



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

Honorable Nancy Grasmick
State Superintendent
Maryland State Education Department
200 W. Baltimore Street
Baltimore, Maryland 21201

JUL 20 2005

Dear Superintendent *Nancy* Grasmick:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) recent verification visit to Maryland. As indicated in OSEP's letter to you of November 29, 2004, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under, Parts B and C of the Individuals with Disabilities Education Act (IDEA). We conducted our visit to Maryland during the week of March 14, 2005.

The purpose of our verification reviews of States is to determine how States use their general supervision, State-reported data collection, and Statewide assessment systems to assess and improve State performance, and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

Background

OSEP's Monitoring Report, issued July 26, 2001, identified four areas of noncompliance.¹ Maryland State Department of Education (MSDE) issued an Improvement Plan in September 2001 with semi-annual reports of the progress on December 20, 2002 and July 2, 2003, and a final report on January 31, 2004 that sufficiently addressed two of the four areas of noncompliance identified in OSEP's Monitoring Report. However, MSDE did not provide the data and information demonstrating substantial progress toward correcting noncompliance related to: (1) students with disabilities are not removed from the least restrictive environment (LRE) in order to receive special education services; and (2) all related services are provided as a part of a free appropriate public education (FAPE)). On March 30, 2004, MSDE submitted its Federal Fiscal Year (FFY) 2002 Annual Performance Report and incorporated data and information from the Improvement Plan final report. On July 8,

¹ The areas of noncompliance identified in OSEP's July 26, 2001 Monitoring Report included failure to ensure that: (1) students with disabilities are not removed from the least restrictive environment (LRE) in order to receive special education services; (2) all related services are provided as a part of a free appropriate public education (FAPE); (3) students with disabilities placed in nonpublic schools participate in Statewide assessments; and (4) State complaint timelines are met, unless exceptional circumstances require extensions beyond the 60-day timeframe.

2004 OSEP issued MSDE's FFY 2004 grant award letter and informed the State that OSEP planned to conduct a verification visit in the State during Spring 2005 to assess the effectiveness of MSDE's general supervision system and, specifically as it relates to the correction of the two outstanding areas of noncompliance. On July 23, 2004, OSEP responded to MSDE's FFY 2002 APR, noting that MSDE had demonstrated that it had procedures to correct the noncompliance identified regarding removal from the LRE and provision of all related services as a part of FAPE, but had still failed to demonstrate that it corrected noncompliance identified through monitoring in these areas. The July 23, 2004 letter directed MSDE to provide, within 60 days of the date of that letter, data and analysis to support the conclusion that the identified noncompliance in these areas has been corrected. The letter noted that MSDE could satisfy this requirement by providing documentation of the LEA corrective action plans developed to correct the noncompliance identified through monitoring and subsequent follow-up activities with documentation demonstrating that correction occurred. On September 21, 2004, MSDE responded with more information about its current implementation of the LRE and provision of related services requirements, but still did not provide evidence that it corrected noncompliance when identified through monitoring in these areas. OSEP's January 19, 2005 letter responding to MSDE's September 23, 2004 letter stated that MSDE would be required to provide monitoring information for specified LEAs showing correction of identified LRE and provision of related services violations at the time of OSEP's verification visit in March 2005.

As part of the verification visit to the MSDE, OSEP staff met with Dr. Carol Ann Baglin, Assistant State Superintendent of the Division of Special Education/Early Intervention Services (DSE/EIS) and members of MSDE staff who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); (2) the collection and analysis of State-reported data; and (3) ensuring participation in and the reporting of student performance on Statewide assessments. Prior to and during the visit, OSEP staff reviewed a number of documents,² including (but not limited to) the following: (1) MSDE Part B Eligibility Documents for Federal Fiscal Year (FFY) 2004; (2) OSEP's 1999 MSDE Monitoring Report; (3) Maryland's State Improvement Plan (to include updates and final report); (4) MSDE FFY 2002 Annual Performance Report (FFY 2002 APR); (5) MSDE Monitoring for Continuous Improvement and Results (MCIR) Part C and Part B Manual: Working Draft August 2002-2003; (6) MSDE State Improvement Grant(s) (SIG); (7) MSDE General Supervision Enhancement Grant(s) (GSEG); (8) MSDE GSEG August 12, 2004 Final Report; (9) MSDE Consolidated State Application Accountability Workbook (revised August 17, 2004); (10) the State's website; and (11) other pertinent data sources.

