



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

Honorable Kenneth James
Director of Education
Arkansas Department of Education
Four State Capitol Mall, Room 304A
Little Rock, Arkansas 72201-1071

DEC 13 2004

Dear Director James:

The purpose of this letter is to respond to Arkansas' April 9, 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 was 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, 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

The August 25, 2000 OSEP Monitoring Report identified the following areas of noncompliance: (1) the Arkansas Department of Education (ADE) did not ensure an adequate supply of qualified special education and related services personnel to provide special education and related services to children with disabilities (34 CFR §§300.300 and 300.381); (2) ADE did not ensure that the placements were based on the individual needs of the children (34 CFR §300.550(b)) because regular education teachers failed to provide modifications and/or accommodations that would enable children with disabilities to participate in general education classes (34 CFR §300.347(a)(3)(iii)); (3) ADE did not ensure that all children with disabilities who required extended school year services (ESY) as part of a free appropriate public education (FAPE) were provided those services in accordance with an appropriate individualized education program (IEP) (34 CFR §300.309(a)(3) and (b)(1)); (4) ADE did not ensure that all children with disabilities who required psychological counseling services to benefit from special education were provided with this service, in accordance with an appropriate IEP (34 CFR §§300.300, and 300.24(a) and (b)(9)(v)); and (5) ADE did not ensure that the IEP invitation and participation of

other agencies met IDEA requirements regarding secondary transition (34 CFR §300.344 (b)(3)(i)-(ii)).

ADE submitted its Improvement Plan on October 11, 2001. The Improvement Plan was revised and resubmitted on March 20, 2003, with an additional revision submitted August 26, 2003. The State submitted additional data to OSEP on February 20, 2004, as an update to the Improvement Plan. OSEP conducted a verification visit in Arkansas during the week of October 27, 2003. The State also submitted monitoring data to OSEP on July 6, 2004 and July 13, 2004 to address compliance issues in the Improvement Plan.

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 ADE's Improvement Plan, data submissions and the APR are listed by cluster area.

General Supervision

In its February 2004 revised Improvement Plan, the State reported on its efforts to correct previously-identified noncompliance regarding an adequate supply of personnel to meet the identified needs of all children with disabilities in the State. Additionally, the State provided data and information regarding the areas of: (1) general supervision instruments and procedures used by ADE to identify and correct IDEA noncompliance in a timely manner; (2) systemic issues identified and remediated through the analysis of findings from information and data collected from all available sources; and (3) complaint investigation, mediations, and due process hearings and reviews that were completed in a timely manner.

Adequate Supply of Personnel to Meet the Identified Needs of All Children with Disabilities in the State. In the August 2000 Monitoring Report, OSEP reported that ADE did not ensure that an adequate supply of qualified special education and related services personnel were available to ensure that children with disabilities received FAPE (34 CFR §§300.300 and 300.381). ADE reported the status of personnel shortages in FAPE in the least restrictive environment (LRE) section of the Improvement Plan (Section I.D.), including: the number of providers aggregated by area of specialization and certification, and the proportion of positions vacant in each area of specialization. As one measure of the impact of personnel shortages on FAPE for children with disabilities, the State used its triennial cyclical monitoring to review the implementation of modifications and supports for school personnel as specified in the IEP for children to participate in the regular education setting. In the July 2004 submission, the State reported a 91 percent compliance rate with the implementation of special education services. For the nine percent not in compliance with the requirement, all corrective actions were completed.¹ The State also submitted documentation of: recruitment activities; a comprehensive State-wide strategic plan; and a five year plan on pages 50 through 55 of the United States Department of Education-funded Arkansas State Improvement Grant (SIG) to address current and projected personnel shortages. On pages 18 and 19 in Cluster I of the APR, the State included five-year trend data

¹ During OSEP's October 2003 verification visit to Arkansas, the State demonstrated that all corrective actions resulting from the 2002-2003 monitoring cycle were completed.

and analysis indicating that the percentage of vacancies peaked in school year 2001-2002 at approximately 2.5 percent, and dropped to approximately 1.1 percent in school year 2002-2003.

