



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

Honorable Jeremy M. Hughes, Ph.D.
Interim Superintendent of Public Instruction
Michigan State Department of Education
P.O. Box 30008
Lansing, Michigan 48909

SEP 23 2005

Dear Superintendent Hughes:

The purpose of this letter is to respond to Michigan's April 4, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part B for the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments that the State made during the reporting period, compared to established objectives. The Office of Special Education Programs (OSEP) has designed the APR under the IDEA to provide uniform reporting from States and result in high-quality information across States. The APR is a significant data source for OSEP in the Continuous Improvement and Focused Monitoring System (CIFMS).

The State's APR should reflect the collection, analysis, and reporting of relevant data, and include specific data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to the State's FFY 2003 APR. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion of OSEP's January 5, 2005 FFY 2002 APR response letter required Michigan to provide the following data and information in the State's FFY 2003 APR submission:

- data and analysis demonstrating progress toward ensuring that local educational agencies (LEAs) implemented required corrective actions; (The State also was required to demonstrate compliance with the obligation to ensure, consistent with 34 CFR §300.600 timely correction of identified deficiencies not later than February 4, 2006);
- a summary of identified problems with the State's due process hearing system, specific interventions or sanctions for hearing officers; and the proposed language requiring hearing officers to notify the Michigan Department of Education (MDE) concerning settlement negotiations between parties, continuances and pending court interventions justifying substantial timeline extensions; and data and analysis demonstrating compliance;
- specific State requirements and policies to be followed in the event of personnel shortages, along with any guidance or technical assistance provided to LEAs, specifically

regarding what LEAs need to do to ensure that children with disabilities receive all services required by their IEPs;

- information regarding implementation of strategies and the resulting data related to the collection and timely reporting of accurate data;
- data and analysis demonstrating maintenance of compliance with formal written complaint timelines;
- demonstration of compliance with Early Childhood Transition requirements, including the development and implementation of an IEP, or, if appropriate, an IFSP, by the eligible child's third birthday and the participation of Part B staff in timely transition planning and revised early childhood transition targets;
- results of the State's review of the policies, procedures, and practices used in the identification of children as having mental retardation and the placement of children with disabilities to ensure that the policies, procedures and practices are in compliance with IDEA and other Federal civil rights laws and are race-neutral;
- information on its review and, as appropriate, revision of policies and procedures if the State identifies significant discrepancies in suspension and expulsion data, either for children with disabilities among the LEAs in the State or based on a comparison of the rates of suspension and expulsion of children with and without disabilities in the agencies;
- documentation of data (whether collected through sampling, monitoring, IEP review, or other methods), targets for improved performance of children with disabilities on preschool outcomes and strategies to achieve targets for this area, or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan; and
- post-school outcome data.

The January 2005 letter also required Michigan to demonstrate progress toward compliance with 34 CFR §300.139 regarding statewide assessments. Michigan submitted a written plan in a letter dated January 31, 2005 detailing the steps and timelines for reporting publicly and to the Secretary on the participation and performance of children with disabilities on the regular statewide assessment, unless it would result in the disclosure of performance results identifiable to individual children, and provided data to OSEP verifying completion of the plan in a letter dated December 1, 2004. OSEP responded to this submission in a letter dated May 9, 2005 and indicated that Michigan met the requirements of the Special Conditions placed on the State's FFY 2004 Grant Award.

