



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

MAY 27 2004

Honorable Keith W. Rheault
Superintendent of Public Instruction
Nevada Department of Education
700 E. Fifth Street
Carson City, Nevada 89701-5096

Dear Superintendent Rheault:

The purpose of this letter is to respond to the Nevada Department of Education (NDE) March 31, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part B funds used during the grant period July 1, 2002 through June 30, 2003. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (OSEP), within the U.S. Department of Education. The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies) and consolidates the self-assessing and improvement planning functions of the CIFMS into one document. OSEP's Memorandum regarding the submission of Part B APRs directed States to address five cluster areas: General Supervision, Early Childhood Transition, Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment, and Secondary Transition.

Background

On July 23-25, 2003, OSEP conducted a visit to the State to verify the effectiveness of the State's systems for general supervision, collection of data under section 618 of the IDEA, and State-wide assessment. In OSEP's October 8, 2003 letter regarding the visit, OSEP informed the State that it believed that NDE's systems for general supervision constituted a reasonable approach to the identification and correction of noncompliance;¹ and that NDE's system for collecting and reporting data was designed to ensure the accuracy of the data that IDE reports to OSEP under section 618. During the verification visit, OSEP reviewed the State's documentation that addressed concerns identified in OSEP's earlier review of the State Improvement Plan (described below). OSEP did not identify these concerns as areas of noncompliance; rather, they were identified mutually by NDE and

¹ OSEP also informed NDE that OSEP cannot determine, without also collecting data at the local level, whether NDE is fully effective in identifying and correcting noncompliance.

OSEP as areas for continuous improvement to ensure continued compliance with IDEA. In addition, OSEP and Nevada did not identify noncompliance in the State's Self-Assessment submitted in December 2001.

NDE submitted an Improvement Plan on July 1, 2002. OSEP's letter to NDE on January 22, 2003 requested that NDE make modifications to the State's Improvement Plan and report on the State's progress in implementing the plan. The requested modifications included NDE providing additional information about the due process and complaint system, State-wide assessment, secondary transition community linkages, racial and ethnic disproportionality in special education identification, a definition for the terms "regular education curriculum" and "regular education classroom," and a description of how the State's monitoring system identifies and corrects noncompliance, and ensures all corrective actions are implemented regarding Part B-eligible children receiving services on their third birthday. OSEP also stated in the letter that the State must correct noncompliance as soon as possible, but no later than one year after the State identifies noncompliance. The request for modifications also included additional action steps to ensure that noncompliance will be identified, corrected, and, when necessary, corrective action enforced to ensure local districts are in compliance with IDEA regulations. NDE made the modifications and submitted a revised Improvement Plan and a Progress Report on July 2, 2003. NDE submitted its Improvement Plan Progress Report (Final) on April 29, 2004.

The State's APR should reflect the collection, analysis, and reporting of relevant data, and document data-based determinations regarding performance and compliance in each of the cluster areas (as well as any other areas identified by the State to ensure improvement). OSEP's comments regarding the Nevada APR submitted on March 31, 2004, the Nevada Improvement Plan Progress Report submitted on April 29, 2004 and each cluster area within the APR are set forth below.

General Supervision

The State provided data and information, on pages one through 15 of the APR, demonstrating that NDE's policies and procedures identified compliance, ensured correction of noncompliance, and encouraged positive program performance. The State had baseline and trend data, indicators, targets, future activities, and projected timelines and resources to address each of the following topics in this cluster: (a) effective general supervision, (b) identification and remediation of systemic compliance, (c) timely dispute resolution, (d) sufficient personnel, (e) accurate and timely data collection and reporting, and (f) identification and services for students with disabilities in adult correction facilities.

