



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

AUG 30 2004

Honorable Suellen K. Reed  
Superintendent of Public Instruction  
Indiana Department of Education  
State House, Room 229  
Indianapolis, IN 46204-2798

Dear Dr. Reed:

The purpose of this letter is to respond to Indiana's March 29, 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 Part B cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education in the Least Restrictive Environment; and Secondary Transition.

### ***Background***

In its 2001 Self-Assessment, the State identified areas needing improvement, but did not identify any areas of noncompliance. The State submitted its Improvement Plan, addressing areas needing improvement, on July 1, 2002. As stated in its September 3, 2003 letter responding to the State's Improvement Plan, OSEP found that data in the Improvement Plan indicated noncompliance with the requirements of 34 CFR §300.121(c) regarding the provision of a free appropriate public education (FAPE) to children beginning at age three. OSEP directed the State to provide documentation no later than September 3, 2004 that it had corrected the noncompliance.

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 each cluster area within the APR are set forth below.

### *General Supervision*

Data in Attachment 1 of the APR showed that the Indiana Department of Education (IDE): (1) received 116 complaints during the reporting period; (2) did not investigate 11 of those complaints, because the complaint was withdrawn or IDE did not have jurisdiction; (3) issued decisions for 105 complaints (104 within the required timelines); and (4) made findings of noncompliance in 84 of those complaints. The State also provided data about its due process hearing system, reported on its monitoring and data collection processes, and included strategies for activities to improve performance in these areas. The State also set forth a target to reduce the number of limited licenses and to ensure that teachers are actively pursuing complete certification. The State further reported that universities have expanded their training programs, including distance education opportunities. OSEP looks forward to reviewing implementation of these strategies and their impact on children with disabilities in the FFY 2003 APR.

### *Early Childhood Transition*

In its September 3, 2003 letter, OSEP stated that baseline data in the Improvement Plan, for the 2001-2002 school year, showed noncompliance with the requirement, at 34 CFR §300.121(c)(1), that the State ensure that a free appropriate public education (FAPE) is made available to each eligible child residing in the State no later than the child's third birthday, and an Individualized Education Program (IEP) or an Individualized Family Service Plan (IFSP) is in effect for the child by that date, in accordance with 34 CFR §300.342(c). Specifically, the Improvement Plan stated, on page 1 of C/BT.1, that 69 percent of students transitioning from Part C to B had IEPs in place by their third birthday. OSEP directed the State to submit a Progress Report no later than February 1, 2004, and to provide documentation no later than September 3, 2004 that it had corrected the noncompliance.

The APR and the State's February 10, 2004 Improvement Plan Progress Report included data that indicated continued noncompliance with the requirements of 34 CFR §300.121(c)(1). On page 9 of the APR, the State reported that for the 2002-2003 school year 28 percent of Part B eligible children did not have timely implementation of services in their IEPs by their third birthday. The February 10, 2004 Progress Report, at page 2, similarly reported that 72 percent of children transitioning from Part C to Part B had IEPs implemented by their third birthday. On page 2 of the Progress Report, the State further reported that it had reviewed the files for the 3,045 transitioning children who did not have IEPs implemented by their third birthday to determine the reason for the delays, and found that for 117 of these 3,045 children, the delay was due to a school district failure. The State noted that this review had enabled the State's planning districts to develop improvement strategies to increase the 3<sup>rd</sup> birthday IEP implementation rate to 100%. As stated in OSEP's September 3, 2003 letter, the State must provide documentation by September 3, 2004 that it has completed correction of this noncompliance.

The State included data and information in the Improvement Plan Progress Report that indicated an area of noncompliance not previously identified by OSEP. Specifically, these data showed that for some children with disabilities transitioning from Part C early intervention services to Part B preschool special education services, public agencies did not participate in transition planning conferences arranged by the Lead Agency, as required by 34 CFR §300.132(c). On page 2 of the Progress Report, the State reported that it reviewed the files for 2,900 transitioning children, and that for 47 children, the public schools had knowledge of the transition conference but did not attend. The State must continue to report in the next APR on its progress in ensuring full compliance with this requirement.