General Supervision

Identification and timely correction of noncompliance

OSEP's January 2005 letter required that the State demonstrate progress toward ensuring that LEAs implemented required corrective actions (34 CFR §300.600 and 20 U.S.C. 1232d(b)(3)). On page 2 of cluster one in probe one of the FFY 2003 APR, Michigan included data and analysis demonstrating progress regarding identification and timely correction of noncompliance and progress in ensuring that LEAs implemented required corrective actions, as follows: all Intermediate School Districts (ISDs) during the 2003–2004 monitoring cycle completed required corrective actions within one year; one ISD from the 2002-2003 monitoring cycle received direct supervision and sanctions imposed for lack of compliance with the Michigan Monitoring Model and was slated to complete corrective actions by June 30, 2005. Data reported on page 4 of this section of the FFY 2003 APR indicated that 79 percent of ISDs met the requirements for correction of all noncompliance issues within one year, an improvement over the previous year of 28 percent. MDE also included three strategies to be implemented between July 2004 and June 2005 to ensure that ISDs corrected noncompliance within required timelines as follows: (1) implementation of a new Continuous Improvement and Monitoring System (CIMS) with all child-level corrective actions required to be completed within 30 days, and systemic issues required to show correction within one year of identification; (2) development of a complaint investigation data management system that requires data collection for proof of corrective action; and (3) an adjustment in MDE's infrastructure to effectively monitor completion of identified corrective actions. MDE has demonstrated that it is implementing a system to require correction of noncompliance identified through monitoring within one year of the monitoring report. Not later than February 4, 2006, Michigan must provide updated data and analysis demonstrating its compliance with this requirement, including the specific steps it has taken to secure compliance in ISDs that are still identified from the FFY 2003 as 'not closed out' in Cycles 1 through 5, and evidence that it is ensuring timely correction of noncompliance identified through complaint investigations. MDE may submit this information with its SPP.

Systemic issues addressed

In response to cluster one, probe two, the State provided an analysis of monitoring findings and strategies to increase systemic compliance in ISDs, through professional development and implementation of the CIMS. OSEP appreciates the State's efforts in this area.

Formal written complaints

OSEP's January 2005 letter required that the State submit data and analysis ensuring compliance with complaint timelines. On page 2 of cluster one in probe three of the FFY 2003 APR, the State included data and information regarding maintenance of compliance with formal written complaint timelines to ensure that complaints were resolved within timelines required by 34 CFR §300.661(a) and (b)(1). The data indicated that of the 249 complaints filed, 10.8 percent were withdrawn, and 1.6 percent were pending. Of the total number of complaint decisions, 91.3 percent were resolved within required timelines. In addition, in October 2003, the State raised

the number of internal staff assigned to complaint management from four to seven and contracted with six additional individuals to assist with resolving outstanding complaints that were not completed within timelines. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information demonstrating compliance in this area in the SPP.

Mediation

On page 2 of cluster one in probe three of the FFY 2003 APR, the State included data and information regarding mediation indicating that of 36 requests for mediations, 31 mediation agreements were completed and of the remaining five mediations, 2 were pending and three were dropped. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information demonstrating continued improvement in this area in the SPP.

Due process hearings and reviews

OSEP's January 2005 letter required that the State submit the following data and information regarding due process hearing and timelines: (1) a summary of identified problems with the State's dispute resolution system with strategies, proposed evidence of change, targets and timelines for each problem identified; (2) the proposed language requiring hearing officers to notify MDE concerning settlement negotiations between parties, continuances and pending court interventions justifying substantial timeline extensions; and (3) data demonstrating compliance with due process hearing timelines. On page 5 of cluster one in probe three of the FFY 2003 APR, the State included data and analysis indicating a need to improve performance in ensuring that due process hearing decisions are reached and a copy mailed to each party within timelines required by 34 CFR §300.511(a). The data indicated that of 206 hearing requests, 17 proceeded to a hearing and the remaining 179 were resolved through settlement agreement, withdrawal or dismissal. The percentage of due process hearings completed within required timelines was 76.5 percent (13 of 17 due process hearings). The State also included a summary of identified problems with the State's due process hearing system and strategies, proposed evidence of change, targets and timelines for each problem identified, and specific interventions or sanctions for hearing officers based upon the State monitoring process and OSEP's January 2005 letter. However, MDE has not yet demonstrated compliance with the due process timelines as required by 34 CFR §300.511(a). In the SPP, MDE must demonstrate compliance with this requirement. Failure to do so may affect the State's FFY 2006 grant award.

