



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

Honorable William J. Moloney
Commissioner
Department of Education
201 Colfax Avenue
Denver, Colorado 80203-1799

SEP 17 2004

Dear Commissioner Moloney:

The purpose of this letter is to respond to the Colorado Department of Education's (CDE) March 31, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part C 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 C APRs directed States to address five cluster areas: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition.

Background

OSEP's March 30, 2001 Monitoring Report identified seven areas of noncompliance that included: (1) the State's monitoring system was not effective in correcting identified deficiencies; (2) the lack of effective and ongoing public awareness; (3) delays in evaluation, assessment and convening the initial IFSP meeting; (4) evaluations and assessments of all infants and toddlers were not conducted in all five required developmental areas; (5) the lack of a single service coordinator and failure to implement all service coordination responsibilities; (6) failure to address individual needs of each child and family and provide all early intervention services on the IFSP; and (7) delays in transition due to delays in transition conferences.

CDE submitted an amended Part C Improvement Plan to OSEP in April 2002 that included baseline information, proposed improvement strategies and evidence of change/benchmarks for each area of noncompliance. In its letter of November 12, 2002, OSEP responded to the State's

April 2002 Improvement Plan, indicating that the timeline for the State to resolve the identified seven areas of noncompliance was one year from the issuance of OSEP's November 12, 2002 letter. CDE submitted an Improvement Plan Progress Report in December 2002. CDE requested and OSEP approved a one-month extension for its final Progress Report from November 30, 2003 to December 30, 2003 to allow CDE time to report data to address the issues of noncompliance in OSEP's Monitoring Report. Based on the data and information provided in the State's December 2003 final Progress Report and the State's March 31, 2004 FFY 2002 APR submissions, Colorado has addressed six of the seven findings identified in OSEP's 2001 monitoring report and must provide within 90 days data on the remaining transition conference finding.

OSEP will visit Colorado in September 2004 to verify the effectiveness of the State's systems for general supervision and the collection of data under section 618 of IDEA. OSEP will provide Colorado with a letter summarizing the results of the visit following the visit.

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 State's FFY 2002 APR and Improvement Plan Progress Report of December 31, 2003 are listed by cluster area below.

General Supervision

In its March 2001 Monitoring Report, OSEP identified one finding of noncompliance in this cluster area: the monitoring system was not effective in correcting deficiencies as required by 34 CFR §303.501.

On page two of the FFY 2002 APR, and in the State's Improvement Plan final Progress Report of December 31, 2003, the State included data and analysis that demonstrated correction of the noncompliance as follows: (1) the State reported 100 percent (three of three agencies) designated as significantly at risk agencies and monitored in 2003-2004 had restructured both funding and administration/ management systems in order to implement policies and procedures consistent with Part C; (2) the State implemented a compliance-oriented system of monitoring for nine out of eleven agencies in 2003-2004; and (3) ten agencies had implemented continuous improvement plans that address compliance issues. Additional information received from CDE indicated that five of the agencies monitored had completed their continuous improvement plans and addressed required corrections during this reporting period and two agencies did not have noncompliance. CDE reported that CDE, along with its State interagency partners, had a monitoring system in place that included levels of interaction and intervention, targeted follow-up technical assistance, State monitored improvement plans and levels of consequences for noncompliance. The State reported that no complaints, mediations or due process hearings occurred during the reporting period.

Based on the FFY 2002 APR and the final Progress Report, Colorado has implemented all of the strategies from the Improvement Plan accepted by OSEP on November 12, 2002 and has a system in place to identify noncompliance and correct State-identified deficiencies and enforce

compliance. OSEP will further verify the State's systems for identifying and correcting noncompliance and other general supervision responsibilities during OSEP's verification visit to the State the week of September 27, 2004.

Comprehensive Public Awareness and Child Find System

In its March 2001 Monitoring Report, OSEP identified two areas of noncompliance in this cluster area: (1) a lack of effective and ongoing public awareness as required by 34 CFR §303.320(a), (b)(1), (2), (3); and (2) delays in evaluation, assessment and convening of the initial IFSP meeting within 45 days of referral as required by 34 CFR §§303.321(e), 303.322(e) and 303.342(a).

Effective public awareness: In the April 2002 Improvement Plan, some examples of CDE's improvement strategies included: (1) the provision of training and technical assistance focused on effective referral and identification practices to Child Find Coordinators and local Special Education Directors; (2) tracking the dissemination of public awareness materials; and (3) the identification of communities that were under or over identifying infants and toddlers with disabilities and the provision of technical assistance on effective culturally appropriate referral and identification practices.

