational needs of all children with disabilities. However, a needs assessment conducted in April 2002 indicated a projected increase in Rhode Island's personnel needs in the next five years. To address the anticipated personnel needs, RIDE established a State-wide system of data collection including the following necessary Comprehensive System of Personnel Development (CSPD) data fields: (1) trends in the special education census; (2) personnel needs; (3) continuing education needs of special education personnel; (4) retention and recruitment data; and (5) higher education needs. The Rhode Island State Improvement Grant (RISIG) leadership committee, CSPD committee and three coordinating subcommittees analyzed and utilized data for the ongoing implementation of a State-wide CSPD plan. Also, RIDE established with Providence College and the Northern Rhode Island Educational Collaborative a non-traditional certification program that enables special educators with emergency certification to obtain full certification within three years. In addition, RIDE developed a teacher assistant initiative designed to recruit and retain sufficient numbers of highly qualified teacher assistants. Rhode Island

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<sup>2</sup> In analyzing this probe, OSEP reviewed data that RIDE submitted for the FFY 2002 APR reporting period, July 1, 2002 through June 30, 2003, and data for calendar years 2002 through 2004 which OSEP obtained during the verification visit to Rhode Island in September of 2004. OSEP compared the data and identified a discrepancy in the data submitted for the FFY 2002 APR reporting period, based on the additional data that OSEP obtained during the verification visit, which also covered the APR reporting period.

utilized its State Improvement Grant to enable Rhode Island College to hire a full-time faculty member to promote greater collaboration between higher education, special education and general education and to produce long-term program and curriculum changes in higher education. RIDE/Rhode Island College/University of Massachusetts began a partnership to prepare Teachers of the Visually Impaired and Orientation and Mobility Specialists to address a regional need in New England.

In the next APR, RIDE should report on its continued implementation of strategies to ensure a sufficient supply of qualified personnel to meet the special education and related services needs of children with disabilities.

**Collection and Reporting of Accurate and Timely Data:** The instructions to this cluster ask States whether State practices and procedures ensure the collection of accurate and timely data. On pages 11 and 12 of the APR, RIDE discussed improvement efforts to develop and maintain a data management system responsive to the needs of the State educational agency (SEA), LEAs, parents and the general public that provided information on all programs, practices and strategies that resulted in improved child outcomes. RIDE reported that information about complaints, mediations and due process hearings is available at [www.ritap.org](http://www.ritap.org). In the APR reporting period, RIDE reported that it continued development, refinement and maintenance of a database and performance system for the identification and correction of noncompliance.

On page 6 of the verification letter, OSEP addressed a difficulty that RIDE had experienced in accurately reporting data regarding compliance with requirements for educating children with disabilities in the least restrictive environment, and how RIDE had modified its data collection to obtain more accurate data in this regard. Although references to data collection were made throughout the various sections of the APR, and OSEP learned more information about RIDE's data collection efforts during the verification visit, RIDE did not directly respond to general supervision performance indicator GS.V in its APR. That indicator requires States to describe their procedures and practices that ensure collection and reporting of accurate and timely data. In the next APR, RIDE must respond to General Supervision Indicator GS.V and include information that more clearly describes the strategies it has put in place to ensure the submission of accurate data.

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

The instructions to this cluster ask States to indicate whether children eligible for Part B services who participated in the Part C program have an IEP or an IFSP in effect by their third birthdays (34 CFR §300.132(b)). On page 23 of the APR, the State described its activities to ensure that children eligible for Part B services would receive special education and related services by their third birthdays. RIDE reported that in 2001-2002, 70 percent of children exiting EIS at age three were eligible for special education and related services, and 96.6 percent of eligible children completed the transition process, exited Early Intervention, and entered the school district by their third birthdays. RIDE did not include data for the APR reporting period, and did not indicate in its letter on the FFY

2002 APR why data for the APR reporting period were not available. It also is not clear from the data that RIDE provided whether the 96.6 percent of children exiting Early Intervention who entered the school district have an IEP or an IFSP in effect by their third birthdays, as required by 34 CFR §300.132(b).

In the FFY 2003 APR, due 60 days from the date of this letter, RIDE must include data and analysis for the FFY 2002-2003 and FFY 2003-2004 reporting periods and must clarify whether all children exiting Early Intervention and who are eligible for services under Part B have an IEP or IFSP in effect by their third birthdays (34 CFR §300.132(b)), as well as the results of RIDE's strategies to ensure compliance with this requirement.