OSEP has determined that, based on the evidence presented, ADE corrected this area of noncompliance. OSEP looks forward to reviewing data and information related to ADE's efforts to maintain performance and compliance in this area in the FFY 2003 APR, due March 31, 2005.

General Supervision Instruments and Procedures Used by the State Educational Agency (SEA) to Identify and Correct IDEA Noncompliance in a Timely Manner. On pages one through six in Cluster I of the APR, the State included data indicating that, during the reporting period, it monitored to identify and correct IDEA noncompliance in 106 of the State's 258 local educational agencies (LEAs). The State reported in these pages that: (1) the Program Effectiveness Evaluation Profile (PEEP) system was developed to monitor LEA program effectiveness in the areas of IEP activities, transition plans, child goals linked to the general curriculum/age appropriate activities, types of instructional modifications, aids and services provided, parental participation and satisfaction, documentation of child progress, and general educator participation in the IEP meeting; (2) a Focused Monitoring system was developed, that included the reporting period targets, developing data sets of monitoring indicators with district inputs, and displaying district data on the ADE website; (3) there was a coordinated use of general supervision instruments and procedures to identify and correct noncompliance in a timely manner in the State's monitoring system; and (4) analysis of trend data from the dispute resolution and monitoring systems provided a basis for the identification of systemic issues.² The State included strategies to maintain performance and compliance in this area. OSEP looks forward to reviewing the results of the strategies in the next APR.

Systemic Issues are Identified through the Analysis of Findings from Information and Data Collected from All Available Sources and are Remediated. On pages seven through 13 in Cluster I of the APR, the State presented and analyzed three-year trend data for due process hearings, complaint investigations, and systemic monitoring. The data were used in the triennial cyclical monitoring system, and in the PEEP system. OSEP looks forward to reviewing the results of the implementation of these strategies in the next APR.

Complaint Investigation, Mediations and Due Process Hearings and Reviews were Completed in a Timely Manner. On pages 14 through 16 in Cluster I of the APR, and Attachment 1 to the APR, the State reported that: (1) of the 34 due process hearing requests, eight were fully adjudicated, and all were completed within the timelines; (2) six mediations were requested and completed, all of which related to due process hearings; and (3) 38 complaints were filed, 22 with findings of noncompliance, three with no findings of noncompliance, and 13 were withdrawn. Sixteen complaint investigations were completed within required timelines (34 CFR §300.661). On page 16 in Cluster I of the APR, the State indicated that six complaint resolutions exceeded the timelines, three by two days and none by more than ten days. OSEP has not previously identified noncompliance in this area. These data indicate that 24 percent (six of 25) of the State's complaints were not resolved within required timelines, indicating noncompliance

² For the 2002-2003 reporting period, the PEEP system was only applicable to a limited number of districts as a pilot for fuller implementation of that system. Data for that period were not considered reliable due to questions about the clarity of the PEEP instructions and other implementation issues.

with the requirements of 34 CFR §300.661. On page 16 of the APR, the State included strategies, proposed evidence of change, targets, and timelines designed to ensure compliance. OSEP accepts these 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 one year from the date of this letter.

Procedures and Practices Ensure Collection and Reporting of Accurate and Timely Data.

On pages 23 through 26 in Cluster I of the APR, ADE reported that: special education data were generated from a variety of sources; mission critical data, such as that required for Section 618 reporting, were collected electronically from LEAs and independent education units through the Arkansas Public School Computer Network (APSCN); APSCN school data were aggregated during seven collection cycles annually and reported to the SEA through the State-wide Information System (SIS); and the SIS, a relational data base, was used to organize APSCN data required for Federal State education reports; and that consistency and reliability checks were conducted on all data. ADE also reported strategies for the FFY 2003 APR that included: phasing out stand alone data bases by placing all data into a data warehouse; using the web for data collection and review; and conducting training on technology tools and data requirements. OSEP looks forward to reviewing the results of the implementation of these strategies in the next APR.

