



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

Honorable Susan Castillo  
Superintendent of Public Instruction  
Oregon Department of Public Instruction  
255 Capital Street NE  
Salem, Oregon 97310-0203

SEP -8 2005

Dear Superintendent Castillo:

The purpose of this letter is to respond to Oregon's May 24, 2005 second 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) 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 14, 2005 FFY 2002 APR response letter (January 2005 letter) required that by the FFY 2003 APR, the Oregon Department of Education (ODE) must submit the following:

1. Demonstrate full compliance with, or submit an improvement plan that includes strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance for, each of the following requirements:
  - (a) ensuring timely correction of all identified noncompliance within a reasonable period of time, not to exceed one year;
  - (b) ensuring timely resolution of State complaints and that extensions of time are only granted for exceptional circumstances with regard to a specific complaint; and
  - (c) the public reporting of performance of children with disabilities on statewide assessments, including the alternate assessment.

The plan must propose to correct the noncompliance within a reasonable period of time not to exceed one year of OSEP's acceptance and include at least two Progress Reports to OSEP.

2. Data and analysis of relevant information on current and anticipated personnel vacancies and shortages, in accordance with 34 CFR §§300.380(a) and 300.381(b).
3. Data and related analysis including any needed reviews and revisions of policies, procedures and practices as required under 34 CFR §§300.146 and 300.755 for preschool-age children with disabilities (i.e., children ages three through five), or develop and submit a plan for collecting and analyzing this data and for conducting any needed reviews and revisions.<sup>1</sup>
4. In those areas where ODE determined significant disproportionality existed with regard to identification or placement, the State must report on the status of the reviews and where appropriate, revisions of policies, procedures and practices, as required under 34 CFR §300.755.
5. Information indicating that the State properly examined suspension and expulsion data, without exclusions of some students or districts, to determine whether significant discrepancies are occurring consistent with 34 CFR §300.146, and that, when it identifies significant discrepancies, it reviews and, if appropriate, revises (or requires the affected State agency or LEA to revise) its policies, procedures and practices consistent with 34 CFR §300.146. If the State does not include the required information, OSEP will conclude that the State is not complying with the regulation.
6. Report on the extent to which ODE found specific noncompliance with the LRE requirements for preschool-age students, including information on the status of correction.
7. Either documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for the area of improvement of early language/communication, pre-reading, and social-emotional skills of preschool-age children with disabilities receiving special education and related services, or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

### ***General Supervision***

#### **Identification and timely correction of noncompliance**

The conclusion of OSEP's January 2005 letter required that in the FFY 2003 APR, ODE must either demonstrate full compliance with the requirement that all deficiencies identified through monitoring are corrected within a reasonable period of time, not to exceed one year of identification (20 U.S.C. §1232d(b)(3)(E) and 34 CFR §300.600), or submit an improvement plan that included strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance. The plan must propose to correct this noncompliance within a reasonable period of time not to exceed one year of OSEP's acceptance of the plan and include at least two Progress Reports to OSEP.

---

<sup>1</sup> Since analysis of data regarding inappropriate disproportionality is limited to children 6 through 21 in the SPP (Indicators 9 and 10) OSEP is not requiring Oregon to submit a plan regarding collection of that data for preschool children with disabilities in the FFY 2003 APR. However, the State must collect and report data as required by section 618(a) of the IDEA.

On page 3 of OSEP's January 2005 letter responding to Oregon's FFY 2002 APR, OSEP noted that although districts/agencies have been submitting Progress Reports, ODE has not been verifying that the noncompliance has been corrected and has not closed out any of the district/agency improvement plans. In addition, OSEP noted its further concern, also identified in the OSEP letter responding to the verification visit to Oregon, that ODE only required correction of identified noncompliance in instances where compliance was below eighty percent. On pages 8-10 of the FFY 2003 APR, ODE submitted the improvement plan required by OSEP's January 2005 letter, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of identified noncompliance as soon as possible.