On pages one through six of the APR, NDE described the State's monitoring system and the results of monitoring activities at the State and local levels. During the 2002-2003 school year, the State had no automatic system in place for NDE to follow-up monitoring to ensure verification of correction of noncompliance within one year. However, the State revised its procedures in 2003 to include this provision in the monitoring system. One of the projected targets for the 2003-2004 reporting period (on which NDE will report its progress in the State's next APR) was to utilize monitoring instruments and procedures

that identify noncompliance in a timely manner and correct noncompliance within one year of identification. Also, while the State continued to monitor IDEA procedural requirements, the State was revising its on-site monitoring procedures to examine student outcomes. The Nevada Continuous Improvement and Monitoring Process (CIMP) Steering Committee recommended the revision and NDE will report on its use in the State's next APR. On pages six and seven of the APR, NDE described how monitoring findings, results of monitoring visits, issues identified through the dispute resolution system and analysis of student data were used to improve outcomes for students with disabilities.

On pages eight and nine of the APR, NDE described the timeliness of due process hearings, mediations, and complaint investigations. For the 2003-2004 reporting period the State had 100% of the due process hearings completed within 60 days except when one of the parties asked for an extension. For the 2003-2004 reporting period the State completed 100% of the complaint investigations within 45 days. The State reported that 70% of the mediations resulted in partial or full agreement. OSEP confirmed this in its earlier verification visit to Nevada in July, 2003. The NDE April 2004 Improvement Plan Progress Report also identified the State's progress in meeting the IDEA timeline requirements for dispute resolution. The State conducted an on-going training program for hearing officers based upon an in-depth review and evaluation conducted by a third party evaluator in 2002.

On pages nine through 12 of the APR, NDE discussed the status of trained personnel to meet the educational needs of all children with disabilities in the State. NDE identified the strengths and challenges of ensuring an adequate supply of special education administrators, teachers and related services personnel. The State was working collaboratively with institutions of higher education to provide professional development and courses leading to licensure and certification for teachers and related services personnel who reside in remote areas of the State. The State provided an overview of professional development activities that are underway in 2004 and those intended to be offered in 2005. This State goal was also a component of the State's Improvement Plan Progress Report. The State included trend data, indicators, explanation of progress and slippage, targets, future activities, timelines and projected resources for reaching this goal.

On pages 13 and 14 of the APR, the State identified the goal to collect accurate and timely data to use in reports and decision-making. The State submitted annual analyses of district and State data on performance indicators to each local district. The State attributed its progress in reaching its goal to provide timely reports to local districts and to OSEP, to advances in technology and improvement in instructions and analyses provided by OSEP and by WESTAT, an OSEP-funded contractor. NDE submitted 100% of its reports to OSEP and to local districts by the due dates.

On pages 14 and 15 of the APR, NDE reported a performance indicator for identifying, evaluating and serving Part B eligible students with disabilities in adult correctional facilities. This indicator is also in the State's April 2004 Improvement Plan Progress Report. The State reported that 100% of the Part B students with disabilities who were incarcerated in adult correctional facilities received IEP services if the student wished to

receive the services. The State also had in place requirements for each school district containing an adult correctional facility to establish and implement policies and procedures for the identification and referral of Part B eligible students with disabilities for special education services.

Early Childhood Transition

On pages one through seven of the second section of the APR, NDE discussed its performance in serving all children eligible for Part B services by their third birthday. Because the 2002-2003 school year was the first year NDE examined this issue during its on-site monitoring process, baseline data was scant. As a result of an analysis conducted by NDE and local school districts regarding Part C to Part B transition, and an analysis conducted by NDE and the Nevada Department of Human Resources (NDHR), NDE determined that the cooperative agreement between NDE and NDHR required revision. The APR included a plan of activities to address this issue during 2003-2004.

Based on data from the 2001-2003 school year, a total of nine school districts were monitored for compliance with Part C to Part B transition. The State randomly selected student records to determine compliance with Part B early childhood transition requirements. The State found that five children who transitioned from Part C did not have eligibility determined by the child's third birthday. There was no evidence that any child who was found eligible for Part B prior to the child's third birthday did not receive services by the child's third birthday. One of the State's targets to measure progress in the future was that 100% of school districts monitored by the State would demonstrate compliance with requirements to provide services for eligible children by their third birthday. In the State's next APR, NDE must report (a) the State's progress in increasing the effectiveness and ensuring the enforcement of the interagency agreement between NDE and NDHR to ensure transition from Part C to Part B meets IDEA requirements; (b) the State's progress in determining eligibility of all children exiting Part C by the child's third birthday; and (c) each district's progress in participating in transition planning conferences arranged by NDE. See 34 CFR §§300.121(c) and 300.132 (b) and (c).

