



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

Honorable Elizabeth Burmaster
Superintendent of Public Instruction
Wisconsin Department of Public Instruction
P.O. Box 7841
125 South Webster Street
Madison, Wisconsin 53707

DEC -8 2004

Dear Superintendent Burmaster:

The purpose of this letter is to respond to the Wisconsin Department of Public Instruction's (WDPI's) 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

OSEP conducted a monitoring review in Wisconsin during the weeks of November 2, 1998 and February 22, 1999. In its October 18, 2000 Monitoring Report, OSEP identified six areas of Part B noncompliance: (1) provision of psychological counseling as a related service (34 CFR §§300.16(a) and (b)(9) and 300.300); (2) provision of speech and language pathology as a related service (34 CFR §§300.16(a) and (b)(13) and 300.300); (3) identification of children with specific learning disabilities (34 CFR §§300.7(b)(10) and 300.540-.543); (4) provision of supplementary aids and services and placement in the least restrictive environment (LRE) (34 CFR §§300.550(b) and 300.347(a)(3)); (5) notification to parents of individualized education program (IEP) meetings when the consideration of needed transition services is a purpose of the meeting (34 CFR §300.345(b)(3)); and (6) timeliness of complaint decisions (34 CFR §300.661(a) and (b)(1)).

Wisconsin submitted its Improvement Plan on September 20, 2001. In a letter dated April 7, 2003, OSEP responded to WDPI's Improvement Plan, and provided WDPI an opportunity to submit any additional data relevant to OSEP's determination regarding the status of the noncompliance identified in the Monitoring Report. On June 4, 2003, WDPI submitted a Progress Report, that included documentation that the State believed demonstrated compliance.

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 the APR and the June 2003 Progress Report are listed by cluster area.

General Supervision

Resolution of Complaints within 60 calendar days. In its 2000 Monitoring Report, OSEP made one finding of noncompliance in this cluster. Part B requires that WDPI resolve all Part B complaints within 60 calendar days, and permits WDPI to extend that timeline only if exceptional circumstances exist with respect to a particular complaint (34 CFR §300.661(a) and (b)(1)). OSEP found that, for approximately one-third of the complaints it received, WDPI was extending the 60-day timeline for reasons that did not relate to exceptional circumstances with respect to a particular complaint.

On page 5 of the Progress Report and page 9 of this cluster of the APR, the State included a goal to resolve 100% of complaints within the required timeline. In Attachment H to the Progress Report and page 9 of the APR, the State reported that, in order to meet that goal, WDPI assigned additional staff to investigate complaints and streamlined its complaint procedures and decision formats. The data in the Progress Report and the APR did not, however, show that the State corrected the noncompliance that OSEP identified in its 2000 Monitoring Report. On page 5 of the Progress Report, the State reported that it received 22 complaints during the 2002-2003 school year (four of which were withdrawn), and that "of the 22, 91 percent of the complaints have been completed within the required time frame. Three complaints were extended a total of 19 days beyond their due dates." It was not clear from these data whether, for any complaints that WDPI did not resolve within 60 days, the State extended the timeline based upon exceptional circumstances with respect to a particular complaint. In Attachment 1 of the APR, the State reported that it received 60 complaints between January 1 and December 31, 2003 (one of which was withdrawn and one other which was pending), and completed/addressed 47 complaints within timelines (of the 58 complaints for which WDPI issued a decision). Thus, the State did not meet the timeline requirements of 34 CFR §300.661(a) and (b)(1) for 11 complaints. No later than 60 days from date of this letter, WDPI must provide documentation to OSEP that the State has, for six consecutive months, resolved all complaints within 60 calendar days unless it extended the timeline for resolving the complaint due to exceptional circumstances with respect to a particular complaint.

Due Process Hearings. The State reported in Attachment 1 of the APR, that it did not issue any hearing decisions after the required timelines and extensions expired.

