



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Karl B. Kurtz  
Director  
Department of Health and Welfare  
450 West State Street, 5<sup>th</sup> Floor  
Boise, Idaho 83720-0036

NOV 19 2004

Dear Director Kurtz:

The purpose of this letter is to respond to Idaho's August 13, 2004 submission<sup>1</sup> 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 for Part C 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.

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.

### ***Background***

The Department of Health and Welfare (DHW) submitted its Improvement Plan (IP) in October 2001, and submitted amendments to its IP in April, July, and October 2002. OSEP accepted DHW's IP in a letter dated December 2, 2002. The IP included strategies to address the noncompliance that had been indicated in the State's Self Assessment regarding the 45-day timeline for Individualized Family Service Plans (IFSPs). The State submitted a progress report on March 31, 2003. The State also submitted a progress report in its FFY 2001 APR (submitted on July 18, 2003), and another one on September 29, 2003. In a letter dated February 23, 2004, OSEP responded to those progress reports and the FFY 2001 APR, indicating that the State must demonstrate full compliance with the 45-day timeline for IFSPs in its FFY 2002 APR.

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<sup>1</sup> The State requested an extension for submitting its APR until July 16, 2004. The State submitted the APR at that time and submitted revisions on August 13, 2004.

OSEP visited Idaho the week of April 19, 2004 to verify the effectiveness of the State's systems for general supervision and data collection under Section 618 of IDEA. In OSEP's May 20, 2004 letter to DHW regarding the verification visit to the State, OSEP found that DHW's systems for general supervision constitute a reasonable approach to the identification and correction of noncompliance; however, OSEP could not, without also collecting data at the local level, determine whether they are fully effective in identifying and correcting noncompliance.

The State submitted an IP Progress Report in its FFY 2002 APR, and submitted an update on September 17, 2004. OSEP's comments regarding the State's FFY 2002 APR and September 17, 2004 Progress Report are listed by cluster area below.

### ***General Supervision***

In the February 2004 letter regarding the State's FFY 2001 APR, OSEP indicated that it expected the State to report on the results of its general supervisory activities in its APR. In the FFY 2002 APR, the State reported on its general supervision activities in a number of areas. OSEP will discuss the State's analysis of the 45-day timeline issue in the Early Intervention Services in Natural Environments section of this letter.

The State also reported that, during the FFY 2002 reporting period, corrective action plans were implemented in three regions for transition meeting requirements under 34 CFR §303.148(b)(2)(i). In addition, trend data from the State's electronic data-base showed slippage in meeting the Part C requirements under 34 CFR §303.344(h), transition steps on the IFSP (pages 34-35). See Transition cluster below for a description of these issues.

The State reported that no complaints, mediations or due process hearings occurred during the FFY 2002 reporting period (page nine). The State reported that it had identified noncompliance in documenting the provision of prior written notice in cases where the Idaho School for the Deaf and Blind provided the service coordination. The APR indicated that the State had ensured correction of that noncompliance.

OSEP reviewed DHW's prior written notice form and determined that it did not include all the information required pursuant to 34 CFR §303.403(b). In the May 20, 2004 letter regarding the verification visit, OSEP indicated that the State was required to submit to OSEP, within 90 days of that letter, either (1) the Part C revised prior written notice that meets the content requirements of 34 CFR §303.403 and a written assurance that the State has informed providers of the revised notice and when the notice must be provided to parents or (2) a written assurance that the State has revised its notice to meet the content requirements and has informed providers of the revised notice and when the notice must be provided to parents. The State submitted a revised parent notice to OSEP on August 15, 2004, and submitted an assurance to OSEP on August 20, 2004 indicating that the State would revise its prior written notice in accordance with Part C. OSEP provided its initial comments regarding the State's revised notice via electronic mail on October 7, 2004. OSEP will provide to the State a more detailed analysis of the State's prior written notice documents under separate cover.

