



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

Honorable Paul Cote
Commissioner
Department of Public Health
250 Washington Street
Boston, Massachusetts 02108-4619

OCT 21 2005

Dear Commissioner Cote:

The purpose of this letter is to respond to the Massachusetts Department of Public Health's (DPH's) March 31, 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. OSEP has set out its comments, analysis and determinations by cluster area.

Background

OSEP's September 27, 2004 FFY 2002 APR response letter required the State to provide data and analysis regarding:

- a. Convening initial IFSP meetings within 45 days of referral;
- b. Performance and compliance in the Family Centered Services cluster;
- c. Reporting the percentage of children who demonstrate improved and sustained functional abilities in the five developmental areas; and
- d. Transition-related content required by 34 CFR §303.344(h) and correction of identified noncompliance regarding transition conferences and notification of local school districts.

Massachusetts submitted a plan, including strategies, proposed evidence of change and timelines related to potential noncompliance in transition-related content under 34 CFR §§303.148(b)(4) and 303.344(h) to OSEP on November 22, 2004. OSEP accepted the State's plan and responded

to this submission in OSEP's letter dated April 28, 2005. Further comment on this submission will be included in the appropriate section below.

In July 2003, OSEP conducted a verification visit to Massachusetts to verify the effectiveness of the State's systems for general supervision and collection of data under §618 of Part C of IDEA. OSEP's October 27, 2004 letter regarding the verification letter requested that Massachusetts submit a plan related to ensuring that settings data, services data, race/ethnicity data, and IFSP data on assistive technology were accurate. Massachusetts submitted a plan to OSEP on December 22, 2004 and OSEP approved the plan on April 5, 2005.

General Supervision

Identification and timely correction of noncompliance

OSEP's September 2004 letter directed the State to provide data on three areas: (1) whether initial IFSP meetings were convened within 45 days of referral to Part C; (2) whether transition conferences were appropriately held, and whether transition plans were developed. DPH identified a systemic issue concerning the 45-day timeline in the State's FFY 2002 APR. DPH did not provide data in the FFY 2002 APR on timely transition conferences or notification of children turning three that may be eligible for Part B services in the FFY 2002 APR. On pages 3-7 and Attachments Table GS.1A and GS.1B of the FFY 2003 APR, the State included data and information demonstrating full compliance in convening initial IFSP meetings within 45 days of referral to Part C (see the early intervention services in natural environments (EISNE) section of this letter) and progress toward the correction of noncompliance in the transition requirements (see the transition section of this letter). DPH reported that in 16 of 24 providers monitored, noncompliance was identified in IFSP timelines and content (13), early intervention services in natural environments (7) and transition (11) requirements. In its August 2005 submission, the State reported correction by those providers identified in noncompliance with the 45-day timeline. In the State Performance Plan (SPP) due December 2, 2005, the State must include in response to Indicator (#9), updated data regarding correction of State-identified noncompliance.

Dispute resolution

On page 7 and Attachment GS.III of the FFY 2003 APR, the State included data and information indicating compliance. Three complaints and two mediation requests were filed with the lead agency for the reporting period. DPH stated that 100 percent of complaint investigations and due process hearings were completed within required timeframes. OSEP looks forward to reviewing the State's data regarding complaints, mediations and due process hearings in the State Performance Plan (SPP), due December 2, 2005.

Personnel

On page 9 of the FFY 2003 APR, and Table GS.IV.A, the State included data and information regarding sufficient numbers of personnel in Massachusetts to meet the identified early intervention needs of all eligible infants and toddlers, indicating continuing performance and compliance in this area. OSEP appreciates the State's efforts in this area.

