



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

Mr. Michael J. Willden, Director  
Department of Human Resources  
505 East King Street, Room 600  
Carson City, NV 89701-3708

NOV 30 2004

Dear Director Willden:

The purpose of this letter is to respond to the Nevada Department of Human Resources (NDHR) 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***

On July 23-25, 2003, OSEP conducted a visit to Nevada to verify the effectiveness of the State's systems for general supervision and collection of data under section 618 of the IDEA. In OSEP's October 27, 2003 letter regarding the visit, OSEP informed the State that it believed that NDHR's systems for general supervision were reasonably calculated to identify noncompliance, but that NDHR was unable to demonstrate that its systems led to the timely correction of all State-identified noncompliance. OSEP noted that the State was making significant efforts to establish a system that would both identify, and ensure the timely correction of, noncompliance. OSEP asked NDHR to continue to keep OSEP informed of the State's progress in developing and implementing changes to its general supervision system through progress reports to OSEP. During OSEP's verification visit, the State's Part C data collection system was also going through major revisions, but OSEP noted in its October 27, 2003 letter that NDHR's plans for collecting and reporting data were considered a reasonable approach to ensuring the accuracy of the data that NDHR used to report to OSEP under

section 618. During the verification visit, OSEP reviewed the State's progress in implementing the State Improvement Plan. The Improvement Plan was developed to correct areas of systemic noncompliance that were identified by NDHR after completing a State-wide Self-Assessment. OSEP accepted NDHR's Improvement Plan in a letter dated February 5, 2003. In that letter, OSEP requested two reports (in June 2003 and a final one in February 2004) from NDHR to document progress in correcting the noncompliance.

OSEP's February 27, 2004 letter responded to the FFY 2001 APR and the June 2003 Progress Report. The following areas identified in OSEP's FFY 2001 APR response letter were: (1) in general supervision, a lack of effective procedures to ensure correction of identified noncompliance, with particular emphasis on eliminating waiting lists for services and failing to complete evaluation and assessment and conduct an initial IFSP meeting within 45 days of referral; (2) in family centered services, family supports and services were not consistently being identified and included on the IFSP; (3) in early intervention services in natural environments, NDHR was not able to document that (a) services recorded on the IFSP were delivered, or (b) that the State had a system in place to collect outcome data for infants and toddlers receiving early intervention services; and (4) in early childhood transition, no data was submitted to ensure that children eligible for Part B services had a timely transition conference. In addition to the FFY 2002 APR that was submitted in March 2004, NDHR submitted a final Progress Report and supplementary data on the implementation of its Improvement Plan in February and March 2004. After the final Progress Report was submitted to OSEP, NDHR has continued to provide quarterly data reports (submitted in August 2004 for the time period March through June 2004) documenting progress on compliance issues. OSEP appreciates that NDHR continued to provide data to OSEP beyond the timeline required in the February 2003 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 Progress Reports submitted by NDHR on February 4, 2004, March 31, 2004, and data updates submitted in August 2004, with particular emphasis on NDHR's progress toward correction of the systemic areas of noncompliance identified above. OSEP's comments are listed by cluster area.

### ***General Supervision***

Systemic noncompliance that NDHR previously identified and for which strategies were developed included: a lack of effective general supervision procedures to ensure correction of identified noncompliance, specifically in ensuring evaluations and assessments were completed and an initial IFSP meeting was held within 45 days of a referral, consistent with 34 CFR §§ 303.321(e)(2), 303.322(e)(1), and 303.342(a).

In the FFY 2001 APR, NDHR reported the State-wide average number of days from referral to initial IFSP meeting decreased during the reporting period from 152 to 135 days (see p. 3, OSEP response letter dated February 27, 2004). In the FFY 2002 APR, NDHR reported that the State-wide average number of days from referral to initial IFSP meeting decreased to 92 days<sup>1</sup> (APR Addendum<sup>2</sup>, p. 6). As OSEP requested in the February 2004 FFY 2001 APR

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<sup>1</sup> The State-wide average included children who had an initial IFSP meeting within the 45-day timeline (approximately 20% of all IFSPs developed), as of December 2003. NDHR revised its data collection and

response letter, NDHR provided data in its FFY 2002 APR (and subsequent data reports) and tracked the timeline data to show the number of IFSP's developed within 45 days, the number of IFSPs that were beyond 45 days from referral, the number of days beyond 45 days, and data that was disaggregated by region. IDEA regulations require that evaluations and assessments be conducted and an *initial* IFSP meeting be held within 45 days after the lead agency receives a referral, see 34 CFR §§ 303.321(e)(2), 303.322(e) and 303.342(a). Under NDHR policies, the IFSP must be developed within 45 calendar days of receipt of a referral. While it is not inconsistent with Part C regulations for NDHR to require that an IFSP be developed (finalized) within 45 days of referral, the Part C regulations do not specify that the IFSP must be signed within 45 days of referral.