### *Parent Involvement*

On page 11 of the APR, the State informed OSEP that this was the first year in which it collected parent involvement data in the current format, and that IDE will collect these data on an annual basis through its Continuous Improvement Focused Monitoring. During the 2002-2003 school year, IDE's review of 9,238 files (five percent of the total population) showed that 95 percent of parents participated in case conference (IEP) meetings.

On page 26 of the Improvement Plan, the State informed OSEP that it used survey data to measure active involvement of parents in identification, evaluation, eligibility determination, IEP, and placement decisions. State-wide data indicated that the percentage of parent involvement in these types of meetings ranged from 61 to 100 percent. The State established benchmarks to increase the participation range from 70 to 100 percent during the 2002-2003 school year, and 75 percent to 100 percent during the 2003-2004 school year. The State also included strategies to address low parent involvement when appropriate. OSEP looks forward to reviewing implementation of these strategies and their impact on children with disabilities in the FFY 2003 APR.

### *Free Appropriate Public Education in the Least Restrictive Environment*

On page 12 of the APR, the State informed OSEP that it had a long-standing contract with Indiana University to collect and disaggregate data on disproportionality. The State included data for the reporting period, but did not include any trend data. The State concluded that the data indicated that no significant disproportionality existed in any category across planning districts, but included strategies to address disproportionality should it be identified.

On page 3 of attachment 3, the data further indicated that 2,502 third, 813 sixth, 583 eighth, and 608 tenth grade students with disabilities were absent and thus did not participate in any assessment. These data suggest that a relatively high percentage of children with disabilities in some grades did not participate in the State assessments and the State may want to examine how to increase those participation rates.<sup>1</sup> For some grades, there also were substantial discrepancies between enrollment data provided and the sum of the numbers of students with disabilities participating in the assessment and absent. OSEP could not determine from the APR whether

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<sup>1</sup> Please note that the regulations under the No Child Left Behind Act (NCLBA) provide, at 34 CFR §200.20(c), that, in order to make adequate yearly progress (AYP), a school or LEA must ensure that not less than 95 percent of its students with disabilities in the grades tested participate in the State assessments under 34 CFR §200.2.

any students with disabilities did not participate in the State-wide assessment due to a failure by a public agency to meet the requirements of 34 CFR §300.347(a)(5) or 300.138. The State must include an analysis of compliance data related to those requirements as a part of its FFY 2003 APR.

The State identified the need for improved performance in the following areas and included strategies for such improvement. OSEP looks forward to reviewing implementation of these strategies and their impact on children with disabilities in the FFY 2003 APR.

On page 18 of the APR, the State acknowledged that its graduation rate for students with disabilities was below the national average of 57 percent. The data indicated that the graduation rate decreased 1.43 percent from 2001-2002 to 2002-2003 (from 52.87 percent to 51.44 percent). The data also showed that the dropout rate for students with disabilities decreased, from 34.16 percent for the 2001-2002 school year to 32.63 percent for the 2002-2003 school year. The State explained on page 18 that the graduation rate for students with disabilities had decreased when the high-stakes ISTEP assessment was first implemented, and then again when the ISTEP standards were made more stringent. The graduation rate had fluctuated by thirteen points over a five-year period, and the dropout rate fluctuated by five points during the same period.

On page 20 of the APR, the State included data showing that Indiana's suspension rate for special education students was less than half the rate for general education students. During the 2000-2001 school year, 30 percent of general education students were suspended compared to 18 percent of special education students. During the 2002-2003 school year, 30 percent of general education students were suspended compared to 13 percent of special education students. Expulsions rates were, however, nearly identical for students with and without disabilities. During the 2000-2001 school year, 0.6 percent of general education students were expelled, compared to 0.5 percent of special education students. During the 2002-2003 school year, the percentage expelled was the same for children with and without disabilities, 0.6 percent.

On page 22 of the APR, the data indicated that the performance gap between children with and without disabilities increased (but did not indicate over what period) in four areas: Grade 3 English/Language Arts, Grade 6 English/Language Arts, Grade 6 Mathematics, and Grade 8 Mathematics. The data also showed that there was a decrease in the performance of children with disabilities in four areas (but did not indicate over what period). Grade 3 Mathematics, Grade 8 English/Language Arts, Grade 10 English/Language Arts, and Grade 10 Mathematics. Across all grades, tests, and subject matters, the average increase in the performance gap was 1.5 percent (but did not indicate over what period). The majority of the special education planning districts reported that IEP goals were being aligned with the State standards.