Personnel

OSEP's January 2005 letter required that the State include data and information in its FFY 2003 APR indicating State requirements and policies to be followed in the event of personnel shortages, along with any guidance or technical assistance provided to LEAs specifically regarding what LEAs need to do to ensure that children with disabilities receive all services in their IEPs. On page 1 of cluster one under probe four of the FFY 2003 APR, Michigan included data and information regarding personnel indicating that LEA administrators, related services providers, other providers¹ and special educators, with the exception of teachers of children with

¹ Other providers included: curriculum resource teacher, physician, art therapist, nurse, other professional, orientation and mobility specialist and music therapist.

autism, were fully endorsed² at levels equal to 80 percent or above. On page 2, the State also indicated that no complaints or due process hearings were filed against an LEA for not providing a special education teacher, and no cases had a finding that a teacher did not provide a free appropriate public education (FAPE) to a child with a disability. MDE indicated on pages 5 and 6 that approximately 63 percent of teachers of children with autism were fully endorsed compared to 80 percent of teachers in all other areas within the State. Teachers of children with autism were either fully endorsed or hired under an approval or a permit.³ On page 7, MDE indicated that it was employing the following strategies to improve the number of fully-endorsed teachers including: (1) alternative routes to certification utilizing area universities and school districts; (2) the State's approval process; and (3) promotion of a web-based tool for recruitment, "Michigan Educator Talent Bank." In addition, as a future activity to improve performance in this area, the State planned to apply for a General Supervision Enhancement Grant. OSEP appreciates the State's efforts in this area.

Collection and timely reporting of accurate data

OSEP's January 2005 letter required Michigan to submit information regarding implementation of strategies and the resulting data related to the collection and timely reporting of accurate data. On page 2 of cluster one in probe five of the FFY 2003 APR, Michigan included information on the collection and timely reporting of accurate data, indicating that there were two key processes, the collection process, and the audit and monitoring processes that ensured a high degree of reliability and accuracy in this area. The collection process uses data edits, duplicate checking algorithms, and user reports to ensure that data counts submitted by ISDs, LEAs, and Public School Academies (PSAs) match final reported counts. The audit and monitoring processes verify the accuracy of submitted data to MDE by employing random selection of records or, if necessary, targeted selection of records, to verify that appropriate files exist for each data element submitted. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

Early Childhood Transition

OSEP's January 2005 letter required Michigan to submit data and information revising early childhood transition targets and demonstrating compliance with Early Childhood Transition requirements, including the development and implementation of an IEP, or if appropriate, an IFSP, by the eligible child's third birthday and the participation of Part B staff in timely transition planning. On pages 2 through 5 in cluster two of the FFY 2003 APR, Michigan included data and analysis regarding the Early Childhood Transition requirements, including the revision of compliance targets and the development and implementation of an IEP, or, if appropriate, an IFSP, by the eligible child's third birthday, and the participation of Part B staff in timely transition planning (34 CFR §300.132(b)). On page 2, monitoring data from 2003 through 2004 for 10 sites, and 46 files of children who qualified for Part B services indicated: (1)

² Full endorsement in special education requires a basic teaching certificate and an endorsement in a disability area.

³ A teacher hired under an approval is a basic certified teacher enrolled in an approved institution of higher education autism endorsement program. A teacher hired under a permit authorizes a school district to employ a person who had completed a minimum of 120 semester hours of satisfactory credit, including 15 semester hours of professional education credit from an approved teacher preparation institution.

30.4 percent of the files had complete transition plans; (2) 47.8 percent of the files had notification to the LEA that the child was turning 3 and might be eligible for special education services; (3) 56.5 percent of the files had documentation of LEA participation in the transition conference; and (4) 42.7 percent of the files had documentation of a transition conference within required timelines. MDE reported that it reviewed improvement plans from all Early On Service Areas regarding early childhood transition. Page five, indicated that transition targets have been revised to reflect 100 percent to ensure that all children exiting Part C, who are eligible for Part B, have an IEP developed and implemented by their third birthdays. On page 4 of this section, MDE also reported that a data match for children leaving Part C from 12/2/03 through 12/1/04 due to age who were Part B eligible, and those receiving services by Part B on 12/1/04, indicated a 94% match.

This is an indicator in the State Performance Plan (SPP) under section 616 that is due December 2, 2005. In preparation for the submission of the SPP on December 2, 2005, the State should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements.