In previous data reports from NDHR, the data was disaggregated by the five programs (under two separate divisions within NDHR) that implemented the early intervention system in Nevada. With the creation of the Bureau of Early Intervention Services (BEIS) within NDHR in 2003, data reports changed to reflect the new program configuration into two regions: Northern<sup>3</sup> and Southern. In the data on page 3 of the APR addendum, NDHR reported that the average number of days between referral and an IFSP in the Northern region was 66 days. In the Southern region, the average was 113 days (also reported in the August 2004 data report, p. 1). NDHR revised data collection and analysis procedures to provide both averages and data disaggregated by region and by the number of days beyond 45 days until IFSP development. An *average* of less than 45-days from referral to holding an initial IFSP meeting does not demonstrate compliance, if the timeline for some children exceeds that timeline. Although the State-wide average may be useful for overall general supervision, NDHR must continue providing data by region that is based on the actual number of days to demonstrate progress in correcting all noncompliance. OSEP also recommends that NDHR collect information through its general supervision procedures that document reasons beyond the control of the lead agency for not meeting the 45-day timeline to determine if family or other circumstances are the cause for the delay (i.e. hospitalization of the child; family rescheduled).

In addressing the timeline noncompliance, NDHR found many children were referred to Part C who were not eligible for early intervention services (February 2004 Progress Report, p. 14). The phone line used to refer children to Part C was also used for other purposes in Nevada (i.e. other health related programs). Nothing in Part C regulations require a phone number for Part C early intervention programs that is separate from other human services programs, but the merged phone number created confusion with who was appropriate for referral to Part C and who was appropriate for other State programs. NDHR developed new public awareness materials and trained individuals answering the phone calls about the various programs in Nevada (including eligibility criteria for each program). The public awareness draft document (sent to each person calling the phone number) was submitted to OSEP via fax on August 23, 2004. A piloted program, called the Screening and Monitoring

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analysis procedures to reveal the number of IFSPs developed beyond 45 days, how long after, and disaggregated by region.

<sup>2</sup> NDHR Report to OSEP, Prepared March 15, 2004

<sup>3</sup> Data for the Northern Region was presented by disaggregating "Rural" (covering over 73,000 square miles) from the Reno data. Monitoring reports were provided separately for the two service areas, although the State office considered the two cumulative areas the Northern Region.

(SaM) program, was developed by NDHR and was designed to ensure children who were referred to the early intervention program were appropriate referrals (i.e. suspected of having a disability and likely to be determined eligible) and to also establish a system to track children at-risk for developing delays who were not yet eligible for early intervention services (APR Early Intervention Services in Natural Environments section, pp. 5-6). Through the pilot, NDHR provided data that 66% of the children who were referred to the early intervention program did not meet the eligibility criteria for early intervention services (February 2004 Progress Report, p. 14). The State planned to implement the program State-wide in 2004. The new program used a screening process to identify three categories of children: (1) those who were likely eligible for early intervention services (under the State eligibility criteria); (2) those who had the potential for developing delays that would make them eligible for early intervention services in the future; and (3) children who were developing typically. Children who are screened and are likely eligible for early intervention services are to be evaluated and have an initial IFSP meeting within 45-days of being referred. Children with the potential to develop delays in the future would be “tracked” and offered periodic screenings and follow-up services to ensure early intervention services are available if the child became eligible. If a family expressed concerns about their child’s development (even after a child “passed” a screening), the family could request, at any time, an evaluation for Part C eligibility (APR Addendum - Proposed Amendments to Nevada’s Early Intervention Policy Document, March 2004, p. 5).

