



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

Honorable Susan T. Zelman  
Superintendent of Public Instruction  
Ohio Department of Education  
25 South Front Street  
Columbus, Ohio 43215-4183

DEC 15 2004

Dear Dr. Zelman:

The purpose of this letter is to respond to Ohio's March 30, 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***

In its March 30, 2001, Monitoring Report, OSEP identified the following areas of noncompliance: (1) persons assigned as surrogate parents were employees of an agency that was involved in the care of children with disabilities (34 CFR §300.515(c)(2)(i)); (2) children in need of psychological counseling, positive behavioral interventions, strategies, and supports to benefit from special education were not provided those services (34 CFR §300.121, §300.300); (3) Ohio Department of Education (ODE) did not ensure the availability of an adequate supply of qualified related services personnel to provide a free appropriate public education (FAPE) to children with disabilities (34 CFR §300.300, §300.380(a)(2)); (4) provision of services to children entering Part B was not always timely (34 CFR §300.121(c)); (5) all children with disabilities in need of supports and services in the regular class setting to benefit from special education were not provided those services (34 CFR §300.347(a)(3)); (6) all children with disabilities who required extended school year services (ESY) as part of FAPE were not

provided those services (34 CFR §300.309(b)); (7) ODE did not ensure that individualized decisions regarding placement in the least restrictive environment (LRE) were made for children served by the County Board programs (34 CFR §300.550, §300.553); (8) a statement of transition service needs, beginning at age 14 (or younger if appropriate), was not included in individualized education programs (IEPs) for all students with a disability (34 CFR §300.347(b)(1)); (9) transition services for students with disabilities age 16 (or younger, if determined appropriate by the IEP team) were not always addressed in IEP meetings (34 CFR §300.344(b)); (10) IEPs did not always include outcome-oriented statements of transition services that were designed to promote movement to post-school activities (34 CFR §300.29); (11) ODE did not ensure that outside agencies likely to be providing or paying for post-transition services were invited to the IEP meetings or their input obtained if they could not attend (34 CFR §300.344); (12) ODE did not ensure effective methods for identifying and correcting deficiencies in programs providing services to children with disabilities (34 CFR §300.600(a)(2)); (13) ODE did not ensure that the procedural safeguards notice included a full explanation of all the available procedural safeguards (34 CFR §300.504(b)); (14) ODE's complaint management procedures did not include all provisions required by Part B (34 CFR §§300.660 – 300.662); (15) ODE did not ensure adherence to complaint timelines and extensions (34 CFR §300.661); and (16) ODE did not ensure that complaint letters of findings addressed each violation of Part B (34 CFR §300.661).

OSEP's March 20, 2003 response to the ODE's October 15, 2001 Improvement Plan required that, by March 30, 2004, ODE demonstrate full compliance in the areas of noncompliance identified in OSEP's May 2001 Monitoring Report. In its FFY 2002 APR, submitted on March 31, 2004, ODE included required reporting on its Improvement Plan along with data and analysis demonstrating its progress toward correction of noncompliance.

OSEP has planned a visit to Ohio the week of December 13, 2004 to verify the effectiveness of the State's systems for general supervision, the collection of data under Section 618 of IDEA and State-wide Assessments. OSEP will provide the results of this visit in a letter.

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. This letter responds to the State's FFY 2002 APR, the October 2001 Improvement Plan and the June 26, 2003 and November 25, 2003 Progress Reports. OSEP's comments are listed by cluster area.

### ***General Supervision***

Monitoring: Identification and Correction of Noncompliance. OSEP's March 2001 Monitoring Report found that ODE did not have effective methods for identifying and correcting noncompliance. On pages 2 through 4 of the APR and on pages 6 through 7 of the June 26, 2003 Progress Report, ODE reported monitoring data from 2001-2002 and 2002-2003; provided revised monitoring procedures and protocols; revised the District self-review monitoring instrument; and reported an increase in staff, as required in OSEP's March 2003 Improvement Plan letter. On page 3 of the APR, ODE reported that during the 2002-2003 school year, 92 school improvement reviews were completed; those data indicated 92.8% of targeted items were in compliance across the districts reviewed. ODE specifically addressed the 16 areas of

noncompliance identified by OSEP, including baseline data, targets, activities, and timelines. However, ODE did not include data and analysis demonstrating correction of all identified noncompliance within a reasonable period of time, not to exceed one year. In the next APR, due March 31, 2005, Ohio must include documentation that the State ensures the correction of noncompliance that it identified through monitoring, within a reasonable period of time not to exceed one year.