OSEP conducted a conference call on February 22, 2005 with members of the MSDE Steering Committee, parents and other stakeholders to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and Statewide Assessment. Dr. Baglin and MSDE staff participated in the call and assisted OSEP by recommending and inviting the participants.

² Documents reviewed as part of the verification process were not reviewed for legal sufficiency but rather to inform OSEP's understanding of your State's systems.

The information that Dr. Baglin and her staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of the MSDE systems for general supervision, data collection and reporting, and Statewide assessment.

General Supervision

In looking at the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) had systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (2) had identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State's ability to identify and correct noncompliance; (3) utilized guidance, technical assistance, follow-up, and—if necessary—sanctions, to ensure timely correction of noncompliance; (4) had dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) had mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

MSDE's Division of Special Education/Early Intervention Services reported its six administrative branches³ supported the Division's mission to collaborate with families, local early intervention systems, local school systems, and other Divisions within MSDE to ensure that all children and youth with disabilities have access to appropriate services and educational opportunities to which they are entitled under federal and state laws. During the verification visit, Maryland reported that the Division communicated, clarified and disseminated its expectations for all public agencies responsible for the implementation of IDEA and State requirements, including correction of areas of identified noncompliance. MSDE noted the essential components of its general supervisory system included: (1) statutes, regulations, policies, and procedures; (2) data collection and reporting; (3) dispute resolution; (4) interagency agreements; (5) monitoring activities; (6) technical assistance and dissemination of promising practices; and (7) enforcement.

Statutes, regulations, policies and procedures. MSDE satisfied its obligation to have on file with the U.S. Department of Education copies of all applicable State statutes, regulations, and other State documents to ensure that the State met the conditions under Part B of the IDEA. OSEP approved MSDE's FFY 2004 Part B eligibility application on July 8, 2004. The State will be required to make the appropriate revisions in its statutes and regulations and policies and procedures to conform to the 2004 Amendments to the IDEA.

³ The Division is comprised of six branches: Maryland Infants and Toddlers Program/Preschool Services Branch, Program Administration and Support Services Branch, Complaint Investigation and Due Process Branch, Community and Interagency Services Branch, Divisional and State Interagency Support Branch, and the Student Achievement and Results Branch.

MSDE required all local applications for federal IDEA funds to include grant management details, projected child count, and a comprehensive system of personnel development. All local applications must be in substantially approvable form and receive written authorization from the State before the State obligated funds. Any funding request must include an evaluation plan that includes multiple data sources that align directly with targeted priorities (i.e., LRE; school completion, including graduation and dropout rates; disproportionality; Part C to Part B transition; and suspension rates) and the local educational agency's (LEA's) Master Plan.⁴

The State reported that each LEA must submit Special Education Staffing Plans with the LEA's application and must include evidence of maintenance of effort (34 CFR 300.231); staffing patterns of service providers of special education and related services, including paraprofessionals; the number and type of service providers needed to provide a free appropriate public education (FAPE) to each student with a disability in the LRE; local accountability and monitoring to ensure personnel and resources are available; and a list of filled positions and vacancies, including contractual services. The State required each local public agency to submit semi-annual and annual progress reports for each component of the local application and for all other grants awarded to the LEA. If progress reports were not submitted, State regulations allowed future allocations to be delayed. MSDE informed OSEP that while staffing plan reviews were conducted to ensure appropriate documentation and evidence of the actions taken by the public agencies in the development, review, and evaluation of results, the State did not approve LEA staffing plans. Plans lacking needed information must be revised and resubmitted to MSDE annually, no later than September 30. OSEP reviewed the State's monitoring reports for the targeted LEAs regarding the appropriate staffing plans to ensure that students were receiving the appropriate related services, including eliminating any delays in the provision of special education and related services for students with disabilities. OSEP's review showed that the Special Education Staffing Plans did not clearly describe how the plan ensured resources were available to provide FAPE to each student with a disability.