To ensure that there are a sufficient number of service providers to meet the identified early intervention needs, DHW planned to prepare a request for increased State funding to support the hiring of additional speech and language pathologists, occupational therapists, physical therapists, and audiologists (page 10). The State did not report the specific number of additional personnel needed by discipline. OSEP looks forward to reviewing the outcome of DHW's efforts to obtain additional personnel.

DHW reported in the APR (Attachment 2) the State's various funding sources to ensure the provision of early intervention services. The greatest financial support for Part C came from State appropriations. Others included: (1) medical assistance, and (2) private insurance (which the State accesses under the system of payments provisions of its Part C application). DHW reported that it intended to implement a variety of administrative strategies to efficiently use private and public insurance to pay for early intervention services (APR, pages 28-29). OSEP looks forward to receiving an update on these efforts in the FFY 2003 APR.

### *Comprehensive Public Awareness and Child Find*

DHW used a target of 2% of the birth-through-two population and 1% of the birth-to-one population as a minimum target (floor) that all children were identified throughout the State (pages 13-19). While it is not inconsistent with Part C of the IDEA to include a numerical target 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.

The State reported that it identified an area needing improvement regarding identification of all children in need of early intervention services in two regions because these regions were implementing less than optimal child find activities due to staffing issues and unexpected population growth (pages 13-15). The State reported that it provided technical assistance and allocated funds to hire additional staff. DHW intended to continue to monitor the efficacy of these strategies for these two regions. In addition, the State indicated that, in general, "if trends show any decline or cause suspicion of noncompliance, further investigation of status will be initiated through a hierarchy of sanctions as outlined in GS.1." (page 19). While the State may identify areas of concern regarding child find activities, the State must ensure it does not find local and regional provider programs out of compliance for failing to meet a particular numerical goal when eligibility decisions are made consistent with Part C.

### *Family Centered Services*

In this cluster area in the FFY 2002 APR, the State did not report that any systemic issues were identified during the APR reporting period. The State reported that its monitoring data for three regions in 2001 and for one region in 2002 demonstrated that IFSPs contained family's resources, priorities and concerns related to IFSP goals. Services provided to families included respite care, parenting education, and other supports directed to assist families to meet the child's developmental needs. In addition, results of family surveys conducted between July 2002 and June 2003 and focus groups conducted in 2001 and 2002 (during on-site monitoring visits),

showed a high rate of satisfaction with supports and services provided to families to enhance their child's development (pages 21-22).

In the next APR, the State should continue to report on its strategies to ensure compliance and performance in this cluster area.

### ***Early Intervention Services in Natural Environments***

DHW's Self-Assessment and IP identified one area of systemic noncompliance: initial IFSP meetings were not held within 45 days of receipt of a referral as required by 34 CFR §303.321(e)(2), §303.322(e)(1) and §303.342(a).<sup>2</sup> DHW demonstrated in its FFY 2001 APR, September 29, 2003 IP Progress Report, the FFY 2002 APR and a September 17, 2004 update that the State made consistent improvement to ensure that within 45 days after it received a referral, an initial IFSP meeting was held for all eligible children and families.<sup>3</sup> In the FFY 2002 APR and the September 17, 2004 update, DHW reported that Region 4 completed 90%, and Region 6 completed 80.43%, of the IFSPs reviewed within 45 days of referral for newly enrolled children during the months of June, July, and August 2004. The State had previously required Regions 4 and 6 to submit regional corrective action plans, which include monthly reporting of timelines. The FFY 2002 APR stated that Region 4 is demonstrating continuous progress toward correcting the noncompliance, and correction of the noncompliance is expected in Region 6 no later than December 30, 2004. In the next APR, due March 31, 2005, the State must submit the monthly reporting that it is collecting from Regions 4 and 6, or a summary of that reporting, demonstrating correction on the noncompliance. To the extent that the data do not demonstrate such compliance, the State must provide, in the next APR: (a) its analysis of the factors that have impeded correction of the noncompliance, and whether existing strategies are effective or need to be refined or targeted to ensure full compliance; (b) documentation of the specific steps, including any sanctions that it has taken to ensure correction, and the impact of those actions; and (c) if the State determines that additional strategies are needed or that existing strategies must be modified, its proposed strategies, evidence of change data and timelines to ensure full compliance as soon as possible.

