



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable John A. Tompkins
Commissioner of Education
Kansas Department of Education
120 South East Tenth Avenue
Topeka, Kansas 66612-1182

SEP - 2 2004

Dear Commissioner Tompkins:

The purpose of this letter is to respond to the Kansas Department of Education (KSDE) March 31, 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

In OSEP's September 9, 2003 letter regarding the KSDE June 30, 2003 Improvement Plan, OSEP requested KSDE provide an update to the areas addressed in the State's Improvement Plan when Kansas submitted the State's Part B APR. In addition, OSEP requested that the State provide information demonstrating correction of the secondary transition issues KSDE identified in the Improvement Plan. Specifically, Kansas identified that not all files for students age 14 and over included a statement of transition service needs and that not all files for students age 16 and older included statements of needed transition services. OSEP stated that these transition issues were compliance issues and that OSEP expected these issues to be corrected within a reasonable period of time not to exceed one year from the date of OSEP's September 9, 2003 letter. KSDE collaborated with the State's Steering Committee and consulted with OSEP in the implementation of Improvement Plan activities.

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

The State provided data and information, on pages one through 17 of the general supervision section of the APR, demonstrating that KSDE's policies and procedures identified compliance, ensured correction of noncompliance, and encouraged positive program performance. The State had baseline and trend data, indicators, targets, future activities, and projected timelines and resources to address each of the following topics in this cluster: (1) effective general supervision; (2) identification and remediation of systemic noncompliance; (3) timely dispute resolution; (4) sufficient personnel; and (5) accurate and timely data collection and reporting.

On pages one through 17 of the general supervision section of the APR, KSDE described the components of the Kansas Continuous Improvement Monitoring (CIM) process and its general supervision systems. The monitoring process was a five-year cycle for local education agencies and required file reviews, interviews, surveys and school visits. KSDE included the results of the monitoring activities in the APR, and identified noncompliance in the areas of Individualized Education Program (IEP) development, placement and transition. The State reported on pages ten and 11, that all local school districts took steps within five days to implement corrective actions required by the State. On pages two through five of the APR, KSDE also described the State's efforts to identify and remediate systemic issues from all available sources, including monitoring, complaint investigations, and due process hearings. In the next APR, Kansas must include data and analysis to demonstrate that the State corrects the noncompliance that it identifies within one year. KSDE can satisfy this requirement by providing documentation of the LEA corrective action plans developed to correct identified noncompliance and subsequent State follow-up activities with documentation demonstrating that correction occurred.

On pages six through nine of the general supervision section of the APR, KSDE discussed the identification and resolution of systemic issues through its monitoring system. On pages eight and nine of the APR, the State included a plan to adopt and implement a focused monitoring system that would address systemic areas of concern, review progress of local school districts using information from the monitoring system, and provide targeted assistance to local school districts through staff development and guidance documents, specifically in: IEP development, placement documentation and transition. The State identified on page ten that CIM required districts to report their progress on corrective actions annually.

On pages ten and 11 of the general supervision section of the APR, KSDE described the timeliness of due process hearings, mediations, and complaint investigations. KSDE identified a need to develop a new process to collect additional information about the use

and outcome of the mediation process. During the 2003-2004 reporting period, the State had seven due process hearings, one of which required a local education agency to implement a corrective action plan. For the 2003-2004 reporting period, the State completed 100% of the complaint investigations within 60 days.

On pages 11 through 16 of the general supervision section of the APR, KSDE discussed the status of trained personnel to meet the educational needs of all children with disabilities in the State. KSDE identified the strengths and challenges of ensuring an adequate supply of special education administrators, teachers and related services personnel. The State implemented a new licensure system for educators during the reporting period. The system was tied to university program approval based on the adoption of State standards. The State provided an overview of professional development activities underway in 2004 and included baseline data, indicators, explanation of progress and slippage, targets, future activities, timelines and projected resources for reaching the goal of ensuring all special education educators and administrators were prepared to provide quality instruction and related services. OSEP looks forward to reviewing the implementation of activities and their impact on children with disabilities as part of the next APR.

On pages 16 and 17 of the general supervision section of the APR, the State identified its efforts to collect accurate and timely data to use in reports and decision-making. The State used its General Supervision Enhancement Grant to update the management information system and assisted school districts in reporting and analyzing local data and concluded that data collected was accurate, valid and reliable.