MSDE used its State Improvement Grant (SIG) for FFY 1999 to increase the number of qualified special education teachers in targeted school districts. Maryland required all institutions of higher education in the State to develop assessment systems that document the candidate's ability to meet specific professional, state and institutional standards. The SIG supported the State's efforts to align the professional standards with teacher training programs.

Data Collection. The State reported to OSEP that it had a comprehensive, student data-driven system of general supervision with an increased emphasis on compliance,

⁴ The Maryland State Department's Bridge to Excellence Act requires all LEAs to develop a five-year comprehensive master plan that includes goals and strategies to promote academic excellence among all students and to eliminate performance gaps that persist based on students' race, ethnicity, socioeconomic circumstances, disability, and native language. All LEAs are required to integrate state, federal, and local funding and initiatives and weave them into a comprehensive master plan to improve student achievement for all students and to eliminate achievement gaps between subgroups of students [for more information see <http://www.marylandpublicschools.org/NR/rdonlyres/985C6061-3486-405C-AF9A-AAC9E263A6B2/1478/DMasterPlanComponents>].

performance and improvement. MSDE reported that different Departments within the State were responsible for oversight and monitoring activities related to their respective area of responsibility. When activities included the collection of information, data, and/or results on students with disabilities, personnel from the Division of Special Education/Early Intervention Services always participated.

MSDE used its General Supervision Enhancement Grant (GSEG) for FFY 2002 to link the Part B/Part C database and to enable staff to effectively track children with special needs over time. During FFY 2004, OSEP awarded MSDE another GSEG to develop the indicators and improve methods to collect and analyze outcome indicator data.

OSEP was informed by MSDE that to improve the State's comprehensive information gathering, analysis and reporting system, the State was currently piloting a mechanism to allow personnel from all related components to access data on the performance and outcomes of children with disabilities. MSDE reported that the components of the system included: an online Individual Educational Program (IEP); an interactive online tool to help teachers set IEP goals and objectives using the State's voluntary State Curriculum; and online and face-to-face professional development. The State reported that when the system is fully operational, it will provide a single source of information for each student from birth through age 21.

MSDE reported to OSEP that the Special Services Information System (SSIS) will be replaced with a real-time, web-based Statewide IEP data collection and dissemination system, by September 2005. The Statewide IEP form, or an LEA form with comparable elements, is required for the web-based data collection and dissemination system. Several LEAs and other public agencies were piloting the use of the new Statewide IEP and data management system. The State anticipated that the new system would enable LEAs to perform online data analysis.

Dispute resolution. During the visit OSEP verified that the State implemented the plan submitted by MSDE on September 20, 2004 and accepted by OSEP on January 19, 2005. During the visit, MSDE described the dispute resolution system for addressing State-level complaints, due process hearings, the State review process and mediation. MSDE reported the use of a data reporting system for complaints and due process hearings that enabled the State to address local and statewide systemic issues and trends overtime. MSDE met with key administrative staff of the Maryland Office of Administrative Hearings (OAH) to discuss issues of mutual concern, including caseloads, performance evaluations, and training needs. MSDE provided OSEP with a schedule for OAH Quality Assurance Monthly (Judicial) Training.