In January 2004, ODE implemented a focused monitoring system as part of a four-pronged approach (Focused Monitoring; Procedural Safeguards Selective Review; Fiscal Review Resource Management; and Comprehensive Continuous Improvement Plan Compliance Review) to ensure compliance with IDEA. During its verification visit in December 2004, it is OSEP's intention to work with the ODE to: (1) understand how the new systems work; and (2) determine the extent to which the State's systems are effective in ensuring compliance and improving performance.

Complaint procedures. OSEP's March 2001 Monitoring Report found that ODE did not have written procedures for: (1) resolving complaints by an organization or individual from another State; (2) resolving complaints alleging a public agency's failure to implement a due process decision; and (3) ensuring that complaint letters of findings addressed each violation of Part B. On page 4 of the APR, and in its November 2003 Progress Report, ODE provided documentation and information to demonstrate compliance. However, in its November 2003 Progress Report, ODE included information that indicated an area of noncompliance not previously identified by OSEP. Page 3 of the revised complaint procedures states, "The complaint must list the alleged violations of the law *along with a proposed resolution.*" There is no requirement in 34 CFR §300.662, that a complaint include a proposed resolution. Therefore, this provision is inconsistent with Federal requirements. In the next APR, due March 31, 2005, ODE must submit a proposed revision that removes the inconsistent language, and a plan for implementation and dissemination of the proposed revision within a reasonable period of time, or submit documentation that this has already occurred.

Complaint timelines. OSEP's March 2001 Monitoring Report found that ODE did not ensure that formal written complaints were resolved within required timelines (34 CFR §300.661(a) and (b)). As required by OSEP's March 2003 Improvement Plan letter, ODE submitted an analysis of complaint data in its June 2003 Progress Report, indicating improvement in meeting the required timelines. On page 7 of the July 2003 Progress Report, ODE reported an increase of staff with primary responsibility for complaint resolution and provision of technical assistance. On pages 2 through 5 and on page 16 of the APR, ODE included the following data and analysis: data from July 1, 2002 through June 30, 2003 indicated an increase from 57.5% to 79.5% in the rate of timely resolution of complaints; from July through September 2003, 97.2% of complaints were resolved within timelines; and from January 1, 2004 through June 30, 2004, 96.4% of complaints were resolved within Federal timelines. OSEP acknowledges Ohio's progress in ensuring that formal written complaints are resolved within required timelines; however, OSEP expects Ohio to demonstrate full compliance with timeline requirements and to continue to report on its progress in this area in the FFY 2003 APR, due March 31, 2005.

Procedural Safeguards. OSEP's March 2001 Monitoring Report found that ODE's procedural safeguards notice did not include a full explanation of all the available procedural safeguards. As required by OSEP's March 2003 Improvement Plan letter, ODE submitted the revised procedural safeguards notice, *Whose IDEA Is This? A Resource Guide for Parents*. OSEP has been working closely with ODE in its efforts to finalize the procedural safeguards notice. In March 2004, OSEP reviewed the document and provided requested technical assistance, including suggested revisions. OSEP approves ODE's revised document and in the next APR, due March 31, 2005, the State must include evidence of dissemination consistent with the provisions in its October 2001 Improvement Plan.

Mediations. On pages 7 through 8 and 15 through 16 of the APR, ODE included data and analysis along with strategies and timelines designed to maintain compliance. OSEP looks forward to the State's analysis of the implementation of these strategies and their impact on in the next APR.

Due Process. On page 10 of the APR, ODE included data and information that indicated noncompliance not previously identified by OSEP: the failure to complete due process decisions within required timelines under 34 CFR §300.511. Specifically, on pages 10 and 11 of the APR, ODE included data and information indicating that 80% of due process decisions were issued within timelines and that 7 (20%) of due process decisions were issued after timelines and extensions had expired. On pages 11 and 12 of the APR, ODE included strategies and targets designed to ensure compliance. OSEP accepts these strategies. In the next APR, due March 31, 2005, the State must include data and analysis demonstrating progress toward compliance and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but no later than 30 days following one year from the date of this letter.