Early Childhood Transition

On pages one through three in Cluster Area II of the APR, the State included the number of children ages three through five served in the Part B system. The State reported that it could not determine the total percentage of children enrolled in Part C that were eligible for Part B services by their third birthday due to the differences in the annual Part C transition data reporting period and the data reporting methods by the Early Childhood Program.

Based on data and information included in the APR, OSEP could not determine whether ADE ensured the transition of children from Part C programs to Part B special education services, according to the requirements of 34 §CFR 300.132. On page one in Cluster II of the APR, the following systemic factors were identified as causing delays in the completion of IEPs and the provision of services by the child's third birthday: the Part C annual data report addressing transition covered a different time period; and transition data input for Part C included all children turning three, children no longer needing Early Intervention services, and children leaving Early Intervention who may have been eligible, but whose parent requested that the child not be transitioned to Early Childhood programs.

On page two in Cluster II of the APR, the State included strategies, proposed evidence of change, targets, and timelines designed to maintain and ensure compliance with 34 §CFR 300.132. OSEP looks forward to reviewing the results of the implementation of these strategies in the next APR.

Parent Involvement

On pages one through three in Cluster III of the APR, the State included the results of parent surveys conducted by the University of Arkansas at Little Rock, an analysis of the results, and targets related to parent involvement, showing that, for example: (1) 85 percent of parents indicated their concerns were considered in IEP development; (2) 96.1 percent of school districts indicated that 76 to 100 percent of parents participated in IEP development; and (3) 53 percent of parents indicated they were either “completely involved” or “involved a great deal” in their child’s transition.

For this cluster, OSEP has not previously identified noncompliance and the data included in the APR did not indicate noncompliance in this area. On page three in Cluster III of the APR, the State included targets along with strategies and timelines for improving performance. OSEP looks forward to reviewing information in the next APR that includes both implementation of strategies and the resulting data demonstrating improvement.

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

In the Improvement Plan, the State reported on its efforts to correct noncompliance in the following areas: (1) ADE did not ensure that the placements were based on the individual needs of the children (34 CFR §300.550(b)) because regular education teachers failed to provide modifications and supports for school personnel that would enable children with disabilities to participate in general education classes (34 CFR §300.347(a)(3)(iii)); (2) ADE did not ensure that all children with disabilities who required extended school year services (ESY) as part of FAPE were provided those services in accordance with an appropriate IEP (34 CFR §§300.309(a)(3) and 300.309(b)(1)); and (3) ADE did not ensure that all children with disabilities who required psychological counseling services to benefit from special education were provided with this service, in accordance with an appropriate IEP (34 CFR §§300.300, 300.24(a) and (b)(9)(v)).

Children Not Placed in the Least Restrictive Environment (LRE). 34 CFR §300.550 (b)(2) requires that special classes, separate schooling or other 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. In addition, 34 CFR §300.347(a)(3)(iii) requires that the IEP for each child include a statement of the special education and related services and supplementary aids and services provided to the child, or on behalf of the child, and a statement of the program modification and supports for school personnel to be provided for the child to be educated and participate with other children with and without disabilities. The 2000 Monitoring Report indicated that regular education teachers failed to provide modifications and supports for school personnel that would enable children with disabilities to participate in general education classes. The February 2004 revised Improvement Plan and the monitoring data submitted to OSEP in July 2004 indicated that the State tracked the provision of modifications and supports for school personnel for children in regular education classroom settings.