OSEP reviewed MSDE documentation from MSDE's Complaint Investigation and Due Process Branch, for the period covering July 1, 2003 through June 30, 2004. The State received 175 formal State complaints with 125 of the complaints reported by the State as having decisions issued within the required timeline and 16 complaints were resolved beyond the required timeframe with a documented extension. Of the 175 complaints, 11 were completed after timelines and/or extensions expired. MSDE further reported that 20

complaint requests were withdrawn, 1 was held in abeyance because the same issue was being addressed in a due process hearing, and 2 remain open.

OSEP reviewed data collected from the State's Office of Administrative Hearings (OAH) that reported as of July 1, 2003 through June 30, 2004, MSDE fully adjudicated 75 of the 447 hearing requests received. Of the 75 adjudicated hearings, 58 of the decisions were issued within the required timeline or within an extended timeline. Seventeen due process hearing decisions were issued late. OSEP will address this issue in its review of the FFY 2003 APR MSDE submitted on March 31, 2005.

MSDE reported to OSEP an increased use of mediation as a proactive measure to resolve disputes. During the July 1, 2003 through June 30, 2004 reporting period, 208 mediations were conducted that were not related to hearing requests and, of those, 172 resulted in mediation agreements. The State further reported 150 mediations were conducted that were related to hearing requests and, of those, 118 resulted in mediation agreements.

The State reported that local educational agencies were required to provide proof of compliance to the MSDE Chief of the Complaint Investigation and Due Process Branch within 30 days of the date of the letter of findings. Follow-up activities were initiated by the MSDE staff when the State did not receive documentation from LEAs within the required timeline that the actions had been completed. MSDE reported the use of monitoring follow-up protocols to verify correction of identified noncompliance over time. The State reported that the FFY 2004 data served as baseline data for future reports of timely completion of corrective actions required as a result of complaint investigations and due process hearings. The State reported an increased ability to track corrective actions, to generate detailed reports for use by LEAs and the State, and to ensure the timely correction of noncompliance. The State reported an increase in the number of full-time staff in the Complaint Investigation and Due Process Branch to support the needed database improvement, follow-up activities, and technical assistance. OSEP will review the data and analysis related to this issue in the FFY 2003 APR MSDE submitted on March 31, 2005.

Inter- and Intra-agency agreements. MSDE reported the use of Statewide interagency agreements and memoranda of understanding to facilitate ongoing coordination and collaboration with LEAs, institutions of higher education and private providers. The State reported to OSEP that the Divisional and State Interagency Support Branch (DSIS) provided interagency support through the management and coordination of interagency collaborative initiatives on behalf of MSDE.

Staff from the DSIS are key participants on the Interagency Monitoring Team. For example, MSDE reported its participation on the State's Interagency Monitoring Team to assess whether Medicaid school health providers delivered prescribed Medicaid services according to the student's IEP and that each special education health-related service provided was adequately documented.

The State reported the use of the MSDE Intra-Agency Cooperative Agreement to support efforts to ensure the delivery of services as required by the student's IEP. MSDE reported to OSEP that non-public schools, childcare and treatment facilities were monitored by the MSDE Division of Certification and Accreditation, Nonpublic School Approval Branch. MSDE personnel participated with other State agency staff in monitoring activities in other public agencies responsible for the provision of services. MSDE reported all agreements were reviewed annually and amended or modified as needed.

Technical Assistance & Dissemination of Promising Practices

MSDE reported that technical assistance and capacity building needs of LEAs were also identified and supported by the six branches within the DSE/EIS. Technical assistance included legal seminars and training on targeted issues when patterns of misunderstanding or noncompliance were identified, technical assistance bulletins, and resources on the State's website.

The State reported several methods to disseminate promising practices, including: general and special education-sponsored leadership conferences; newsletters, quarterly meetings with local directors and representatives of institutes of higher education; retreats; and summer institutes. The MSDE coordinating committees provided professional development to share strategies and practices across LEAs. The State also utilized its website to disseminate best practices through electronic learning communities.