The following strategies were included in ODE's proposed plan: (1) all special education improvement plan Progress Reports, submitted to ODE annually, will include documented evidence of correction and sustainability of correction for any identified area(s) of noncompliance; (2) districts/programs will provide documentation of evidence of correction of all individual student procedural noncompliance found during Systems Performance Review & Improvement (SPR&I) Phase 1 (self-assessment) within 45 calendar days of receipt of ODE's Phase 1 Summary findings; and (3) all districts/programs will provide documentation of evidence of correction of systemic procedural noncompliance (falling below 80 percent) within 60 calendar days of receipt of ODE's Phase 1 Summary findings. Specifically, on page 9 of the APR, ODE indicated that where Districts/programs with evidence of correction of noncompliance documented in their first Progress Report, but not included in subsequent Progress Reports, received written notification of the need to include data and evidence of sustainability over time. The APR indicated that the next LEA annual Progress Reports will contain current status of correction and evidence of sustainability. OSEP accepts the State's plan and appreciates the State's efforts to ensure the correction of identified noncompliance in a timely manner. The State submitted a Progress Report documenting the implementation of its improvement plan on June 30, 2005, and plans to submit another Progress Report on November 30, 2005. ODE also has the option of submitting this report with its State Performance Plan (SPP), due December 2, 2005. ODE must submit a Final Report to OSEP, including data and analysis demonstrating compliance, no later than 30 days following one year from the date of this letter.

#### Formal written complaints

OSEP's January 2005 letter required that in the FFY 2003 APR, ODE must either demonstrate full compliance with, or submit an improvement plan that includes strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance for the requirement ensuring timely resolution of State complaints and that extensions of time are only granted for exceptional circumstances with regard to a specific complaint as required by 34 CFR §300.661(b)(1). Such a plan would require correction of the noncompliance within a reasonable period of time not to exceed one year of OSEP's approval of the plan and include at least two Progress Reports to OSEP.

On page 17 of the FFY 2003 APR, ODE reported on the timeliness of complaint resolution: 29 percent in 2002, 58 percent in 2003 and 88 percent in 2004. Attachment 1 states that between January 1, 2003, and December 31, 2003, Oregon had 43 complaints, of which 18 had findings, 6

had no findings, 6 had decisions issued within 60 days, and 8 had decisions with a documented extension. On pages 19-21 of the FFY 2003 APR, ODE submitted the plan required by OSEP's January 2005 letter, including strategies, proposed evidence of change, targets and timelines designed to ensure compliance as soon as possible, as required in OSEP's January 2005 letter. The following strategies were included in ODE's proposed plan: (1) considering a timeline extension for complaint resolution due to mediation, local resolution, or settlement negotiations, only on a case-by-case basis after a written request from the complainant and the district; (2) filing of new allegations in a pending complaint will be considered the initiation of a new complaint, unless the new allegations can be investigated as part of the pending complaint without a timeline extension; (3) monitoring timeline extensions on a case-by-case basis for exceptional circumstances, and considering other options, such as dismissal without prejudice (with permission to re-file), as a response to complaints that are incomplete; and (4) reviewing complaint procedures to increase timeliness of complaint resolution. OSEP accepts this plan.

The State submitted a Progress Report documenting its compliance in this area on June 30, 2005. According to this Progress Report, of the 4 complaints filed in 2005, all complaints were investigated and resolved within 60 calendar days, with no extensions for exceptional circumstances. Specifically, ODE did not extend the timeline for exceptional circumstances due to mediation, settlement, or local resolution, or due to the filing of new allegations to a pending complaint. ODE plans to submit a second Progress Report documenting its continued compliance in this area on November 30, 2005. ODE also has the option of submitting this report with its SPP, due December 2, 2005. ODE must submit a Final Report to OSEP, including data and analysis demonstrating compliance, no later than 30 days following one year from the date of this letter.

### Mediation

On page 4 of the FFY 2003 APR, ODE reported that between January 1, 2003 and December 31, 2003 there were 23 mediations that were not related to hearing requests and 19 of these resulted in mediation agreements. For the same time period, there were 12 mediations that were related to hearing requests and 10 that resulted in mediation agreements. On page 18 of the APR, ODE reported that it contacts parties to a dispute within the first two days to offer mediation, and makes mediation available within two weeks of an agreement to mediate. On page 17 of the APR, ODE reported on the timeliness of mediations. In 2003, there were 35 mediations and the average number of days for mediation was 25, with 26 percent being completed within two weeks, and the range of days of mediation being from 6-83 days. In 2004, there were 28 mediations, and the average number of days for mediation was 29, with 30 percent being completed within two weeks, and the range of days being 5-82 days. On page 3 of the APR, ODE reported that in September 2003 the State began paying for mediations to resolve complaints, in addition to paying for mediations to resolve due process hearings. ODE also reported on page 3 of the APR that it has an integrated database for tracking information and generating reports regarding complaints, hearings, and mediations. OSEP looks forward to reviewing dispute resolution data and information in the SPP, due December 2, 2005.

