



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

Honorable Martha Yeager Walker
West Virginia Department
Of Health and Human Services
State Capitol Complex
Building 3 Room 206
Charleston, WV 25305

SEP 29 2005

Dear Secretary Walker:

The purpose of this letter is to respond to West Virginia's (WV) May 5, 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 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

The conclusion of OSEP's October 25, 2004 FFY 2002 APR response letter required the State to submit in its FFY 2003 APR data regarding transition conferences. If those data demonstrated noncompliance with the Part C requirements, the State was to submit in its FFY 2003 APR, a plan, including strategies, proposed evidence of change, targets and timelines, designed to ensure correction of the noncompliance within a reasonable period, not to exceed one year from the date OSEP accepts the plan.

General Supervision

Identification and timely correction of noncompliance

On page 3 of the general supervision cluster of the FFY 2003 APR and the second page 1¹, the State included data and analysis regarding performance and compliance in this area. At the end of page 3 and top of page 4, the State also included the following sentence: "Each RAU is developing a compliance plan to assure that identified non-compliance is corrected within at

¹ The numbering of pages in West Virginia's APR was not consecutive, thus to be consistent with the numbering in the APR, OSEP refers to page 1 or 2 and the second page 1 or 2.

least one year from the Lead Agency's approval of their plans." However, the State must ensure that the regional administrative units (RAUs) correct State-identified noncompliance within one year from the Lead Agency's identification of noncompliance. In the State Performance Plan (SPP), due December 2, 2005, as part of its response to indicator number 9, the State must clarify that this is the standard the State is using in its monitoring process.

Dispute resolution

Attachment 1 of the FFY 2003 APR indicated that there were three complaints and two were not investigated because they were either withdrawn or they were not within the lead agency's jurisdiction. For the one complaint with findings, a decision was issued within the 60 calendar days. No mediations or due process hearings were reported on Attachment 1 of the FFY 2003 APR for the State. OSEP appreciates the State's efforts in this area and looks forward to reviewing updated data and information in this area in the SPP.

Personnel

On the second pages 2 and 3 of this cluster area in the FFY 2003 APR, the State indicated that it hired four regional technical assistance (TA) staff persons who are each responsible for two of the RAUs. The State reported that one of the responsibilities of the regional TA staff is to provide options to the RAUs, ensuring that children and their families receive timely evaluations even when shortages exist. OSEP appreciates the State's efforts in this area.

Collection and timely reporting of accurate data

OSEP staff conducted a verification visit to West Virginia during the week of September 15, 2003 to determine the effectiveness of the State's systems for general supervision and data collection under 618 of IDEA and determine how the State uses those systems to assess and improve performance, and to protect the child and family rights. OSEP's April 2, 2004 verification letter indicated that the State's system for collection and timely reporting of accurate data was a reasonable approach to ensuring the accuracy of the data reported to OSEP under section 618.

On the second page 1 of the FFY 2003 APR, the State reported that the data analyst used real time data from the new integrated data system. This new data system was implemented in conjunction with the phasing in of the RAUs and the enrolled service provider structure. Accuracy of the data was assured by allowing the data analyst access to both systems to check the information being reported. OSEP looks forward to reviewing the State's data in this area in the section 618 data submissions and the SPP.

Comprehensive Child Find/Public Awareness

On pages 5 and 6 of the FFY 2003 APR, the State included data and information regarding child find and public awareness indicating that the close collaboration with interagency partners contributed to the continued progress in identification of eligible children in the State. OSEP appreciates the State's efforts regarding performance in this area.

Family Centered Services

OSEP's October 2004 letter directed the State to continue to report on its strategies to ensure performance and compliance in this cluster area. On pages 8 and 9 of the APR, the State included data and analysis regarding performance and compliance in this area. OSEP appreciates the State's efforts in this area.

Early Intervention Services in the Natural Environment

Service coordination

On page 11 of the FFY 2003 APR, the State indicated that all families were identified through the integrated data system as having been assigned a service coordinator and 100% of all service coordinators completed required training prior to, and during, their enrollment in the West Virginia Birth to Three System. OSEP appreciates the State's efforts regarding the provision of service coordination services.

Evaluation and identification of needs and individualized family service plans (IFSPs)

In the FFY 2003 APR, the State reported the following data based on the monitoring reports for two regions: "just under 50% of the IFSPs" were in place within the State's 45 day timeline. However, the State also indicated that the monitoring data was based on the timeline from referral to signature on the IFSP, and that the State has since revised its monitoring processes and standard documents to provide data based on Part C's 45-day timeline requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a), which require evaluations, assessments and the initial IFSPs to be conducted within 45 days of referral. In the SPP, the State must provide data from its new monitoring processes regarding compliance with Part C's 45-day timeline requirement, as requested in indicator number 7. If the data indicates noncompliance, the State must include in its SPP a plan, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan.

Natural Environments

On page 12 of the FFY 2003 APR, the State indicated that, in accordance with its section 618 data submission for December 1, 2003, 99% of children received the majority of their early intervention services in a home setting or program for typically developing children. OSEP appreciates the State's efforts in this area and looks forward to reviewing the data and information regarding performance in this area in the SPP.

Early childhood outcomes

Under the Government Performance and Results Act of 1993, 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 12 of the FFY 2003 APR, the State provided data and information as follows: 94% of the families who responded to an exit survey answered "yes" to the question: "did the services your child received from West Virginia Birth to Three help him/her to do better in their typical daily routine?" On page 13 of the FFY 2003 APR, the State indicated that it was working collaboratively with the West Virginia Department of Education to develop a comprehensive outcome measurement system that incorporates the monitoring priorities as established by OSEP. 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 determination on the status of the State's performance and compliance required under section 616(d) of the IDEA. The State should review the instructions to the SPP in developing its plans for this collection.

Early Childhood Transition

On page 15 of the FFY 2003 APR, the State reported "approximately 45% of the face to face meetings occurred later than the required 90 days before the child's third birthday, reflecting apparent non-compliance with the timeline requirements." This data indicates noncompliance with the Part C 90-day timeline for transition conferences for children potentially eligible for Part B, as required by 34 CFR §303.148(b)(2)(i). On pages 17 and 18 of the FFY 2003 APR, the State included strategies, proposed evidence of change, targets, and timelines designed to address this noncompliance. OSEP accepts this plan. The State must include data and analysis documenting progress toward compliance in the SPP, and the State must provide a final report to OSEP, including data and analysis demonstrating compliance, no later than 30 days following one year from the date of this letter.

Conclusion

In the State Performance Plan (SPP), due December 2, 2005, the State must:

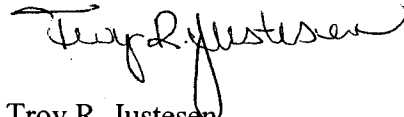
1. Clarify, as part of its response to indicator number 9, that the standard it is using in its monitoring process is correction of State-identified noncompliance within one year from the Lead Agency's identification of the noncompliance;
2. Provide data from its new monitoring processes regarding compliance with Part C's 45-day timeline requirement, as requested in indicator number 7. If the data indicates noncompliance, the State must include in its SPP a plan, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan; and
3. Include data and analysis regarding the 90-day timeline for transition planning conferences for children potentially eligible for Part B that documents progress toward compliance.

The State must also provide a final report to OSEP, including data and analysis demonstrating compliance with the 90-day timeline for transition planning conferences, no later than 30 days following one year from the date of this letter.

IDEA 2004, §616, requires each State to submit a 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 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, appearing to read "Troy R. Justesen". The signature is written in a cursive style with a large, sweeping initial "T".

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Pam Roush, Part C Coordinator