Data on page 4 of Attachment 3 of the APR showed the following numbers of children with disabilities participating in general assessments failed those assessments:

Mathematics: third grade - 6,033; sixth grade - 7,293, eighth grade - 7,538; tenth grade - 6,336.  
Reading: third grade - 6,243; sixth grade - 8,100, eighth grade - 8,446; tenth grade - 6,727.

On page 32 of the APR, the data indicated that for the 2001-2002 school year, 59.92 percent of students were in LRE Category 50, 19.0 percent in Early Childhood Category 20 and 13 percent in Early Childhood Category 23. For the 2002-2003 school year, the data indicate that 58.11 percent of the students were in LRE Category 50, 22 percent in Early Childhood Category 20 and 19 percent in Early Childhood Category 23. However, the APR provided no clarification of the meaning of these data, including the meaning of these various "LRE categories."

The State did not include data in the APR on outcomes for preschool-aged children with disabilities, but did include a plan to begin reporting such data for the 2004-2005 school year. 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 submit either documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

### *Secondary Transition*

On pages 19 and 22 of the Improvement Plan, the State identified the following priority areas needing improvement for this cluster: (1) appropriate services are provided to prepare youth with disabilities for employment, postsecondary education, independent living, community participation, and life skills; and (2) youth with disabilities are actively involved in appropriate transition planning. On page 19 of the Improvement Plan, the State indicated that the Continuous Improvement Monitoring record reviews and surveys for 1999-2000 and 2000-2001 indicated that planning districts were complying with requirements for transition planning and programming, and set a benchmark for 100 percent of students aged 14 and older to be invited to case conferences during the 2002-2003 school year. The APR provided exit survey data regarding *expected* post-school outcomes for individuals with disabilities<sup>2</sup>, but the APR did not include any data that addressed that benchmark or the State's progress or slippage in regard to either of the two priority areas set forth in the State's approved Improvement Plan. In its FFY 2003 APR, the State should also provide data to address the indicators and targets that it established for this cluster.

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<sup>2</sup> The State's goal for this cluster was, "The percentage of youth with disabilities participating in post-school activities (e.g., employment, education, etc.) is comparable to that of nondisabled youth." The State's performance indicator was, "The percentage of youth with disabilities participating in post-secondary education vocational training, or employment, increases." On page 35 of the APR, the State included data from an exit survey that indicated that: (1) for 2001-2002, 57.4 percent of students were expected to obtain paying jobs and 53.5 percent were expected to pursue formal education (post high school); and (2) for 2001-2003, 53.2 percent were expected to obtain paying jobs and 52.6 percent were expected to pursue formal education (post high school). The APR also included on page 35, results from a "Four-year Follow-up Survey" showing that for: (1) 2001-2002, 72.5 percent of students obtained a paying job, 10.1 percent completed college, and 13.7 percent had continuing enrollment in college; and (2) 2001-2003, 72.4 percent had paying jobs, 11.5 percent completed college, and 15.7 percent had continuing enrollment in college.

**Conclusion**

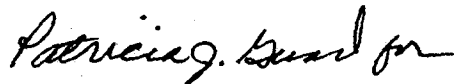
As stated in OSEP's letter of September 3, 2003, the State must provide documentation by September 3, 2004 that it has completed correction of the noncompliance related to ensuring that an IEP is in effect for eligible children with disabilities by their third birthday, as required by 34 CFR §300.121(c)(1).

In addition, as noted above, in its FFY 2003 APR the State must:

1. Continue to report on its progress in ensuring full compliance with the requirement, at 34 CFR §300.132(c), that public agencies participate in transition planning conferences arranged by the Lead Agency;
2. Include an analysis of compliance data related to the requirements of 34 CFR §300.347(a)(5) or 300.138; and
3. Provide 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 early language/communication, pre-reading, and socio-emotional skills of preschool children with disabilities, 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 Angela McCaskill at (202) 245-7435.

Sincerely,



Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: Robert Marra