Parent Involvement

On pages one through seven of the third section of the APR, NDE discussed its progress in reaching the State's goal that parents and students were meaningfully involved in making decisions about special education. The State had three performance indicators for reporting its progress on this goal. The indicators addressed parent participation in opportunities to share their opinions about special education, parents' meaningful involvement in individualized decision-making, and diverse parent representatives' meaningful involvement in committees and task forces. NDE identified baseline data, targets, an explanation for slippage or progress, future activities; and projected targets, resources and timelines for each of the indicators.

Free Appropriate Public in the Least Restrictive Environment

On pages one through 19 of the APR in the fourth section of the APR, NDE provided information about the State's goals to appropriately identify and serve all students eligible for Part B services. The State presented baseline and trend data for enrollment, educational environment, and assignment to disability category, including data in Attachment 2 of the APR. The data were disaggregated by race and ethnicity. Regarding the disproportionate enrollment, educational environment, and assignment to a disability category, the State included the target that policies, procedures, and practices for identification and placement of children with disabilities are race neutral and reasonable explanations for any disproportionality. Monitoring during 2001-2002 and 2002-2003 revealed no findings of noncompliance from any source related to bias in evaluations.

The State had goals to increase the graduation rate and decrease the dropout rate. Baseline data, targets, explanation of progress and slippage, projected targets, and future activities were included in the APR. Nevada was one of the States that required students to pass a rigorous, high-stakes test to earn a standard diploma. NDE was unable to calculate an event rate that reflects the percentage of special education students who drop out of school each year. Using the methodology that NDE used when reporting to the National Center for Education Statistics (NCES) the State's dropout rate for all students in grades 9-12 was 5.0% to 6.3%; for students with disabilities during the same period of time in grades 9-12, 5.1% to 6.7%. The Nevada Special Education Steering Committee and work groups and other stakeholders in the special education community were prioritizing efforts to improve the graduation rate and the dropout rate. Their recommendations will be reported in the State's next APR.

On pages eight through nine of this section of the APR, NDE discussed the State's efforts to reduce school expulsions and suspensions. Suspension and expulsion rates grew during the past three years. The State used a factor of .2 to establish an acceptable range of variability from the State-wide average of .59% for suspensions and expulsions between two groups: (a) students with disabilities and (b) nondisabled students.² When each district's suspension and expulsion rate was multiplied by the factor, the State found that each district was in a range within plus or equal to .2. In an analysis of complaint investigations and due process hearings, six complaints were related to IDEA discipline requirements and two due process hearings were conducted concerning discipline requirements. Two of six districts were found out of compliance in complaint investigations. The school district prevailed in one of the two hearing decisions, the parent in the other. Baseline data, targets, explanation of progress and slippage, projected targets, future activities, projected timelines, and projected resources were included in the APR. The large-scale assessment in Nevada changed in 2002-2003 due to the enactment of the No Child Left Behind Act (NCLB). NDE described, in Attachment 3 of the APR, the results of the State-wide assessment and included in the body of the APR an analysis of the results and the manner in which NDE reported results. Baseline data for participation and performance in the State-wide assessment in the APR was for School Year 1999. The Iowa

² The national average percentage of students with disabilities who are suspended or expelled more than ten days in a school year is just over 1.0%.