OSEP recommends NDHR explore further public awareness strategies to ensure stakeholders across Nevada are informed of the eligibility criteria and that referrals to early intervention for an evaluation are to determine eligibility of infants and toddlers experiencing developmental delays or who have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, consistent with NDHR’s eligibility criteria (see 34 CFR §§ 303.322(a)(1) and 303.16). OSEP has initially reviewed and is tentatively approving the SaM strategies and expects NDHR to submit data in the FFY 03 APR the number and percentage of children referred to the SaM track; number and percentage of children who are referred to Part C and determined eligible for early intervention services; and the number of children referred to the SaM track who are later determined eligible or whose families expressed concerns and requested an evaluation. NDHR reported progress in decreasing the number of days from referral to the initial IFSP meeting. NDHR reported implementation of its improvement strategies during the reporting period, including the following examples: program consolidation and the establishment of the Bureau of Early Intervention Services in July 2003 (February 2004 progress report, p. 2-3; APR Appendix, p. 1); on-going partnerships with two Federal technical assistant partners, the National Early Childhood Technical Assistance Center (NECTAC) and the Western Regional Resource Center (WRRC), re-engineering the provision of services (APR Appendix, p. 1-2); revising monitoring timelines and procedures (February 2004 progress report, p. 7); working with the Department of Information Technology to revise the State-wide database, upgrade and install program computers, standardize data entry and reporting, and train staff to use the new system (APR Appendix, p. 2); and recruiting, training, and retaining staff through program reorganization (APR Appendix, p. 2). NDHR reported implementation of improvement strategies that were accepted by OSEP in February 2003 (February 2004 Progress Report, pp. 24-66). NDHR provided numerous examples of its attention to ensuring the accurate collection, analysis, and presentation of data to OSEP and NDHR stakeholders. The data submitted by NDHR

demonstrated improvements in the State's general supervision capabilities to identify noncompliance. The improvement strategies implemented did not ensure correction of the longstanding area of noncompliance. Within 60 days of the date of this letter, NDHR must submit to OSEP: (1) the most recent quarterly data reports for both regions; (2) an analysis of why the timelines have not yet been met; (3) additional or revised strategies to address causes; (4) the number of personnel available to conduct evaluations and assessments; (5) a description of the scheduling procedures for evaluations and assessments (including, for example, whether the Part C program accepts evaluations from medical personnel to establish eligibility); and (6) additional relevant updated monitoring data (i.e. local monitoring reports). Failure to demonstrate compliance with this requirement may result in the State's being considered a "high risk" grantee under Part C of the IDEA for FFY 2005.

Based on the needs identified through the Self-Assessment and improvement planning process, NDHR requested an increase in State funds and that the Legislature not decrease general funds due to an increase in Federal funds<sup>4</sup> (APR, p. 8). The Legislature designated \$3,592,522 of increased State funds to address the waiting lists and NDHR reported it was using the funds to contract with direct service providers and increase program capacity (February 2004 Progress Report, p. 11). From July 1, 2003 until March 1, 2004, NDHR hired 83 new contractors State-wide (APR General Supervision, p. 9). Additional new-hire data was provided in the February 2004 Progress Report (Appendix G).

In the February 2004 FFY 2001 APR response letter, OSEP requested that NDHR submit the final and approved enforcement actions (that would be used to compel correction of noncompliance); report on how the actions were being used; submit local corrective action plans, if any, that had been submitted to NDHR; report on whether some regions had persistent noncompliance and what the State did in those instances; and the results of actions taken by the State. In response, NDHR submitted the hierarchy of enforcement options (February 2004 Progress Report, Appendix J, p. 36) and Self-Improvement Plans for all regions in the State (February 2004 Progress Report, Appendix F). The improvement plans all identified the State priorities, provided documentation about the local programs progress in each area, and described local issues impacting both compliance and performance. It is OSEP's understanding that the hierarchy of enforcement options was not implemented during the reporting period.

In the February 2004 FFY 2001 APR response letter, OSEP requested data to demonstrate that all parents were informed of their rights at the point of referral in all programs. On page 1 of the Family Centered Services section of the APR, NDHR provided monitoring data stating that both the Northern and Southern Regions were in compliance, although the data for the rural area of the Northern Region documented some local noncompliance. An improvement plan for the noncompliance was developed and quarterly reports were to be provided to NDHR documenting correction (February 2004 Progress Report, Appendix F). In family surveys, 95% of families reported that rights and responsibilities were explained in a clear and understandable manner (APR Family Centered Services, p.2).

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<sup>4</sup> NDHR is awarded Federal funds each year with the submission of signed assurance statements that Federal funds made available under Part C will be used to supplement the level of State and local funds expended for children eligible under Part C and their families and in no case to supplant those State and local funds. See 34 CFR § 303.124.

