



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

Honorable Shirley Neeley  
Commissioner of Education  
Texas Education Agency  
William B. Travis Building  
1701 North Congress Avenue  
Austin, Texas 78701

MAR 16 2007

Dear Commissioner Neeley:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) recent verification visit to Texas. As indicated in my letter to you of September 25, 2006, 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, Part B of the Individuals with Disabilities Education Act (IDEA).

This visit, conducted during the week of October 17, 2006, was originally scheduled for October 2005. At your request, we agreed to postpone the visit for one year so that Texas could focus on issues relating to students displaced by Hurricanes Katrina and Rita. We appreciate you meeting with us during our visit to discuss Texas's efforts to continue providing services to students with disabilities in the face of challenges resulting from the hurricanes. We were also interested in hearing your overview of the State's initiatives to improve outcomes for students with disabilities.

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.

As part of the verification visit to the Texas Education Agency (TEA), OSEP staff met with Kathy Clayton, Director of TEA's Division of IDEA Coordination, and TEA staff members responsible for: (1) the oversight of general supervision activities that include monitoring, mediation, complaint resolution, and impartial due process hearings; (2) the collection and analysis of State-reported data; and (3) statewide assessments. Prior to

and during the visit, OSEP staff reviewed a number of documents<sup>1</sup>, including the following: (1) the Texas Annual Performance Report (APR) for FFY 2002, submitted to OSEP in March 2004; (2) the Texas APR for FFY 2003, submitted to OSEP in March 2005; (3) the Texas State Performance Plan (SPP), submitted to OSEP in January 2006 under an extended timeline, authorized by the Secretary of Education because of issues related to displaced students from Hurricanes Katrina and Rita; (4) the Texas eligibility document submissions under Part B of IDEA for FFYs 2004 through 2006; (5) national special education data related to Texas' rankings for educational environments, dropout rates, and graduation rates; (6) the *Texas ARD* (admission, review and dismissal) *Committee Decision Making Process for the Texas Assessment Program: Reference Manual for the 2006 – 2007 Testing Year*; (7) the *Performance-Based Monitoring Analysis System 2006 Manual*; (8) the TEA complaint management log for 2005-2006, from which random files were selected by OSEP for on-site review; (9) the TEA Office of Legal Services due process hearing log for 2005-2006 from which random files were selected by OSEP for on-site review; (10) the 2004-2005 monitoring review logs from which random files were selected by OSEP for on-site review; (11) the *2006-2007 Residential Facility (RF) Monitoring Manual*; (12) TEA general guidance documents addressing braided services, early intervening services, extended year services, highly qualified requirements for special education teachers, private schools, related services, and response to intervention; (13) the TEA website; and (14) other pertinent data sources.

Additionally, OSEP reviewed the State's organizational structure that included: TEA's administrative office; 1,037 local educational agencies (LEAs); 192 Charter Schools; 20 Education Service Centers (ESCs); 14 juvenile correctional institutions under the Texas Youth Commission (TYC); the Wyndham adult correctional system; Texas School for the Blind and Visually Impaired; Texas School for the Deaf; residential facilities; private and nonpublic day and residential schools; and county prison and county detention facilities whose educational programs are operated by the LEA in which they are located. The ESCs provide technical assistance and, in some instances, direct student services and support services to their constituent LEAs and public charter schools. Children with disabilities aged three through five years, eligible under section 619 of the Act, are provided services through the LEAs and supported through the State's ESCs.

On October 2, 2006, OSEP conducted a conference call with members of the State's Special Education Advisory Committee to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and statewide assessment. Prior to the visit, OSEP and TEA staff conducted a series of teleconference calls to review data and information regarding statewide monitoring, data collection, and assessment.

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<sup>1</sup> 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 Ms. Clayton, her staff, and other TEA 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 TEA systems for general supervision, data collection and reporting, and statewide assessment. Ms. Clayton, her staff and other staff within TEA were fully engaged and readily available throughout the duration of the visit.

### ***General Supervision***

In reviewing the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (2) has 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) utilizes guidance, technical assistance, follow-up, and -- if necessary -- sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has 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.

With some exceptions noted below, OSEP believes that the TEA systems for general supervision constitute a reasonable approach to the identification and correction of noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether the systems are fully effective in identifying and correcting noncompliance.

Texas has implemented a general supervision system for programs serving children with disabilities aged 3 through 21, which encompasses planning, monitoring, complaint management, and dispute resolution systems, as well as a comprehensive statewide network of technical assistance. During the verification visit, OSEP reviewed the State's revised organization chart that illustrates how the administrative structure integrates the State's monitoring system with policy and planning functions, technical assistance, professional development, and support services systems.