Parent Involvement

On pages 3 through 5 in cluster three of the FFY 2003 APR, Michigan included data and analysis regarding parent involvement.⁴ The data reflected responses from a parent survey used as part of Michigan's Monitoring Model since 2001. The survey consisted of nine questions to ascertain the provision of FAPE, as measured by parent involvement and satisfaction with their child's special education services. The survey indicated that four of the nine survey questions had a positive parent response of approximately 90 percent for the following questions related to: (1) parent participation in planning for evaluation; (2) having concerns addressed in the IEP; (3) consideration of the least restrictive environment; and (4) receipt of progress reports. Data on page 3, from the 2003-2004 parent survey, also indicated substantial improvement⁵ in parent response to the question, "Are your son's or daughter's current transition services meeting his or her needs?"

The SPP establishes a new indicator in this area (#8), for which States must provide baseline data in the FFY 2005 APR, due February 1, 2007. The State should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the State's plan for collecting this data, in the SPP.

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

Disproportionality

OSEP's January 2005 letter required Michigan to submit the results of the State's review of policies, procedures, and practices used in the identification of children as having mental retardation, and the placement of children with disabilities to ensure that the policies and

⁴ The number of respondents to the 2003-2004 survey was 855.

⁵ Monitoring Parent Survey positive response for this question was 61% in 2001-2002, 75% in 2002-2003 and currently 91% in 2003-2004.

practices are in compliance with IDEA and other Federal civil rights laws and are race-neutral. On pages 1 through 34 in cluster four of the FFY 2003 APR, the State included information about its review of data. Michigan conducted its analysis of disproportionality through an examination of four major areas that included an analysis of: (1) identification, major eligibility categories and placement; (2) background information on how various race and ethnic groups perform with respect to graduation, dropout rates, and performance on State assessments; (3) individual race and ethnicity groups with respect to all students with disabilities and with respect to disability category; and (4) race and ethnicity proportionality with respect to placement of students with disabilities. On page 33 the State reported: (1) African American children were 2.4 times more likely to be identified as cognitively impaired (mental retardation); (2) the risk for African American children to be identified as a child with a disability was higher in rural and small city communities than in urban and metro areas; (3) African American children, with a few exceptions, tended to be identified with a cognitive impairment at a higher rate in rural and small city communities; and (4) African American children were 2.74 times more likely than other children with disabilities to receive services in a separate classroom setting. Michigan also included strategies to improve performance that included: (1) convening a workgroup to review State data relative to disproportionate representation of children; (2) developing and implementing a plan to review all policies, procedures and practices in ISDs and LEAs; (3) disseminating to ISDs the State and district profile analysis; and (4) providing information and assistance to address all issues identified related to disproportionality. However, the State has not yet demonstrated that it is meeting the requirements of 34 CFR §300.755 by determining what constitutes a significant discrepancy, reviewing its data against that standard, and providing for the review, and if appropriate revision, of policies, procedures and practices in identification and/or placement when it identifies significant disproportionality.

Not later than December 2, 2005, the State must submit a plan to OSEP, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance as soon as possible and not more than one year after OSEP accepts the plan. The State may submit this information with the SPP. No later than six months from the date of this letter, the State must submit a Progress Report including 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 the end of the one year timeline.

Graduation and drop-out rates

On pages 1 through 8 of cluster four in probe two of the FFY 2003 APR, Michigan included data and analysis indicating a need to improve performance in the area of high school graduation rates and drop-out rates. The State also included strategies to improve performance that included: (1) using drop-out rates as a criterion for identifying LEAs for focused monitoring; (2) development of on-site data verification procedures for exit data; (3) collaborative technical assistance with the National Drop Out Prevention Center; and (4) development and dissemination of data reports on graduation and drop-out rates by disability and ethnicity. OSEP looks forward to reviewing information in the SPP, including the implementation of strategies and the resulting data and analysis.

Suspension and expulsion

OSEPs January 2005 letter required Michigan to submit information on its review and, and as appropriate, revisions of policies and procedures when it identifies significant discrepancies in suspension and expulsion of children with disabilities, either among LEAs in the State, or compared to the rates for nondisabled children in the agencies.

Michigan provided comparative expulsion data, by district, for children with and without disabilities for 2002-2003 and 2003-2004, but reported that it was unable to provide comparable suspension data, as those data are not available at the State level for nondisabled children. MDE did not analyze the available data on children with disabilities to determine if significant discrepancies are occurring in the rate of suspensions and expulsions of children with disabilities across the ISDs. MDE also did not include a review of policies, procedures and practices or provide data and information describing compliance in this area, as described in the preceding paragraph outlining the requirements of 34 CFR §300.146.