### Due process hearings

ODE must ensure that a final decision is reached in a due process hearing, and a copy mailed to each of the parties within 45 days from the date of receipt of the hearing request, unless the hearing officer extends the 45-day timeline for a specific period of time at the request of a party to the hearing (34 CFR §300.511(a) and (c)). On page 17 of the FFY 2003 APR, ODE reported that there were two due process hearings in 2003. One final order was issued within the extended timeline requested by one or both parties and agreed to by the administrative law judge. The other hearing final order was issued 28 days late. On page 21, ODE reported that inquiry to the Office of Administrative Hearings (OAH), staff determined that the late order was due to workload issues with the judges. ODE reported that its staff and OAH staff worked collaboratively to address the workload issue by training new administrative law judges to replace vacancies left by retirement and job changes by the more experienced judges. ODE reported that this would continue to be a target for the State. ODE must include, in the SPP, strategies to ensure that due process hearing decisions are issued within the timelines required by 34 CFR §300.511. OSEP looks forward to reviewing the strategies and the State's due process hearing data in the SPP.

### Personnel

OSEP's January 2005 letter required that ODE submit in the FFY 2003 APR, data and analysis of relevant information on current and anticipated personnel vacancies and shortages, in accordance with 34 CFR §§300.380(a) and 300.381(b).

On pages 23-29 of the FFY 2003 APR, ODE reported data and information regarding personnel. ODE reported that in 2003-2004, 95.8 percent of the special education teachers serving children ages 3-5 were fully certified. ODE reported on the percent of fully certified special education teachers serving children 5-21 by endorsement area. This data shows an overall decline in the number of certified teachers available to serve children with disabilities. ODE reported that the numbers of special education teachers, related services staff and educational assistants have declined from previous years. ODE reported on the progress it had made on its targets in this area and on strategies to improve performance. OSEP appreciates the work of the State to ensure the availability of sufficient qualified staff to provide special education and related services to children and youth with disabilities.

### Collection and timely reporting of accurate data

On pages 29-31 of the FFY 2003 APR, ODE included data and information regarding the collection and timely reporting of accurate data. ODE reported that it continued to provide accurate and timely student level special education data. Discipline data were incorporated in the SPR&I process and the personnel data were being prepared for integration into the process. ODE reported that it would enhance online validations for both special education personnel and discipline data. On page 2 of the FFY 2003 APR, ODE reported that it produced and disseminated State, district, and program performance data reports specific to measurable indicators that were used for self-assessment, review, and documentation. The SPR&I database reports provided comparisons to statewide data, county-wide data, and like-district/program data.

Four of the reports were identified as the key performance indicators that informed the focus for the monitoring process. ODE compiled annual data summaries for noncompliance by district, county, and State. ODE also used these data summaries to inform decisions about personnel development activities and technical assistance and to inform the presentation of statewide staff development trainings. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP, due December 2, 2005.

With regard to collection and reporting of suspension and expulsion data for Early Childhood Special Education programs, as required in the January, 2005 letter, on page 75, ODE provided a plan to collect and report the data in the November 2005 discipline report to OSEP. OSEP accepts the plan. ODE must provide the data as indicated in the November 2005 discipline report.

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

On pages 32-34 of the FFY 2003 APR, ODE included data and information on early childhood transition. The instructions to this cluster ask States to report on whether children who participated in the Part C program who are found eligible for services under Part B of IDEA have an individualized education program (IEP) or individualized family services plan (IFSP) in effect by their third birthday (34 CFR §300.132(b)). ODE reported that during the 2003-2004 school year, 99 percent of children exiting Part C services were evaluated and eligibility determinations were conducted, and that 94 percent of the children were found eligible for Part B services. ODE reported that in the same year, 84 percent (or 16 of 19) of the files during SPR&I reviews contained documentation that an IFSP meeting had been held before the child's third birthday. These data are not sufficient to indicate whether children transitioning from Part C to Part B have an IEP or IFSP in effect by their third birthday, as required by 34 CFR §300.132(b). Early childhood transition is an indicator in the SPP under section 616 of IDEA 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. The State must submit responsive baseline data regarding the percentage of children referred by Part C prior to age 3 and who are found eligible for Part B and receive special education and related services by their third birthday in the SPP. The absence of baseline data in this area will be considered in OSEP's decision about approval of the State's SPP.