**Monitoring.** The special education monitoring function is under the Division of Program Monitoring and Interventions (PMI) within TEA. The PMI, IDEA Coordination and the No Child Left Behind Act (NCLB) Program Coordination divisions reside within the Office of Special Programs, Monitoring, and Interventions (OSPMI) under Deputy Associate Commissioner Gene Lenz. The OSPMI resides in the Department of Standards and Programs, under Associate Commissioner Susan Barnes. The special education monitoring oversight in Texas is supported by a staff consisting of: one division director; four supervisory managers; 21 staff monitors; one statistical systems analyst; three administrative assistants; one project planning/coordinator; and five general systems analysts.

The PMI division is responsible for TEA monitoring oversight of all program areas. Within the division, subdivisions are assigned with specific responsibilities for special education monitoring under the Performance-Based Monitoring (PBM) system. Each district is monitored each year under the Performance-Based Monitoring Analysis System (PBMAS) with a set of performance indicators that includes: (1) performance and participation related to the statewide assessments; (2) exception rates for participation in statewide assessments; (3) least restrictive environment (LRE) placement rates for children with disabilities aged three through 21; (4) the annual dropout rates for children with disabilities; (5) the graduation rates for children with disabilities with a recommended high school program diploma (RHSP) or distinguished achievement program diploma (DAP); (6) percent of children in the district receiving special education and related services; (7) percent of African-American and Hispanic students receiving special education and related services; (8) percent of limited English proficient children receiving special education and related services; (9) disproportionate placement of children with disabilities receiving special education and related services in disciplinary alternative education programs (DAEPs); (10) disproportionate expulsion of children with disabilities receiving special education and related services; and (11) disproportionate placement of children with disabilities served in special education in-school suspensions (ISSs).

As indicated above, the PBMAS is used to monitor the performance of every LEA every year on a series of prescribed indicators. Performance levels are assigned for each indicator based upon evaluation against prescribed standards. The extent and duration of performance concerns also are important aspects of selection for interventions. Additionally, interventions and improvement planning processes are established to require continual focused data analysis, progress reviews, and formative and summative evaluations to ensure continuous improvement. The focus is on continuous improvement over time rather than isolated, uncoordinated, and fragmented changes.

Based on the PBMAS review, districts are assigned risk performance levels that determine the stage of intervention (1A, 1B, 2, 3, and 4). The activities related to the stages of intervention include: (1) focused data analysis (stage 1A); (2) focused data analysis and program effectiveness reviews (stages 1B, 2 and 3); (3) public program performance review (stages 2 and 3); (4) continuous improvement plan (stages 1A, 1B, 2, and 3); (5) a compliance review (as identified, in stage 1A and always at stages 1B, 2, and 3); and (6) an on-site review conducted by TEA (stage 4). Districts identified for special education program monitoring or intervention must complete a self-assessment, conduct root cause analysis and complete an improvement plan. Those districts with noncompliance identified through the TEA review process, at any stage of intervention, must also complete a corrective action plan. The improvement plans and corrective action plans, submitted by the LEAs, are reviewed and require approval by TEA.

TEA reported the number of LEAs identified for intervention for 2006-2007 as follows: (1) 467 at stage 1A; (2) 184 at stage 1B; (3) 34 at stage 2; (4) 24 at stage 3; and (5) 18 at stage 4. TEA maintains oversight of the progress of the improvement planning and

correction of noncompliance through the *pmi Tracker* electronic system for each of the LEAs at each of the stages of intervention. Staff monitors engage in follow-up contact throughout the process including the period of Continuous Improvement Plan (CIP) implementation.

The State reported that it: (1) conducts monitoring of all entities each year through its PBMAS, including special education and related services in LEAs, public charter schools, nonpublic schools, private schools, the TYC, the Wyndham adult correctional system, Texas School for the Blind and Visually Impaired, Texas School for the Deaf, residential facilities, and county prison and county detention facilities whose special education and related services are provided by the districts in which the facilities are located; (2) identifies districts for on-site visits from monitoring based on issues identified through the PBMAS; (3) identifies districts through a random selection process; (4) encompasses procedural requirements and performance outcomes in the monitoring process; and (5) conducts a variety of on-site review processes to gain understanding of LEA special education and related services, identify noncompliance, and assist the LEA in corrective action and improvement planning activities using the monitoring teams chaired by TEA Monitoring Division staff.

As is the case for all school districts in Texas, the 14 school districts with average daily membership (ADM) of over 50,000 are monitored every year through a data review. Nine of the 14 districts were selected for stages of interventions during 2005-2006 and 2006-2007. Monitoring of LEAs includes the review of district files and the performance data of children with disabilities whose special education and related services are provided through other entities, such as: (1) ESC special education programs and/or related services staff; (2) neighboring LEAs; (3) area vocational technical centers; and (4) approved private and nonpublic day and residential schools.