In the September 17, 2004 update, the State also reported that Region 1 completed 13 of 17 (77%) of the IFSPs reviewed within 45 days of referral. In the FFY 2002 APR, the State reported "the expectation for Region 1 is full compliance no later than one year from completion of the regional action plan that is due 10/1/04." In the next APR, the State must submit updated data showing the progress that Region 1 has made toward compliance. In the September 17, 2004 update, the State also reported data from November 2003 indicating that Region 2 had completed 9 of 11 (82%) of the IFSPs reviewed within 45 days of referral. The State must also include in the next APR updated data regarding the timelines for IFSP development in Region 2.

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<sup>2</sup> DHW requires early intervention providers to obtain a *signed, completed* IFSP within 45-days of referral, whereas the Part C regulations require an *initial* IFSP meeting be held within 45-days of referral. However, it is our understanding that the State's data represents Part C requirements because it completes the initial IFSP at the initial IFSP meeting.

<sup>3</sup> In a letter dated December 2, 2002, OSEP approved the State's Improvement Plan and requested that DHW provide Progress Reports related to this area of noncompliance on March 28, 2003 and September 29, 2003. In a letter dated February 23, 2004, OSEP responded to the State's progress reports and FFY 2001 APR, indicating that the State must demonstrate full compliance with the 45-day timeline for IFSPs in its FFY 2002 APR.

DHW reported that monitoring data (data compiled from the electronic data-base, quarterly record reviews conducted by regional staff, and on-site record reviews conducted by State staff) indicated that all eligible children had a service coordinator and that service coordinators were carrying out responsibilities required under Part C (pages 24-25). The APR indicated that State staff intended to conduct six regional on-site visits during the next APR reporting period to confirm continuing compliance with the Part C service coordination requirements (pages 24-25). OSEP looks forward to reviewing the outcome of DHW's monitoring activities in the FFY 2003 APR.

In the FFY 2002 APR, the State reported that:<sup>4</sup> (1) quarterly regional record reviews provide evidence that children have evaluations in all areas of development conducted by appropriate qualified personnel; (2) IFSP services are based on the needs identified in evaluations; and (3) no areas of noncompliance were identified related to evaluations and the identification of needs (pages 26-27).

DHW reported, on page 29 of the APR, that there is suspected noncompliance in the timely delivery of IFSP services. DHW indicated in the APR that it planned to collect information through regional quarterly reports about delays to service access. DHW reported it would provide the results of this monitoring activity to OSEP in the FFY 2003 APR (page 29). OSEP looks forward to reviewing the outcome of DHW's monitoring activities related to delivery of early intervention services in the next APR.

Performance data regarding early intervention services provided in natural environments demonstrated that 85.3% of all children enrolled on June 1, 2003 had services provided in the home or typical settings (pages 29-30). Monitoring compliance data from IFSP reviews indicated that all records include justifications for services not provided in natural environments (page 30). The State reported that it intended to conduct record reviews in six regions to continue to verify that, if services were not provided in natural environments, justifications were documented in IFSPs (page 30). The State reported that Region 4 was serving a higher percentage of children in "provider location" as compared to all other regions (page 30 and page 32). The State hypothesized that one of the reasons for the variation in one region could be that providers were reluctant to provide services in natural environments. Provider preference or convenience is not an appropriate justification for not providing early intervention services in a natural environment under 34 CFR §§ 303.344(d)(2), 303.18, and 303.12(b). The State must ensure that justifications are based on the child's needs. DHW indicated that it intended to further investigate these data to determine if services are being provided in the "provider location" only if early intervention cannot be achieved satisfactorily for the infant or toddler in the natural environment. In the next APR, DHW must report on its review of the justifications in IFSPs in Region 4 to ensure that they are appropriate and based on children's needs, and its updated monitoring results from record reviews (or other data) in the State's six other regions.