In its December 2003 final Progress Report, CDE reported: (1) 1.51 percent of the birth-to-three population had an active IFSP (3051) on December 1, 2003; (2) identification rates for individual communities between 0.39 percent and 3.56 percent of the birth-to-three population; and (3) 8.3 percent increase in physician referrals from the State's 2002 benchmark to 2003.

On pages five and six of the FFY 2002 APR, the State included data and analysis that demonstrated correction of the noncompliance as follows: (1) increased rates of referrals by physicians and hospitals; (2) an ongoing and targeted public awareness system; (3) technical assistance provided to providers on data collection twice a year to assure accurate collection and reporting; (4) State monitoring focused on local public awareness and outreach activities; (5) follow up reviews targeting counties with low identification rates conducted by CDE staff; and (6) 95 percent of school district child find offices reported availability of comprehensive child identification activities twelve months a year.

Initial IFSP meeting convened in a timely manner: In the April 2002 Improvement Plan, some examples of CDE's improvement strategies included: (1) monitoring for the presence or absence of year-round child identification procedures; (2) dissemination of information to local education agencies regarding strategies for organizing personnel and resources to provide child identification year-round; and (3) the provision of training to community interagency child identification teams on effective intake, evaluation and assessment.

In the December 2003 final Progress Report, CDE reported that it had implemented its strategies to address the 45-day timeline issue and that 65.2 percent of IFSP meetings were held within 45 days of referral as of December 1, 2003. However, this data represents the number of IFSPs completed within 45 days and not the compliance data regarding holding the initial IFSP meeting. On pages seven and on page ten (in a data note) of the FFY 2002 APR, the State

reported that its monitoring data, as of March 31, 2004, 95 percent of initial evaluations were completed in all required areas in a timely manner in all 11 providers monitored during this reporting period. CDE further reported that the local child find systems have standard procedures for the evaluation team and service coordinator to meet with the family at the end of the evaluation and assessment session to share evaluation data, answer questions and begin IFSP development. The completion of the IFSP frequently includes a sequence of meetings to decide on strategies and early intervention services across two distinct service delivery systems with different sets of providers. CDE, as Lead Agency assigns the local education agency responsibility for eligibility determination including IFSP development and the Part C system is responsible for service delivery.

In the December 2003 final Progress Report, CDE also reported that (1) State monitoring data indicated that child find teams consistently included interpreters as appropriate for infants and toddlers and their families with cultural and linguistic differences; and (2) 95 percent of Child Find offices reported the availability of comprehensive child identification activities on a year-round basis.

On page seven of the FFY 2002 APR, the State also reported that: (1) 95 percent of local education agency child find offices reported that they had implemented comprehensive child identification activities (local education agencies have evaluation, assessment and IFSP development responsibilities and the Part C system has service responsibility) on a year-round basis in order to meet the 45-day timeline requirement; and (2) CDE has provided regional training to address noncompliance on evaluation and assessment for child find coordinators in nine communities.

Page six of the APR contained a numerical goal for increasing the number of children identified by Part C. While it is not inconsistent with Part C of the IDEA to include a numerical goal to increase the percentages of infants and toddlers with disabilities determined eligible for services, the State must continue to monitor to ensure that eligibility decisions for all infants and toddlers are made in conformity with the individual evaluation and assessment requirements of Part C of IDEA (at 34 CFR §§303.320 through 303.323) and not based upon a numerical goal.

Based on the FFY 2002 APR and the final Progress Report, Colorado has implemented all of its strategies from the Improvement Plan accepted by OSEP on November 12, 2002 and has demonstrated significant progress in correcting noncompliance with the issue of timeliness for completing evaluations and assessments to conduct the initial IFSP meeting. The State must continue to report in its next APR (FFY 2003) on its strategies to ensure compliance in this area.

Family Centered Services

OSEP did not identify noncompliance in its March 2001 Monitoring Report in this cluster area. OSEP's February 13, 2004 letter requested that the State include, in its FFY 2002 APR, performance baseline data including monitoring data collected from both parent focus groups and IFSP reviews. CDE's FFY 2002 APR indicated that a family survey was implemented during the State's 2003-2004 monitoring cycle with preliminary data suggesting that the majority

of families are responding positively to questions regarding the increased capacity of families to enhance the developmental outcomes of their infants and toddlers. The State indicated that the analysis of the family survey data would be available and reported as baseline information in the next APR. CDE has included additional strategies to ensure the provision of family centered services. The information provided in the FFY 2002 APR indicated that CDE continued to enhance its performance in this cluster area.