The 192 public charter schools operating in Texas are monitored in the same manner as all other LEAs with the on-site reviews aligning with the charter renewal process that includes compliance with special education Federal and State requirements, and the performance review of children with disabilities. The county prisons, and county detention facilities are monitored with the same frequency as school districts at the time the district responsible for providing the education component to the facility is monitored. The State correctional institutions, the State juvenile facilities, the Texas School for the Blind and Visually Impaired; and Texas School for the Deaf are monitored on a three year cycle.

The main components of the State monitoring model included:

District self-assessment (DSA). The LEA assesses and reports on the status of its compliance with State and Federal regulations, policies, procedures, student outcomes, file review results, and program operations. The DSA is prepared by an LEA team that: (1) must include an LEA administrator, special education administrator, member of the LEA improvement team, general education teacher, parents of children with disabilities, special education teacher, and if at stage 2 or 3

of intervention, a secondary counselor and a DAEP representative; and (2) may include students with disabilities, special education evaluation personnel, representatives of education organizations, local or regional advocacy groups, local business groups and employers of students with disabilities. The districts self-identify areas of concern, noncompliance, and appropriate corrective actions in order to improve performance and correct noncompliance.

File review. During the TEA on-site monitoring processes and in those districts selected for a stage of intervention requiring the completion of a self-assessment, student records are reviewed to determine compliance with program requirements under Part B of the Act, including initial evaluation, reevaluation, individualized education programs (IEPs), placement in the least restrictive environment (LRE), secondary transition, participation in statewide assessments, and procedural safeguards.

Parent interview. ESCs conduct parent interviews to determine: (1) the involvement of parents in the required processes related to special education (e.g., IEP development); (2) the status of the provision of programs and services to children with disabilities; (3) the levels of training to parents in all relevant areas; and (4) the rates of parent satisfaction with the special education programs. The data collected through the parent meetings is triangulated with the data through the PMI reviews and the districts' self-assessments.

Student participation in district reviews. Participation by students with disabilities is an optional component of the district self-assessment process. When used, this component provides information to the district regarding student perceptions of multiple aspects of special education and related service delivery within the LEA.

Focused monitoring. As described above, focused monitoring is a process of district selection, based on the results of the PBMAS and modeled, in part, on OSEP's focused monitoring of States. For those districts selected for stages of intervention, the process includes data verification and some or all of the above monitoring procedures as needed to ensure that the program requirements are met under Part B of IDEA, or that program requirements are met in selected priority indicators under Part B of the Act.

Nonpublic Monitoring Review. During the monitoring of nonpublic schools, the schools use self-analysis tools to gather and submit information to the TEA before an on-site review is conducted. Following the on-site visit, a letter of findings is conveyed to the nonpublic school detailing areas of noncompliance that must be addressed in a CIP. Monitors engage in follow-up contact throughout the process, including the period of CIP implementation. Data and information submissions are approved by TEA and entered in the *pmi Tracker* system.

Cyclical Monitoring Review. The Wyndham adult correctional system, the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and

TYC are monitored on a cyclical basis. The monitoring review includes an on-site review process using performance indicators and compliance standards that meet the requirements of State and Federal regulations. The State also has memoranda of understanding with the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf, and interagency letters of agreements for each of the agencies monitored in a cyclical review process.

Monitoring of residential facilities (RFs). On August 8, 2005, the TEA entered into a consent decree with the plaintiffs in *Angel G. et al. v. Texas Education Agency et al.* The consent decree requires TEA to develop a separate system for monitoring those LEAs that serve students with disabilities who reside in RFs within the geographic boundaries and/or jurisdiction of the LEA. Approximately four TEA staff monitors are assigned statewide to the oversight of monitoring of RFs. In the RF monitoring system (RFMS), each LEA with a residential facility will be evaluated every year of the consent decree through the analysis of specific data gathered by the *RF Tracker* system. In the RFMS, data collected from *RF Tracker* will be used to rank RF LEAs each year.

For the first year of implementation of the consent decree, 2006-2007, 17 LEAs were chosen for on-site reviews based on performance measures in the consent decree, and eight LEAs will be selected randomly. An additional five LEAs will receive on-site data verification visits. Fifteen LEAs will be visited based on performance, seven will be chosen randomly, three will receive data verification visits, and five will receive corrective action visits during the following school years: 2007-2008, 2008-2009, and 2009-2010. In the RFMS, a review of student records will be conducted during the on-site visit to verify compliance or noncompliance with State and Federal requirements related to the consent decree. Records selected for review will be based on analysis of data collected through PEIMS, *RF Tracker*, the student-specific data collection, and student assessment information. Records will be reviewed based on the requirements contained in the *2006-2007 Residential Facility (RF) Monitoring Manual*.