Submission requirements for the Part C FFY 2001 and 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 33 of the APR, the State reported that parent survey results from 148 families indicated

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<sup>4</sup> This conclusion was based on data from the electronic data-base and regional quarterly file reviews.

100% positive results on two questions related to children making progress and the family/child benefiting from services. The State also reported that an outcome coding system was developed to indicate status for achieving IFSP objectives, and a database was under development that included data fields for collecting IFSP outcome data. In the FFY 2003 APR, DHW must submit, if available, 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 its plan to collect and report the data for the FFY 2004 APR (expected to be due March 31, 2006), including a detailed timeline of the activities necessary to implement that plan.

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

On pages 34-40 of the APR, the State reported the following information regarding transition: (1) numerous collaborative activities were implemented with the State Education Agency staff to improve transitions for infants and toddlers with disabilities and their families; (2) three regions had corrective action plans in place for not documenting the transition meeting requirements that a transition meeting was held 90 days and at the discretion of all parties up to six months prior to the child's third birthday; (3) all regions would be monitored during the 2003 – 2004 self assessment cycle to ensure that transition meetings were held at least 90 days prior to the child's third birthday (and up to six months at the discretion of parties); and (4) from July 2002 to July 2003, State-wide trends (based on a 10% State-wide sample) demonstrated slippage (from 96% to 83%) in the percentage of children that have "steps to support transition" included in their IFSPs. The State planned to collect monitoring data from six regional site visits to ensure providers included required IFSP content relating to transition (page 35).

In its FFY 2003 APR, DHW must provide an update of the results from its monitoring and corrective action plans regarding the transition meeting requirements (34 CFR §303.148(b)(2)(i)) and any findings regarding IFSP transition requirements (34 CFR §303.344(h)). If the data indicates noncompliance, DHW must also submit to OSEP in the FFY 2003 APR, a plan, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan.

### ***Conclusion***

In the FFY 2003 APR, due March 31, 2005, the State must provide:

- 1) With regard to the 45-day timeline for IFSPs:
  - a. The monthly reporting that it is collecting from Regions 4 and 6, or a summary of that reporting, demonstrating correction on the noncompliance. To the extent that the data do not demonstrate such compliance, the State must provide, in the next APR: (a) its analysis of the factors that have impeded correction of the noncompliance, and whether existing strategies are effective or need to be refined or targeted to ensure full compliance; (b) documentation of the specific steps, including any sanctions that it has taken to ensure correction, and the impact of those actions; and (c) if the State determines that additional strategies are needed

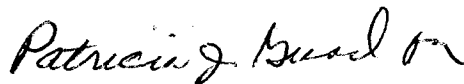
or that existing strategies must be modified, its proposed strategies, evidence of change data and timelines to ensure full compliance as soon as possible.

- b. Updated data showing the progress that Region 1 has made toward compliance; and
  - c. Updated data regarding the timelines for IFSP development in Region 2;
- 2) The State's review of the justifications in IFSPs in Region 4 to ensure that they are appropriate and based on children's needs, and its updated monitoring results from record reviews (or other data) in the State's six other regions;
  - 3) If available, responsive data regarding the percentage of children participating in the Part C program that demonstrated improved and sustained functional abilities (whether collected through sampling, monitoring, IFSP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or its plan to collect and report the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan; and
  - 4) An update of the results from its monitoring and corrective action plans regarding the transition meeting requirements (34 CFR §303.148(b)(2)(i)) and any findings regarding IFSP transition requirements (34 CFR §303.344(h)). If the data indicates noncompliance, DHW must also submit to OSEP in the FFY 2003 APR, a plan, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan.

OSEP also looks forward to reviewing the results of the State's monitoring activities regarding timely delivery of IFSP services, which the State indicated it would provide in the next 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 infants and toddlers with disabilities and their families. If you have questions, please contact Sheryl Parkhurst at (202) 245-7472.

Sincerely,



Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: Mary Jones  
Part C Coordinator