Regulations at 34 CFR §300.146 require the State to have on file with the Secretary information to demonstrate that the State educational agency (SEA) examines data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities: (1) among local educational agencies (LEAs) in the State; or (2) compared to the rates for children without disabilities within the agencies. If the discrepancies are occurring, the SEA must review and, if appropriate, revises (or requires the affected State agency or LEA to revise) its policies, procedures and practices relating to the development and implementation of individualized education programs (IEPs), the use of behavioral interventions and procedural safeguards, to ensure that these policies, procedures and practices comply with IDEA. If the State does not have data on nondisabled children, it must determine whether significant discrepancies are occurring in the rate of suspensions and expulsions of children with disabilities across the ISDs.

OSEP concludes that the State is not complying with 34 CFR §300.146. In the SPP, the State must submit a plan to OSEP, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance as soon as possible and not more than one year after OSEP accepts the plan. No later than six months from the date of this letter, the State must submit a Progress Report including 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 the end of the one year timeline.

Statewide and districtwide assessment

On pages 1 through 22 of cluster four in probe four of the FFY 2003 APR Michigan included data and information regarding its efforts to improve performance in the participation of children with disabilities in State and districtwide assessments. For 2003-2004, Michigan reported that nearly 94 percent of children with disabilities in the grades assessed, participated in either the regular assessment or the alternate assessment for math and nearly 93 percent of children with disabilities in the grades assessed participated in either the regular assessment or the alternate

assessment for reading. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

On pages 1 through 22 of cluster four in probe four of the FFY 2003 APR, Michigan included data and information regarding statewide and districtwide assessments, indicating that the percentage of children meeting or exceeding standards on the Michigan Educational Assessment Program (MEAP) increased across all grade levels. On Michigan's alternate assessment, MI-Access, data indicated there was a drop in the number of students achieving "Surpassed" and "Attained."⁶ MDE indicated that the discrepancy was due to self-reporting of the 2002 through 2003 MI-Access data as opposed to current 2003-2004 assessment data that was scanned and scored by an MI-Access operational contractor. MDE also indicated that in 2005 and 2006, Michigan's State assessments in English/language arts and mathematics would be newly-developed in grades 3 through 8, and MI-Access would implement a new "functional independence assessment, statewide. Michigan included the following strategies to improve performance: (1) updating MI-Access training materials; (2) expanding the document, "Guidelines for Determining Participation in State Assessment for Students for Disabilities;" (3) producing additional online training materials; (4) updating current online learning programs designed for before, during and after MI-Access assessments; (5) improving production of MEAP Braille and enlarged print assessment booklets; (6) working with the Office of Educational Assessment and Accountability to ensure representation of special educators on assessment development advisory committees; and (7) encouraging the development of a data warehouse for all assessment results. OSEP looks forward to reviewing information in the SPP, including the implementation of strategies and resulting data and analysis.

Least restrictive environment (LRE)

On pages 1 through 9 of cluster four in probe five of the FFY 2003 APR, Michigan included data and analysis indicating a need to improve performance in: (1) educating more children aged 3 through 5 with their nondisabled peers; and (2) educating more children aged 6 through 21 with disabilities with their nondisabled peers than in settings greater than 60 percent special education. Data on page 2, for children 6 to 21, indicated that 36.7 percent of the children with autism spectrum disorder and 59.8 percent of children with cognitive impairment were likely to spend 61 to 100 percent of their school day in a special education setting as opposed to 2.2 percent of children with speech and language impairment or 18.4 percent of children with a specific learning disability. In addition, 55.4 percent of children with multiple impairments were likely to spend their school day in a separate school. Data on page 4, for children aged 3 to 5, indicated that 64.9 percent of children with multiple impairments, 67 percent of children with early development delay and 69.1 percent of children with autism spectrum disorder were likely to be served in a special education setting as opposed 14.3 percent of children with traumatic brain injury or 32.5 percent of children with speech and language impairment. Michigan included strategies to improve performance as follows: (1) development of a new focused monitoring system designed to help districts identify the LRE; (2) participation as an "Achieve State" participating in aggressive high school redesign work; and (3) enhanced data disaggregation, analysis, and visibility of LRE data. OSEP looks forward to reviewing updated

⁶ MI-Access has three levels of achievement: surpassed, attained, and emerging.

information in the State Performance Plan (SPP), including the implementation of strategies to improve performance and resulting data and analysis.