Texas Technical Assistance ESC Model. Texas has a statewide program for provision of technical assistance to LEAs coordinated through ESCs to constituent districts throughout the State. ESCs support the efforts and initiatives of the TEA to build the capacity of all educational agencies in the State providing special education and related services to children with disabilities. The ESCs provide training courses, technical assistance, and resources to school personnel and families to improve student achievement and outcomes. Additionally, the ESCs provide specific technical assistance in the statewide monitoring processes referenced above, by providing support for the improvement planning and corrective action plans required as a result of the special education monitoring. There is at least one person responsible for special education monitoring at each ESC, with larger ESCs having up to four staff persons responsible for providing support to LEAs for issues related to monitoring.

Timely correction of noncompliance. During OSEP's verification visit to Texas, the State reported that it maintains oversight of corrective action for issues related to noncompliance that includes: (1) training for TEA staff; (2) increased oversight by the ESC staff responsible for monitoring; (3) required review of timely submissions through *pmi Tracker* and *RF Tracker* systems; (4) continued implementation regarding the requirement that all noncompliance identified through monitoring and complaints be corrected within one year of the date it is identified; and (5) for districts that do not submit confirmation of timely corrective actions, implementation of hierarchical sanctions, including administrative conferences, withholding funds, and litigation.

The State reported that 100 percent of noncompliance involving individual students is corrected within 30 days to ensure that the child is receiving a free appropriate public education (FAPE) in the least restrictive environment (LRE), and all corrective actions are completed within one year as tracked by the *pmi Tracker* system for 2005-2006. OSEP's random review of monitoring files during its on-site verification visit in TEA confirmed that all noncompliance was corrected within one year of identification. The State also reported that for 2004-2005, all corrective actions were completed within one year of identification in all LEAs monitored.

TEA's monitoring procedures represent a reasonable approach to the identification and correction of noncompliance. Additionally, the short-term trend data represent improved performance in the percent of corrective action plans that have been submitted and cleared within one year from the date of identification of noncompliance for on-site monitoring reviews.

However, within TYC, two of its 14 facilities have not met the requirement for the provision of related services, which was identified as a systemic issue, and therefore, the State placed TYC under escalated sanctions. TEA reported that TYC is currently under escalated sanctions under the Texas law 19 TAC §89.1076 regarding interventions and sanctions related to continued systemic noncompliance. As required in OSEP's May 2006 response letter (Table B) to TEA, the State must submit evidence with its APR, due February 1, 2007, that all systemic corrective actions related to TYC are completed. The State should review and, if necessary, revise its improvement strategies included in the SPP to ensure they will enable the State to include data in the APR that demonstrate full compliance with this requirement. Failure to demonstrate compliance at that time may affect OSEP's determination of the State's status under section 616(d) of the IDEA.

Additionally, OSEP noted in its May 2006 response letter (Table A) to the Texas SPP, that it looks forward to reviewing in the Texas APR, submitted February 1, 2007, data that demonstrate full compliance with the requirements found at former 34 CFR §300.600 (currently found at 34 CFR §300.149) regarding the timely correction of noncompliance.

Also noted in OSEP's May 2006 response letter (Table B) to the Texas SPP, OSEP accepted the State's plan to correct noncompliance regarding the amount and frequency



of services as required by 34 CFR §300.347(a)(3) and (6) (currently found at 34 CFR §300.320(a)(4) and (7)), and directed the State to submit data in the APR due February 1, 2007 demonstrating compliance with this requirement. The State presented information prior to and during OSEP's on-site visit that indicated it would include the following indicators for LEAs in its special education monitoring review: (1) children with disabilities receive required special education and related services as indicated in the IEP; and (2) children with disabilities have access to a commensurate school day, comparable services, facilities, and environments, including but not limited to, educational materials and resources, instruction in fine arts and physical education, and the opportunity to participate in extracurricular activities. The State also indicated that the monitoring process would require: (1) analyses of the data regarding frequency and duration of services in IEPs and a comparison to the actual delivery of the services provided to children with disabilities; and (2) determination and implementation of corrective actions for noncompliance.

Additionally, each LEA in TEA special education monitoring stages 1B, 2, or 3 interventions was required to report data related to the provision of special education and related services and analyze whether students with disabilities received the required services as indicated in the IEPs and to identify student-level and systemic compliance issues related to the provision of services, review the systems in place locally to ensure the provision of services and the availability of a commensurate school day, and identify areas for program improvement related to the provision of special education and related services and commensurate school day.