Early Childhood Transition

On pages one through seven of the early childhood section of the APR, KSDE described efforts to ensure children eligible for Part B services would receive special education and related services by their third birthday or when they transition from Part C. Data showed that the number of children receiving services steadily increased between 1990 and 2003. KSDE planned to revise early childhood guidelines, evaluate and strengthen the Child Find process, support schools in local education agencies served through the State Improvement Grant, and strengthen pre-service understanding of early childhood assessment and early intervention issues. OSEP cautions KSDE that, while it is not inconsistent with Part B of the IDEA to include a numerical goal to increase or decrease the percentage of children with disabilities determined eligible for services, the State must continue to monitor to ensure that eligibility decisions for all children are made in conformity with the requirements of Part B of IDEA (at 34 CFR §§300.531 through 300.535) and not based upon a numerical goal. In the State's next APR, OSEP requests that KSDE report (1) the State's progress to ensure transition from Part C to Part B meets IDEA requirements; (2) the State's progress in determining eligibility of all children exiting Part C by the child's third birthday; and (3) each district's progress in participating in transition planning conferences arranged by KSDE under section 637(a)(8) of the Act (at 34 CFR §§300.121(c) and 300.132 (b) and (c)).

Parent Involvement

On pages one through five of the parent involvement section of the APR, KSDE discussed its progress in reaching its goal that the provision of a free appropriate public education was facilitated by parent involvement. The indicator for this goal addressed the level of parent participation in program improvement activities. KSDE reported in an attachment to this section the results of a State survey conducted in 2001 and 2003. Families Together, the State's Parent Training and Information Center, also gathered information about parent involvement activities to assist the State in increasing meaningful parent participation during the reporting period. KSDE identified baseline data, targets, activities (including an activity to discern specific needs by local education agency and focus customized improvement activities based on unique needs) and timelines to improve the existing level of parent involvement. OSEP looks forward to reviewing the implementation of activities and their impact on children with disabilities as part of the next APR.

Free Appropriate Public in the Least Restrictive Environment

On pages one through 23 of this section of the APR, KSDE provided information about the State's goals that (1) students receive a free appropriate public education in the least restrictive environment (LRE) as determined by improved performance on State-wide assessments, early childhood enrollment, suspension and expulsion data, graduation rates, dropout rates, and placement data; and (2) students whose behavior impedes learning would have improved outcomes and responded to the APR probes BF I-VI. The State provided an overview of its efforts to examine State-wide assessment, graduation rates, dropout rates, incidents of expulsion and suspension, racial and ethnic disproportionality in enrollment and young children's early development skills.

The State presented baseline and trend data for racial and ethnic disproportionality in enrollment data, educational environment, and assignment to disability category on pages two through six of the Free Appropriate Public Education (FAPE) section of the APR and in Attachment 2 of the APR. 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. The targets in the State's APR for this cluster included examining policies, procedures and practices in the evaluation and identification process to determine if they are educationally appropriate, race/ethnic neutral and consistent with the requirements of Part B. The State planned to require local education agencies that have disproportionate data to conduct follow-up analysis to correct any practices found to be either discriminatory or inconsistent with Part B or other Federal laws. OSEP looks forward to reviewing the implementation of activities and their impact on children with disabilities as part of the next APR.

On pages seven through 10 of this section of the APR, KSDE presented information about the graduation and dropout rates for youth with disabilities. The State had goals to increase the graduation rate and decrease the dropout rate. The State indicated that it used the results of its analysis of graduation and dropout rates when monitoring local education agencies. All required information was included in the APR. OSEP looks forward to reviewing the implementation of activities and their impact on children with disabilities as part of the next APR.

On pages 10 through 14 of this section of the APR, KSDE discussed the State's efforts to reduce school expulsions and suspensions. 34 CFR §300.146 requires that States examine data to determine if significant discrepancies are occurring in the rate 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 IEPs, the use of behavioral interventions, and procedural safeguards to ensure that the policies, procedures and practices comply with Part B. KSDE reported that it required districts to compare the rates of suspensions and expulsions for disabled and nondisabled students as a part of district self-assessments. The State planned to provide enhanced technical assistance activities to the local education agencies with the most discrepancy between suspension/expulsion rates of general education and special education students. The State's goal was to have suspension and expulsion rates comparable among local educational agencies within the State. In the next APR, the State needs to clarify how it is ensuring, as required by 34 CFR §300.146, the review, and if appropriate revision, of policies, procedures and practices relating to development of IEPs, use of behavioral interventions and procedural safeguards in districts it identified with significant discrepancies between suspension and expulsion rates for general education and special education students.

