



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

Honorable Vincent P. Meconi, Secretary
Delaware Department of Health and Social Services
1901 N. Dupont Highway
Main Building
New Castle, DE 19720

OCT - 4 2005

Dear Secretary Meconi:

The purpose of this letter is to respond to the Delaware Department of Health and Social Services' (DHSS') March 29, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part C for the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments that the State made during the reporting period, compared to established objectives. The Office of Special Education Programs (OSEP) has designed the APR under the IDEA to provide uniform reporting from States and result in high-quality information across States. The APR is a significant data source for OSEP in the Continuous Improvement and Focused Monitoring System (CIFMS).

The State's APR should reflect the collection, analysis, and reporting of relevant data, and include specific data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to the State's FFY 2003 APR and the DHSS submission dated November 12, 2004 in response to OSEP's FFY 2002 APR letter. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion of OSEP's September 16, 2004 FFY 2002 APR response letter required the State to submit, within 60 days, two corrective action plans to address: (1) the State's findings that early intervention services were not always provided within the State's 30-day timeline; and (2) timeliness of evaluations and assessments. DHSS submitted a response to OSEP on November 12, 2004. OSEP appreciates DHSS' submission and will comment on that submission in the appropriate sections below.

OSEP's September 2004 letter accepted DHSS' strategies to address noncompliance in the area of transition conferences. OSEP required that DHSS submit data and analysis demonstrating progress toward compliance in the FFY 2003 APR. OSEP also required that DHSS submit to OSEP, by October 16, 2005, a final Progress Report demonstrating compliance. OSEP looks forward to receiving the State's final progress report.

OSEP's September 2004 letter also required the State to submit, in the FFY 2003 APR, data about whether initial Individualized Family Service Plan (IFSP) meetings are convened within

45 days of referral to Part C. If DHSS identified noncompliance in that area, the State was instructed to submit a plan containing strategies, proposed evidence of change, targets and timelines that would ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepted the plan. OSEP will address that issue in the Early Intervention Services in Natural Environments section of this letter.

General Supervision

Identification and timely correction of noncompliance

On pages CI-1 through CI-7 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance and improve performance in this area. DHSS described its monitoring procedures, sources of data, timetable for various monitoring processes, data system, revisions to the system based on previous monitoring needs, corrective action methods, and future activities to enhance current monitoring and corrective action procedures. OSEP looks forward to reviewing the State's data in Indicator 9 in the State Performance Plan (SPP), due December 2, 2005.

Dispute resolution

On pages CI-6 through CI-7 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance in this area. DHSS reported that there were no mediations, complaint investigations, or due process hearings or reviews during the reporting period. DHSS described its efforts to distribute family rights annually, ensure families understand their rights, and maintain documents to assist stakeholders in understanding all procedural safeguards. OSEP looks forward to reviewing the State's updated data in Indicator 9C through Indicator 13 in the SPP, due December 2, 2005.

Personnel

On pages CI-7 through CI-10 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure performance in this area. DHSS described its efforts to recruit and retain qualified individuals; strategies to ensure children received services during the State hiring freeze; personnel data tables; long-term strategies to address personnel shortage areas; and future strategies to work across programs within Delaware. OSEP appreciates the State's efforts in this area.

On page CI.8 of the APR, the State indicated that the shortage of personnel (particularly Speech Language Pathologists) is reflected in the timeline for the provision of services. OSEP will address the timeline for the provision of services in the Early Intervention Services in Natural Environments section of this letter.

Collection and timely reporting of accurate data

On pages CI-11 through CI-13 of the FFY 2003 APR, the State included data and analysis regarding its performance in this area. DHSS described its data system, the Integrated Services Information System (ISIS), and how the system was used for multiple purposes such as tracking, billing, and generating reports. DHSS also provided information about how it ensured data

integrity; future plans to track long-term outcomes for children who receive early intervention services; how the system was amended to address data needs; challenges in retaining computer programmers; and how data that were generated by ISIS and analyzed by staff were used to plan and implement program changes. OSEP looks forward to reviewing the State's updated data in Indicator 14 in the SPP, due December 2, 2005.