**Complaint Management System.** Texas operates a broad-based dispute resolution system, which includes the complaint management system used to investigate and resolve formal written complaints concerning individual and systemic violations of Federal and State special education requirements. This system is data based and allows for tracking of issues by the LEA, as well as timelines for investigation, issuance of timely reports, and implementation of required corrective actions. The system is operated by staff that includes: one manager, one intake administrator, five investigators, and one public information custodian.

The complaint management process includes: (1) formal intake procedures; (2) systemized analysis; (3) investigation; (4) paneling; (5) corrective action reviews; (6) ensuring implementation of decisions adverse to the LEA; (7) coordination with the TEA Policy Team, Office of Legal Services and Special Education Monitoring Unit; and (8) verification of corrective actions. The State reported for 2004-2005 that 7.6 percent of complaints were completed within time limits. During the on-site visit OSEP staff reviewed the State's complaint logs. Based on the review, OSEP concluded that the State had a system for consistently determining and monitoring appropriate time extensions due to exceptional circumstances or to the use of mediation or other means of alternative dispute resolution (34 CFR §300.152(b)). The State also reported that it had revised its complaint system with the assistance of the Consortium for Appropriate Dispute Resolution in Special Education (CADRE), an OSEP-funded center. A review of the complaint data for 2005-2006 indicated that one of 204 of the complaint reports

was not completed within required time limits. OSEP's May 2006 response letter to Texas's SPP required the State to include data with the APR, submitted February 1, 2007, that demonstrate full compliance with the requirement to resolve complaints within the 60-day time limit, as required by 34 CFR §300.152(a), or unless there are time extensions that meet the requirements of 34 CFR §300.152(b)(1)(i) or (ii).<sup>2</sup> During the on-site review, OSEP noted that there were extensions appropriately granted for mediation and other forms of dispute resolution. OSEP looks forward to reviewing the complaint data in the Texas APR, submitted February 1, 2007.

**Dispute Resolution.** TEA provides oversight of informal dispute resolution processes, in addition to the formal due process hearing system in conformance with regulatory requirements through the Office of Legal Services. In the SPP and during the verification review, the State reported that for 2004-2005 there were requests for 425 due process hearings, with 58 fully adjudicated; all were completed within required timelines -- five of these were completed within 45 days, and 53 within a timeline properly extended. Additionally, the State reported during the verification visit that in 2005-2006, 277 hearing requests were filed, with 29 decisions issued. The State further indicated that the use of the newly implemented continuum of alternatives for dispute resolution, in addition to the continued use of mediation, has decreased the number of due process hearings in the State. Other statewide dispute resolution initiatives include: facilitated IEP team meetings (in Texas the IEP Team meeting is the ARD team meeting); the facilitation of difficult conversations between districts and constituents; increased use of the local resolution process; and the expanded development of the ESC component for technical assistance.

During the on-site visit, OSEP reviewed the due process hearing logs maintained by the Office of Legal Services and concluded that the State maintained a system of impartial due process hearings as required in 34 CFR §§300.511 through 300.515 that included the tracking of timelines and specific reasons for extensions of time as requested by either party, as required in 34 CFR §300.515. OSEP concluded that all due process hearings were resolved within the 45-day timeline or within the adjusted time period with appropriate documentation, that also included the adjusted time periods described in 34 CFR §300.510(c).

### ***Collection of Data Under Section 618 of the IDEA***

In reviewing the State's system for data collection and reporting under section 618 of IDEA, OSEP collected information regarding a number of elements, including whether

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<sup>2</sup> After the issuance of OSEP's letter to the State in May 2006, OSEP published the final regulations implementing Part B of IDEA. The amended regulations provide an additional circumstance under which the State must grant an extension of the 60-day time limit for resolving complaints. In addition to granting extensions for "exceptional circumstances," the State must also permit an extension if the parent (or other individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time limit to engage in mediation pursuant to paragraph (a)(3)(ii) of this section, or to engage in other alternative means of dispute resolution, if available in the State. [34 CFR §300.152(b)(1)(ii)]

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 of IDEA; (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.

Development of the Public Education Information Management System (PEIMS) resulted from the passage of the 1984 Texas Legislative House Bill 72 which required increased accountability in the public school systems within the State. PEIMS was established as a divisional unit within TEA. The Information Task Force (ITF), consisting of 13 members representing various constituencies within the State, governs PEIMS. The ITF reviews all data requests and forwards its recommendations to the Policy Committee on Public Education (PCPE) for approval.