Monitoring Activities

MSDE reported to OSEP that a key component of its Monitoring for Continuous Improvement and Results (MCIR) system was the department-wide data collection capability. The focus was on performance results, general supervision and compliance with an emphasis on continual improvement through the collection and analysis of data, the identification of critical issues and potential solutions to problems, the development of improvement plans, and ongoing evaluation of results. The MCIR system used the following progressions: (1) State-developed local profiles based on the State's performance results data related to student participation and performance on assessments, attendance, graduation and drop out rates, adequate yearly progress, 618 data, disproportionality, suspension, etc.; (2) local self-assessment and planning related to the State-defined data; (3) monitoring and verification of public agency findings from self-assessment; and (4) implementing and validating improvement planning and correction of noncompliance. The monitoring activities were characterized as: (1) Comprehensive – an episodic or cyclic process that involves a broad review to ensure that public agencies were in compliance with requirements; (2) Focused – an in-depth look at targeted priority areas, including: LRE; suspension rates; graduation and dropout rates; and disproportionality; and (3) Enhanced – a process employed when a public agency demonstrated systemic noncompliance, had not corrected or made progress toward correcting the noncompliance, and required more intensive oversight to ensure that the actions taken were reasonably calculated to remedy the deficiencies.

The State reported that enforcement activities included, but were not limited to, targeting, redirecting, reducing or withholding Part B funds pending completion of corrective actions. MSDE informed OSEP that the added oversight in the State's enhanced monitoring activity was viewed by the State as a means of ensuring LEAs correct longstanding noncompliance.

MSDE reported that the local director of each LEA was required to work with stakeholders, including the State and the local Special Education Citizen's Advisory Committee, to design and implement an ongoing self-evaluation focused on improving results for students with disabilities. Each LEA and public agency was expected to conduct self-assessments aligned with established performance results, general administration and supervision, and compliance data. The LEA and public agencies were required to identify strengths, areas of noncompliance and areas in need of improvement. MSDE reported that the State had no formal approval process for the local self-assessments. During the verification visit, MSDE reported to OSEP that as of March 17, 2005, 17 of 24 of the LEAs had conducted self-assessments. Of the 17 local school systems 4 self-assessments were conducted in 1999, 5 in 2000, 5 in 2001, 2 in 2002, and 1 in 2005. MSDE reported that none of the State-operated programs and public agencies conducted a self-assessment during this reporting period.

Additional self-monitoring activities were conducted by LEAs to review Medicaid reimbursement for health-related services and billing practices for special education service providers, to ensure compliance with State and Federal regulations. All LEA findings were validated by the State's Interagency Medicaid Monitoring Team and documented in the Team's monitoring report with all required corrective actions, if any. MSDE conducted follow-up visits to ensure areas of noncompliance were corrected. However, reviews for Medicaid reimbursement for health-related services does not include monitoring to verify the provision of related services for children with disabilities who are not eligible for Medicaid. In MSDE's September 2004 letter, the State indicated that by June 30, 2005, 100% of local school systems monitored will demonstrate no interruption of services. During the verification visit, the State was unable to provide data and documentation regarding the status of correcting noncompliance to ensure that related services needed as a part of FAPE is available to all children with disabilities residing in the State.

MSDE informed OSEP that the State intends to use the performance results from the comprehensive reviews as LEA baseline performance information. OSEP reviewed copies of 11 comprehensive monitoring reports that targeted each local school system's data sets during Fall 2004, including: identification rates; LRE; disproportionality; suspension rates; and exiting. The remaining LEAs, all State-operated programs and other public agencies will be reviewed by MSDE using the comprehensive protocols during FFY 2005.

The State reported that its focused monitoring system was developed in response to the areas identified during the OSEP 1999 monitoring visit and State-identified targeted priority areas for improvement. The State provided documentation of focused monitoring

activities targeting LRE in six of the LEAs visited by OSEP during the 1999 monitoring visit. In some cases the State found the same noncompliance related to LRE requirements as found by OSEP in 1999. OSEP reviewed documentation, including focused monitoring reports, related to the LRE requirements for those six districts, but again, MSDE could not provide evidence that noncompliance identified through monitoring was corrected.