Test of Basic Skills was administered in fourth and seventh grades and the Iowa Test of Educational Development was administered in the tenth grade. The State conducted training programs jointly sponsored with NCLB staff on appropriate accommodations for the assessments, monitored to determine compliance with IDEA participation and reporting requirements, and widely reported special education participation and performance results. The APR identified baseline data, an explanation of progress and slippage, projected targets, and future activities. The State analyzed monitoring findings and conducted follow-up visits with districts that were monitored to determine that, where noncompliance had been identified with regard to State-wide assessment participation and performance, compliance was corrected by the district within one year or less after the noncompliance was determined. The Nevada Special Education Steering Committee was identifying projected timelines and projected resources to address reducing the achievement gap on State-wide assessments between students with disabilities and nondisabled students.

On pages 14 through 16 of the APR, Nevada reported on the progress toward its State goal to educate all students in the least restrictive environment while maintaining a full continuum of services. Indicators for this goal include the percentage of students who were educated in the general education classroom. In an analysis of Nevada's monitoring findings for School Year 2002-2003, six districts had student records indicating that the file did not have adequate documentation to meet IDEA procedural requirements. All noncompliance was corrected within one year. The State had baseline and trend data, targets, explanation for slippage and progress, projected targets, future activities, timelines, and projected resources to address this issue. During 2004 the Nevada Special Education Steering Committee plans to identify additional activities with projected timelines and projected resources to further ensure that children, including preschool children, are placed in the least restrictive environment with a full continuum of services.

The State of Nevada had not established baseline data to determine the early language/communication, pre-reading, and social-emotional skills, of preschool children with disabilities receiving special education and related services. NDE indicated that projected targets, future activities, and projected timelines and resources for this indicator would be included in the State's next APR. NDE also indicated that the NDE 619 Coordinator, the NDE Early Childhood Consultant, and the local school district special education administrators needed to design a data collection and performance indicator. NDE planned to utilize information and technical assistance from OSEP to address this goal.

On pages 17 and 18 of the APR, NDE reported progress in meeting the needs of students with disabilities who have individual behavioral needs to promote access to the general curriculum. NDE established this performance indicator to recognize that all kinds of behavior potentially impeded learning beyond behavior that led to suspension and expulsion. NDE described results of the State's student record reviews conducted during on-site monitoring in local districts and identified future training priorities. A future target for the reporting period July 1, 2003-June 30, 2004 was that IEPs for students with

behavior that impedes learning reflect compliance with IDEA requirements to address behavior needs.

Secondary Transition

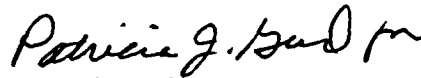
On pages one through six of this section of the APR, NDE identified two performance indicators to measure post-school outcomes. Other than the content of the written notice to parents regarding transition, there were no noncompliance findings for procedures specifically related to transition planning during the 2001-2002 and 2002-2003 school years. One complaint investigation was conducted in 2002-2003 and the school district was found out of compliance. All noncompliance was corrected within one year. The State had baseline and trend data, targets, explanation for slippage and progress, projected targets, future activities, timelines, and projected resources to address this goal.

Conclusion

Nevada provided the necessary data and information to document NDE's ability to ensure compliance and gather performance outcome data. Also, as noted in previous sections of this letter, OSEP suggests that the State's next APR to OSEP include the following: (a) the State's progress in increasing the effectiveness and ensuring the enforcement of the interagency agreement between NDE and NDHR to ensure transition from Part C to Part B meets IDEA requirements; (b) the State's progress in determining eligibility of all children exiting Part C by the child's third birthday; (c) each district's progress in participating in transition planning conferences arranged by NDE. See 34 CFR §§300.121(c) and 300.132 (b) and (c); (d) continue to report analyses of data related to graduation and dropout rates; and (e) baseline data to determine the early language/communication, pre-reading, and social-emotional skills, of preschool children with disabilities receiving special education and related services; and targets, explanation of slippage or progress, projected targets, future activities, and projected timelines and resources to address improving outcomes for preschool children.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State. We appreciate your work on the APR and we look forward to collaborating with Nevada as you continue to improve results for students with disabilities and their families. If you have questions, please contact Marie Mayor at (202) 260-1392.

Sincerely,



Stephanie Smith Lee

Director

Office of Special Education Programs

cc: Gloria Dolf