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

### Parent involvement

On pages 34-41 of the FFY 2003 APR, ODE reported data and information regarding parent involvement. The data and information were from family surveys and also included topics from, and numbers of parents attending, Oregon Parent Training Institute (PTI)/ODE trainings, and the methods of communication used by the PTI and numbers of times each method was used. ODE reported that the parent survey was now on the ODE website and is available to all parents rather than being limited to the parents whose children's files were selected for review during the monitoring process. ODE reported that districts/programs were encouraged to include families and community members through participation as team members in the district special education improvement planning process. ODE provided districts with a videostream and guidance documents that included strategies to effectively involve parents and were encouraged to disseminate the guidance documents to all members of the improvement planning team. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information demonstrating continued improvement in the SPP. In preparation for submission of the SPP on December 2, 2005, the State should carefully consider data and information collected for the APRs, along with OSEP's responses, against the requirements related to this indicator in the SPP packet.

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

#### Disproportionality

OSEP's January 2005 letter required that in the FFY 2003 APR, for those districts/programs where ODE determined that significant disproportionality existed with regard to identification or placement, the State must report on the status of the review of policies, procedures and practices, and where appropriate, revisions of those policies, procedures and practices, as required under 34 CFR §300.755.

On pages 41-59 of the FFY 2003 APR, the State included data and information on disproportionality. ODE reported that the data showed little change over the last two years in the relative difference among the racial/ethnic distributions of Oregon's general and special education student populations. In both years, Asian students were significantly underrepresented in the special education population, a difference almost identical to data reported at the national level. Also, in both years, Blacks were overrepresented in the special education population, but not to the extent Blacks were overrepresented in special education at the national level. Using these risk ratio criteria, ODE identified the following nine areas where significant disproportionality existed related to disability categories and one area where it related to educational environments: (1) overrepresentation by white students identified with autism (2.26); (2) overrepresentation of Black students identified as emotionally disturbed (2.14); (3) underrepresentation of Hispanic students identified as emotionally disturbed (0.36), (4) as autistic (0.34), and (5) as other health impaired (0.42); (6) underrepresentation of Asian students in general (0.46), (7) with specific learning disabilities (0.28), (8) with emotional disturbance (0.25), and (9) with other health impairments (0.37); and (10) overrepresentation of Black students in combined separate facilities (2.33). (See pages 45-47 of the FFY 2003 APR).

ODE further reported that since it only began analyzing disproportionality data using risk ratios during 2004, districts had not had the opportunity to review the results of this analysis during the July 1, 2003 to June 30, 2004 reporting period. ODE reported that analyses were currently underway to incorporate the risk ratio data in all future State and district analyses of disproportionality data. While ODE reported that it would examine State and district policies, procedures, and practices to ensure that they do not contribute to disproportionality, and would look for reasons for the improvement in placement data for Blacks so that improvements might continue, OSEP notes that ODE did not conduct a review of policies, procedures and practices regarding identification and placement of children with disabilities, nor did ODE describe the results of its review or of any review undertaken by districts as a part of the SPR&I process. 34 CFR §300.755 requires that where a determination of significant disproportionality exists with respect to the identification of children as children with disabilities, or the placement in particular educational settings of these children, the State shall provide for the review and, if appropriate, revision of the policies, procedures, and practices used in the identification and placement to ensure that they comply with the requirements of Part B of the Act and are race-neutral.

In the SPP, due December 2, 2005, ODE must: (1) provide the results of its review of 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 and are race-neutral, for those districts with data that illustrate significant disproportionality in the identification of children in specific disability categories and the placement of children in particular educational settings, as required by 34 CFR §300.755; or (2) specify what steps the State will take to implement its plan to report on the results of its review of policies, procedures, and practices, as outlined above, and to ensure correction of the noncompliance as soon as possible, not to exceed one year from the date of this letter.

#### Graduation and drop-out rates

On pages 60-67 of the FFY 2003 APR, ODE reported that the drop-out rates in 2002-2003 were 4.4 percent for general education and 5.6 percent for special education, and in 2003-2004, 4.6 percent for general education and 5.7 percent for special education. Oregon had a higher drop-out rate for special education students than the national average but the gap was narrowing.