The PEIMS is a statewide data management system for collecting and organizing educational information required by State and Federal laws. The PEIMS data standards and instructions for reporting data required under section 618 of IDEA are reviewed, checked, and verified for alignment to ensure data collected can be used for 618 data reporting purposes. The data collected through the PEIMS electronic collection method utilizes: (1) data standards that include a set of definitions, codes, formats, procedures, instruments, and dates for the collection of data; (2) standard edit procedures; (3) an established database design; (4) a production system for formatting and loading data into TEA's database; (5) written documentation describing values stored in the database, including individual student identifiers; and (6) secured access. Data required under section 618 of IDEA is collected by the TEA PEIMS Division, and analyzed by the Division of IDEA Coordination. With the publication of the final IDEA regulations, August 14, 2006 (71 FR 46540), the PEIMS data standards will be reviewed and revised in collaboration with the Division of IDEA Coordination for 2007-2008.

The PEIMS EDIT+ is a web-based application that allows the user to submit the PEIMS data to TEA through the Internet. The State reported that the PEIMS EDIT+ system: (1) extracts, uploads and validates PEIMS data files on its file server through a secured transfer process; (2) generates error-listing reports on any errors and warnings detected so that districts can correct data within their respective software systems and upload the information again; (3) accepts the districts' corrected validated files and notifies ESC personnel of the actions; (4) reviews the ESC verification and the completeness of the districts' errors; (5) notifies TEA personnel when the data reviews are completed by the ESCs; (6) transfers the data files from the TEA PEIMS EDIT+ server to the TEA mainframe to create turnaround quality reports which are returned to the districts; (7) requires that the districts' superintendents sign-off statements are authorized by the districts, verified by the ESCs and forwarded to TEA; (8) provides authorized users with the ability to search the Person Identification Database (PID) for student and staff demographic information to ensure PEIMS file accuracy; (9) validates the student and

staff data contained in the source PEIMS file against the PID; and (10) generates verification reports through the PEIMS EDIT+ used for correcting the data.

The Special Education Ad Hoc Reporting System (SPEARS), under the Division of IDEA Coordination within TEA, is a dynamic reporting tool designed for accessing and analyzing data related to special education in Texas and interfaces with PEIMS. The State reported that the SPEARS data are collected from school districts and charter schools by means of PEIMS. SPEARS reports special education data related to child count, instructional setting, disproportionality, exiting (graduation and dropout data), disciplinary actions, and extended school year. Additional information regarding SPEARS is available at <http://hancock.tea.state.tx.us/tea.spears.web/>, on the State's website.

The State reported that it provides oversight of data collection and reporting required by section 618 of IDEA through the following: (1) formal annual trainings of ESC and district staff; (2) continual and available support to district level data input staff by the ESC staff assigned to data collection and oversight; (3) continual web-based support to local district staff, by the staff responsible for data collection at the ESCs and TEA; (4) published requirements for the individual student database and aggregate table submissions, and specific timelines for reporting in the *Texas Data Resource Guide* so that the process remains timely for each level of data submission, editing, cleaning, and reporting; (5) edits, checks, and cleaning at each level of the process including at the district, ESC, and the State levels; (6) draft reports with 'red flags' identified and returned to the ESC and/or district level(s) for verification and cleaning; (7) TEA verification and reporting of the data to OSEP's contractor, Westat, and to the U.S. Department of Education (Department), Education Data Exchange Network (EDEN); and (8) data posted on the State's website as required for public reporting.

OSEP noted several issues in Texas's data reporting procedures for the 618 State-reported data as follows: (1) Texas did not report discipline data related to students removed to an interim alternative education setting (IAES); (2) it did not report race/ethnicity data for students in private schools not placed or referred by a public agency; and (3) it reports exit data from the previous year.

The State indicated that it is addressing each of the issues indicated above. State data reports regarding students removed to IAESs are included in its Annual Federal Data Report (AFDR). At the beginning of the 2007-2008 school year, TEA will provide guidance to districts on PEIMS data collection requirements pertaining to parentally placed students with disabilities in private schools. TEA will report data on the race/ethnicity of private school students in its 2007-2008 *Annual Federal Data Report*.

The State reported that it attempts to align all PEIMS data reporting timeframes with the requirements for the reporting of data to all Federal agencies and their contractors. However, because the PEIMS data collection/reporting deadlines are not aligned with the timelines for reporting exit data within the designated AFDR reporting period, the State currently reports data on the year prior to the AFDR reporting period. The State

indicated that §61.1025 of the Texas Education Code defines the requirements for data standards, including timeframes for the internal review processes. The length of the internal review processes does not coincide with the timeline for reporting the exit data in a timely manner.