Preschool performance outcomes

OSEPs January 2005 letter required Michigan to submit documentation of data, targets for improved performance and strategies to achieve those targets for this area, or a plan to collect 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. On pages 1 through 3 of cluster four in probe six of the FFY 2003 APR, the State provided a plan to collect data and information in this area between Spring 2005 and Summer 2005 as follows: (1) request High/Scope Child Observation Record (COR) assessment data for 2004-2005 from school districts currently using COR to assess the progress of children with disabilities; (2) aggregate and analyze COR assessment data collected for 2004-2005; and (3) implement the use of COR across all schools. Michigan also proposed a cost/benefit analysis, and the provision of materials, software and training for staff teaching in classrooms serving preschool children with disabilities.

The SPP instructions establish a new indicator in this area, for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under §616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

Secondary Transition

OSEP's January 2005 letter indicated that, although MDE included strategies to develop a system to collect this data, OSEP was unable to determine either performance or compliance in this area. OSEP directed MDE to provide responsive information in this area in the FFY 2003 APR.

On page 4 of cluster five of the FFY 2003 APR, Michigan included data and analysis indicating a need to improve performance in the area of secondary transition. Based on the results of a parent survey as part of CIMS, reported that: (1) students were active and engaged in the IEP process; (2) parents perceived that students were more likely to answer questions than ask questions during the IEP process; (3) there were significant challenges with courses of study being meaningfully documented and included in student IEP and transition plans; and (4) there were challenges with statements of the students' present levels of educational performance as it relates to transition services. Michigan also included strategies to improve performance that included: (1) continuing to collect data through the Michigan Outcomes Project; (2) training LEA coordinators in transition data collection and how to analyze the data to facilitate improvement planning; (3) designing and implementing a community of practice on quality indicators of successful transition; and (4) designing and implementing a multi-tiered training

toolkit and model for transition. OSEP is unable to determine whether the State made progress in this area since requested data was not included in the FFY 2003 APR.

The SPP instructions establish two new indicators in this area (indicators #13 and #14), for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under §616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

Conclusion

Not later than February 4, 2006, Michigan must provide updated data and analysis demonstrating compliance in ensuring that LEAs implemented required corrective actions (34 CFR §300.600 and 20 U.S.C. 1232d(b)(3)), including the specific steps it has taken to secure compliance in all ISDs that are still identified in the FFY 2003 as 'not closed out' in Cycles 1 through 5, and evidence that is ensuring timely correction of noncompliance identified through complaint investigations. MDE may submit this information with its SPP.

In the SPP, MDE must demonstrate compliance with due process timelines as required by 34 CFR §300.511(a). Failure to do so may affect the State's FFY 2006 grant award.

Not later than December 2, 2005, the State must submit a plan to OSEP, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of noncompliance in meeting the requirements of 34 CFR §300.755 by determining what constitutes a significant discrepancy, reviewing the State's data against that standard, and providing for the review, and if appropriate revision, of policies, procedures and practices in identification and/or placement when it identifies significant disproportionality as soon as possible but not more than one year after OSEP accepts the plan. The State may submit this information with the SPP. No later than six months from the date of this letter, the State must submit a Progress Report including data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one year timeline.

In the SPP, the State must submit a plan to OSEP, including strategies, proposed evidence of change, targets and timelines, designed to ensure correction of the noncompliance with 34 CFR §300.146, as soon as possible and not more than one year after OSEP accepts the plan. No later than six months from the date of this letter, the State must submit a Progress Report including 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 the end of the one year timeline.

IDEA 2004, §616, requires each State to submit a State Performance Plan (SPP) that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are, for the most part, similar to clusters and probes in the APR. OSEP encourages the State to carefully consider the comments in this letter as it prepares its SPP, due December 2, 2005.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State and looks 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 Dr. Al Jones at (202) 245-7394.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy R. Justesen". The signature is written in a cursive style with a large, looping initial "T".

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Jacquelyn J. Thompson, Ph.D.