ODE reported that no graduation rates were available for students with disabilities for 2002-2003; however, graduation rates in 2003-2004 were 82 percent for general education and 66 percent for special education. ODE reported there continued to be a significant gap between graduation rates between students with and without disabilities but that graduation rates for students with disabilities were increasing over the past five years. Oregon had a lower graduation rate for special education students than the national average but the gap was narrowing.

In 2002-2003, ODE added a “leaver” data report (graduation and drop-out data) to the SPR&I process. The State provided districts/programs with this data for students with disabilities, comparison data for like districts, and comparisons to the State average for students with disabilities. Districts that fell below the State mean were required to provide a written analysis



of the reasons for that difference. ODE suggested program improvement actions, as necessary, and provided technical assistance and support to districts with high drop-out rates and/or low graduation rates. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information demonstrating continued improvement in the area of graduation and drop-out rates in the SPP, due December 2, 2005.

#### Suspension and expulsion

OSEP's January 2005 letter required that the FFY 2003 APR include information indicating that ODE properly examined suspension and expulsion data, without exclusion of some students or districts, to determine whether significant discrepancies are occurring consistent with 34 CFR §300.146 and that, when significant discrepancies are identified, the State reviews and, if appropriate, revises (or requires the affected State agency or LEA to revise) its policies, procedures and practices consistent with 34 CFR §300.146. ODE was informed that if it did not submit this information, OSEP would conclude that the State is not complying with the regulation.

On page 74 of the APR, ODE reported that it included district level suspension/expulsion reports in the SPR&I process beginning in the Fall 2003. It did not apply an automatic threshold to these reports; instead, ODE addressed suspension/expulsion issues on a district-by-district basis within individual SPR&I Phase 1 Summary Reports and district improvement plans. ODE also required reviews of policies, procedures, and practices, when indicated by SPR&I Phase 1 data. ODE also reported thresholds that generate an automatic analysis requirement that would be applied to the suspension/expulsion reports for all districts beginning in Fall 2005. In the proposed system, districts with suspension/expulsion rates outside the threshold ranges would automatically be required to complete analysis worksheets, review district policies, procedures, and practices, and determine any other contributing factors that explain the data. ODE was finalizing decisions on these thresholds based on a comparison of statistical and program models. Therefore, ODE has demonstrated that it examines data for all LEAs to determine if significant discrepancies are occurring across LEAs in the suspension/expulsion of children with disabilities without the exclusion of some students or some districts.

On pages 74 and 75, ODE provided a plan to review district suspension/expulsion data to determine if significant discrepancies are occurring in suspension/expulsion rates, and if the need for any revisions in policies/procedures is indicated. OSEP accepts this plan. ODE must demonstrate correction of the noncompliance as soon as possible and not more than one year after the date of this letter. 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 assessments

OSEP's January 2005 letter required that in the APR for FFY 2003, ODE must either demonstrate full compliance with, or submit an improvement plan that includes strategies, proposed evidence of change, targets and timelines designed to ensure correction of the

noncompliance, the requirement to report to the public and the Secretary on the performance of children with disabilities on statewide assessments, including the alternate assessment as required by 34 CFR §300.139. The plan was required to be designed to correct the noncompliance within a reasonable period of time not to exceed one year of OSEP's acceptance of the plan.

On pages 76-87 of the FFY 2003 APR, the State included data and information on statewide and districtwide assessments. On page 83 of the APR, ODE reported that districts were required to review district Adequate Yearly Progress (AYP) results for children with disabilities as part of the Phase 1 Self-assessment. The participation and performance levels of children with disabilities were analyzed alongside the district's current Federal Placement Distribution Report and IEP Content Requirements specific to LRE/Placement. This analysis assisted districts in improvement planning efforts by identifying whether the current procedures allow students access to, participation in, and progress in the general curriculum. ODE reported on page 77 math participation rates for regular assessments during the 2003-2004 school year: 3rd grade, 87 percent; 5th grade, 81 percent; 8th grade, 76 percent; and 10th grade, 67 percent. On page 80, ODE reported regular assessment participation rates for reading and literature: 3rd grade, 86 percent; 5th grade, 80 percent; 8th grade, 75 percent; and 10th grade, 66 percent. Although these numbers did not account for students' taking alternate assessments, ODE did not explain the reasons for the low participation rates.<sup>2</sup> However, ODE indicated on page 87 that it will continue to provide technical assistance to parents and school districts in making appropriate assessment decisions for students with disabilities, and will provide statewide trainings for parents, families, and educators on the participation of students with disabilities in statewide assessments. ODE also reported it reduced the performance gap between children with and without disabilities in both mathematics and reading/literature at all benchmark grades over the past three years.