The State reported the following data in the February 2004 revised Improvement Plan: (1) LRE placement data was posted on the State's web page, disaggregated by school district; (2) a summary of the technical assistance on the provision of appropriate modifications and supports for school personnel for children's participation in the LRE; (3) a summary of the capacity-building grants provided to support districts in developing research-based techniques to support participation in the LRE; and (4) monitoring data regarding the placement process, the provision of appropriate accommodations and supports for school personnel, and the participation in State-wide assessments with and without accommodations. In the July 2004 data submission, the State indicated that for files randomly selected during the 2002-2003 monitoring cycle, there was a 93.25 percent compliance rate for IEPs addressing the consideration of modifications and supports for school personnel with implementation documented through classroom observations. For the 6.75 percent not in compliance with the requirement, all corrective actions were completed. OSEP has determined that, based on the evidence presented, ADE has corrected the noncompliance identified in the Monitoring Report for this area.

On page 37 in Cluster IV of the APR, the State reported the following placement data for children with disabilities ages six through 21 in 2003: (1) 39.2 percent were placed outside the regular class less than 21 percent of the time; (2) 45 percent were placed outside the regular class 21 through 60 percent of the time; (3) 13.3 percent were placed outside the regular class more than 60 percent of the time; and (4) 2.5 percent were designated as "other" placements. ADE included strategies in the APR to address the issues related to placement of children with disabilities in the LRE. OSEP looks forward to reviewing the results of the implementation of these strategies in the next APR.

Availability and Provision of Extended School Year (ESY) Services. In the August 2000 Monitoring Report, OSEP reported that ADE did not ensure that all children with disabilities who required ESY services as part of FAPE were provided these services in accordance with an IEP (34 CFR §300.309). The Improvement Plan indicated: ADE increased the funding for districts on an as-needed basis to provide ESY, with 83 districts providing ESY services in school year 2001-2002, and 152 districts in 2002-2003; and that while children with mental retardation, multiple disabilities, and autism were most frequently identified for ESY services, all of the State's 15 disability categories (except in the areas of deaf-blindness and developmentally delayed) were represented in the group of 803 children with disabilities provided ESY services in school year 2002-2003.

The State monitoring system addressed the requirements of 34 CFR §300.309. The data submitted by the State in July 2004 indicated that there was a 91.25 percent rate of compliance for this requirement in student folders randomly reviewed for LEAs monitored during the 2002-2003 school year. For the 8.75 percent not in compliance with the requirement, all corrective actions were completed. OSEP has determined that, based on the evidence presented, ADE corrected this area of noncompliance. OSEP recognizes the work of the State to make these corrections.

Provision of Psychological Counseling Services. In the August 2000 Monitoring Report, OSEP reported that ADE did not ensure that all children with disabilities who required psychological

counseling services to benefit from special education were provided with those services, in accordance with an appropriate IEP (34 CFR §§300.300 and 300.24(a) and (b)(9)(v)). The Improvement Plan stated that ADE would provide training, and monitor for the provision of the services.

The data and information submitted with the February 2004 revised Improvement Plan (Section I.B) indicated that the State had: ten behavioral intervention consultants that provided direct services, provided oversight for the implementation of the Mental Health Agreement at the local levels, and provided supports to districts where there were noncompliance issues identified; reported the results of an impact survey regarding the provision of Mental Health Services to children; implemented cooperative agreements with the State's Mental Health Agency for the provision of psychological services; reported the direct services provided by the behavior intervention consultants; monitored for the provision of psychological counseling services; and provided in-service trainings on a State-wide basis with follow-up technical assistance. The State monitored the implementation of related services, including the provision of psychological services. The State submitted monitoring data July 2004 indicating that of 326 files reviewed for the provision of psychological services, 94 percent were found in compliance with the implementation of the required services. For the six percent not in compliance with the requirement, all corrective actions were completed. OSEP has determined that, based on the evidence presented, ADE corrected this area of noncompliance. OSEP recognizes the work of the State to make these corrections.

Disproportionality. On pages one through 15 in Cluster IV of the APR, the State described its method of identifying districts for possible disproportionate representation and what it requires of districts 'red-flagged' for possible disproportionate representation. 34 CFR §300.755 requires that 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 must 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. Page three of this section indicates that ADE requires these districts to complete a needs assessment, including a comprehensive review of district policies, procedures and practices regarding the identification and placement of students with disabilities in special education. Pages four through nine of this section describe the State's self-evaluation process, including specific questions guiding that self-evaluation on general education interventions, referrals, evaluation, placement, and procedural safeguards, and follow-up activities by the State after completion of the self-assessment.