Identification and Correction of Noncompliance. The table on pages 4-5 of the APR provided a summary of the "major findings" that WDPI made through its monitoring of 78 local education

agencies (LEAs) in 2000-2001, 70 LEAs in 2001-2002, and 73 LEAs in 2002-2003. For each of 11 broad areas of requirements¹ in which WDPI made findings in 2000-2001, the table indicated whether WDPI continued to make findings of noncompliance in “multiple” districts in the two subsequent years, and whether there was “some improvement” or “significant improvement” from prior years. Where the table noted “significant improvement” during 2002-2003, WDPI provided more specific data such as the “percentage of LEAs cited declined by two-thirds since 2000-2001.” On page 5 of the APR, the State reported that “all remediation [correction of noncompliance] efforts must be completed within one year,” and that WDPI maintained a log of each LEA’s compliance/continued improvement efforts after a monitoring visit, which included: (1) the date of WDPI’s letter of findings; (2) the due date for corrective actions; and (3) the scheduled dates for follow-up visits. The APR did not include information regarding what WDPI found when it conducted follow-up visits, or any other data or analysis to show the extent to which WDPI was effective in ensuring that LEAs actually corrected noncompliance within one year from the date on which WDPI made the finding. Because the State did not include data demonstrating that it ensured the correction of identified noncompliance, the following are potential areas of noncompliance: (1) accepting and processing referrals; (2) timely notice to parents/review of existing data prior to evaluation; (3) review of effects of previous interventions at evaluation meeting; (4) present levels of educational performance; (5) measurable annual goals, benchmarks, and short-term objectives; (6) IEP services sufficiently clear; (7) participation in regular education environment and the general curriculum; (8) transition statements and service needs in IEP; and (8) reporting progress to parents. Within 60 days from the date of this letter, the State must submit to OSEP either: (1) documentation that the State has ensured the correction of Part B noncompliance that it identified, within one year of identification; or (2) a plan that includes strategies, proposed evidence of change, targets and timelines that will ensure correction of a failure to meet that requirement, within a reasonable period of time, not to exceed one year from when OSEP accepts the plan. In the next APR, the State must include data and analysis demonstrating progress toward compliance, and provide to OSEP, a report with data and analysis demonstrating compliance, as soon as possible, but no later than 30 days following the end of the one-year timeline.

On pages five through ten of the APR, the State also provided information about its process of reviewing monitoring, due process hearing requests and complaints to identify any systemic issues. The State reported that it did not identify any systemic issues through this review.

Adequate Supply of Personnel. Baseline/Trend Data on page 13 of the APR indicated a shortage of teachers over a three-year period in the areas of visual impairments, deafness and hearing impairments, and emotional behavioral disturbance. On page 14, the State included targets, activities, timelines and resources to address the personnel shortages. OSEP looks forward to reviewing the results of activities implemented by the State to address this problem in the next APR.

Collection and Reporting of Accurate and Timely Data. On page 14 of the APR, the State reported that, during the last three years, all federally required data reports have been submitted

¹ Those areas were: (1) accepting and processing referrals; (2) timely notice to parents; review of existing data prior to evaluation; (3) review of effects of previous interventions at evaluation meeting; (4) present levels of educational performance; (5) measurable annual goals, benchmarks, and short-term objectives; (6) IEP services sufficiently clear; (7) participation in regular education environment and the general curriculum; (8) transition statements and service needs in IEP; and (8) reporting progress to parents.

by the prescribed deadlines. Projected targets provided on page 14 included developing and offering pilot training on federal data collection regarding environment reports in at least one LEA. The State included future activities to achieve projected targets/results, and projected timelines and resources on page 14. OSEP looks forward to reviewing the results of the training activities in the next APR.

Early Childhood Transition

On pages 17 through 21 of the APR, the State included data, targets, and explanation of progress or slippage regarding the placement of preschool-aged children with disabilities in inclusive settings and interagency collaboration, but the State did not include data or other content to address the cluster question, "Are all children eligible for Part B services receiving special education and related services by their third birthday?" The State must provide all of the required content (as set forth in the APR directions) regarding this question in its next APR, due March 31, 2005.

