



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

Honorable Darlene A. Carty
Commissioner
Virgin Islands Department of Health
Sugar Estate #48
St. Thomas, USVI 00802

MAR - 3 2005

Dear Commissioner Carty:

The purpose of this letter is to respond to the Virgin Island's October 29, 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 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.

Background

The U.S. Department of Education (the Department) designated the Virgin Islands Department of Health (VIDH) a "high risk" grantee under the authority of the Education Department General Administrative Regulations (EDGAR) at 34 CFR §80.12 for VIDH's FFY 2001, FFY 2002 and FFY 2003 Part C grant awards due to continued waiting lists for early intervention services for eligible children with disabilities and their families and lack of internal procedures for ensuring the timely payment of early intervention service providers.

OSEP's FFY 2003 Part C grant award to VIDH contained the following Special Conditions requiring VIDH: (1) to utilize a third party financial management contractor; (2) to meet short-term personnel needs by hiring or continuing to retain personnel, by November 30, 2004, (needed to eliminate waiting lists for Part C services) and to maintain specific personnel management procedures; (3) to provide a status report, by

November 30, 2004, on VIDH's plan to meet long-term personnel needs; (4) to continue making reasonable efforts in seeking legislative authority to conduct direct hiring of personnel for the VIDH Part C program; (5) to submit, by November 30, 2004, its plan for developing and implementing by February 28, 2005, a data collection system that can accurately report data about any child or family waiting for evaluations and assessments and needed early intervention services; (6) to ensure that vehicles bought with Federal funds for the Part C program are secured and remain on the appropriate premises for use only by authorized early intervention staff; and (7) to submit Quarterly Reports on these matters to OSEP on November 30, 2004, February 28, 2005, and May 30, 2005. VIDH did not submit its November 30, 2004 Special Conditions report until February 7, 2005.

OSEP will be conducting a site visit to the VIDH from February 28, 2005 through March 4, 2005 to review the status of VIDH's implementation of its FFY 2003 Part C grant award Special Conditions and to verify VIDH's general supervision and VIDH's data collection systems under Section 618. OSEP will issue letters following that visit regarding VIDH's progress in meeting the FFY 2003 Special Conditions and the results of the verification visit. OSEP's comments regarding the FFY 2002 APR are listed by cluster area.

General Supervision

As noted above, OSEP will be conducting a verification visit to VIDH in February 2005. The purpose of OSEP's verification review is to determine how VIDH uses its general supervision and State-reported data collection systems to assess and improve State performance and to protect child and family rights. The purposes of the verification visit are to: (1) understand how the systems work at the Territory level; (2) determine how the VIDH collects and uses data to make monitoring decisions; and (3) determine the extent to which VIDH's systems are designed to identify and correct noncompliance.

Monitoring system: From the information provided in the FFY 2002 APR, OSEP could not determine the status of VIDH's general supervisory system to ensure that it was reasonably designed to identify all noncompliance with Part C and ensure correction in a timely manner (i.e., within one year of identification). OSEP expected VIDH to provide specific information about the results of its general supervisory activities for which VIDH had accurate information so that OSEP could determine compliance with this cluster, with the exception of noncompliance covered by the Special Conditions under VIDH's FFY 2003 Part C grant because these data are to be submitted to OSEP under separate cover (Quarterly Reports). For instance, OSEP expected that VIDH would provide monitoring data about the types of noncompliance identified, length of time for correction and level of corrective action required, whether either of the two islands (St. Thomas and St. Croix) had persistent noncompliance, what VIDH did in these instances, and the results of actions taken by VIDH. In the next APR, VIDH must include this information about its monitoring system.

Data collection: VIDH reported to OSEP in the FFY 2002 APR (and in Quarterly Reports required by the FFY 2002 Special Conditions) that it did not have effective and reliable methods to collect and report data related to waiting lists for Part C services and the number of personnel needed to provide those services. As noted above, VIDH was to develop and implement, by February 28, 2005, a data collection system that could accurately report data on the status of evaluation and assessments for children referred to Part C, waiting lists for evaluations and assessments, timeliness of evaluations and assessments, waiting lists for early intervention services related to the needs of children and families, reasons for delays and personnel needed to address waiting lists and/or delays. During OSEP's verification visit, OSEP will review VIDH's data systems to determine whether VIDH can collect, verify, analyze, and report to OSEP relevant data under the Section 618 requirements.

OSEP will issue a letter(s) under separate cover that responds to VIDH's progress in meeting the Special Conditions, VIDH's Quarterly Reports under the FFY 2003 Special Conditions, and the results of the verification visit related to the collection and reporting of valid and reliable data.