To address the compliance concerns identified by OSEP, ODE enhanced reporting for the 2003-2004 school year to include the following information: (1) the Oregon Statewide Report Card: An Annual Report to the Legislature on Oregon Public Schools; (2) data available to each district through the SPR&I process; (3) data available to parents and guardians of children and to the public through the ODE website; and (4) data available to parents and guardians of children and to the public through the school and district report cards. In addition, OSEP required ODE to report the performance and participation of children with disabilities on alternate assessments. On page 84 of the APR, ODE reported that alternate assessments were aligned to extended content standards in reading, writing, mathematics, science, and daily life skills and that alternate performance standards were adopted in March 2004. Oregon's alternate assessments do not generate scores on the same scale as the standard statewide assessments; the alternate assessments generate standardized scores which allow the reporting of student performance as "Very Low," "Low," "Nearly Meets," "Meets," and "Exceeds" the extended content standards. On pages 85-86 of the APR, ODE included strategies, proposed evidence of change, targets and timelines designed to ensure compliance as soon as possible with the reporting requirements, as required in the FFY 2002 APR letter. The plan stated that ODE would report on the participation

---

<sup>2</sup> The regulations under the No Child Left Behind Act (NCLB) provide, at 34 CFR §200.20(c), that in order to make adequate yearly progress (AYP), a school or LEA must ensure that not less than 95 percent of its children with disabilities in the grades tested participate in the State assessments under 34 CFR §200.2.

and performance of students with disabilities on alternate assessments in the 2004-2005 Oregon Statewide Report Card in Fall 2005 and all reports would be available in print and on the ODE website. Oregon has informed the Department that it will fully meet this requirement in the fall of 2005 through its 2004-2005 Oregon Statewide Report Card: An Annual Report to the Legislature on Oregon Public Schools.<sup>3</sup>

#### Least restrictive environment (LRE)

OSEP's January 2005 letter required that to the extent that ODE found specific noncompliance with the LRE requirements for preschool-age students, it was to report on this in the FFY 2003 APR, including information on the status of correction.

On pages 88-94 of the FFY 2003 APR, the State reported that it exceeded the national average for placements in least restrictive environments during this reporting period. Under Oregon law, children who are age five on or before September 1 are school age. Districts report the five-year-olds attending school on the Special Education Child Count (SECC) as kindergarteners by using the school-age placement codes, not the Early Childhood Special Education (ECSE) (Section 619) placement codes. These children were not included in the ECSE placement data ODE submitted to OSEP. ODE acknowledged that ECSE placement numbers were low when compared with national data. ODE stated that, by including kindergarten children who were "served outside the regular class less than 21 percent of the day" with the ECSE children served in typical settings (home and typical preschool), the numbers of children aged three to five receiving services in typical settings were above the national average.

ODE further reported that Federal Placement Distribution reports were provided to districts through the SPR&I process. These data reports provided districts with current year, three-year trend, like-size district comparisons, and geographic region comparison data. Districts that fell outside the applied performance threshold, differing by more than a plus or minus 20 percent of the State mean, were required to conduct further analysis as part of the SPR&I Phase 1 Self-assessment. Districts whose data and subsequent analysis verified LRE issues or continuum of placement option issues, were required to include strategies for improvement in their improvement plans.

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.