Parent Involvement

On pages 23-25 of the APR, the State included a target to ensure that parents participated in the development of each LEA's Special Education Plan (SEP), data regarding the current percentage of LEAs that have included parents in the development of their plan, and its strategies for increasing such parent involvement. OSEP looks forward to reviewing the impact of the State's strategies in the next APR.

Free Appropriate Public Education in the Least Restrictive Environment

OSEP's 2000 Monitoring Report included four findings of noncompliance in this cluster. Specifically, OSEP found that the State was not meeting the requirements to ensure that public agencies: (1) provided psychological services, including psychological counseling for children and parents, to children with disabilities who needed those services to benefit from special education (34 CFR §§300.24(a) and (b)(9) and 300.300); (2) provided speech and language pathology as a related service to children with disabilities who needed that service to benefit from special education (34 CFR §§300.24(a) and (b)(14) and 300.300); (3) applied the State's eligibility criteria for children with specific learning disabilities in a manner that was consistent with Part B requirements and the State's guidance (34 CFR §§300.7(b)(10) and 300.540-300.543); and (4) ensured that children with disabilities received the supplementary aids and services they needed in order to succeed in regular education classes, IEPs included a statement of the supplementary aids and services that children needed so that their education could be achieved satisfactorily without removal from the regular education environment, and the removal of children with disabilities occurred only after an individualized determination that their education could not, with the use of supplementary aids and services, be achieved satisfactorily in regular education classes (34 CFR §§300.550(b) and 300.347(a)(3)).

In Attachments A through E of its June 2003 Progress Report, the State provided its revised monitoring procedures and instruments. The revised procedures included methods for determining compliance with the requirements of 34 CFR §§300.550(b) and 300.347(a)(3), and specified that, "where an error is detected, the LEA is required to submit a corrective action plan according to a prescribed timetable. The corrective action plan is reviewed at a subsequent time

to verify that all remedial actions have been completed.” The State also described these procedures on page 45 of this cluster of the APR. As described above in the General Supervision section of this letter, a table on pages 4-5 of the APR provided very general information regarding the “major findings” that WDPI made through its monitoring in 2000-2001, 2001-2002, and 2002-2003. A more specific discussion of the documentation that the State provided to address each of the four findings is set forth below.

Psychological Counseling (34 CFR §§300.24(a) and (b)(9) and 300.300). As noted above, the June 2003 Progress Report provided documentation that the State revised its monitoring procedures to address this requirement. On page 45 of the APR, the State further reported that: (1) it revised its interview questions for the special education director, regular education teachers and special education teachers to target the issue of psychological counseling services; (2) where WDPI detected an error, it required the LEA to submit a corrective action plan according to a prescribed timetable; and (3) WDPI reviewed the corrective action plan to verify that the LEA completed all required remedial actions. However, the monitoring finding summary chart on pages 4 and 5 of the APR does not address this requirement, and neither the June 2003 Progress Report nor the APR included any specific data about WDPI’s monitoring findings regarding the provision of psychological counseling as a related service. Within 60 days from the date of this letter, the State must provide documentation that it has ensured correction of the noncompliance with the requirements of 34 CFR §§300.24(a) and (b)(9) and 300.300. That documentation must include specific monitoring data that show: (1) the number of LEAs WDPI monitored regarding these requirements; (2) the number of LEAs in which WDPI found noncompliance with these requirements; and (3) the status of correction in any LEA in which WDPI found noncompliance with these requirements.