The State's data collection, analysis, and reporting systems should further advance the State's capacity to utilize data as a quality assurance measure that ensures educational equity and excellence. OSEP believes that while TEA's system for data collection and reporting is designed with a system of checks and balances to report accurate data, it does not meet all the reporting requirements under section 618 of the IDEA as noted above. In the FFY 2006 APR due February 1, 2008, the State must submit evidence that: (1) it reports race/ethnicity data for students in private schools not placed or referred by a public agency; and (2) it reports exiting data for the designated reporting year.

### *Statewide Assessment*

In reviewing 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 Texas's system for statewide assessment, your staff described for OSEP how the alternate assessment is aligned with grade-appropriate content standards.

With the exception noted below, OSEP has determined, through its review of the State's written procedures for statewide assessments and its 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.

As noted in OSEP's May 22, 2006 letter (Table A) in response to Texas's SPP, the State did not provide data on the number of children who took regular assessments with accommodations. During the on-site visit, the State presented unaudited data indicating the results of accommodations to the regular assessment for children with disabilities for Braille, large print, oral administration, and accommodations approved on a case-by-case basis. OSEP looks forward to reviewing the data in the APR, submitted February 1, 2007.

The Texas Education Code Subtitle H. Public School System Accountability §39.023, regarding the adoption and administration of instruments, specifies which students are tested. All students in Texas, including students with disabilities, are assessed with

instruments based on the statewide curriculum, the Texas Essential Knowledge and Skills (TEKS). The State reported that: (1) the TEKS is developed for all subjects at all grade levels and reflects the content knowledge and skills assessed through the statewide assessment system; (2) the TEKS is structured with a progression of objectives from pre-kindergarten through eleventh grade; (3) student expectation levels, based on the TEKS objectives, are summarized within the context of the curriculum frameworks, and (4) prerequisite skills for each grade level objective that serve as entry points to the statewide assessments, are also linked to the TEKS.

The December 1, 2005 flexibility agreement with the Department under 20 U.S.C. 1234f, regarding inclusion of students with disabilities in the calculation of adequate yearly progress (AYP), indicated that in order to reconcile the State's use of standards and assessments for certain students with disabilities in AYP with the Title I statute and the reauthorized IDEA, TEA is permitted to transition from its preexisting system to an accountability system with respect to students with disabilities who are held to alternate achievement standards. TEA developed a new system of alternate assessments. The State reported that the current statewide student assessment components are:

Texas Assessment of Knowledge and Skills (TAKS). The TAKS is the general statewide assessment in Texas. The State reported that 97 percent of all students in Texas are assessed using the TAKS, including students with disabilities assessed with TAKS with and without accommodations. The State provides guidelines for appropriate accommodations that will not invalidate the results of the assessment that include: sign language interpretation; translating, oral instruction; writing prompts; colored overlays; magnifying devices; place markers; small-group and individual administration; large-print and Braille versions; alternate methods of responses; and other accommodations approved through the State's formalized request procedures.

Texas Assessment of Knowledge and Skills-Inclusive (TAKS-I).

The TAKS-I measures academic performance of children with disabilities receiving special education and related services using the grade-level TEKS. TAKS-I contains the same content as the TAKS, but it is a shorter assessment than the TAKS because there are no embedded field-test items. The TAKS-I allows the use of expanded accommodations that are not allowed on TAKS. For the TAKS-I the State reported that: (1) accommodations must not invalidate the instrument, must be those accommodations used routinely in classroom instruction, and must be documented in the student's IEP; (2) the TAKS-I is constructed to provide accommodations, such as larger fonts and additional white space; and (3) the TAKS-I will be available in 2007-2008 for assessments in science (grades 5, 8, 10, and 11), social studies (grades 8, 10, and 11), mathematics (grade 11), and English Language Assessment (grade 11).

Texas Assessment of Knowledge and Skills-Modified (TAKS-M).

The State reported that the TAKS-M: (1) assesses students receiving special education and related services who, because of their disabilities, do not achieve grade-level proficiency; (2) aligns with the grade-level TEKS based on achievement standards that reflect reduced breadth and/or depth of content; (3) allows for expanded accommodations not allowed on TAKS-I; (4) and is reserved for, but not restricted to, the two percent of students who count toward AYP under the No Child Left Behind Act (NCLB).

Texas Assessment of Knowledge and Skills-Alternate (TAKS-Alt).

The State reported that the TAKS-Alt: (1) is designed for students with the most significant cognitive disabilities; (2) unlike other statewide assessments in Texas, is not a traditional paper-and-pencil or multiple-choice test; (3) involves teachers observing students as they complete activities linked to the grade level TEKS curriculum; (4) is scored by using the TAKS-Alt rubric that sets specific criteria at each score point to identify demonstration of skill, level of support, and ability to generalize the skill as demonstrated by the student performance; (5) is structured so that the results and evidence of the performance based assessment are submitted through an online instrument; (6) and is reserved for, but not restricted to, the one percent of students who count toward AYP under NCLB.