Sufficient Supply of Personnel. In OSEP's May 2001 Monitoring Report, OSEP found that ODE did not ensure the availability of an adequate supply of qualified related services personnel to provide FAPE to children with disabilities. OSEP's March 2003 Improvement Plan letter required that by March 30, 2004, ODE demonstrate full compliance in this area. In its June 2003 Progress Report and on pages 17 through 21 and on page 94 of the APR, ODE included monitoring data and analysis indicating that: (1) in 2001-2002, 87.5% of districts monitored had sufficient related services personnel; and (2) in 2002-2003, 80.6% of districts monitored had sufficient related services personnel. In addition, the State reported that in the fall of 2002 the number of special education teacher vacancies was 949 and that the number of special education teachers with temporary licenses was "far higher" than for regular classroom teachers. ODE also included the following data: (1) in 2001-2002, 93.75% of districts monitored provided related services to children with disabilities according to their IEPs; and (2) in 2002-2003, 95.52% provided related services according to children's IEPs. ODE did not set out what additional measures were used to ensure that related services were provided in the absence of qualified personnel.

In the APR, ODE included targets, strategies, activities and timelines designed to address the shortage of related services personnel. For example, the State proposed collaboration with institutions of higher education and State Improvement Grant initiatives, such as supporting efforts with the Ohio Masters Network Initiatives in Education Speech-Language Pathology,

designed to increase the number of fully credentialed speech-language pathologists in Ohio and, similarly, with the Ohio School for the Blind, to prepare orientation and mobility specialists. In the next APR, ODE must document how related services are provided in the absence of qualified personnel, and the State's progress in ensuring full compliance with the requirement that all children with disabilities receive the related services listed on their IEP, including information regarding the correction of previously reported noncompliance.

Data Collection and Reporting. On pages 22 through 25 of the APR, ODE addressed efforts to ensure the collection and reporting of accurate and timely data. For example, ODE required that each school district collect and report information on students, staff, programs, services and costs through the State's Education Management Information System (EMIS). On page 23 through 25 of the APR, ODE addressed its use of data to inform policy development, monitoring and training. ODE included baseline data, activities, timelines and resources designed to ensure compliance. To address acknowledged problems in collecting data for children transitioning from Part C to Part B, described below, ODE and the Ohio Department of Health have developed a coordinated data collection system. OSEP looks forward to reviewing the State's data systems during the scheduled verification visit and to the State's reporting on its progress in the next APR, due March 31, 2005.

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

OSEP's March 2001 Monitoring Report identified noncompliance with the requirement that children transitioning from Part C to Part B have an IEP developed and implemented by their third birthday. OSEP's March 2003 Improvement Plan letter required that by March 30, 2004, ODE demonstrate full compliance in this area. OSEP required ODE to report on the number of children transitioning from Early Intervention Services (EIS) (Part C) to Part B programs and the number of those children who received FAPE by their third birthday, along with measurable benchmarks. On pages 26 through 28 of the APR, ODE included data and analysis that identified barriers to the accurate collection and sharing of data between Part C and Part B for children exiting Part C. On pages 28 through 30 of the APR, ODE reported targets, activities and timelines for improving performance and the implementation of a coordinated data collection system. These include: a revised data collection system for Part C and Part B; activities and trainings developed under the Ohio General Supervision Enhancement Grant (GSEG) that resulted in State-wide transition directory of district contacts; development and dissemination of a transition checklist; and regional training for transition from Part C to Part B. ODE reported that the 2002-2003 data collected did not accurately reflect the number of children transitioning from Part C who were eligible for Part B services. ODE did not include strategies, activities, targets and timelines designed to ensure that such eligible children with disabilities receive FAPE by their third birthdays as required in OSEP's March 2003 Improvement Plan letter. OSEP is concerned with the State's inability to provide accurate data or demonstrate compliance in this area as required by the Improvement Plan. In the next APR, ODE must submit accurate updated data and analysis demonstrating compliance with this requirement.