Speech and Language Pathology (34 CFR §§300.24(a) and (b)(14) and 300.300). As noted above, the June 2003 Progress Report provided documentation that the State revised its monitoring procedures to address this requirement. On pages 45 and 46 of the APR, the State further reported that: (1) it revised its interview questions for the special education director, regular education teachers and special education teachers to target the issue of speech and language pathology as a related service counseling services; (2) where WDPI “detected an error,” it required the LEA to submit a corrective action plan according to a prescribed timetable; and (3) WDPI reviewed the corrective action plan to verify that the LEA completed all required remedial actions. However, the monitoring finding summary chart on pages 4 and 5 of the APR did not address this requirement, and neither the June 2003 Progress Report nor the APR included any specific data about WDPI’s monitoring findings regarding the provision of speech and language pathology as a related service. Within 60 days from the date of this letter, the State must provide documentation that it has ensured correction of the noncompliance with the requirements of 34 CFR §§300.24(a) and (b)(14) and 300.300. That documentation must include specific monitoring data that show: (1) the number of LEAs that WDPI monitored regarding these requirements; (2) the number of LEAs in which WDPI found noncompliance with these requirements; and (3) the status of correction in any LEA in which WDPI found noncompliance with these requirements.

Determination of Eligibility for Children with Specific Learning Disabilities (34 CFR §§300.7(b)(10) and 300.540-300.543). Federal requirements for the identification of children with specific learning disabilities are set forth at 34 CFR §§300.7(b)(10) and 300.540-300.543.

Part B accords States the flexibility to establish and implement State eligibility criteria that operationalize the Federal requirements, so long as a State's criteria do not: (1) exclude from services children who are eligible under Part B; or (2) permit the use of Part B funds to provide services to children who do not meet Federal eligibility criteria. In 1994, OSEP determined that, although Wisconsin's definition of "significant discrepancy" as "functional achievement at or below 50 per cent (.5) of expected achievement" did not violate the provisions of Part B, the State's criteria could be applied to exclude, from consideration for Part B eligibility, children who, although they would meet the Federal criteria for specific learning disabilities, either: (1) had a disorder in one, but not two, of the basic psychological processes involved in understanding or using spoken or written language or mathematical calculations or reasoning; or (2) had a verbal or performance quotient less than 90, but did not have mental retardation. After conducting an extensive study to determine the impact of the criteria at the local level, WDPI agreed to provide State-wide guidance to clarify that the criteria must be applied in a manner consistent with the Part B requirements. WDPI provided extensive guidance, consistent with the requirements of Part B, and training based upon that guidance, to help clarify Part B requirements for determining the eligibility of children suspected of having a specific learning disability, and revised its regulations to further clarify those requirements. During its 1999 monitoring review, OSEP found that personnel who participated in eligibility determinations in some school districts were continuing to apply the State criteria for specific learning disabilities in a manner that was inconsistent with 34 CFR §§300.7(b)(10) and 300.540-.543. In some districts, personnel would find a child eligible for Part B services as a child with a specific learning disability only if the child had a severe discrepancy in two or more areas, and a child would need to have an average or above average intelligence quotient.

On page 46 of the APR, the State reported that: (1) WDPI revised the State's criteria for specific learning disability, effective in July 2000; and (2) WDPI conducted regional, local and State-wide workshops, technical assistance and monitoring activities with respect to applying eligibility criteria for specific learning disabilities in a manner consistent with the requirements of Part B. The State also reported that a Specific Learning Disability Criteria Documentation Study took place between September 2002 and April 2003, where "over 200 reports in 30 school districts were reviewed." The Study yielded the following results: (1) "initial eligibility reports addressed all components of the new criteria at high levels (89-99 percent criteria addressed);" (2) "there was not a single documented case in which a student was found ineligible due to their level of intellectual ability, unless the student was found to have a cognitive disability;" (3) "in general, reevaluation reports were less likely to address all criteria elements than initial evaluations;" and "new information processing and special considerations related to reevaluation were addressed in about two-thirds of the reports while classroom achievement and exclusions were almost always addressed (>90 percent);" and (4) "further analysis of documentation indicated that areas that require additional technical assistance include use of curriculum-based data to document achievement delays and progress in the general curriculum compared to same age and ability peers." The State concluded that, "Overall, it is clear that the understanding of IEP teams in Wisconsin regarding SLD criteria is consistent with that in IDEA. While the quality of documentation could be improved in some areas, significant progress has been made in a relatively short period of time." OSEP appreciates the work of the State in ensuring compliance with the Part B requirements relating to the identification of children with specific

learning disabilities. In the next APR, the State must include strategies, proposed evidence of change, targets and timelines designed to maintain compliance and performance in this area.