### *Comprehensive Public Awareness and Child Find System*

NDHR did not identify systemic noncompliance in this cluster area, although numerous areas of performance improvement were described. On pages one through eight of the Child Find section of the APR, NDHR provided the following data and information: referral and identification rates by county; referral sources; percent of referrals from each referral source; dissemination strategies for public awareness materials; family survey information about entering the early intervention system; and information about population increases.

On page seven of the APR Child Find section, NDHR referenced OSEP's calculation that 0.91% of the birth-to-three population was receiving early intervention services on December 1, 2002, that the percentage was below the national average, and that the State had a history of serving a lower percentage of infants and toddlers with disabilities than the national average. On page one of the APR Child Find section, NDHR discussed the State demographer estimates that indicate a higher percentage of children served than the OSEP calculations (1.5% on December 1, 2000, rather than 1.16%). The State examined factors that may have been inhibiting the referral and identification of infants and toddlers with disabilities, including: evaluation and assessment procedures; timelines for entering the program; staffing shortages; limited public awareness about the early intervention program and/or disabilities; and cultural and language barriers (APR Child Find, pp. 1-7).

NDHR developed and/or implemented strategies to address the factors that might have been inhibiting the referral and identification of infants and toddlers, including: creating a Strategic Plan for Child Find to ensure State-wide collaboration; increased and intensive outreach to diverse and traditionally underserved populations; an in-service presentation to other agencies and organizations serving underserved groups; increased distribution of public awareness information to child care facilities and health care professionals; streamlining forms and training service coordinators to use technology to minimize timelines; developmental screenings in local malls and stores during Special Needs Month (October); mass distribution of developmental milestone and early intervention information on milk cartons; distribution of child find brochures to primary referral sources; and public service announcements (APR Child Find, pp. 3-4). NDHR prioritized correction of systemic noncompliance as more urgent than Child Find activities during the reporting period, although many of the strategies were implemented (APR Child Find, p. 4).

There are unique challenges in Nevada that affect increasing the identification rate and ensuring timely evaluations. First is the rate at which the population increased. In two urban areas, the population increased by 58.8% and 35.8% in a one-year period (APR CF, p. 8). Although the **number** of infants and toddlers identified and found eligible for early intervention services increased during the reporting period, the parallel population increase was keeping the **percentage** of infants and toddlers from increasing significantly. As part of the State Improvement Plan, NDHR was using the population increase to estimate future personnel needs (APR Addendum p. 4).

Second, neither of Nevada's two major universities have early childhood special education programs specific to the birth-to-three population. Most students enrolled in the Master's program for Early Childhood Special Education were employed in schools or early

intervention programs, therefore, the pool of potential employees to recruit into early intervention programs was limited to individuals who received training in other States or who received primarily on-the-job training. The Nevada Medicaid contract did not allow billing for a consultative model of service delivery and did not reimburse for services if the position was not licensed or endorsed; and the State did not have a classification for paraprofessionals who could provide services through the consultative model of service delivery (APR General Supervision, p. 8). NDHR was exploring creative ways to recruit, train, and retain service providers (APR General Supervision, pp. 9-10; APR EIS NE, p. 4; February 2004 Progress Report, pp. 8, 11, 12, 13, 15). OSEP recommends that NDHR determine whether these factors have an impact on the State's ability to correct the noncompliance and identify strategies to address any existing barriers.

### *Family Centered Services*

NDHR did not identify systemic noncompliance in this cluster area. In the February 2003 IP letter, OSEP noted that NDHR found the early intervention system did not ensure that all family services were being provided as documented on the IFSP. In the February 2004 FFY 2001 APR response letter, OSEP clarified that the noncompliance previously identified was that NDHR did not ensure that family supports and services were consistently identified and included on the IFSP and requested data that demonstrated compliance with these requirements (34 CFR §§303.322 (b)(2)(ii) and 303.344 (b)). NDHR provided the following family survey data on pages two and four of the Family Centered Services section of the APR: early intervention programs provided or helped the families find information or support when needed; information provided helped families make informed decision and choices; and supports and services provided increased the ability of families to enhance their child's development. Because the Tracking Resources and Children (TRAC) data system was delayed, NDHR planned to have new baseline data about family outcomes documented on the IFSP during 2004. The information provided by NDHR suggested that family supports and service needs were identified, but the information did not document that family supports and services were consistently identified and included on the IFSP. OSEP accepts the improvement strategies in the APR which are designed to ensure the data will be available during 2004. In NDHR's FFY 2003 APR, NDHR must provide monitoring data documenting that family supports and services are consistently identified and included on the IFSP.