Comprehensive Public Awareness and Child Find System

On pages CII-1 through CII-8 of the FFY 2003 APR, the State included data and analysis regarding its performance in this area. DHSS provided the following data: 2.9% of the birth-to-three population received early intervention services; approximately 64% of eligibility determinations were based on assessment results, approximately 34% were based on established conditions, and approximately 3% were based on clinical judgment. DHSS also reported that population demographic rates were consistent with the demographic rates of children identified for early intervention services. DHSS provided data about the number of referrals by primary referral sources and provided an analysis of projected birth rate trends and planned future public awareness campaigns based on current data and projections. The State described numerous interagency strategies to ensure families in Delaware are informed about the early intervention program. OSEP looks forward to reviewing the State's updated data in Indicators 5 and 6 in the SPP, due December 2, 2005.

Family Centered Services

On pages CIII-1 through CIII-10 of the FFY 2003 APR, the State included data and analysis regarding its efforts to improve performance in this area. DHSS provided a description of staffing efforts, activities, and materials designed to strengthen the capacity of family members to enhance the development of their child; staff training provided that was designed to ensure practitioners could effectively work with families; efforts to ensure family members were in leadership positions in personnel development activities and policy groups; cross agency work designed to ensure a comprehensive, coordinated system of services in Delaware; and monitoring activities to review staff efforts to identify strengths/needs and to address family concerns. DHSS included data demonstrating family satisfaction in services, staffing, child progress, and family quality of life while involved in early intervention services. OSEP appreciates DHSS efforts in this area, and OSEP looks forward to the State's response to the family outcome indicator in the SPP.

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

Service coordination

On page CIV.1 of the FFY 2003 APR, DHSS reported that monitoring data continued to indicate that 100% of families were assigned a single service coordinator, and 84% were assigned a service coordinator within two working days. DHSS also indicated that most families reported that they had a positive relationship with their service coordinator. OSEP appreciates the State's efforts in this area.

Evaluation and identification of needs

Based on data provided in the State's FFY 2002 APR, OSEP's September 2004 letter identified noncompliance with the requirement to conduct evaluations and assessments within 45 days of referral, consistent with 34 CFR §§303.321(e)(2)(i) and 303.322(e)(1), and required the State to submit a corrective action plan to address that issue. On page CIV-4 of the FFY 2003 APR, DHSS provided further data regarding this issue, stating that 82% of evaluations were completed within 45 days of referral to the early intervention program. In its November 12, 2004 submission, and its FFY 2003 APR, DHSS provided strategies, proposed evidence of change, targets, and timelines to address this area of noncompliance. This letter serves as notification that OSEP accepts DHSS' plan to ensure that evaluations and assessments are completed within 45 days of referral. DHSS must include in its SPP updated data demonstrating progress in correcting the noncompliance with the requirement that evaluations and assessments be completed within 45 days of referral. DHSS must also submit to OSEP, as soon as possible, but not later than 30 days following one year after the date of this letter, a final Progress Report, with data and analysis demonstrating compliance with the requirement to conduct evaluations and assessments within 45 days of referral.

OSEP's September 2004 letter also required that DHSS submit, in the FFY 2003 APR, data demonstrating whether initial IFSP meetings are convened within 45 days of referral to Part C, as required by 34 CFR §§303.321(e)(2)(ii) and 303.342(a). If DHSS identified noncompliance, the State was instructed to submit a plan containing strategies, proposed evidence of change, targets and timelines that would ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepted the plan. DHSS submitted data and analysis on pages CIV-2 of its FFY 2003 APR that indicated 72% of initial IFSP meetings were held within the 45-day timeline. DHSS also provided an analysis indicating that of the 28% of children whose initial IFSP meetings were not held within 45 days of referral to the early intervention program, almost half (17 of 39) were not timely due to family reasons. This data indicates an area of noncompliance, not previously identified by OSEP. DHSS provided strategies, targets, timelines, and proposed evidence of change on pages CIV-1 through CIV-3 of its APR. This letter serves as notification that OSEP accepts DHSS' plan to ensure initial IFSP meetings are convened within 45 days of referral. DHSS must include in its SPP updated data demonstrating progress in correcting the noncompliance regarding the timeliness of initial IFSP meetings, as requested in Indicator #7. DHSS must also submit to OSEP, as soon as possible, but not later than 30 days following one year after the date of this letter, a final Progress Report, with data and analysis demonstrating compliance with the requirement to hold initial IFSP meetings within 45 days of referral.