OSEP assumes that any Part C to Part B tracking system that Rhode Island develops will not involve the disclosure of personally identifiable information from students' education records, or if it will, that it is consistent with the IDEA and the Family Educational Rights and Privacy Act (FERPA). OSEP has enclosed for your information a copy of its February 11, 2004, letter to Mary Elder, Executive Director, Texas Interagency Council on Early Childhood Intervention, which discusses the limited disclosure of personally identifiable information for purposes of meeting IDEA's child find mandate.

### ***Parent Involvement***

The instructions to this cluster ask States to report on how the provision of a free appropriate public education to students with disabilities is facilitated through parent involvement in special education services. On page 29 of the APR, the State reported that parent members of the Rhode Island Interagency Coordinating Council and the Rhode Island Special Education Advisory Committee (RISEAC) identified members to serve as information liaisons for advocacy and support of family partnerships. Parents participated in all areas of the Continuous Improvement Monitoring Process and the Rhode Island State Improvement Grant (RISIG) including the needs assessment, improvement planning and implementation. The Rhode Island Information Center (RIPIN) established a State-wide support and development network among all local special education advisory committees that included the RISEAC. Parent organizations contributed to the interagency behavioral and mental health workgroup that advised RIDE on related program development and coordination State-wide. The SSS not only included parents for survey and interview purposes, but also as active members of site-visit teams. RIDE recently developed a State-wide Parent's Guide to Procedural Safeguards and Parents' Rights in Special Education in collaboration with RITAP. Training and technical assistance for Local Special Education Advisory Committees (LSEACs) were made available through RISIG and RIPIN resources. RIDE should report on its continued implementation of these strategies in the next APR.

### ***Free Appropriate Public Education in the Least Restrictive Environment***

**Disproportionality:** On pages 34 and 35 of the APR, RIDE reported that, compared to their representation in the general enrollment, Black and Hispanic children were under-represented among children with disabilities. While the State reported that students who

are Indian/Alaska Natives are apparently over-represented, it also noted that numbers for both of these categories are too small for confident interpretation in this comparison. RIDE also noted that the trend of these data since 2000-2001 reflects the relative population change in the racial/ethnic categories.

In contrast, data indicated very high percentages of White and Indian/Alaska Native children identified with disabilities. On page 35 of the APR, RIDE reported that Black (1.1%) and Hispanic (1.3%) children were over-represented in the category of mental retardation compared to the State average of 0.9 percent among children with disabilities. While the numbers for Alaska Natives and Indian children appear to be too low for confident interpretation, the State indicated on page 35 of the APR that Indian Alaska Native children appear to be over-represented in the categories of learning disabilities, emotional disturbance, and hearing impairment.

The State also reported on page 35 of the APR that black and Hispanic children with disabilities were under-represented in the least restrictive environment settings and over-represented in the most restrictive public and private settings and settings for children with emotional and behavioral disabilities.

On pages 35 and 36 of the APR, the State reported that for this APR reporting period, it established goals that the percentage of children in disability categories and in educational settings would be less disproportionate to the percentage of children by race/ethnicity in the State's general student enrollment. The proposed use of 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. 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. In addressing significant disproportionality related to identification, under 34 CFR §300.755, 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. In addressing significant disproportionality related to placement, under 34 CFR §300.755, it is appropriate to look at policies, procedures and practices related to placement in the least restrictive environment consistent with the requirements at 34 CFR §§300.501 and 300.550-300.556 in order to determine if they are educationally appropriate, consistent with the requirements of Part B and race neutral. This would generally include a review of policies, procedures and practices related to: the continuum of placement options; the availability of, and access to, supplementary aids and services; the participation of parents in placement team decisions; and State monitoring activities and technical assistance related to placement in the least restrictive environment. Although the State's goal statement raises concerns, as described below, the State does seem to be focusing on identification and placement policies



consistent with this approach. The State must submit revised goals language, consistent with Federal law, in the next APR.

