



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

Honorable Gail Gray
Director
Montana Department of Public Health and Human Services
Disabilities Services Division
P.O. Box 4210
Helena, Montana 59604-4210

JUN 23 2004

Dear Director Gray:

The purpose of this letter is to respond to Montana's 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.

It was OSEP's expectation that, as part of the State's self-assessing and improvement planning efforts, the APR 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). This letter responds to the State's FFY 2002 APR. OSEP's comments are listed by cluster area.

General Supervision

On page four of the APR, the State included a description of the methods used to inform parents about the dispute resolution process. The State reported that there were no complaint investigations, mediations, or due process hearing requests in the reporting period.

Montana stated (based on the State's Comprehensive Performance and Evaluation Process) that all seven early intervention provider agencies are in compliance with Part C services and that there were no corrective action plans needed. No data was provided in the APR to verify the compliance. Montana did not report monitoring data and /or analysis of the number of regions visited, types of noncompliance found if any, or length of time for correction and level of correction required. No information was provided on whether some regions have persistent issues (compliance or improvement), what the State does in response, and the results of the actions taken by the State. In the next APR, the State must provide monitoring data to verify compliance and include strategies, benchmarks, proposed evidence of change, targets and timelines designed to maintain compliance and performance in this area.

Comprehensive Public Awareness and Child Find System

The State provided December 1, 2002 child count compared to the national count and provided the percentage of eligible infants and toddlers who are less than 12 months old compared to the national count. The information provided on child find and public awareness activities indicated that Montana was able to assess and enhance its performance in this cluster area. OSEP suggests that Montana include in its next APR, information about how the State analyzes and uses the data collected from its seven provider agencies to improve child find results. OSEP also recommends that Montana include data, disaggregated by region (or provider), to document consistency across agencies and to allow the State to target interventions, where needed, in a timely manner. Page 17 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 (34 CFR §§303.320 through 303.323) and not based upon a numerical goal.

Family Centered Services

Montana reported that: (1) consumer satisfaction surveys indicate effective partnerships/positive outcomes; and (2) the State's Comprehensive Performance Evaluation Process indicates positive outcomes for children and families. The APR did not contain evidence of change, benchmarks or improvement strategies that addressed whether the provision of family supports, services and resources increase the family's capacity to enhance outcomes for infants and toddlers. OSEP's response to Montana's FFY 2002 APR requested that the State include strategies in the March 31, 2004 APR, designed to maintain compliance with the general supervision requirements of IDEA. Within 60 days of the date of this letter, the State must submit the data OSEP requested, with an analysis to determine compliance.

Examples of this data can include (monitoring data, results of Individualized Family Service Plans (IFSP) reviews, etc). OSEP will review the information submitted and determine what, if any, further action may be required.

An example of child outcome data that the State did provide was: the December 1, 2002 Federal Section 618 data indicated that 115 out of 521 (22 percent) children exiting Part C had completed their IFSP before reaching the maximum age allowed for services. Montana reported that 460 IFSPs were reviewed to document that outcomes for children and families were developed and implemented.

While Montana is determining what other data to collect for this cluster, the State may consider such data as: (1) numbers and types of family support services provided; (2) regions where performance is deficient or exemplary; (3) results from monitoring that indicate IFSPs contain a statement of the family's concerns, priorities and resources related to enhancing the development of the child; and (4) documentation that family assessments are offered as part of the evaluation and assessment process and the development of IFSPs, and that family assessments are conducted.

Early Intervention Services in Natural Environments

Montana's baseline data indicated that: (1) all children have a Family Support Specialist; (2) 95 percent of children receive services primarily in the home and community-based settings; (3) the 45-day timeline from referral to the development of the IFSP is established and monitored within each provider agency and validated in the Comprehensive Performance Evaluation process; (4) the evaluation and assessment are conducted in alignment with federal regulations, are comprehensive, conducted by professional staff, family driven, lead to the identification of child needs and the family needs related to enhancing the development of the child, and validated through the Comprehensive Performance Evaluation process; (5) sampling procedures are used, to review evaluation, assessment and IFSP information on an annual basis to ensure compliance; (6) the results of Quality Improvement Specialist reviews are summarized in annual monitoring reports and are reviewed by the Lead Agency, regional staff and providers; and (7) all seven providers are in full compliance with Part C. OSEP's response to Montana's FFY 2002 APR requested that the State provide monitoring data in the March 31, 2004 APR, to establish the effectiveness of activities related to both performance and compliance in this area. The APR did not contain monitoring data or analysis that demonstrated the State's capacity to identify noncompliance, correct noncompliance or provide enforcement if necessary. Within 60 days of the date of this letter, the State must submit the data OSEP requested, with an analysis to determine compliance. Examples of this data can include (monitoring data, results of IFSP reviews etc). OSEP will review the information submitted and determine what, if any, further action may be required.