Individualized family service plans (IFSPs)

Based on data in the State's FFY 2002 APR, OSEP's September 2004 letter required the State to submit a corrective action plan to address the State's findings that early intervention services, including speech language services, were not always provided in a timely manner, based on the State's standard. On page CIV.7 of the FFY 2003 APR, the State indicated that its policy for timely receipt of early intervention services is that "services start within 30 days from completed referral to EI providers," or there must be a documentation to explain why a service was not started within that time period. The State further explained that the documentation must

designate another reasonable time for that service to start. On page CIV-7 of the APR, DHSS provided the following data and information: 72% of services started within the State's 30-day timeline; general supervision strategies were revised to ensure appropriate documentation if services could not start within 30 days, due to reasons beyond the control of the lead agency; and speech language services were most frequently the service started beyond the 30-day State guideline. In its November 12, 2004 submission, and its FFY 2003 APR, DHSS provided strategies, targets, timelines, and proposed evidence of change to address that noncompliance. This letter serves as notification that OSEP accepts DHSS' plan to address this area of noncompliance. DHSS must include in its SPP updated data demonstrating progress in correcting the noncompliance regarding the timely provision of services, including the percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner;¹ and for those services that were not provided within the State's 30-day time period, an analysis of the documented reasons why the services were not started within that time period, and data showing the time period before those services were initiated. DHSS must also submit to OSEP, as soon as possible, but not later than 30 days following one year after the date of this letter, a final Progress Report, with data and analysis demonstrating compliance with the requirement for timely provision of services.

Natural environments

On pages CIV-9 through CIV-13 of the FFY 2003 APR, the State included data and analysis regarding its efforts to improve performance in this area. DHSS provided data from 1999 through the FFY 2003 reporting period, documenting a substantial increase in services in the natural environment. During FFY 2003, approximately 76% of children received their primary services in the natural environment and 93% of IFSPs reviewed included some services in natural environments. Monitoring data also documented that IFSP teams discussed natural environments with families and that activities to address developmental concerns were integrated into the child's daily routine. Family survey data was also presented documenting that families found services helpful for their children and families; that family members participated in therapy sessions; and service providers taught families specific skills to use in their daily routines. Numerous strategies were presented to ensure staff and family members understood the philosophy behind services in natural environments. Presentations and discussions with individuals in community settings, such as childcare locations, were also described to promote services in natural environments. OSEP appreciates DHSS efforts in this area and looks forward to reviewing the State's updated data in Indicator #2 in the SPP, due December 2, 2005.

Early childhood outcomes

Under the Government Performance and Results Act of 1993, 31 U.S.C. 1116, the effectiveness of the IDEA Part C program is measured based on the extent to which children receiving Part C services demonstrate improved and sustained functional abilities in the cognitive, physical, communication, social or emotional and adaptive developmental areas. The Part C FFY 2001, 2002 and 2003 APRs requested data on the percentage of children participating in the Part C

¹ Please note that the SPP indicates that the State's criteria for timely receipt of services should measure the time period from parent consent to the IFSP services initiation date. It is unclear whether the State's standard, "from completed referral to EI providers," is measuring the time from parent consent.

program that demonstrate improved and sustained functional abilities in the developmental areas listed in 34 CFR §303.322(c)(3)(ii). OSEP's September 2004 letter required the State to submit, in the FFY 2003 APR, child outcome data. On pages CIV-13 through CIV-15, DHSS described its efforts to identify whether children participating in the early intervention program demonstrated improved and sustained functional abilities. DHSS provided results demonstrating that children in the sample, who were tested at two points in time, demonstrated an accelerated rate of development in play skills, mental skills, and motor development. Families reported a high level of satisfaction with the change in their child's development and abilities and 96.8% of families reported that services on the IFSP were helping the child to develop. DHSS was working with the Delaware Department of Education to develop a long-term tracking system for children who received early intervention services. The SPP instructions establish a new indicator in this area, for which States must provide entry data in the FFY 2005 APR due February 1, 2007. The State should carefully review the instructions to the SPP in developing its plans for this collection.