RIDE indicated that "there appears to be disproportionalities across the racial and ethnic disaggregations" with respect to percentages of children in disability categories and educational settings. Although RIDE indicated on page 35 of the APR that it believes that its policies for disability determination are ethnically and racially neutral, it focused its attention on differential identification patterns, different expectations for academic and behavioral performance for students in different racial and ethnic groups, social and economic effects of living in the city, etc. Rhode Island also reported on page 36 of the APR, consistent with its efforts to reduce the over-identification of students with disabilities throughout the State, that it is working with Districts to improve the alignment of their data through a new reporting system and is using the monitoring process to help districts focus on areas that may contribute to disproportionality. RIDE is also continuing to develop and disseminate new guidance on the identification of students with speech language disabilities, learning disabilities and other health impairment, and is continuing to promote high expectations and instruction that support diverse learning needs within general education. RIDE did not specify whether it was requiring revision of policies and procedures to address the disproportionate representation of Black children in the mental retardation category.

The Part B regulation at 34 CFR §300.755 requires States that identify significant disproportionality on the basis of race in the identification of children with disabilities (including identification within particular categories of disability) or in placements into particular settings to provide for the review and, if appropriate, revision of the policies, procedures and practices used in identification or placement to ensure that they comply with Part B. In the FFY 2003 APR, RIDE needs to clarify whether the over-representation it has identified in certain disability categories and educational settings constitutes significant disproportionality on the basis of race, and if it does, whether RIDE has undertaken a review of policies, procedures, and practices and whether RIDE has required any revisions to those policies, procedures, and practices to comply with Part B of the Act.

**Graduation and Drop-Out Rates:** The instructions to this cluster ask States to report on whether graduation and drop-out rates for students with disabilities are comparable to those for nondisabled students. On pages 52 through 54 of the APR, RIDE reported progress in collecting accurate data from Districts using a uniform formula to calculate graduation and drop-out rates that applied to both children with and without disabilities. Through data verification efforts, data discrepancies were found in three Districts and technical assistance was provided to data clerks to ensure accurate reporting for the 2003-2004 data collection period. Representatives from State and local special education staffs were involved in the development of the new Rhode Island High School Regulations, including a working definition for graduating with a regular high school diploma. The percentage of children with disabilities graduating with a regular diploma increased from 69.28 percent in 2001-2002 to 73.30 percent in 2002-2003. During the same time, the graduation rate for children without disabilities decreased slightly, from 83.72 percent in 2001-2002 to 82.71 percent in 2002-2003. The drop-out rate for children with disabilities

improved, from 30.72 percent in 2001-2002 to 26.70 percent in 2002-2003. The drop-out rate for children without disabilities increased slightly from 16.28 percent in 2001-2002 to 17.29 percent in 2002-2003. A uniform formula was not used for calculating graduation and drop-out data for 2000-2001 for children with and without disabilities; therefore, data reported were not comparable and RIDE could not establish a three-year trend. Although a trend cannot be determined at this time, the graduation rate for children with disabilities exceeded an improvement target of 3 percent with an actual increase of 4.02 percent and the drop-out rate declined by 4.02 percent. In the next APR, RIDE should report on its progress in ensuring compliance and performance in this area.

**Suspension and Expulsion Rates:** On page 40 of the APR, the State reported average suspension rates among LEAs for children with disabilities suspended for more than 10 days of 1.1 percent in 2001-2002 and 0.9 percent in 2002-2003. Children without disabilities had average suspension rates of 0.7 percent in 2001-2002 and 0.6 percent in 2002-2003. RIDE's goal was for the suspension rates of children with disabilities to be "more comparable" among LEAs and to the rates for children without disabilities. RIDE examined the performance of LEAs regarding suspensions and provided support planning to improve performance for the LEAs that needed assistance. RIDE sponsored professional development on social-emotional learning and supports to assist schools and Districts in developing safe, secure and productive learning environments. The School Support monitoring system will continue to examine the performance of LEAs regarding suspension, support planning and programs to improve performance.

On page 40 of the APR, RIDE reported the average rate of suspension of students with disabilities State-wide appeared to be closer to that of students without disabilities and that most LEAs decreased both their rate of suspension and the difference between suspensions of students with and without disabilities. Also, RIDE reported that in nearly half the LEAs, students with disabilities appear to be suspended only as often as, or even less often, than students without disabilities. However, in about one quarter of the LEAs, suspension rates for children with disabilities as compared to those for children without disabilities were not improving.

