



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

Honorable Terrell I. Murphy
Commissioner
Texas Department of Assistive and Rehabilitative Services
4800 North Lamar Blvd., 3rd Floor
Austin, Texas 78756

SEP - 1 2005

Dear Commissioner Murphy:

The purpose of this letter is to respond to Texas's submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part C during the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The Office of Special Education Programs (OSEP) 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 August 3, 2004 letter responding to the State's FFY 2002 APR, directed the State to provide:

- (1) data on the 45-day timeline under 34 CFR §§303.321(e), 303.322(e) and 303.342(a) based on the actual, not average, number of days from referral to the initial IFSP meeting;
- (2) data or a plan to collect data regarding how children participating in the Part C program demonstrate improved and sustained functional abilities;
- (3) data regarding notification to school districts that a child is about to turn three years of age who is potentially eligible under Part B under 34 CFR §303.148; and
- (4) data related to holding the transition conference at least 90 days prior to the child's third birthday for children potentially eligible under Part B.

Texas's final Progress Report was due by February 27, 2005 and was to contain evidence of change on data and any other strategy implementation demonstrating correction of the noncompliance identified in OSEP's March 2003 Monitoring Report related to OSEP's finding under 34 CFR §303.344 regarding the inclusion of transition steps, family supports, family services, other services and outcomes on the IFSP. The final Progress Report was received on

March 17, 2005 and OSEP responded to that report in its May 11, 2005 letter confirming that Texas had addressed this IFSP content finding.

OSEP will be conducting a visit to Texas during the week of October 3, 2005 to verify the effectiveness of the State's general supervision and data collection systems. During that visit, OSEP staff will work together with the State Part C staff to determine how Texas uses its general supervision and State-reported data collection systems to assess and improve State performance, child and family outcomes, and the protection of child and family rights.

General Supervision

Identification and timely correction of noncompliance and dispute resolution

On pages 2 through 4, 7 through 10, and 15 through 16 of the FFY 2003 APR, the State included data and analysis regarding performance and compliance in this area. OSEP looks forward to reviewing the State's data in this area in the State Performance Plan (SPP), due December 2, 2005. OSEP also looks forward to working with the Texas Part C staff to determine how the State's general supervision system is used to assess and improve performance and correct noncompliance during OSEP's verification visit to the State in October.

Personnel

On page 20 of the FFY 2003 APR, the State indicated that there were challenges in the local early childhood intervention programs in hiring motor therapists and speech language pathologists. On page 21, the State included a variety of activities and initiatives to ensure that it is able to provide required services to infants and toddlers with disabilities.

Collection and timely reporting of accurate data

On page 24 of the FFY 2003 APR, the State reported that the entry of data related to reasons a child was exiting the Part C program was delayed and a change in the State's data system would require an exit reason at the time of exit instead of closing a child's record. OSEP appreciates the State's efforts in this area and looks forward to reviewing the data and information on the accuracy and timeliness of the State's data system during OSEP's verification visit in October.

Comprehensive Child Find/Public Awareness

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 26 through 43 of the FFY 2003 APR, the State included data and analysis regarding performance and compliance in this area. On page 26, the State reported that in SFY (State fiscal year) 2004, the cumulative number of children served increased 1.4% over SFY 2003. Trend data indicated a small, but steady increase in referrals over the past four years and the State offered a "Follow-Along" program to families that declined services or whose child was at-risk but ineligible at the time of referral. The program offers materials to families and periodic contacts to determine the

child's developmental status. The State continues to operate a 1-800 number Information and Referral line, with one Spanish-speaking operator. Print materials and videoconferences offer a variety of opportunities for families and referral sources to learn about the Early Childhood Intervention program in Texas. OSEP appreciates the State's efforts in this area. OSEP looks forward to reviewing the State's data in this area in the SPP.

Family Centered Services

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 44 through 47 of the APR, the State included data and analysis regarding performance in this area. On page 44, the State reported that monitoring data indicated that families were involved in eligibility determination, program planning, service delivery and evaluation of their children. During SFY 2004, training was offered in the area of family-centered service delivery and more than 540 people participated. OSEP appreciates the State's efforts in this area. OSEP looks forward to reviewing the State's data in this area in the SPP.

Early Intervention Services in Natural Environments

Service coordination

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 50 through 52 of the FFY 2003 APR, the State included data and analysis demonstrating continued performance and compliance in this area. The State reported that monitoring for service coordination includes 11 related elements along with interviews of service coordinators, providers and parents. Training and technical assistance are ongoing and the State conducted training (with a parent as one of the presenters) in four locations in SFY 2004 that reached 16 programs and over 100 participants. OSEP appreciates the State's efforts in this area.