In one LEA, the State used enhanced monitoring protocols with a reconstituted school that demonstrated systemic noncompliance. The level of involvement in enhanced monitoring was intensified to ensure implementation and completion of the LEA's improvement and corrective action plans to address systemic noncompliance. Oversight for the plan's implementation had been designated to a specific MSDE staff.⁵

Based on the information provided pre-site and onsite, OSEP was able to verify that MSDE has multiple methods for identifying noncompliance but OSEP was unable to verify that MSDE consistently corrected identified noncompliance. Through the complaint resolution process, MSDE was able to document correction of noncompliance. However, MSDE was unable to document that corrective actions were implemented and that noncompliance was corrected within one year of the identification of such noncompliance for noncompliance identified through the self-assessment, comprehensive, focused, or enhanced monitoring activities. During the visit, MSDE acknowledged these gaps in the monitoring system and indicated that it was taking immediate action to correct the situation.

OSEP has addressed MSDE's inability to verify the correction of noncompliance specifically related to students receiving special education services in the LRE with appropriate supports and receiving all necessary services needed to benefit from special education in Special Conditions on MSDE's FFY 2005 grant award.

Additional Information

Funding Formula

In OSEP's July 26, 2001 Monitoring Report, OSEP suggested that MSDE look closely at the impact of the funding formula to determine whether the formula resulted in students with disabilities being placed in more restrictive environments and whether there was a need to revise either the formula or the State's placement policies and procedures to ensure compliance with the least restrictive environment (LRE) requirements of IDEA 1997. During the verification visit, MSDE reported to OSEP that the State's funding formula was not based on the type of setting, however the formula allows for the State to reimburse the LEA a portion of the cost for separate school placements. MSDE reported to OSEP that the base formula is 300% of the per-pupil expenditure, with the LEAs paying a fixed percentage of the difference of the costs per child after the base amount is calculated. The State statute provides for the LEA to pay a fixed 20% and the SEA

⁵ MSDE is scheduled to monitor the remaining LEA targeted by OSEP's 1999 monitoring visit later in the fiscal year.

reimburses 80% of the cost. In the last couple of years, the SEA has been reimbursing 75% and the LEA has a fixed cost of 25%, however this change has not affected the percent of students with disabilities being placed in more restrictive environments.

As the following chart indicates, the State significantly exceeds the national average of the percentage of children ages 6 –21 served in public/private separate school facilities. In fact, the State percentage of children ages 6 through 21 served in public or private separate school facilities has increased from 1999 through 2003, while the national percentage has remained stable.

The percentage of children ages 6-21 served in public/private separate school facilities					
	1999	2000	2001	2002	2003
National Average	2.9	3.0	2.9	2.9	2.8
Maryland	6.2	6.7	6.8	6.8	7.1

IDEA 2004 strengthens the requirements related to funding mechanisms, which lead to more restrictive placements. Specifically it states: “A State funding mechanism shall not result in placements that violate the requirements of subparagraph (A)[the LRE requirement], and a State shall not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability a free appropriate public education according to the unique needs of the child as described in the child’s IEP. (See 20 U.S.C. 1412(a)(5)(B)(i)). To ensure that the State is in compliance with 20 U.S.C. 1412(a)(5)(B), MSDE must continue to monitor local activities to ensure that the State’s funding mechanism does not result in placements that violate the LRE requirements of the IDEA.

Early Childhood Transition

In MSDE’s FFY 2002 APR, the State identified an area of noncompliance related to meetings for early childhood transition at least 90 days prior to the child’s third birthday and included strategies, evidence of change, targets, and timelines to ensure correction of the noncompliance within a reasonable time not to exceed one year from July 23, 2004. In OSEP’s July 2004 APR letter, OSEP informed the State that the strategies, evidence of change, targets, and timelines were acceptable. The State was required to provide evidence of correction of noncompliance, including current supporting data and analysis, in the FFY 2003 APR and provide a final progress report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but no later than August 22, 2005.