34 CFR §300.146 requires that States examine data to determine if significant discrepancies are occurring in the rates of long-term suspensions and expulsions of children with disabilities either among LEAs in the State or compared to the rates for nondisabled 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. While the State's FFY 2002 APR indicated that it had identified significant discrepancies in the rates of suspensions and expulsions for children with disabilities across LEAs and as compared with rates for nondisabled students, it did not indicate the results of its review of policies, procedures, and practices consistent with 34 CFR §300.146. In the FFY 2003 APR, due 60 days from the date of this letter, RIDE must provide the results of its review of policies, procedures, and practices in accordance

with 34 CFR §300.146, including the results of any review and any revisions deemed appropriate for affected LEAs. RIDE should continue to report information in the next APR that includes both implementation of the strategies described above and the resulting data demonstrating improvement.

**State-Wide Assessment:** On pages 42 and 43 of the APR, RIDE reported participation and performance rates of children with and without disabilities in grades 4, 8 and 10 in the State's English/language arts and math assessments. Since 2001, English/language arts participation increased 15.7 percent to an average of 89 percent, and math participation increased 20 percent to an average of 92.6 percent. The performance of children with disabilities who met or exceeded the standard also increased in all grades between 0.1 and 4.3 percent for the English/language arts assessment and between 3.8 and 7.1 percent for the math assessment. The following activities conducted by the Office of Assessment and OSP contributed to the overall growth in participation and performance: improving guidance for planning and carrying out accommodations and alternate assessments; emphasis on proper coding of test materials; professional development with District special education directors and assessment coordinators, and the institution of a "no-score" policy for all children who do not participate. Rhode Island's system allows interpretations only for "3 year rolling averages" that is, comparisons are valid between the average of three years of data. However, Rhode Island reported on page 43 of the APR only limited progress in increasing performance of students with disabilities, and in closing the gap with their nondisabled peers. There has been an increase, but not at the level of 3 percent per year that was targeted. Furthermore, except for the area of mathematics at the 8<sup>th</sup> grade level, the performance of nondisabled students appears in general to be increasing somewhat faster than that of students with disabilities.

RIDE should report in the next APR on the results of the continued implementation of these strategies and their effectiveness in increasing the participation and performance of children with disabilities on State-wide assessments.

### ***Least Restrictive Environment***

On page 46 of the APR, RIDE reported for the December 2002 child count a State-wide average of 46.3 percent of children with disabilities receiving services less than 21 percent of the day outside the general classroom. RIDE reported that 28.1 percent of children with disabilities were receiving services outside of the regular classroom greater than 21 percent, but less than 60 percent, of the day, and 22.2 percent of children greater than 60 percent outside of the regular classroom. According to RIDE's explanation of progress or slippage on page 46 of the APR, the wide variation among LEAs identified an apparent lack of reliability and validity in service delivery data. RIDE worked with LEAs to explain the new data collection system and the importance of reporting accurate data. The monitoring system continued to evaluate and emphasize that services need to be delivered with nondisabled peers to the maximum extent appropriate and that decisions need to be made on an individual basis. Data reported in the APR were reflective of caseload/class size descriptions and not actual locations where services were provided. RIDE also reported on page 47 of the APR that it had developed a new data collection system,

beginning with the December 2003 child count, that would more accurately report LRE data to align educational setting data categories that were not consistently reported throughout the Districts. During OSEP's September 2004 verification visit, OSEP determined that RIDE had corrected this problem and that the December 1, 2003 child count included accurate data. On page 46 of the APR, RIDE also outlined its efforts to revise definitions and provide technical assistance to LEAs to obtain reliable and valid data. In the next APR, RIDE should provide data and analysis demonstrating that it collects LRE data to reflect the setting in which educational services are delivered as well as report on the results of the implementation of these strategies and their effectiveness in providing accurate data regarding LRE.

**Early Language/Communication, Pre-Reading, and Social and Emotional Skills of Preschool Children:** On pages 50 and 51 of the APR, RIDE reported it did not have baseline data to determine if progress was achieved or maintained in the early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities receiving special education and related services. RIDE provided targets to develop methods for gathering data in this area. It also described the strategies it was implementing to enhance the skills of preschool children with disabilities. Under the Government Performance and Results Act of 1993, 31 U.S.C. §1116, the effectiveness of the IDEA section 619 program is being measured based on the extent to which early language communication, pre-reading, and social-emotional skills of preschool children with disabilities receiving special education and related services are improving. RIDE should report in the next APR on the results of its strategies to improve outcomes for preschool children with disabilities. In the FFY 2003 APR, due 60 days from the date of this letter, Rhode Island must submit documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), and targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