Evaluation and identification of needs

On page 52 of the FFY 2003 APR, the State included data and analysis that demonstrated 100% correction of noncompliance identified in OSEP's 2003 Monitoring Report and August 2004 letter with the requirements at 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a) regarding the 45-day timeline. These regulations require that, within 45 days after it receives a referral, the public agency completes the evaluation and assessment activities and holds an initial IFSP meeting. Data and information were included in the State's final Progress Report and in the FFY 2003 APR. On page 52 of the APR, the State reported that 51 of 54 initial IFSP meetings occurred within the 45 days, and the three that were not within that timeline were due to documented family circumstances. On page 53 of the APR, the State indicated that both the monitoring activities and the data system provided a focus on this area that supported local program compliance with this requirement. OSEP appreciates the work of the State in ensuring compliance with these requirements.

Individualized family service plans (IFSP)

In its 2003 Monitoring Report, OSEP reported that although family services and supports as well as other services were provided to families, as evidenced by progress notes, these services were often not documented on the IFSP as required by 34 CFR §303.344(e). On pages 7 through 10 and page 54 of the FFY 2003 APR, the State included data and analysis that demonstrated correction of this noncompliance. This regulation requires that, to the extent appropriate, the IFSP must identify the medical and other services that the child needs, but that are not required to be provided as early intervention services under Part C of IDEA. OSEP appreciates the work of the State in ensuring compliance with this requirement.

Natural environments

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 57 and 58 of the FFY 2003 APR, the State included data and analysis demonstrating continued performance and compliance in this area. The trend data in Table 13 show that less than 2% of eligible children do not receive services in natural environments. The State also reported on page 58 of the FFY 2003 APR that monitoring data corroborated that services were provided in natural environments, and that there is adequate justification when services are provided in the other settings.

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 program that demonstrate improved and sustained functional abilities in the developmental areas listed in 34 CFR §303.322(c)(3)(ii).

On page 46 of the FFY 2003 APR, the State reported that it has collaborated with the Illinois Part C lead agency on a General Supervision Enhancement Grant (GSEG) from OSEP that focuses on the development and measurement of family outcomes. On pages 60 and 61 of the APR, the State also included its plan to convene stakeholder groups in Texas to gather input on conceptual and measurement issues related to child outcomes and pilot several approaches in different regions. In preparing the SPP, the State must determine whether plans currently in place to collect data related to this area will be responsive to those requirements. The SPP instructions establish a new indicator in this area, for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under section 616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

Early Childhood Transition

Texas submitted its final Progress Report in February 2005 and provided information that resolved the noncompliance related to inclusion of transition steps on the IFSP as required under 34 CFR §303.344(h)(1). The State was also required in its FFY 2003 APR to include data related to notifying the local education agency (LEA) and holding the transition conference at least 90 days prior to the child's third birthday for children potentially eligible for Part B under 34 CFR §303.148(b).

On page 62 of the APR, the State indicated that program monitoring included child record review and evaluated the early childhood intervention (ECI) programs' timely development of transition plans, the steps for transition outlined in the plan, and the individualization of the plan to the child and family. With regard to the notification to the LEA and the 90-day transition conference, the State indicated on pages 9 and 63 that it had updated the early transition memorandum of understanding (MOU) between the lead agency and TEA. On page 64 of the APR, the State reported that the Part C program continued to participate on the Texas Education Agency (TEA) steering committee addressing the APR goals for early transition for Part B. Both programs have been working jointly with The National Early Childhood Technical Assistance Center (NECTAC) in implementation of a statewide plan addressing transition through the State's infrastructure, personnel training and development, agency/program infrastructure and service provider practices.

The State's efforts indicated the following regarding notification to the LEA and conducting the transition conference:

- (1) Technical assistance materials, resources, and trainers have been provided by the State office for training on transition and data show an increase in the number of children with disabilities exiting Part C during the reporting period;
- (2) Staffs from LEAs, Head Start, and childcare were invited to participate in the trainings; and
- (3) When issues were found during the State's monitoring of the local programs, the programs were required to submit copies of revised transition plans to the lead agency. Data on page 9 of the FFY 2003 APR indicated that the State continued to identify noncompliance in these transition areas in SFY 2003 and SFY 2004 and subsequently resolved the noncompliance through corrective actions.

OSEP looks forward to receiving updated data in these transition areas in the SPP.

Conclusion

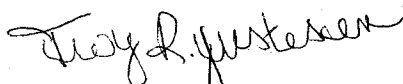
The IDEA 2004 amendments to Section 616 require each State to submit an SPP that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are, for the most part, similar to clusters and probes in the APR. OSEP

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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 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 Ginger Johnson at (202) 245.7353.

Sincerely,

A handwritten signature in black ink that reads "Troy R. Justesen". The signature is written in a cursive style with a large, looping initial 'T'.

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Mary Beth O'Hanlon
Part C coordinator