Other data and information provided by NDHR on pages one through five of the Family Centered Services section in the APR included: families were mailed a copy of their rights within two days of referral to early intervention; forms were revised to be more family-centered; family members advised NDHR as members of the Interagency Coordinating Council and Parent Resource Committees; programs employed Family Specialists who were parents of children with disabilities; Family Specialists were first to contact families at referral; family members participated in State and local program monitoring and policy development; Parent Advisory Committees were formed in both regions to inform early intervention programs about services and policies; staff received training about assessment tools to identify family needs and improve functional child and family outcomes; and Families First orientations for new families were held in regional locations to inform families about the early intervention program and services offered by community partners.

***Early Intervention Services in Natural Environments (EIS NE)***

In its February 2004 APR response letter, OSEP requested NDHR provide data documenting: (1) children received all early intervention services identified on their IFSP; (2) progress toward ensuring that service coordination effectively facilitated timely and comprehensive services; (3) progress toward ensuring that early intervention services were provided in the natural environment; and (4) data demonstrating improved and sustained functional abilities for children participating in Part C services or the State's plans to collect the data.

NDHR reviewed 20% of child files in the Southern Region and found that in 81% of the records, all early intervention services were provided as indicated on the IFSPs (APR EIS NE section, p.8). The variety of services identified on IFSPs was presented in a table listing all possible service options. NDHR reported that the reorganization involved changes in record-keeping procedures, training using the new database, and changes in monitoring procedures (APR EIS NE section, pages 8-10). With the full implementation of the revised TRAC data system and comprehensive focused monitoring for all programs in the spring of 2004, NDHR will have additional data for the FFY 2003 APR to determine compliance with requirements to provide all services as indicated on the IFSP, see 34 CFR § 303.344. Within 60 days of the date of this letter, NDHR must submit: (1) confirmation that the monitoring conducted by the state in the Spring/Summer of 2004 including monitoring for this Part C requirement; (2) whether any regional monitoring findings were made by the State on this requirement; and (3) if monitoring findings were made, the improvement plans required of providers and approved by the State.

Data presented by NDHR indicated that all children had a service coordinator (APR EIS NE section, p. 1); service coordination training was provided to all new staff members (APR EIS NE section, p. 3); child record reviews found that service coordination activities were documented in files reviewed State-wide (APR EIS NE section, p. 4); and the Policy Document was revised to include all requirements related to service coordination (APR EIS NE section, p. 4).

NDHR data documented State-wide increases in the percentage of services that were provided in natural environments (APR EIS NE section, p. 12-13). The target for July 1, 2003 – June 30, 2004 stated, "Program monitoring will reveal that 90% of services are provided in natural environments. If not, an appropriate justification will be noted in the child record" (APR EIS NE section, p. 14). *All* IFSPs must include a statement of the natural environment in which early intervention services will be provided, or a justification of the extent to which any services will not be provided in the natural environment. While it is acceptable to have a target, NDHR must monitor to ensure decisions are individualized and not based on a program goal.

NDHR implemented the following strategies to develop a plan to collect data to document that children participating in the Part C program demonstrated improved and sustained functional abilities: formed a committee to develop policies and procedures to document child outcomes; collected outcome data from IFSPs through program monitoring; and developed a protocol with planned implementation of a pilot during the FFY 2003 APR reporting period (APR EIS NE section, p. 15). NDHR must provide updates in the FFY 2003



APR to demonstrate progress in the implementation of a system to collect data regarding the percentage of children who received early intervention services and demonstrate improved and sustained functional abilities, and submit, as available, responsive data.

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

OSEP's February 2003 IP letter identified one area of noncompliance in this cluster area: failure to ensure transition planning conferences were held at least 90 days before a child's third birthday for those children who may have been eligible for Part B, or reasonable efforts to convene a transition conference for children who were not likely to be eligible for Part B services. OSEP requested that NDHR submit data in the FFY 2002 APR to supplement family survey data. In response, on pages one through six of the early childhood transition section of the APR, NDHR provided the following data and information: program monitoring indicated that transition plans were timely and completed for 72% of children State-wide, up from 55% in 2001 (p. 2); 75% of families reported in survey data that they were given training and information and participated in transition planning at least 90 days before their child turned three (p. 1); in the Southern Region, transition plans were in place and timely for 98% of children (p. 2); State-wide, approximately 15% of children transitioning out of early intervention services left with Part B eligibility not determined (p. 3); and numerous strategies were in place to demonstrate alliances with the Nevada Department of Education (NDE) and local school districts to facilitate smooth and effective transitions (p. 4-6). In local improvement plans, NDHR identified transition requirements and provided improvement strategies for correction of local noncompliance (February 2004 progress report, Appendix F).