During the verification visit, MSDE reported to OSEP changes in the State’s statutes, regulations, policies and procedures to ensure timely early childhood transition meetings. Additionally, the State reported its progress in developing an on-line IEP form and web-based IEP system to monitor compliance in this area. The preliminary data presented to OSEP during the visit indicated MSDE’s new data system will allow it to measure in a

more timely fashion whether transition meetings are being held 90 days prior to the child's third birthday. OSEP also will review updates regarding the progress in the implementation of the new system and the correction of noncompliance in the FFY 2003 APR, due to OSEP on March 31, 2005.

Collection of data under section 618 of the IDEA

In looking at the State's system for data collection and reporting, OSEP collected information regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local and/or regional level do so accurately and in a manner that is consistent with the State's procedures, OSEP guidance, and section 618; (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) has addressed barriers to the implementation of procedures for data collection and reporting data under section 618 of the IDEA.

MSDE reported that the Special Services Information System (SSIS) was used to report section 618 data, allowing public agencies to transfer electronic files over a secure server website. The collection of student-specific data from local school systems was a static annual electronic file transfer and is available 24-hours a day for file submissions. Part B Data Managers and other MSDE staff were available to provide needed support for LEAs. The use of manuals detailing procedures to support data accuracy was coupled with edit reports. The State's personnel data were collected via excel spreadsheets. Local and State-level review(s) were conducted and the accuracy was verified to ensure that the data was error-free. The chief administrative officer or the public agency superintendent signed each of the data reports.

MSDE reported that it validates Part B data through the use of internal reports posted on the State's website; WESTAT Verification Reports to flag large changes in the data; periodic review of local agencies data reporting systems; annual monitoring of student records for IEPs and evaluation due dates; and provided system edits similar to those suggested by WESTAT. MSDE informed OSEP that it conducts annual statewide meetings to inform LEAs and other public agencies about federal and State changes to data collection requirements to augment these activities. Various divisions within MSDE (including the Division of Accountability and Assessments, Division of Student and School Support Services) and contractual consultants monitor public agency data collection and reporting systems. The State's website enabled schools and other interested parties to analyze statewide assessment data and guided them in making data-based instructional decisions. MSDE verified data accuracy as a follow-up MCIR activity when MSDE suspected that the data were unreliable or invalid. When MSDE issued a report of findings requiring corrective actions, the LEA submitted a plan to address the deficiencies in the LEA's data collection and reporting system.

OSEP believes that the MSDE's system for data collection and reporting was designed in a manner that is consistent with the requirements under section 618 of the IDEA.

Statewide Assessment

In looking at the State's system for Statewide assessment, OSEP collected information regarding a number of elements, including whether the State: (1) establishes procedures for Statewide assessment that meet the participation, alternate assessment, and reporting requirements of Part B, including ensuring the participation of all students, including students with disabilities, and the provision of appropriate accommodations; (2) provides clear guidance and training to public agencies regarding those procedures and requirements; (3) monitors local implementation of those procedures and requirements; and (4) reports on the performance of children with disabilities on those assessments, in a manner consistent with those requirements. In order to better understand Maryland's system for Statewide assessment, OSEP also discussed with your staff how the alternate assessment is aligned with grade-appropriate content standards.

OSEP has determined, through its review of the State's written procedures for Statewide assessments and the State's reports to the public and the Secretary on the participation and performance of children with disabilities on such assessments, that those procedures, as written, and those reports are consistent with Part B requirements. OSEP cannot, however, without also collecting data at the local level, determine whether all public agencies in the State implement the State's procedures in a manner that is consistent with Part B.