### ***Parent Involvement***

In OSEP's March 2001 Monitoring Report, OSEP identified noncompliance because persons assigned as surrogate parents were employees of an agency that was involved in the care of children with disabilities. See 34 CFR §300.515(c)(2)(i). On pages 32 through 34 of the APR and in the June 2003 Progress Report, ODE included data and analysis demonstrating progress in correcting this noncompliance including the *Revised Ohio Model Procedures for the Education of Children with Disabilities*. On page 9, Ohio revised its procedures to be consistent with this requirement. OSEP approves the revised procedures. *The Operating Standards for Ohio's Schools Serving Children with Disabilities* became effective July 1, 2002. On page 38 of the *Standards*, the revised rule was consistent with the Federal requirement at 34 CFR §300.515. On pages 32 through 36 of the APR, ODE provided survey data and analysis, targets, activities and timelines for improving performance in this cluster. OSEP looks forward to reviewing the State's analysis of the impact of its strategies in this area.

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

OSEP's 2001 Monitoring Report identified noncompliance in the following areas: (1) all children with disabilities in need of psychological counseling, positive behavioral interventions and strategies and supports to benefit from special education were not provided these services (34 CFR §300.121 and §300.300); (2) children with disabilities in need of supports and services in the regular class setting to benefit from special education were not provided these services (34 CFR §300.347(a)(3)); (3) all children with disabilities who required ESY as part of FAPE were not provided these services (34 CFR §300.309(b)); and (4) failure to make individual decisions regarding placement in the least restrictive environment for children served by the County Board programs (34 CFR §300.550-553), (see "Children with Disabilities Educated with Nondisabled Peers to the Maximum Extent" below). OSEP's March 2003 Improvement Plan letter required that by March 30, 2004, ODE demonstrate full compliance in each of these areas of noncompliance. On pages 74 through 95 of the APR and in its November 2003 and June 2003 Progress Reports, ODE reported implementation of strategies and included its analysis of compliance data as required in OSEP's March 2003 Improvement Plan letter.

Monitoring data from 2001-2002 and 2002-2003 demonstrated progress in correction of noncompliance. With regard to items 1 and 2 (psychological counseling and supports), above, ODE reported on pages 74 and 75 of the APR for 2002-2003: (1) an average 98.5% compliance rate with requirements regarding the provision of positive supports; (2) an average 88% compliance rate with requirements regarding the provision of psychological counseling services; and (3) an average 98.5% compliance rate with requirements regarding addressing positive behavioral supports in the IEP and ensuring their availability. With regard to item 3 (ESY), ODE reported 91.4% compliance with the requirement that IEP teams consider ESY for 2002-2003. OSEP acknowledges the efforts that the State has made in these areas and is encouraged by the State's progress. ODE must continue to report in the FFY 2003 APR, due March 31, 2005, its progress in ensuring full compliance with these requirements, including reporting on the correction of previously identified noncompliance in this area.

Disproportionality. On pages 56 through 66 of the APR, ODE included data and analysis that identified efforts to decrease the disproportionate representation of children by race/ethnicity identified with disabilities in Ohio. The State presented baseline data for racial and ethnic disproportionality including data in Attachment 2 of the APR. ODE's data analysis included an examination of disproportionality in identification and educational environments. The State also included information regarding a focus on early identification and remediation of reading difficulties to prevent or reduce the likelihood of a reading disability and plans to meet with the local directors of the "Big 8" urban districts to focus on the issue of disproportionality in graduation rates, suspension and expulsion rates, and performance on large-scale assessments.

34 CFR §300.755 requires that States that identify significant disproportionality on the basis of race in the identification of children with disabilities (including identification within particular categories of disability) or in placements into particular settings must provide for the review and, if appropriate, revision of the policies, procedures and practices used in identification or placement to ensure that they comply with Part B. It is important to note that in addressing significant disproportionality related to identification under 34 CFR §300.755, it is appropriate to look at policies, procedures and practices in the referral, evaluation and identification process to determine if they are educationally appropriate consistent with the requirements of Part B and race neutral. Such an examination generally would include a review of the availability and use of pre-referral intervention services, the selection and use of evaluation instruments and materials, the selection and use of evaluation criteria, and the reasons for referral for special education evaluations.

The instructions to the FFY 2002 APR required States that identify significant disproportionality to report on the results of that review of, and any appropriate revisions to, policies, procedures and practices. This was not done. In the next APR, ODE must report on its identification of significant disproportionality in identification and educational placements, and on the results and reviews of, and any appropriate revisions to, policies, procedures and practices.