State-Developed Alternative Assessment II (SDAA II).

The State indicated that the SDAA II: (1) is used to measure the academic progress of students with disabilities receiving the TEKS curriculum, but for whom the TAKS is determined to be inappropriate; (2) provides information about student performance in the TEKS curriculum on the effectiveness of instructional programs; (3) is used with students with disabilities currently assessed based on decisions made by the ARD committee in relation to the student's IEP; (4) allows the most accommodations that meet the needs of the student with a disability; (5) is scored so that results are available on the State's website; (6) will be last administered in the State during 2006-2007; and (7) will be replaced by the TAKS-Alt assessment for children with disabilities.

The State reported that it provides professional development opportunities and continued technical assistance on issues related to statewide assessment that include: (1) monitoring of LEA assessment data through its PBMAS review process; (2) professional development implemented by the ESCs in partnership with the ESC special education and curriculum units to provide integrated approaches to school improvement based on State assessment results; (3) providing statewide training on assessment administration through the TEA offices responsible for assessment and special education; (4) providing and tracking teacher training on web-based instruction modules related to the administration of statewide assessments and scoring of the alternate assessments; (5) completing the *Texas Assessment System* with the TAKS-Alt and TAKS-M pilots; and (6) completing and reporting a correlation study of TEKS

curriculum-based measurement to measure improved performance based on curriculum standards on the TAKS-Alt and TAKS-M.

Additionally, the State presented statewide assessment data and information regarding students with disabilities, indicating: (1) an increasing rate of participation in statewide assessments, from 98 percent for math and reading in 2003-2004, to 99.7 percent for math and 99.41 percent for reading in 2004-2005; and (2) rates of proficiency for math of 67.31 percent and for reading of 70.10 percent in 2004-2005. The State also reported information regarding the statewide assessment indicating that: (1) it publically reports the results of all statewide assessments; (2) it reports the performance of students who are in correctional facilities, State schools, nonpublic schools, and those who are considered migrant students; (3) all assessment reports include all students, even those who were considered absent on the day of testing; (4) it makes assessment results available through the State Report Card; (5) for students with disabilities, school district participation and performance results are available on the *District Profile Report*; (6) assessment data are reported on the TEA website (the results for any disaggregated unit with an N equal to 30 or less is not reported publicly); (7) performance results data for the TAKS, TAKS-I, TEKS-Alt, SDAA II and TAKS-M are disaggregated by school level, district level intermediate unit, county and State levels; (8) performance reports from the grade level assessment (TAKS) are provided to the school district of residence and the parents; (9) performance reports for students participating in the TEKS-Alt and SDAA II are provided for the district of residence, parents, and providers; and (10) the statewide assessment results are also available by link from TEA and ESC websites.

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 of IDEA.

### ***Conclusion***

As indicated above, OSEP looks forward to reviewing State data and information in the FFY 2006 APR, due February 1, 2008, indicating that: (1) it reports race/ethnicity data for students in private schools not placed or referred by a public agency; and (2) its exiting data is reported for the required reporting year.

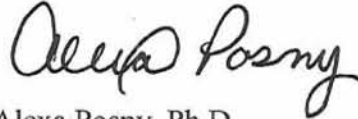
Additionally, as indicated above, OSEP reviewed data and information related to the issues in Tables A and B of its May 2006 response letter to the Texas SPP during its on-site visit and looks forward to reviewing the final data and information in State's APR, submitted on February 1, 2007, that includes: (1) completed corrective actions related to TYC; (2) resolution of complaints within the 60-day time limit, as required by 34 CFR §300.152(a), unless there are time extensions that meet the requirements of 34 CFR §300.152(b)(1)(i) or (ii); (3) provision of special education and related services as



required by 34 CFR §300.320(a)(4) and (7); (4) correction of all noncompliance as soon as possible, but in no case later than one year of identification to meet the requirements found at 34 CFR §300.149; and (5) data on the number of children who took regular assessments with accommodations.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to collaborating with Texas as you continue to work to improve results for children with disabilities and their families. If there are any questions, please contact the OSEP State Contact assigned to Texas, Hugh Reid, at 202-245-7491.

Sincerely,

A handwritten signature in black ink that reads "Alexa Posny". The signature is written in a cursive, flowing style.

Alexa Posny, Ph.D.

Director

Office of Special Education Programs

cc: Kathy Clayton  
Director of Special Education