Provision of Supplementary Aids and Services and Removal from Regular Education Classes (34 CFR §§300.347(a)(3) and 300.550(b)(2)). Part B requires that, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and removal of children with disabilities from the regular education environment occurs only when 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 (34 CFR §§300.550(b)). The regulations further require that each child's IEP include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child, to: (1) advance appropriately toward attaining the annual goals; (2) be involved and progress in the general curriculum; (3) participate in extracurricular and other nonacademic activities; and (4) be educated and participate with other children with disabilities and nondisabled children (34 CFR §300.347(a)(3)). In its 2000 Monitoring Report, OSEP found that: (1) children with disabilities did not always receive the supplementary aids and services that they needed in order to succeed in regular education classes; (2) IEPs did not include a statement of the supplementary aids and services that children needed so that their education could be achieved satisfactorily without removal from the regular education environment; and (3) removal of children with disabilities did not always occur only after an individualized determination that their education could not, with the use of supplementary aids and services, be achieved satisfactorily in regular education classes.

Page 4 of WDPI's June 2003 letter and Attachments A through E of the June 2003 Progress Report included the State's revised monitoring procedures and monitoring instruments to address these requirements. Further, on page 47 of the APR, the State provided a detailed description of the interview and record review procedures that WDPI used to address these requirements. On page 48, the State explained that when WDPI "detected an error," it required the LEA to submit a corrective action plan according to a prescribed timetable, and reviewed the corrective action plan at a subsequent time to verify that all remedial actions were completed.

As described above in the General Supervision section of this letter, a table on pages 4-5 of the APR provided very general information regarding the "major findings" that WDPI made through its monitoring in 2000-2001, 2001-2002, and 2002-2003. According to the chart, in the area of "Participation in Regular Education Environment and the General Curriculum": (1) 78 LEAs were visited in 2000-2001, and this issue continued to be cited in multiple districts reviewed onsite during the year; (2) 70 LEAs were visited in 2001-2002 and "some improvement was noted;" and (3) 73 LEAs were visited in 2002-2003 and it was noted that improvement was the same as the previous year. OSEP could not determine, from the chart, the specific requirements with which WDPI found noncompliance related to placement in the least restrictive environment, or the number of LEAs in which WDPI found such noncompliance.

Within 60 days from the date of this letter, the State must provide documentation that it has ensured correction of the noncompliance with the requirements of 34 CFR §§300.550(b) and 300.347(b)(3). That documentation must include specific monitoring data that show: (1) the number of LEAs that WDPI monitored regarding these requirements; (2) the number of LEAs in

which WDPI found noncompliance with these requirements; and (3) the status of correction in any LEA in which WDPI found noncompliance with these requirements.

Disproportionality. On page 27 of the APR, the State identified several recurrent patterns, based on the data in Attachment 2: (1) over-representation of Black and American Indian children in the cognitively disabled/mentally retarded, emotionally/behaviorally disabled, and specific learning disability categories; (2) over-representation of Black and Hispanic children in the orthopedically impaired and traumatic brain injury categories; (3) over-representation of Black children in the other health impairment category; (4) over-representation of Asian children in the hearing and visually impaired categories, and under-representation in all other categories; (5) Hispanic children were under-represented in the emotionally/behaviorally disabled category; (6) Hispanic and American Indian children were under-represented in the hearing and visually impaired categories; and (7) Black and American Indian children were over-represented in two placement options: outside the regular class 21 to 60%, and outside the regular class more than 60%. On pages 29-31, the State included goals, objectives, activities, timelines and resources to address these issues. Part B requires, at 34 CFR §300.755(b), that “in the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational setting of these children, in accordance with [§300.755(a)], the State...shall provide for review and, if appropriate revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with Part B of the act.” Wisconsin’s next APR must include the results of the State’s review of the policies, procedures, and practices used in the identification and placement of students with disabilities to ensure that they are consistent with the requirements of Part B.