### ***Secondary Transition***

The instructions to this cluster ask States to determine whether the percentage of youth with disabilities participating in post-school activities, including postsecondary education, employment, and independent living, is comparable to that of nondisabled youth. RIDE included in its Improvement Plan a strategy to analyze and, if necessary, develop systems for collecting post-school activity data on students with disabilities and provide comparisons to students without disabilities. In response, RIDE established a transition data work group in partnership with the Sherlock Center at Rhode Island College to research the most effective methods of collecting and analyzing transition data. The work group planned to initiate the Rhode Island Transition Outcome Study in 2004 that would examine outcome trends for children with disabilities after graduation. RIDE also planned to reactivate the Transition IEP Work Group in April 2004 to examine strategies for improving professional development for teachers facilitating transition planning. RIDE and the Department of Human Services/Office of Rehabilitation Services (DHS/ORS) drafted a Memorandum of Understanding (MOU) that specifically addressed identified

gaps in service, contained articulation of coordination of services and funding commitments, and evaluative components with mechanisms for data collection and review.

In the next APR, RIDE should report on its analysis of the resulting data as well as the results of the implementation of these strategies and their effectiveness in enhancing secondary transition and improving post-school outcomes for students with disabilities.

### ***Conclusion***

As noted above, in its FFY 2003 APR, due 60 days from the date of this letter, RIDE must include:

1. documentation demonstrating that the Providence School District has corrected all identified deficiencies, including the results of RIDE's November 2004 verification visit to the District, or a plan with strategies, proposed evidence of change, targets and timelines to ensure that the District has corrected all identified deficiencies, as soon as possible, but not later than 30 days following one year from the date that OSEP accepts the plan;
2. data regarding the number of Part B complaints that were handled during the APR reporting period, including the numbers resolved within the 60-day timeline and those resolved within properly extended timelines. If data demonstrate noncompliance, RIDE must provide a plan to ensure correction of this noncompliance, including strategies, proposed evidence of change, targets and timelines to address this noncompliance, as soon as possible, but not later than thirty days following one year from the date that OSEP accepts the plan;
3. data demonstrating that due process hearings, including those settled or withdrawn, are completed within the 45-day timeline or within properly extended timelines, including documentation that the hearing officer extended the timeline at the request of a party and for a specific period of time. If data demonstrate noncompliance, RIDE must provide a plan to ensure the timely completion of all due process hearings, including those settled or withdrawn, within the 45-day timeline or within properly extended timelines, as soon as possible, but not later than 30 days following one year from the date that OSEP accepts the plan;
4. data regarding the continued development, refinement and maintenance of a database and performance system for the identification and correction of noncompliance, including information responding to general supervision performance indicator (GS.V) describing State procedures and practices that ensure collection and reporting of accurate and timely data;
5. data for FFY 2002-2003 and FFY 2003-2004 clarifying whether all children exiting Early Intervention and who are eligible for services under Part B have an IEP or IFSP in effect by their third birthdays (34 CFR §300.132(b)), as well as the results of RIDE's strategies to ensure compliance with this requirement;

6. revised goals for the identification of children in particular disability categories and the placement of children in particular educational settings that are consistent with Part B, educationally appropriate, and race neutral, as well as clarification of whether the over-representation RIDE has identified in certain disability categories and educational settings constitutes significant disproportionality on the basis of race, and if it does, whether RIDE has undertaken a review of policies, procedures, and practices, or has required any revisions to those policies, procedures, and practices to comply with Part B (34 CFR §300.755).
7. with regard to suspension and expulsion data, the results of RIDE's review of policies, procedures, and practices, in accordance with 34 CFR §300.146, regarding the development and implementation of IEPs, use of behavioral interventions, and procedural safeguards to ensure they comply with Part B, including the results of the review by affected LEAs if necessary, and any revisions deemed appropriate;
8. data and analysis and the results of RIDE's strategies to ensure the collection of accurate data regarding education of children with disabilities in the least restrictive environment;
9. results of RIDE's strategies to improve outcomes for preschool children with disabilities including documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), and targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan; and
10. analysis of the resulting data as well as the results of the implementation of strategies and their effectiveness in enhancing performance for postsecondary transition and improving post-school outcomes for students with disabilities.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State. We look forward to collaborating with Rhode Island as you continue to improve results for students with disabilities and their families. If you have questions, please contact Kimberly Mitchell at (202) 245-7453.

Sincerely,



Patricia J. Guard  
Acting Director  
Office of Special Education Programs

cc: Dr. Thomas DiPaola