On pages 15 through 18 of this section of the APR, KSDE included the State's goal to increase the performance of students with disabilities in the Kansas State-wide assessment program. Attachment 3 of this section illustrated trend data over the past four years demonstrating that scores have improved. For example, in the area of reading (Table 14) fifth graders' performance increased 22.5% in the proficient category; eighth graders increased 17.3%; and eleventh graders increased 14.9%. Trend data indicated that progress was made in narrowing the gap between the performance of students with disabilities and their nondisabled peers. The APR identified targets and activities to continue improvement in this area. The State also reported that for the Spring 2003 assessments, the participation rate of children with disabilities was 99%. OSEP looks forward to reviewing the implementation of the State's improvement activities and their impact on children with disabilities as part of the next APR.

On pages 18 through 23 of this section of the APR, KSDE reported data related to providing FAPE in the least restrictive environment. Kansas compared the State's enrollment data with national statistics and found that the State's data were similar to national averages in all areas except that (1) children who were deaf/hard of hearing were

more likely to be educated in separate facilities than the national average and (2) preschoolers, ages three through five years, were not as likely to be educated in settings with nondisabled peers. The State used its State Improvement Grant (SIG) to work with institutions of higher education to align teacher preparation programs with unified State standards for early childhood to address the concern of educating preschoolers in less restrictive settings.

On page 23 of the APR, KSDE reported that the State had not established baseline data to determine the early language/communication, pre-reading, and social-emotional skills, of preschool children with disabilities receiving special education and related services. KSDE indicated that targets, activities, and timelines for this indicator would be included in the State's next APR. Also on page 23 of this section, the APR noted that Kansas did not currently collect data on this issue and indicated that it would develop a plan to collect the data. 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. In the FFY 2003 APR, Kansas must either submit 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 its plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

Secondary Transition

On pages one through eight of the secondary transition section of the APR, KSDE reported two State goals and two performance indicators to ensure that youth with disabilities participated in post-school outcomes comparable to that of nondisabled youth. The APR included references to the Kansas Self-Assessment conducted by KSDE in 2002 that identified "low levels of compliance as documented by multiple sources" in the area of secondary transition. As stated in the background section of this letter, OSEP requested that the State provide information demonstrating correction of the secondary transition issues KSDE identified in the Improvement Plan. In response to OSEP's request, the State provided evidence that the monitoring conducted by the State showed that 100% of the IEP files contained a statement about needed transition services for students with disabilities age 16 and older. The monitoring results also showed that only 47% of the files included a statement of transition services needs for students with disabilities beginning by age 14. OSEP continues to identify this issue as a compliance issue and expects the issue to be corrected within a reasonable period of time not to exceed one year from the date of OSEP's September 9, 2003 letter. See 34 CFR §300.347(a)(1)

On page five of the secondary transition section of the APR, KSDE stated that, "Kansas is on target to demonstrate compliance on secondary transition requirements by September 5, 2004." To ensure compliance by September 2004, KSDE included five specific activities with timelines and resources on pages five and six of this section to assist local education

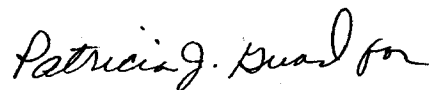
agencies in meeting all IDEA secondary transition requirements. KSDE must provide documentation to OSEP no later than September 9, 2004 that this issue was corrected. On pages seven and eight of the secondary transition section of the APR, the State discussed the goal of improving post-school outcome data. The State identified the lack of data about post-school outcomes as a concern and planned to identify additional sources of information about post-school outcomes for students with IEPs.

Conclusion

In the next APR, the State needs to include data and analysis to demonstrate that the State corrects the noncompliance that it identifies within one year, clarify how it is ensuring, as required by 34 CFR §300.146, the review, and if appropriate revision, of policies, procedures and practices relating to development of IEPs, use of behavioral interventions and procedural safeguards in districts it identified with significant discrepancies between suspension and expulsion rates for general education and special education students, and, for preschool outcomes, either submit 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 its plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan. In addition, Kansas needs to demonstrate that it ensures compliance with the requirement that IEPs for students age 14 and over contain a statement of transition services needs. See 34 CFR §300.347(a)(1) by September 9, 2004.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State. We appreciate your work on the APR and we look forward to collaborating with Kansas as you continue to improve results for students with disabilities and their families. If you have questions, please contact Rex Shipp at (202) 245-7523.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: ZoAnn Torrey