It is not clear from the data provided by NDHR whether transition planning conferences in both regions were held at least 90 days before a child's third birthday for those children who may have been eligible for Part B, or reasonable efforts to convene a transition conference for children who were not likely to be eligible for Part B services. See 34 CFR § 303.148 (b)(2)(ii). In the FFY 2003 APR due March 31, 2005, NDHR must submit data and analysis to clarify whether children who may be eligible for Part B services have transition planning conferences at least 90 days prior to the child's third birthday. If noncompliance is identified, NDHR must submit improvement strategies (including targets and timelines) in the FFY 2003 APR to ensure compliance as soon as possible.

Smooth and effective transition from Part C to Part B requires coordination between the Part C Lead Agency and the State Department of Education. In addition, because Part C's transition conference requirement at 34 CFR §303.148(b)(2) is designed to ensure a smooth and effective transition from Part C to Part B, the state must continue to report on the coordination between Part B and Part C. In the FFY 2002 APR, NDHR reported that NDHR and the Nevada Department of Education (NDE) worked together to: develop a transition curriculum; provide joint transition training to personnel and families; develop and pilot transition forms in the Southern region (with 98% compliance); and revise the Cooperative Agreement between NDHR and NDE in February 2004 (APR EC Transition, pp. 5-6). As discussed in the Part B APR FFY 2002 response letter dated May 27, 2004, NDHR must report in the FFY 2003 APR: (1) the State's progress in increasing the effectiveness and ensuring the enforcement of the interagency agreement between NDHR and NDE to ensure a smooth and effective transition from Part C to Part B that meets IDEA requirements; and (2)

the data and analysis ensuring under Part C that all children potentially eligible for Part B have transition planning conferences, as required under 34 CFR §303.148(b)(2).

**Conclusion**

Data submitted by NDHR in its FFY 2002 APR indicated persistent noncompliance that was also documented in OSEP's February 2004 FFY 2001 APR response letter. However, the data submitted by NDHR also demonstrated: (1) evidence of progress in each area of noncompliance (either data documenting progress or improved systems in place to collect data to determine noncompliance); and (2) implementation of the improvement strategies that were submitted and approved by OSEP. As mentioned in the *Background* of this letter, NDHR developed a method of tracking correction of noncompliance in each region through quarterly reports (generated using the TRAC data system) and has been voluntarily providing the data reports to OSEP. As mentioned in the cluster areas above, within 60 days of the date of this letter, NDHR must submit to OSEP:

- (1) information regarding compliance with the 45-day timeline, including: (a) the most recent quarterly data reports for both regions; (b) an analysis of why the timelines have not yet been met; (c) additional or revised strategies to address causes; (d) the availability of personnel to conduct evaluations and assessments; (e) a description of the scheduling procedures for evaluations and assessments (including, for example, whether the Part C program accepts evaluations from medical personnel to establish eligibility); and (f) additional relevant updated monitoring data (i.e. local monitoring reports); and
- (2) (a) confirmation that the monitoring conducted by the state in the Spring/Summer of 2004 including monitoring for the implementation of early intervention services (as identified on the IFSP); (b) whether any regional monitoring findings were made by the State on this requirement; and (c) if monitoring findings were made, the improvement plans required of providers and approved by the State.

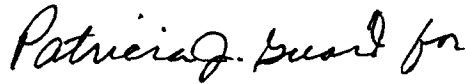
In the FFY 2003 APR, NDHR must submit to OSEP:

- (1) data and analysis documenting correction of identified noncompliance, particularly in eliminating waiting lists for evaluation and conducting an initial IFSP meeting within 45 days of referral to early intervention;
- (2) data documenting that family supports and services are consistently identified and included on the IFSP;
- (3) status of a plan (or if available, actual data) regarding the percentage of children who demonstrate improved and sustained functional abilities for children receiving early intervention services;
- (4) progress in ensuring all children potentially eligible for Part B have timely transition planning conferences; and

- (5) the State's progress in increasing the effectiveness and ensuring the enforcement of the interagency agreement between NDHR and NDE to ensure transition from Part C to Part B meets IDEA requirements.

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 Kelly Worthington at (202) 245-7581.

Sincerely,



Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: Janelle Mulvenon, Chief  
Wendy Whipple, Part C Coordinator