MSDE reported that its current statewide assessment system, the Maryland School Assessment (MSA) [grades 3-8] and the Alternate-Maryland School Assessment (Alt-MSA), established reading and mathematics performance standards and assessments to implement the requirements of the No Child Left Behind Act (NCLB). The State is developing science assessments for both the MSA and the Alt-MSA.⁶ The State reported having high stakes testing which required students to take an end-of-course assessment to meet the requirements for a high school diploma. Cohorts entering grade 9 in the 2005-2006 school year and beyond will be required to pass English I, biology, government, and algebra/data analysis assessments to meet the graduation requirements. Students who entered grade 9 prior to the 2005 through 2006 school year will not be required to pass the test but will be required to take the assessments to fulfill graduation requirements. Out-of-level tests were not used as a part of the accountability system. The State reported that districtwide assessments were authorized for use by local programs and that they were required to administer those assessments consistent with both state and federal requirements.

MSDE informed OSEP that LEA test administration was the responsibility of the agency's designated MSDE-trained Local Accountability Coordinator (LAC). MSDE expected the LAC to train school test coordinators and assist principals with training and

⁶ The State's former accountability systems were program evaluations, not evaluations of individual student achievement.

test administration needs. For nonpublic schools, designated MSDE staff from the Division of Assessment and Accountability performed the responsibilities of the LAC. The nonpublic school test-coordinators' role and responsibilities were the same as those in public school settings.

In addition to training provided by the State, directions and guidance regarding appropriate accommodations for the participation of children with disabilities in State and districtwide assessments were made available by the State through technical assistance bulletins and the State's "Requirements for Accommodating, Excusing, and Exempting Students in Maryland Assessment Programs". The State reported that it does not allow modifications to any of the State assessments. The State conducted selected IEP-audits in public agencies and provided specific training to ensure IEP decisions regarding accommodations were not compromised during the test administration. Guidance for student participation in alternate assessments was provided in the State's ALT-MSA Handbook. The State reported that the implementation of the online IEP form would allow desk audits of accommodations specified in IEPs.

MSDE staff indicated that the results of its general State and districtwide assessments were made available to parents through home reports for their children and to the public at large through the State's website, and the State's Accountability Workbook. The performance of students in State-operated and nonpublic schools was reported directly to the respective schools and was also made available through the State's website. The website had the capacity to support aggregated and disaggregated reporting of student test results by grade level, content area and by the number of participants for each of the disaggregated groups. The data also enabled the State to make professional development and grant award decisions and provided the State opportunities to share information among school districts about promising practices.

The State reported the use of student enrollment file comparisons with pretest and posttest files as well as vendor-created participation files to identify gaps and incongruities in student participation in Statewide assessments. MSDE also made use of trend data in its evaluation of schools to determine technical assistance and training needs, especially among those districts that have not made adequate yearly progress (AYP) due to performance of students receiving special education services.

Conclusions

During the verification visit, OSEP discussed and reviewed documentation related to the State's general supervision, data collection, and Statewide assessment systems. MSDE provided data and analysis that demonstrated significant progress with the State's ability to identify and correct noncompliance identified by the State's complaint and dispute resolution system. However, OSEP was not able to verify that the State had corrected the two areas of noncompliance related to FAPE/LRE and related services for students with disabilities. During the visit the State acknowledged gaps in its general supervision system and committed to taking immediate actions to correct its monitoring system related to local self-assessments and the comprehensive, focused, and enhanced

monitoring activities. This issue is the subject of Special Conditions on MSDE's FFY 2005 grant award.

We appreciate the cooperation and assistance provided by your staff during our visit. As noted above, we request that you keep us informed concerning your progress in ensuring that due process hearing decision timelines are met in accordance with the due process hearing requirements. We look forward to collaborating with Maryland as you continue to work to improve results for children with disabilities and their families.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy R. Justesen". The signature is fluid and cursive, with a prominent initial "T" and "J".

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Carol Ann Baglin