ADE's target for 2002-2003 and projected targets for 2003-2004 (pages 14 and 15 in Cluster IV of the APR), were to "have the percent of children receiving special education services proportionate to the district's general education population, by race/ethnicity; to have the percent of children receiving special education services for each disability category, proportionate to the State's general education enrollment; and to have the percent of children receiving special education services, for each educational setting, proportionate to the State's general educational 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 and in the placement 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, for identification issues, 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. For placement, 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. In addition, the State may want to ensure that traditionally underserved groups were involved and informed of the Part B program and processes, consistent with 34 CFR §§300.125, 300.304, and 300.504. ADE must submit revised targets, consistent with Federal law, in the next APR.

Exiting. On page 16 in Cluster IV of the APR, the State included data that indicated the graduation rate gap between special education and general education rates had widened from 22.4 percent in 2002 to 26.4 percent in 2003.

On page 17 in Cluster IV of the APR, the State reported that the three-year average drop-out rate for children with disabilities was 2.73 percent lower than the rate for children without disabilities. Any district that had more than a 0.78 percent difference between the drop-out rates for children with and without disabilities was identified by ADE for focused monitoring during 2002-2003.

On pages 19 and 20 in Cluster IV of the APR, the State included data and analysis that identified barriers to decreasing the graduation gap between children with and without disabilities, along with strategies and timelines for improving performance. OSEP looks forward to reviewing information in the next APR that includes both implementation of strategies and the resulting data demonstrating improvement.

Suspension and Expulsion. On pages 21 through 22 in Cluster IV of the APR, the State included data indicating that the three-year average suspension/expulsion rate gap was 0.76 percent gap with a standard deviation of 1.98 percent. A district was identified for focused monitoring if it suspended or expelled 2.74 percent more children with disabilities than children without disabilities. Based on the 2002-2003 school year trigger of 2.54 percent, 22 districts were identified as having a high suspension/expulsion rate for children with disabilities compared to children without disabilities, and were identified as having a possible focused monitoring target. The State reported that the gap widened for school year 2003-2004, but had not reached the gap level of school year 2001-2002. On pages 21 through 23 of the APR, the State included data and analysis for this area, along with strategies and timelines for improving performance. OSEP looks forward to reviewing information in the next APR that includes both implementation of strategies and the resulting data demonstrating improvement.

Participation in State-wide Assessments. On pages 24 through 34 in Cluster IV of the APR, the State included data indicating that the average participation rate for children with disabilities in grades four, six, eight, and 11, was 91 percent, although the rate for grade 11 was 82 percent. The State established a performance participation target rate for children with disabilities as 90 percent, to be achieved by 2005. For the reporting period, 940 children participated in the alternate assessment, while 1579 children were reported absent, and not taking any assessment for grades four, six, eight, and 11. The State reported that 16,730 children participated in the regular or alternate assessment. Therefore, 9.4 percent of children with disabilities did not participate in any State-wide assessment. These data suggest that a relatively high percentage of children with disabilities in some grades did not participate in the State-wide assessments and the State may want to examine how to increase those participation rates.³

Performance on State-wide Assessments. On page 26 in Cluster IV of the APR, ADE reported that performance results for the 2002-2003 school year indicated that children with disabilities were making progress toward proficiency on the State-wide assessments. ADE noted that the percentages at the "advanced" level on the literacy assessment were nearly equal in all grades for children with and without disabilities; however, the gap widens at the "proficient" but narrows again at the "basic" level. The proficiency levels for math indicated that, for grades six and eight, the "advanced" percentages were nearly equal for children with and without disabilities; however, the State acknowledged the need to improve in this area.