Early Childhood Transition

OSEP's September 2004 letter identified noncompliance with the timeline for holding transition conferences and accepted DHSS' strategies to address the noncompliance. In its September 2004 letter, OSEP required that DHSS submit data and analysis demonstrating progress toward compliance in the FFY 2003 APR. On page CV-4, DHSS provided the following data about early childhood transitions: 89% of children who were potentially eligible for Part B services had a transition conference; 46% of transition conferences were held within the 90-day timeline for children who were potentially eligible for Part B services; tracking data for transition conferences that were not timely revealed that almost half were delayed due to reasons beyond the control of the lead agency (i.e., family member or child illness); 97% of transition conferences included school district representation; and less than 1% of children exited with Part B eligibility undetermined. On pages CV-5 through CV-9, DHSS included data and information about strategies that were implemented to ensure progress toward correcting noncompliance with transition requirements. OSEP's September 2004 letter required that DHSS submit a final Progress Report to OSEP by October 16, 2005 demonstrating compliance with the timelines for transition conferences. Although DHSS documented improvement, data presented in the FFY 2003 APR demonstrated continued noncompliance in ensuring that transition conferences occur at least 90 days and not more than 9 months² prior to the child's third birthday, consistent with 34 CFR §303.148(b)(2)(i). OSEP looks forward to receiving the State's final progress report, demonstrating compliance, by October 16, 2005.

On page CV.7 of the APR, the State indicates that its transition procedures allow transition conferences, under 34 CFR §303.148(b)(2)(i), to be a series of discussions as long as it is documented on the transition plan. The lead agency may have a series of discussions regarding transition, however, as required in 34 CFR §303.148(b)(2)(i), the lead agency must convene a conference to discuss transition, so the transition conference (meeting) with the parent must take place within the required timelines.

² Section 637(a)(9)(A)(ii)(II) of the IDEA Amendments of 2004 changed the transition conference timeline from "not more than 6 months" to "not more than 9 months" before the child is eligible for preschool services under Part B (i.e., before the child's third birthday).

Conclusion

As noted above, OSEP's September 2004 letter accepted DHSS' strategies to address noncompliance in the area of transition conferences and DHSS must submit a final Progress Report to OSEP demonstrating compliance. OSEP looks forward to receiving the State's final progress report by October 16, 2005.

In this letter, OSEP accepted DHSS' strategies related to three areas of noncompliance: timely IFSP meetings; timely evaluations and assessments; and timely initiation of services. DHSS must submit a final Progress Report to OSEP, with data and analysis demonstrating compliance in each area as soon as possible, but not later than 30 days following one year after the date of this letter.

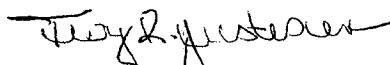
In the SPP, due December 2, 2005, DHSS must submit to OSEP updated data to demonstrate progress toward correcting noncompliance in the following areas:

- (1) Evaluations and assessments are completed within 45 days of referral to the early intervention program;
- (2) Initial IFSP meetings are convened within 45 days of referral to the early intervention program; and
- (3) The timely provision of services, consistent with State policy (including an analysis of documented reasons when services are not provided within the State's 30-day timeline, and data showing the time period before those services are provided).

IDEA 2004, §616, requires each State to submit a State Performance Plan (SPP) that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are, for the most part, similar to clusters and probes in the APR. OSEP encourages the State to carefully consider the comments in this letter as it prepares its SPP, due December 2, 2005.

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



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Rosanne Griff-Cabelli,
Part C Coordinator