Graduation and Dropout. On pages 67 through 71 of the APR, ODE included baseline data and analysis, targets, explanation of progress and slippage, and activities to address graduation and drop-out rates for students with disabilities. Ohio included goals to increase the graduation rate and decrease the drop-out rate. ODE reported trend data that indicated an increase in graduation rates for both students with and without disabilities. Graduation data for 2001-2002 indicated graduation rates increased for students with disabilities in all disability categories with the exception of traumatic brain injury. Drop-out data indicated that, although there is a reduction in the drop-out rate for students with disabilities from 2000-2003 from 1.6% to 1.4%, the percentage of students with disabilities that drop out of school exceeds that of students without disabilities. ODE will continue to focus its efforts on increasing the graduation rate and decreasing the drop-out rate through focused monitoring and other collaborative efforts. OSEP looks forward to reviewing the data and implementation of these activities and their impact on children with disabilities in the FFY 2003 APR.

Suspension and Expulsion. 34 CFR §300.146 requires that States examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities either among local education agencies (LEAs) in the State or compared

to the rates for nondisabled children within the agencies. Where the State determines that significant discrepancies are occurring, it must review and, if appropriate, revise (or require 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 the policies, procedures, and practices comply with Part B. The instructions to the 2002 APR direct States to describe which of these comparisons it did, as well as the method the State used to determine possible discrepancies, what constitutes a discrepancy, the number of agencies with significant discrepancies, and, if significant discrepancies are occurring, a description of those discrepancies and how the State plans to address them.

On pages 72 and 73 of the APR, ODE reported its analysis that students with disabilities are expelled less often than students without disabilities. However, the State reported that students with disabilities are suspended at nearly double the rate of nondisabled students. ODE's review of disaggregated data for students with disabilities indicated that African American students make up nearly half of the suspension or expulsions that exceeded ten days. To address this discrepancy, ODE included targets, activities, and strategies; for example, partnering with the Ohio Department of Mental Health to promote the delivery of mental health services and implementation of positive behavioral supports. ODE also provided Part B funds to support the Positive Behavioral Support project.

OSEP could not determine from the State's APR submission, whether it met the requirements of 34 CFR §300.146, to review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards to ensure that the policies procedures and practices comply with Part B. In the next APR, the State must report on the result of its review of, and any appropriate revisions to, the State's and/or LEA's policies, procedures and practices.

Participation and Performance of Children with Disabilities on State-wide Assessments. On pages 78 through 91 of the APR, ODE reported on participation and performance of children with disabilities on Ohio's State-wide assessments. Assessment data and analysis from 2002-2003 indicated that approximately 98% of Ohio's children with disabilities were participating in State-wide assessments but that a significant gap existed between the performance of children with and without disabilities. ODE identified targets, activities, strategies and resources designed to close the achievement gap for children with disabilities. ODE will focus on improving academic results for children with disabilities and aligning instruction with academic content standards. ODE did not report on the bases for non-participation by 2% of students with disabilities. OSEP looks forward to reviewing the implementation of these strategies and their impact on children with disabilities in the FFY 2003 APR and directs ODE to report in the next APR on the bases for nonparticipation in the State-wide assessment system.

Children with Disabilities Educated with Nondisabled Peers to the Maximum Extent Appropriate. As noted above, OSEP's March 2001 Monitoring Report identified noncompliance with the requirement that the State ensure individualized placement decisions into the least restrictive environment (LRE) for children served by the County Board Programs. OSEP's



March 2003 Improvement Plan letter required that by March 30, 2004, ODE demonstrate compliance in this area. ODE reported that it now includes County Board Programs in its monitoring regarding Part B requirements including the LRE provisions. On pages 92 through 110 of the APR and in the June 2003 Progress Report, ODE included data and analysis identifying barriers to decreasing the number of students removed from regular education environments to separate class placements, along with strategies and timelines for improving performance. Barriers included: a weighted funding formula; legislative language; and data collection and reporting. ODE reported on its continued focus to improve access to the general curriculum for children with disabilities and to increase the percentage of time children with disabilities spend in the regular education environment.