ADE reported that the performance of children with disabilities on the alternate assessment increased 17 percent in achieving "Independence" (the highest performance level) across four categories over a three-year period.

On page 34 in Cluster IV of the APR, The State included activities to improve performance for all children with disabilities. OSEP looks forward to reviewing the results of implementation of these strategies in the next APR.

Early Language/Communication, Pre-reading, and Social-emotional Skills of Preschool Children with Disabilities Receiving Special Education and Related Services. On pages 41 through 42 in Cluster IV of the APR, the State reported that ADE was not collecting data on a State-wide basis on early language communication, pre-reading, and social-emotional skills of preschool children with disabilities receiving special education and related services, and that there were no projected targets established. The State did identify, on page 41 of this section, a potential target of developing a mechanism to collect data on whether preschool children with disabilities receiving special education and related services are improving in the areas of early language/communication, pre-reading, and social-emotional skills.

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

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-wide assessments under 34 CFR §200.2.

disabilities receiving special education and related services are improving. In the FFY 2003 APR, Arkansas must submit either documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), 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

OSEP indicated in the August 2000 Monitoring Report that ADE did not ensure that the IEP invitation and participation of other agencies met IDEA requirements regarding secondary transition (34 CFR §300.344 (b)(3)(i)-(ii)). ADE addressed this area in its Improvement Plan and APR.

Inviting Representatives of Agencies Likely to be Responsible for Providing or Paying for Transition Services. In the August 2000 Monitoring Report, OSEP reported that: ADE did not ensure, that if a purpose of the meeting was the consideration of needed transition services for a child, the public agency invited a representative of any other agency that was likely to be responsible for providing, or paying, for transition services; or that if an agency invited to send a representative to a meeting did not do so, the public agency took other steps to obtain the participation of the other agency in the planning of any transition services (34 CFR §300.344(b)(3)). The February 2004 revised Improvement Plan stated that ADE monitored whether community agency representatives attended IEP meetings, (34 CFR §§300.344(b)(3)(i) and 300.344(b)(3)(ii)); and proposed to monitor what other steps were taken by public agencies to obtain participation if the agency representative did not attend IEP team meetings.

The data submitted with the Improvement Plan (Section II.A) indicated that the State's monitoring system included a review to ensure that: the agency representative was invited to the IEP meeting; the relevant trend data in the complaints and due process hearings systems were analyzed; regional monitoring staff provided technical assistance to the staff of the school districts having issues related to noncompliance in this area; a State-wide survey regarding agency participation in IEP meetings that addressed secondary transition services was conducted; the regional transition specialists provided technical support to those districts and agencies responding that agencies did not participate; and the interagency agreement regarding transition was signed by all parties.

On pages one through nine in Cluster V of the APR, the State included data indicating that: State citations occurred regarding the invitation of all necessary parties, including representatives of outside agencies, and other steps to obtain participation when representatives of outside agencies were invited and did not attend in only two of 106 districts monitored; technical assistance was provided through the region transition consultants; and transition needs surveys were sent to special education teachers to obtain feedback regarding their needs. In the July 2004 data submission, the State reported that the special education monitoring system indicated that of the 269 student folders reviewed for secondary transition requirements, 94.06 percent were found in compliance with these requirements. For the 5.96 percent not in compliance with the requirement, all corrective actions were completed. OSEP has determined that, based on the

evidence presented, ADE corrected this area of noncompliance and recognizes the work of the State to make these corrections.

Conclusion

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 one year from the date of this letter regarding the resolution of complaints within required timelines (34 CFR §300.661(a)).

Additionally, regarding disproportionality, the State must review and revise the APR to be consistent with Federal law and submit any revised language relating to disproportionality in the next APR.

Also, in the next APR, Arkansas must submit either documentation of data related to preschool outcomes (whether collected through sampling, monitoring, individual IEP review, or other methods), 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.

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 Hugh Reid (202) 245-7491.

Sincerely,



Stephanie Smith Lee
Director
Office of Special
Education Programs

cc: Marcia Harding