#### Preschool performance outcomes

OSEP's January 2005 letter required that in the FFY 2003 APR, ODE submit either documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for the area of improvement of early language/communication, pre-reading, and social-emotional skills of preschool-age children with disabilities receiving special education and related services,

---

<sup>3</sup> This issue is covered by special conditions on ODE's FFY 2005 Part B grant award, and the timeline therein.

or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

On page 95 of the FFY 2003 APR, ODE reported that with the Child Care Division of the Oregon Department of Human Services, it convened the first meeting of a stakeholders advisory group to assist in developing Oregon's Early Childhood Foundations content standards for early childhood education in October 2003. The standards were aligned with Oregon's Content Standards for Grades 3-12, as well as with the Federal Head Start Child Outcomes Framework, a document that identifies curriculum domains addressed by Head Start programs in Oregon. ODE appointed an advisory group of early childhood researchers, educators, and practitioners to work with Oregon university psychometricians to develop an assessment system based on the Oregon Early Childhood Foundations. This assessment system will be used to measure outcomes of children enrolled in Oregon's EI/ECSE program and Oregon Head Start Prekindergarten (OPK) program. Areas covered by the assessment are literacy, language development, math, science, social emotional development, approaches to learning, physical education, creative arts, and health. In the Spring 2004, ODE contracted with the University of Oregon and Portland State University to develop and pilot the Early Childhood Assessment. Results of the pilot will be reported in the SPP.

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 section 616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

### ***Secondary Transition***

The instructions to this cluster ask States whether the percentage of youth with disabilities participating in post-school activities is comparable to that of nondisabled youth. On pages 98-101 of the FFY 2003 APR, the State reported it collaborated with agency partners to provide services for students with disabilities and to identify data collected about postschool outcomes. The Youth Transition Project (YTP) is a partnership between ODE, the Office of Vocational Rehabilitation Services (OVRS), the University of Oregon, and school districts statewide. The purpose of the YTP is to prepare high school youth with disabilities for employment or career-related postsecondary education or training. During the 2003-2005 biennium, the YTP operated 36 local sites serving 113 high schools and more than 1,300 youth. ODE reported it would direct the focus of promoting positive outcomes in rehabilitation and transition through the workscope of the General Supervision and Enhancement Grant (GSEG) and this change in focus would allow ODE to work directly with districts to serve a larger population of youth with disabilities who are employed and/or engaged in postsecondary education.

The Transition Toolbox was an ODE newsletter designed to facilitate communication and connections statewide with transition specialists, parents, and students interested in the transition of students with disabilities to college, postsecondary education, and employment opportunities. Nine issues of the newsletter were completed and distributed via listserv and posted on the website during the reporting period. During the reporting period, the Oregon PTI conducted 31

statewide trainings about transition from school to adult life. There were 487 participants in attendance at the trainings. In July 2004, the Teaching Research Institute (TRI) initiated a Federal GSEG related to postsecondary education. With the participation of the Transition Advisory Committee (TAC), ODE formed a partnership with TRI to successfully pursue the Federal grant, which was funded in November 2004. OSEP appreciates the State's efforts in this area.

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 section 616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

### ***Conclusion***

By November 30, 2005, or in the SPP, due December 2, 2005, ODE must submit to OSEP:

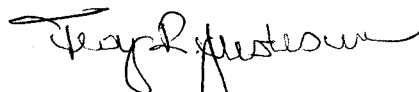
1. A second Progress Report including data and analysis documenting progress toward compliance related to the timely correction of noncompliance identified through monitoring and a Final Report, including data and analysis demonstrating compliance, no later than 30 days following one year from the date of this letter.
2. A second Progress Report including data and analysis documenting progress toward compliance with the requirement to resolve complaints within required timelines and a Final Report to OSEP, including data and analysis demonstrating compliance, no later than 30 days following one year from the date of this letter.
3. Strategies developed to ensure that decisions in due process hearings are issued within the timelines required by 34 CFR §300.511.
4. Data indicating whether children who previously participated in Part C who are found eligible for services under Part B have an IEP or IFSP in effect by their third birthday, as required by 34 CFR §300.132(b).
5. Provide the results of its review of 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 and are race-neutral, for those districts with data that illustrate significant disproportionality in the identification of children in specific disability categories and the placement of children in particular educational settings, as required by 34 CFR §300.755; or
6. Specify what steps the State will take to implement its plan to report on the results of its review of policies, procedures, and practices as outlined above, to ensure correction of the noncompliance as soon as possible, not to exceed one year from the date of this letter.
7. ODE must provide the requested suspension and expulsion data for Early Childhood Special Education programs in the November 2005 discipline report.

Within one year of the date of this letter, ODE must correct the noncompliance related to §300.146. 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 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 Linda Whitsett at (202) 245-7573.

Sincerely,



Troy R. Justesen  
Acting Director  
Office of Special Education Programs

Enclosure

cc: Dr. Nancy Latini, Assistant Superintendent