Drop-out and Graduation. On page 33 of the APR, the State reported a decline over the last three years in the drop-out rate for both children with and without disabilities, with the most recent data showing a 1.94% rate for children without disabilities and a 2.23% rate for children with disabilities. The data on that page also showed a slight decline in the graduation rate for both children with and without disabilities, reportedly due to a change in the method of determining the cohort size, and a 6.12% gap between children without disabilities (92.38%) and children with disabilities (86.26%). On page 36, the State included activities and targets to: (1) maintain a drop-out rate of 2.23% for children with disabilities; and (2) achieve comparable graduation rates for children with and without disabilities. OSEP looks forward to reviewing the impact of the State’s strategies in the next APR.

Suspension/Expulsion. On page 38 of the APR, the State reported that: (1) while the State-wide suspension rates for children with and without disabilities improved slightly, the most recent suspension rate for children with disabilities was more than double the rate for children without disabilities; (2) the State-wide expulsion rates for children with and without disabilities were nearly identical; (3) it examined suspension/expulsion data for each LEA as part of its review of the LEA’s SEP for 2002-2003 and 2003-2004; (4) if an LEA deviated from the State average for suspension or expulsion rates for children with disabilities by two standard deviations, it received a “cut score” that placed it on a list for further scrutiny, and the WDPI consultant reviewing the LEA’s SEP required the LEA to respond to the discrepancies by amending the plan to include corrective action if it had failed to address problems in the data analysis section with suspension or expulsion rates; (5) 18 LEAs in 2000-2001 and 24 in 2001-2002 had expulsion rates that differed significantly from the State average and were required to

take remedial action through their SEPs; and (6) 17 LEAs in 2000-2001 and 16 in 2001-2002 had suspension rates that differed significantly from the State average and were required to take remedial action through their SEPs. The State included targets and activities to support progress toward the targets. OSEP looks forward to reviewing the impact of the State's strategies in the next APR.

Performance Results for Children with Disabilities on Large-Scale Assessments. On pages 40 through 43 of the APR, the State acknowledged slippage in this area, and indicated that there were still gaps between students with disabilities and their non-disabled peers on State-wide assessments in reading and math across all grades. On page 43, the State included projected targets, future activities to achieve projected targets/results, and projected timelines and resources to address this area.

Early Language/Communication, Pre-Reading, and Social-Emotional Skills. On page 48 of the APR, the State explained that the Wisconsin Model Early Learning Standards, released in September 2003, include health and physical development, social and emotional development, language development and communication, approaches to learning, and cognitive and general knowledge. The State indicated that these standards would provide a framework for developing future data collections. 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, the State 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 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

In its 2000 Monitoring Report, OSEP found that WDPI did not ensure that if a purpose of an IEP meeting was the consideration of transition services for a student, the notice indicated this purpose and that the agency would invite the student, and identified any other agency that would be invited to send a representative (34 CFR §300.345(b)(3)). As documented in Appendix F in the June 2003 Progress Report and on page 52 of the APR, WDPI revised its monitoring procedures to specifically address the requirements of 34 CFR §300.345(b)(3) through both record review and parent interviews. However, neither that Progress Report nor the APR included any specific data from WDPI's monitoring regarding the transition-related notice content requirements of 34 CFR §300.345(b)(3).² Within 60 days from the date of this letter, the

² On page 51 of the APR, the State reported that, "Compliance with these procedural requirements improved each year during this three-year period [2000-2001 through 2002-2003]. See the summary of monitoring results in the chart in Cluster I, probe GS.II above." As explained in footnote 1, above, the State indicated in the referenced monitoring results data chart on pages 4 and 5 of the APR, that WDPI found noncompliance related to "transition statements and service needs in IEP" in an unspecified number of LEAs in 2000-2001, and that there was "some improvement" in 2001-2002 and 2002-2003, but the table did not address the transition-related content of IEPs. Further, on page 50 and 51, the State indicated that results from a review of student records as part of a State-wide transition initiative showed that, 64% of the first IEPs reviewed had transition checked as the purpose for the IEP. These data do not show the extent to which LEAs were informing parents, as part of the notification inviting them to