Collection and timely reporting of accurate data

OSEP's September 2004 letter requested the State to provide confirmation in the February 2005 submission of its §618 report, that its December 2003 data submission to Westat was accurate. In OSEP's October 2004 verification letter, OSEP informed the State that it must ensure that data submitted under §618 for settings, services, race/ethnicity, and assistive technology as listed on the IFSP, were accurate. DPH confirmed in its December 15, 2004 letter to OSEP and in an email to OSEP dated August 23, 2005, that its §618 data were accurate. On pages 11-13 and Attachments Tables GS.V, GS.V.A and GS.V.B. of the FFY 2003 APR, the State included data and information regarding the collection and timely reporting of accurate and timely data. OSEP looks forward to reviewing the State's response to the indicator regarding its State reported data (§618, State Performance Plan and Annual Performance Report) that are timely and accurate, in the SPP.

Comprehensive Public Awareness and Child Find System

On pages 14-15 and Attachments Table CC.1.A. of the FFY 2003 APR, the State included data and information regarding the State's child count and the State's recent policy initiatives. DPH reported that the rate of referrals within the State's overall child find and public awareness system decreased from 9.1 percent in July 2004 to 2.6 percent in June 2004. DPH stated that both child count numbers and the numbers of children served cumulatively increased in 2004, indicating continued performance. OSEP appreciates the State's efforts in this area and looks forward to reviewing updated data and information regarding the State's efforts to maintain performance in this area in the SPP. OSEP looks forward to reviewing the State's data in the SPP regarding the percent of infants and toddlers birth to one and birth to three with IFSPs compared to: (a) other States with similar eligibility definitions; and (b) National data.

Family Centered Services

OSEP's September 2004 letter directed the State to provide information regarding compliance in the Family Centered Services cluster. On pages 17-19 the State included data indicating continued performance and compliance in the FFY 2003 APR and Attachments G.S.I.A. and FC.1.A, DPH described the following strategies to ensure compliance with the requirements for family assessments at 34 CFR §303.322(d): (1) a family page on the IFSP that guides the family assessment; (2) personnel training to meet competencies in family centered services and supports; (3) IFSP reviews; (4) parent participation in the State's monitoring activities; and (5) local implementation of Family Rating Scales to identify family needs, resources, and priorities. DPH reported that it would implement a Family Survey in 2005 that would be another data source on family centered practices. OSEP appreciates the State's efforts to improve performance in this area. OSEP looks forward to the State's response to the family outcome indicator (#4), in the SPP.

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

Service coordination

On pages 20-21 of the FFY 2003 APR, the State included data indicating compliance. DPH reported data indicating that 99 percent of all eligible children had an assigned service coordinator designated on their IFSP. OSEP appreciates the State's efforts in this area.

Evaluation and identification of needs

On pages 22-23 the State included data and information regarding its efforts to ensure compliance in this area in the FFY 2003 APR and Attachment CE.II.A. To ensure a timely evaluation and assessment for the identification of child and family needs to enhance the development of the child, the lead agency reported that it implemented a three-year plan for eligibility determination that included the incorporation of a statewide eligibility tool for Massachusetts, and an updated, Universal IFSP form. OSEP appreciates the State's efforts in this area.

Individualized family service plans (IFSPs)

OSEP's September 2004 letter directed the State to include data on whether initial IFSP meetings were convened within 45 days of referral to Part C. If the data indicated systemic noncompliance, a plan including strategies, proposed evidence of change, targets, and timelines was to be included in the FFY 2003 APR to ensure correction of noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepted the plan. On pages 23-24 of the FFY 2003 APR, and in the General Supervision section of FFY 2003 APR, the State included information regarding data collected through the State's current monitoring process and activities related to the implementation of a focused monitoring system in 2005-2006, indicating continued efforts to ensure performance and compliance in this area. On pages 3-7 and Attachments Tables GS.1A and GS.1B of the FFY 2003 APR, the State included data and information regarding the State's efforts to identify and correct State findings regarding convening initial IFSP meetings within 45 days of referral. DPH reported that during this reporting period, it revised its data reporting requirements related to IFSP timelines to include: date of initial IFSP meeting and date of IFSP parent signature in order to ensure compliance and accurate reporting of IFSP requirements. In the attachments to the APR, and in an email to OSEP dated August 24, 2005, DPH reported that 16 programs implemented and completed the strategies in their corrective action plans. OSEP appreciates the State's efforts in this area and looks forward to reviewing updated data in response to the 45-day timeline indicator in the SPP.