On pages 93 through 95 of the APR, the State listed monitoring protocols that address this area of noncompliance and reported baseline data. With regard to its monitoring on ensuring that children with disabilities served in separate facilities participate with nondisabled peers in nonacademic and extracurricular activities to the maximum extent appropriate, ODE reported 79% compliance for 2002-2003. On other measures related to the development of the IEP and access to the general curriculum, the compliance rates for 2002-2003 ranged from 91% to 97%. In the FFY 2003 APR, due March 31, 2005, ODE must continue to report on compliance with the requirements at 34 CFR §§300.550-553 regarding the LRE, including the correction of previously identified noncompliance.

Early Language Communication, Pre-Reading, and Social-Emotional Skills of Preschool Children with Disabilities. On pages 111 through 113 of this section, the APR noted that ODE did not currently collect data on this issue. Under 20 U.S.C. 1418(a)(2) States are required to provide information that the Secretary requires. Moreover, under 20 U.S.C. 1232d(b)(4), States are required to cooperate in carrying out any evaluation conducted by the Secretary. 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, due March 31, 2005, ODE must either submit documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data for the FFY 2004 APR.

### ***Secondary Transition***

OSEP's March 2001 Monitoring Report identified noncompliance in the following areas: (1) a statement of transition service needs, beginning at age 14 (or younger if appropriate), was not provided to all students with a disability; (2) transition service needs for students with disabilities age 16 (or younger, if determined appropriate by the IEP team) were not always addressed in IEP meetings; (3) IEPs did not always include outcome-oriented statements of transition services that were designed to promote movement to post-school activities; and (4) ODE did not ensure effective methods for ensuring that outside agencies likely to be providing or paying for post-transition services were invited to the IEP meetings or for obtaining input if they did not attend. OSEP's March 2003 Improvement Plan letter required that by March 30, 2004, ODE

demonstrate full compliance in these areas of noncompliance. On pages 115 through 121 of the APR and in the June 2003 Progress Report, ODE included monitoring data and analysis from 2001-2002 and 2002-2003 that demonstrated progress in correction of the noncompliance. For 2002-2003 ODE reported the following: (1) 97% compliance with the standard that transition needs are discussed and documented during the IEP meeting for students beginning at age 14; (2) 94% compliance with the requirement that transition plans contain outcome-oriented statements; and (3) 93% compliance with the requirement that outside agencies likely to be responsible for providing or paying for transition services provide input for IEP meetings. ODE submitted targets, activities and timelines to ensure compliance. ODE must continue to report in the FFY 2003 APR, due March 31, 2005, on compliance with the transition requirements, including reporting on the correction of previously identified noncompliance.

### ***Conclusion***

OSEP appreciates the efforts that the State has demonstrated in both its Improvement Plan and APR submissions. While the State has demonstrated systemic progress in its reporting on the yearly levels of compliance for many areas, as noted above, additional efforts are required to ensure full compliance.

In the next APR, due March 31, 2005, ODE must submit a proposed revision to its complaint procedures that removes the inconsistent language, noted above, and a plan for implementation and dissemination of the proposed revision within a reasonable period of time, or submit documentation that this has already occurred.

In the FFY 2003 APR, ODE must provide a progress report with regard to meeting the due process hearing decision timelines, (34 CFR §300.511) and submit a final report no later than 30 days after December 14, 2005.


In the FFY 2003 APR, ODE must provide data and analysis demonstrating compliance with the following areas (including, where appropriate, correction of previously identified noncompliance): (1) ensuring correction of previously identified noncompliance within a reasonable period of time not to exceed one year; (2) ensuring that formal written complaints are resolved within required timelines (3) evidence of dissemination of the revised procedural safeguards; (4) the provision of related services in accordance with students' IEPs; (5) ensuring that children transitioning from Part C to Part B have an IEP developed and implemented by their third birthday; (6) ensure the consideration, availability and provision of positive behavioral supports and psychological counseling services for students who need them; (7) ensuring that the LRE requirements are met for children served by County Board Programs; and (8) ensuring compliance with the above-cited transition requirements.

In addition, OSEP looks forward to reviewing: 1) the State's data and analysis on the bases for students with disabilities not participating in State-wide assessments; and 2) for early language communication, pre-reading, and social-emotional skills of preschool children with disabilities,

either data (whether collected through sampling, monitoring, individual IEP review, or other methods) and a plan for improved performance, or a plan to collect the data for the FFY 2004 APR.

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 Margaret Romer at (202) 245-7501.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephanie Smith Lee".

Stephanie Smith Lee

Director

Office of Special Education Programs

cc: Mike Armstrong