State must provide documentation that it has ensured correction of the noncompliance with the requirements of 34 CFR §300.345(b)(3). That documentation must include specific monitoring data regarding the requirements that if a purpose of an IEP meeting is the consideration of transition services for a student, notice to the parents of the meeting: (1) indicates this purpose; (2) indicates that the agency will invite the student; and (3) identifies any other agency that will be invited to send a representative. These data must show: (1) the number of LEAs that WDPI monitored regarding these requirements; (2) the number of LEAs in which WDPI found noncompliance with these requirements; and (3) the status of correction in any LEA in which WDPI found noncompliance with these requirements.

On page 52 of the APR, the State indicated that targets to address post school outcomes were met. The State further indicated that the results from a post high school survey showed that: "The target to increase enrollment beyond 26% in some postsecondary education program[s] has been easily reached with figures showing 52% enrollment. The target of 57% employment has also been exceeded with figures showing nearly 80% employment. The target of 37% of students living independently was met as approximately 70% live independently three years after exiting." OSEP appreciates the progress made in achieving these targets.

Conclusion

No later than 60 days from date of this letter, WDPI must provide documentation to OSEP that the State has, for two consecutive months, resolved all complaints within 60 calendar days unless it has extended the timeline for resolving the complaint due to exceptional circumstances with respect to a particular complaint.

Within 60 days from the date of this letter, the State must also provide documentation that it has ensured correction of the noncompliance with the Part B requirements related to: (1) psychological counseling (34 CFR §§300.24(a) and (b)(9) and 300.300); (2) speech and language pathology (34 CFR §§300.24(a) and (b)(14) and 300.300); (3) provision of supplementary aids and services and placement in the least restrictive environment (34 CFR §§300.550(b) and 300.347(b)(3)); and (4) the transition-related content of IEP meeting notices (34 CFR §300.345(b)(3)). That documentation must include specific monitoring data regarding each of these requirements, and show: (1) the number of LEAs that WDPI monitored regarding these requirements; (2) the number of LEAs in which WDPI found noncompliance with these requirements; and (3) the status of correction in any LEA in which WDPI found noncompliance with these requirements.

Within 60 days from the date of this letter, the State must further, regarding the areas of potential noncompliance identified in the general supervision section of this letter³, submit to OSEP either: (1) documentation that the State has ensured the correction of Part B noncompliance that it identified, within a year of identification; or (2) a plan that includes strategies, proposed evidence

an IEP meeting, that the consideration of transition services would be a purpose of the IEP meeting to which they were being invited.

³ Those areas are: (1) accepting and processing referrals; (2) timely notice to parents; review of existing data prior to evaluation; (3) review of effects of previous interventions at evaluation meeting; (4) present levels of educational performance; (5) measurable annual goals, benchmarks, and short-term objectives; (6) IEP services sufficiently clear; (7) participation in regular education environment and the general curriculum; (8) transition statements and service needs in IEP; and (8) reporting progress to parents.

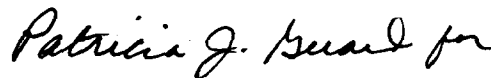
of change, targets and timelines that will ensure correction of identified noncompliance within a reasonable period of time, not to exceed one year from when OSEP accepts the plan. In the next APR, the State must include data and analysis demonstrating progress toward compliance, and provide to OSEP, a report with data and analysis demonstrating compliance, as soon as possible, but no later than 30 days following the end of the one-year timeline.

Because the State determined that there was significant disproportionality with respect to the identification of children as children with disabilities and the placement in particular educational setting of these children, the State's FFY 2003 APR due March 31, 2005 must include the results of the State's review of the policies, procedures, and practices used in the identification and placement of students with disabilities to ensure that they are consistent with the requirements of Part B.

Further, in the FFY 2003 APR, the State must include either documentation of data regarding the early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities, 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 Delores Barber at (202) 245-7263.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Dr. Stephanie Petska