Dispute Resolution System: VIDH reported that no requests for due process hearings or mediations were received and no formal complaints were filed (Attachment One). VIDH also attached to the APR three graphs entitled "family informed about their rights," "families informed of procedural safeguards" and "families informed about options to resolve unsatisfied service/resource differences." The range of positive responses was 45% to 56%. VIDH did not identify the source of this information (surveys, record reviews, or focus groups), the number of families these data represented, the date(s) the information was collected or an explanation of these graphs. If these data are accurate and reliable, these data may indicate noncompliance at 34 CFR §303.403, written prior notice. The Part C regulations with the requirements of 34 CFR §§303.403 (a) and (b) require that: "Written prior notice must be given to the parents of a child eligible under this part a reasonable time before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family": This notice must include notice of procedural safeguards. In the next APR, VIDH must clarify the issue of the data provided and indicate whether it reflects compliance with the Part C provisions at 34 CFR §303.403. If the data indicate noncompliance, VIDH must also include in the FFY 2003 APR its plan, with strategies, proposed evidence of change, targets and timelines to ensure correction of noncompliance within a reasonable period of time not to exceed one year from the date OSEP accepts the plan.

Funding sources: VIDH reported in Attachment 2 of the FFY 2002 APR that the only funding source to ensure the provision of early intervention services is the Federal Part C IDEA grant. VIDH does not have access to any other sources of funding for Part C services, such as Medicaid or VI Government appropriations.

Comprehensive Public Awareness and Child Find

No prior noncompliance was identified by OSEP in this cluster area. VIDH provided numbers on the infants and toddlers served under Part C between 1999-2002 (APR, pages four through five). Trend data for this time period indicated a sharp increase in children served between 2000 (n=87) and 2001 (n=207), with a decrease in 2002 (n=160). In addition, VIDH reported that preliminary data demonstrated a significant proportion of children were referred to Part C after their first birthday (APR, page five). VIDH reported that it planned to collaborate with Early Head Start and foster care programs and disseminate information to community organizations and school PTA's to improve child find efforts. OSEP looks forward to reviewing in the next APR, VIDH's efforts to collaborate with Head Start and foster care and its public awareness dissemination efforts.

Family Centered Services

VIDH reported in the FFY 2002 APR that it intended to establish a systematic, standardized method to collect and report data relative to this cluster area and planned to hire a contractor to assist with data collection because the VIDH's data collection results were inconsistent (APR, page five). However, VIDH provided one graph related to family centered services entitled "family involved in the development of the [Individualized Family Service Plan] IFSP." The graph indicated that, in 90% of instances, "family involved in the development of the IFSP was not stated." VIDH did not identify the source of this information (surveys, record reviews, or focus groups), the number of families these data represented or provide an explanation of this graph such as whether these results were due to a lack of documentation or performance. In the next APR, OSEP requests that VIDH clarify this and indicate whether it reflects noncompliance with the requirements of 34 CFR §303.322(d) in conducting family assessments. If the data indicate noncompliance, VIDH must include its plan, with strategies, proposed evidence of change, targets and timelines to ensure correction of noncompliance within a reasonable period of time not to exceed one year from the date OSEP accepts the plan.

Early Intervention Services in Natural Environments

Evaluation and assessments and provision of early intervention services: When issuing the FFY 2003 Part C grant award on September 24, 2004, OSEP noted in the FFY 2003 grant award letter that although substantial progress had been made in reducing the time line for infants and toddlers waiting for evaluations and assessment on the island of St. Croix (as reported by VIDH in Quarterly Reports to OSEP between September 22, 2003 and June 22, 2004), VIDH did not eliminate waiting lists for evaluations and assessments throughout the Virgin Islands and did not provide data regarding whether the waiting lists for early intervention services to infants and toddlers with disabilities and their families had been eliminated. OSEP will issue a letter(s) under separate cover that responds to VIDH's progress in meeting the Special Conditions regarding waiting lists for

evaluations and assessments and provision of early intervention services subsequent to OSEP's site visit in February 2005.

VIDH provided a graph entitled "service coordination recorded for this child" showing that, in 90% of instances, service coordination was recorded for a child. VIDH did not identify the source of this information, the number of children these data represented, the date(s) the information was collected or an explanation of this graph. VIDH reported that, to fill the gap for provision of service coordination for the remaining 10%, VIDH instituted a parent as service coordinator project whereby parents could serve as a service coordinator after receiving training (APR, page six). OSEP expects that VIDH will provide data in its next APR demonstrating compliance and performance with the requirements of 34 CFR §§303.23 and 303.344(g) that all service coordinators carried out all duties in accordance with the Part C regulations and that each child and family has an assigned service coordinator.