In the next APR (FFY 2003), the State may wish to provide examples of monitoring data such as: (1) the number and type of family support services identified in IFSPs and provided; (2) the number of family directed assessments that are offered and conducted; and (3) documentation that IFSPs contain a statement of family's resources, priorities, and concerns related to enhancing the development of the child.

Early Intervention Services in Natural Environments

In its March 2001 Monitoring Report, OSEP identified three areas of noncompliance in this cluster area: (1) evaluations and assessments of all infants and toddlers were not conducted in all five required developmental areas; (2) lack of single service coordinator as required by 34 CFR §303.23(a) and (b) failure to implement all service coordination responsibilities; and (3) failure to address individual needs of each child and family and provide all services on an IFSP as required by 34 CFR §303.344(d).

Evaluations and assessments conducted in all developmental areas: In the April 2002 Improvement Plan, some examples of CDE's improvement strategies included: (1) the development of an interagency agreement with the Department of Public Health and Environment to increase the capacity of the Developmental Evaluation Clinics; (2) the dissemination of written guidelines ("Fast Facts") to clarify Part B Child Find responsibilities to local education agencies; and (3) the provision of information to local education agencies regarding Medicaid billing to build additional resources for child find activities; and (4) the development of a standardized IFSP form. In its FFY 2002 APR on page 10, the State reported that, as of June 2003, 93 percent of eligible children received a multi-disciplinary evaluation and assessment in all five areas of development. In its December 2003 final Progress Report, CDE reported that 96.67 percent of eligible children received an initial multi-disciplinary evaluation in all five areas of development. In addition, the State reported that monitoring data indicated that of those providers visited during this reporting period, 60 percent of the IFSPs reviewed documented evaluations and assessments in all five developmental areas; however the State identified appropriate strategies, targets and timelines to address the documentation of evaluations on the IFSP. The State has provided data demonstrating significant improvement and must report in the next APR on its efforts to ensure compliance with Part C's requirements that children are evaluated in all five developmental areas and IFSPs document that such evaluations are being conducted.

Single service coordinator and implementation of all service coordination responsibilities: In the April 2002 Improvement Plan, some examples of CDE's improvement strategies included: (1) the development and implementation of a Service Coordination Core Training (SCCT) in 14 locations across the State; (2) the dissemination of a survey to gather information from the SCCT

participants to determine pre and post-training knowledge and practices; (3) provided SCCT three times per year to orient new service coordinators; and (4) posted SCCT materials on the CDE/Early Childhood Connections website.

In the December 2003 final Progress Report, CDE reported that it had implemented all of the strategies from its Improvement Plan and that: (1) 99.6 percent of eligible children has an identified service coordinator (data collection completion issue for remaining .3 percent) (2) all 2003-2004 local interagency contracts required documentation of a service coordination system; and (3) 370 personnel completed four day service coordination training by December 2003.

On page ten of the FFY 2002 APR, the State indicated that: (1) 99.7 percent of children had an identified service coordinator; and (2) 422 personnel completed four day service coordination training as of June 2003. The State's data indicates that it has corrected this area of noncompliance and OSEP commends the State on its efforts to ensure compliance in this area.

Individual child and family needs and provision of all IFSP services: In the April 2002 Improvement Plan, some examples of CDE's improvement strategies included: (1) conducted a study of Medicaid, private insurance, state funds utilization rates with recommendations to expand funding options for early intervention services; (2) provided training and technical assistance to local data managers regarding accurate reporting of early intervention services data; and (3) conducted a state-wide conference for providers on effective practices in IFSP development.

In the December 2003 final Progress Report, CDE reported that it has implemented all of the strategies it identified in its Improvement Plan and that: (1) 95.2 percent of all IFSPs identified needed early intervention services; (2) 93 percent of IFSPs indicated that early intervention services listed on IFSPs were provided; and (3) 95 percent of parents who participated in focus groups during monitoring visits indicated that they received the early intervention services identified on the IFSP. On page ten of the FFY 2002 APR, the State included data and analysis for June 2003 that demonstrated it has addressed this area of the noncompliance and that 96.8 percent of services listed as needed on IFSPs were received. OSEP commends CDE on its efforts to ensure that infants and toddlers with disabilities and their families are receiving needed early intervention services.