Natural environments

On page 25, DPH provided data regarding its performance and compliance in this area in the FFY 2003 APR. In Attachment G.S.1.B, DPH reported data indicating that of all children who received early intervention services in group settings, 87 percent received services in a community-based group and 13 percent received services in a non-community-based group

(early intervention children only). DPH stated that it conducted IFSP file reviews in the non-community-based groups and identified three instances of missing justification statements on IFSPs. DPH reported that it provided technical assistance and training to the early intervention providers to ensure correction of the noncompliance. OSEP looks forward to reviewing the State's data in the SPP regarding the percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or programs for typically developing children.

Early childhood outcomes

OSEP's September 2004 letter directed the State to continue reporting data (whether collected through sampling, monitoring, individual IFSP review, or other methods) regarding the percentage of children participating in the Part C program who demonstrate improved and sustained functional abilities in the five developmental areas. On pages 26-27 and Attachment CE.V.A. of the FFY 2003 APR, DPH reported data indicating that significant numbers of eligible children with a developmental delay (88.3-93.4 percent) demonstrated improvement and did not show regression when they exited from early intervention services. DPH reported that several strategies were implemented to further determine child outcomes over time, including working with the Early Childhood Outcomes Center and linking data on child outcomes to data collected through the State's Family Survey. 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 submitting its plans for this collection in the SPP. OSEP looks forward to reviewing the State's plan for collecting this data, in the SPP.

Early Childhood Transition

OSEP's September 2004 letter required DPH to submit data regarding three early childhood transition requirements. First, DPH was required to report on its efforts to ensure compliance with the requirement to convene transition conferences, with the approval of the family, under 34 CFR §303.148(b)(2), at least 90 days prior to the child's third birthday. On pages 28-29 and GS.1, Table 2 of the FFY 2003 APR, the State included data and analysis demonstrating progress in meeting requirements for transition from Part C to Part B. With the SPP, the State must provide updated data regarding whether transition conferences are held for children potentially eligible under Part B, with the approval of the family, at least 90 days before the child's third birthday as required at 34 CFR §303.148(b)(2). If these data indicate noncompliance, the State must also include with the SPP its plan to ensure compliance within one year of OSEP's acceptance of the plan.

Second, OSEP's September 2004 letter requested DPH to submit data and a plan regarding transition plans being developed under 34 CFR §§303.148(b)(4) and 303.344(h). OSEP's April 28, 2005 letter accepted the State's November 2004 plan and indicated that the State must provide a progress report in the SPP on this noncompliance area and a final progress report with data demonstrating compliance within 30 days following one year from that letter.

Third, DPH was required to provide in the FFY 2003 APR, data regarding whether it was in compliance with the requirement under 34 CFR §303.148(b)(1). DPH did not provide data

regarding the local education agency (LEA) notification under 34 CFR §303.148(b)(1) and must provide this notification data in response to the early childhood transition indicator (#8) in the SPP.

Conclusion

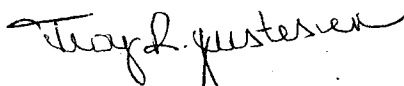
In the SPP, the State must provide:

- (1) updated data regarding whether transition conferences are held for children potentially eligible under Part B, with the approval of the family, at least 90 days before the child's third birthday as required at 34 CFR §303.148(b)(2). If these data indicate noncompliance, the State must also include with the SPP its plan to ensure compliance within one year of OSEP's acceptance of the plan;
- (2) a progress report on the transition plan requirements under 34 CFR §§303.148(b)(4) and 303.344(h) and a final progress report with data demonstrating compliance within 30 days following one year from OSEP's April 28, 2005 letter; and
- (3) data on the LEA notification requirement under 34 CFR §303.148(b)(1).

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 Jacquelyn Twining-Martin at (202) 245-7558.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Ron Benham
Part C Coordinator