Based on December 1, 2002 Federal Section 618 data, Montana reported that 95 percent of infants and toddlers received early intervention services primarily in the home, community-based settings and in programs designed for typically developing peers. The State reported a future goal that 90 percent of families will receive services in the natural environment.

While it is not inconsistent with Part C of the IDEA to include a numerical goal to serve a specific percentage of the State's population in natural environments setting a numerical goal raises concerns under Part C.

The Part C regulations, at 34 CFR § 303.12(b), require that “[t]o the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate”. The IFSP must include a statement of the natural environments in which early intervention services will be provided, and “a justification of the extent, if any, to which the services will not be provided in a natural environment”. See 34 CFR §303.344(d)(1)(ii). Therefore, in the next APR, the State must revise its 90 percent goal to ensure that services for all or 100 percent of its infants and toddlers with disabilities are provided either in natural environments or are provided under IFSPs that contain an appropriate justification for a setting that is not the natural environment (for e.g. the child's outcomes cannot be met by providing services in a natural environment).

The Part C FFYs 2001 and 2002 APRs requested data on the percentage of children participating in the Part C program that demonstrate improved and sustained functional abilities (in the developmental areas listed in 34 CFR §303.322(c)(3)(ii)). The State indicated that regional agencies routinely monitor progress on completing IFSP outcomes and objectives as one way to demonstrate improved and sustained functional abilities. Progress is also measured by using appropriate child assessments. The State is collecting IFSP child outcome data through monitoring, IFSP review and family surveys; however, child outcome data specific to the five developmental areas was not reported in the APR. In the next APR (for FFY 2003), OSEP expects the State to provide responsive data (whether collected through sampling, monitoring, individual IFSP review, or other methods) that indicates how children participating in the Part C program demonstrate improved and sustained functional abilities in the five developmental areas.

Early Childhood Transition

Montana reported that: (1) the State's Comprehensive Performance Evaluation Process indicates that transition service components are in place; (2) the State monitors IFSPs to ensure transition outcomes and objectives are developed and implemented; (3) consumer survey results indicate that families are satisfied with early intervention services including the transition component of services; and (5) the State intends to enhance its performance by focusing on transition within the State's Comprehensive System of Personnel Development.

OSEP's response to Montana's FFY 2002 APR requested that the State provide monitoring data in the March 31, 2004 APR, to establish the effectiveness of activities related to both performance and compliance in this area. Within 60 days of the date of this letter, the State must submit data OSEP requested, with an analysis to determine compliance. Examples of this data include, the numbers of children for whom transition conferences were convened at least 90 days prior to the child's third birthday, the number of children for whom the school district was notified of children about to turn three, and the numbers of children for whom transition plans were in place.

The APR could also include analysis of trend data from the Federal Section 618 exiting table. OSEP will review the information submitted and determine what, if any, further action may be required.

Conclusion

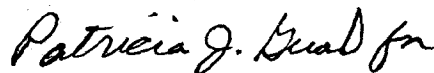
As noted above, within 60 days from the date of this letter Montana must submit data and its analysis to OSEP to provide evidence that:

- (1) supports and services to enhance the family's capacity to enhance their child's development are included in IFSPs and provided in the family centered cluster; and
- (2) monitoring activities are effective in identifying and correcting noncompliance with the requirements of the early intervention services in natural environments cluster and in the early childhood transition cluster.

In addition, OSEP is requesting that Montana report in its next APR, monitoring data to verify compliance and strategies, benchmarks, proposed evidence of change, targets and timelines designed to maintain compliance and performance in the general supervision area.

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: Judy LeRoux
Part C Coordinator