As a result of major system changes in CDE's capacity to utilize fiscal resources to ensure the identification and delivery of needed services and thereby correct noncompliance, CDE reported the following increases in service utilization data on Medicaid, private insurance, and other funding sources: 17 percent in Medicaid utilization over the December, 2002 benchmark and 94 percent in private insurance utilization over the December, 2002 benchmark with a 32.4 percent decrease in other funding sources from December, 2002.

The Part C FFY 2001 and FFY 2002 APRs requested data on the percentage of children participating in the Part C program that demonstrated improved and sustained functional abilities (in the developmental areas listed in 34 CFR 303.322 (c)(3)(ii)). On page 13 of the APR, the State reported that: no baseline data was available for the reporting period; the APR indicated that CDE will develop a short survey to gather data to document demonstrated improvement in

children's functional abilities. In the FFY 2003 APR, CDE must submit the status of its survey or other plan to obtain this data and/or responsive data (whether collected through sampling, monitoring, IFSP 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.

Early Childhood Transition

In its March 2001 Monitoring Report, OSEP identified one area of noncompliance in this cluster area: delays in transition services due to delays in transition conferences required by 34 CFR §§303.148(b)(2)(i), and 303.148(b)(1).

In the April 2002 Improvement Plan, some examples of CDE's improvement strategies included: (1) collected accurate data regarding transition planning and the timely provision of services at age three through IFSP reviews, parent focus groups and targeted onsite monitoring visits; and (2) provided transition planning training to service coordinators, child find coordinators, and preschool personnel.

In the December 2003 final Progress Report, CDE reported that it has implemented all of the strategies from its Improvement Plan and that 100 percent of all local providers have written transition plans or a plan in place to complete the interagency agreement by December 2003. The FFY APR 2002 on page 14 reported that: (1) 86.4 percent of all eligible children had completed transition plans no later than three months prior to their third birthday (March 2004); (2) 100 percent of the 11 local interagency coordinating councils monitored during this reporting period notified the local education agencies of upcoming transition dates and invitations to attend transition conferences (March 2004); and (3) CDE tracked the results of corrective action plans and conducted follow-up site visits. However, the CDE did not specifically report on the status of correction on whether the transition conference was held in a timely manner although it appears that the notification of LEAs is occurring in a timely manner. In addition, although the State reported that significant numbers of children have transition plans by their 36-month birthday, OSEP cannot determine how this data correlates to whether Part C's transition conference is being held as required under 34 CFR §303.148(b)(2)(i).

Therefore, please provide, within 90 days from date of this letter, compliance data that demonstrates that transition conferences for children likely to be eligible under Part B had a transition conference at least 90 days but not more than six months prior to the child's third birthday. If the data indicate noncompliance, please also provide OSEP within 90 days: (1) the State's additional efforts to correct this area of noncompliance; (2) documentation of the specific steps, including any sanctions, that it has taken to ensure correction, and the impact of those actions; and (3) its analysis of the factors that impeded correction of noncompliance; (4) whether existing strategies to achieve compliance are effective or need to be revised; and (5) if the State determines that additional strategies, proposed evidence of change, targets and timelines to ensure full compliance as soon as possible.

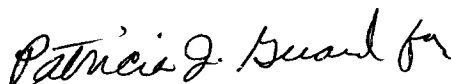
Conclusion

As noted above, CDE provided data and information in the final Progress Report and the FFY 2002 APR to address noncompliance in six of the seven areas identified by OSEP in its March 2001 Monitoring Report.

Within 90 days from the date of the letter, CDE must provide the correction data that transition conferences are held as required by 34 CFR §§303.148(b)(2)(i), and 303.148(b)(1). In the next APR, CDE must report on its efforts to ensure compliance and performance that: (1) initial IFSP meetings are held within 45-days of receipt of an initial referral at 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a); (2) evaluations and assessments are conducted in all five required areas as required by 34 CFR §303.322(c)(2)(ii); and (3) its plan and/or responsive data (whether collected through sampling, monitoring, individual IFSP review, or other methods) on the percentage of children participating in the Part C program who demonstrate improved and sustained functional abilities in Part C's five developmental areas.

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 infants and toddlers with disabilities and their families. If you have questions, please contact Jacquelyn Twining-Martin at (202) 245-7558.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Susan Smith
Part C Coordinator