No performance or compliance information regarding service settings was provided by VIDH in the FFY 2002 APR. However, according to the December 1, 2002 Section 618 data for VIDH, 124 children (of total 160) were served primarily in the home and nine children (of total 160) were served primarily in programs for typically developing children.¹ In the next APR, under natural environments, VIDH should report both performance data (on the percentages of children receiving early intervention services primarily in the home, programs for typically developing children or other natural environments) as well as compliance data on whether, under 34 CFR §303.344(d)(1), all IFSPs reflect that, to the maximum extent appropriate to the needs of the child, early intervention services are provided in natural environments or a justification of the extent, if any, to which any early intervention service will not be provided in a natural environment.

Submission requirements for 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)). VIDH did not respond to this probe. In the FFY 2003 APR, VIDH must submit, if available, responsive data (whether collected through sampling, monitoring, 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.

Early Childhood Transition

VIDH reported that "preliminary review of records reflect that transition occurred with referral to appropriate community programs/resources to meet the child's needs" and set a target that "60% of all children transitioned receive transition planning at least three months prior to their third birthday" (APR, page seven). VIDH must revise its target to demonstrate full compliance with the Part C transition requirements and provide

¹ Primary setting is defined as the service setting in which the IFSP indicates the child (or family) receive the most hours of early intervention service.

information in the next APR regarding compliance and performance with the early childhood transition requirements at 34 CFR §303.148(b)(2)(i) [transition meeting timelines], 34 CFR §303.344(h) [content of IFSP to include steps to support the transition of all eligible children], and 34 CFR §303.148 [LEA notification for children potentially eligible under Part B of IDEA]. According to the December 1, 2003 Section 618 data for VIDH, of 66 children exiting Part C during the 2002-2003 reporting period for 618, two children completed their IFSPs prior to age three, 26 were eligible for the Part B preschool special education program, 10 exited to other programs, six exited with no referrals, and no children were awaiting Part B eligibility determinations.

Conclusion

OSEP is extending the FFY 2003 due date to May 31, 2005. In it, VIDH must include:

- (1) *Monitoring*: VIDH should include data and its analysis, along with a determination of compliance or noncompliance from its monitoring during the 2002-2003 reporting period;
- (2) *Dispute Resolution System*: VIDH must clarify the source of data regarding providing parents with notice of procedural safeguards and confirm whether this data indicates compliance with the Part C provisions at 34 CFR §303.403. If the data indicate noncompliance, VIDH must include in its next APR its plan, including strategies, proposed evidence of change, targets and timelines to ensure correction of noncompliance within a reasonable period of time not to exceed one year from the date OSEP accepts the plan;
- (3) *Family Centered Services*: VIDH must clarify its data regarding conducting family assessments and indicate whether it reflects compliance with the Part C provisions at 34 CFR §303.322(d). If the data indicate noncompliance, VIDH must include its plan, with strategies, proposed evidence of change, targets and timelines to ensure correction of noncompliance within a reasonable period of time not to exceed one year from the date OSEP accepts the plan;
- (4) *Service Coordination*: OSEP expects that VIDH will provide data in its next APR demonstrating compliance and performance with the requirements of 34 CFR §§303.23 and 303.344(g) that all service coordinators carried out all duties in accordance with the Part C regulations and that each child and family has an assigned service coordinator;
- (5) *Settings*: VIDH should report both performance data (on the percentages of children receiving early intervention services primarily in the home, programs for typically developing children or other natural environments) as well as compliance data on whether, under 34 CFR §303.344(d)(1), all IFSPs reflect that, to the maximum extent appropriate to the needs of the child, early intervention services are provided in natural environments or a justification of the extent, if

any, to which any early intervention service will not be provided in a natural environment;

- (6) *Child Outcomes*: VIDH must respond to the APR submission requirement that 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)). In the FFY 2003 APR, VIDH must submit, if available, responsive data (whether collected through sampling, monitoring, 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;
- (7) *Early Childhood Transition*: VIDH must revise its target to demonstrate compliance with the Part C transition requirements and provide data in the next APR demonstrating compliance and performance with the early childhood transition requirements at 34 CFR §303.148(b)(2)(i) [transition meeting timelines], 34 CFR §303.344(h) [content of IFSP to include steps to support the transition of all eligible children], and 34 CFR §303.148 [LEA notification for children potentially eligible under Part B of IDEA].

OSEP recognizes that the APR and its related activities represent only a portion of the work in your Territory 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,



Patricia J. Guard
Acting Director
Office of Special Education Programs

cc: Renee Joseph Rhymer
Part C Coordinator