



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

JUN 22 2005

Honorable Susan T. Zelman
Superintendent of Public Instruction
Ohio Department of Education
25 South Front Street
Columbus, Ohio 43215-4183

Dear Dr. Zelman:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) recent verification visit to Ohio. As indicated in our letter to you of January 21, 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 Ohio during the week of December 13, 2004.

The purpose of our verification reviews of States is to determine how they 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 Ohio Department of Education (ODE), OSEP staff met with Mr. Mike Armstrong (the State's Director of Special Education), and members of ODE's staff who are responsible for the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); the collection and analysis of State-reported data; and ensuring the participation in and reporting of student performance on statewide assessments. Prior to and during the visit, OSEP staff reviewed a number of documents¹, including the following: (1) Ohio's Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for Part B and Progress Reports; (2) the State's Part B applications for fiscal years 2003; (3) submission of data under Section 618 of the IDEA; (4) the Ohio State Improvement Grant (SIG) application; (5) the State's Continuous Improvement Monitoring Process (CIMP) School Improvement Review manual; (6) the Ohio

¹ 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.

Comprehensive System of Personnel Development; (7) the Ohio Alternate Assessment Administration Manual and statewide assessment administration schedules; and (8) other information from the State's website.

OSEP also conducted conference calls on July 22, 2004, and August 3, 2004, with parents, stakeholders and members from Ohio's Steering Committee to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and statewide assessment. Mr. Armstrong and other ODE Part B staff participated in the calls and assisted us by recommending and inviting the participants.

The information that Mr. Armstrong and his 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 ODE's systems for general supervision, data collection and reporting, and statewide assessment.

General Supervision

In reviewing the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) 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; (2) has systemic, data-based, and reasonable approaches to identifying and correcting 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.

Monitoring

In OSEP's Monitoring Report of the Ohio Department of Education dated March 30, 2001, OSEP found that ODE did not have effective methods for identifying and correcting deficiencies in programs providing services to children with disabilities (34 CFR §300.600(a)(2)). OSEP's December 15, 2004, letter to ODE responded to the State's FFY 2002 APR. In that letter, OSEP acknowledged ODE's systemic progress in its reporting on the yearly levels of compliance, and required the State to continue to provide data and analysis demonstrating correction of previously identified noncompliance within a reasonable period of time not to exceed one year.

During the verification visit, ODE informed OSEP that it has implemented a coordinated system of data-driven general supervision with the goal of ensuring both compliance and improved performance for children with disabilities. OSEP learned from interviews with ODE staff and reviews of ODE's monitoring manuals and monitoring files that ODE's coordinated monitoring system is comprised of four interconnecting processes: (1) focused monitoring (FM) conducted by the Office of Exceptional Children (OEC) and the Office of Early Learning and School Readiness (OELSR); (2) Continuous

Comprehensive Improvement Planning (CCIP) conducted by ODE's Office of Reform and Federal Student Programs; (3) Selective Reviews (SR) conducted by OEC; and (4) Management Assistance Reviews (MAR) conducted by OEC's Resource Management.

ODE's Office of Reform and Federal Student Programs requires that each district, including charter schools, community schools, virtual schools, County Boards for the Mentally Retarded and Developmentally Delayed programs, Department of Youth Services, and State Schools submit an annual Comprehensive Continuous Improvement Plan (CCIP) which includes the district's application for Federal funds, its budget, goals and objectives, and an assurance, certified by the Superintendent, that districts are meeting all requirements of IDEA. Each year, the Office of Federal Programs monitors a cohort of districts, composed of one-third of all of Ohio's districts, for compliance with all Federally funded programs. From this cohort, districts are selected for other general supervision activities such as FM, MARs, State audits, or are randomly assigned for compliance monitoring.

Within the annual cohort monitored by ODE, the Office of Federal Programs completes MARs in 50 to 60 districts each year. The MAR is designed to address the use of Federal flow-through and State funds designated for children and youth with disabilities, as well as a review of any discretionary grant funds that may have been awarded to the district or education agency.

During the 2002-2003 School Year, ODE implemented a pilot FM program in which ten piloted districts were selected by rank ordered data. OSEP learned from interviewing staff and reviewing monitoring manuals and monitoring files that ODE uses data from several different sources to help focus its data collection, and that the partnership between offices within ODE supports ODE/OEC's coordinated monitoring and improvement planning through a data-driven system focused on identification of priority areas to examine compliance and performance.

The OEC and Ohio's 16 Special Education Regional Resource Centers (SERRCs) support district planning efforts through the provision of technical assistance. ODE described the expectations, supports, guidance and technical assistance the State provides districts to align work and meet State and Federal requirements. In addition, ODE is working with building principals throughout Ohio to establish relationships and provide training on special education.

ODE's four monitoring processes are interconnected and designed to align monitoring, improvement planning, and the identification and correction of noncompliance. As documented in ODE's monitoring manuals and evidenced in its monitoring files, all four monitoring processes include: a notification to the district detailing the scope of the review; a report of findings including corrective actions that need to be completed by the district reviewed; and timelines for the completion of noncompliance, not to exceed one year. As explained by ODE staff and confirmed by OSEP's review of schedules, monitoring files and reports, the State has a mechanism in place for offices to share monitoring findings and reviews. In addition, the State's coordinated system of general supervision is making findings of noncompliance with Part B requirements and

correcting identified noncompliance. ODE informed OSEP that ODE's monitoring process has mechanisms in place to compile and integrate data from its various data systems. For example: (1) 618 data and large scale assessment data are used to select districts for focused monitoring; (2) data from mediations, due process hearings, and complaints are used to determine if issues are systemic, which would trigger further inquiry; and (3) previous monitoring results are incorporated into the CCIP.

As documented in its monitoring manuals, ODE uses a system of incentives and progressive sanctions. Through record review and interviews with ODE staff, OSEP learned that ODE provides additional targeted support to districts when implementation of the approved, original corrective action plan did not result in correction of noncompliance within one year. The additional support may include training for specific district personnel, and assistance in developing and implementing additional corrective actions. ODE, at its discretion, may impose the sanction of withholding State and/or Federal funding when a district refuses to work with ODE and/or to complete its corrective actions within timelines. OSEP also learned that ODE has imposed sanctions by reducing Part B allocations to districts for noncompliance.

OSEP learned from interviewing ODE Staff and reviewing monitoring files that schools selected for a School Improvement Review under ODE's previous monitoring process have assigned consultants to ensure all corrective actions and evidence of correction are submitted and implemented. In addition, the CCIP includes follow-up questions designed to ensure the implementation of all Part B requirements.

OSEP believes that ODE's 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 they are fully effective in identifying and correcting noncompliance. In its December 15, 2004, letter responding to ODE's FFY 2002 APR, OSEP directed ODE to provide documentation in its FFY 2003 APR, that the State ensures the correction of all identified noncompliance within a reasonable period of time, not to exceed one year, as required by 20 U.S.C. §1232d(b)(3)(E) and 34 CFR §300.600. During the verification visit, ODE provided some documentation that the State ensures the correction of identified noncompliance including the correction of noncompliance the State identified through School Improvement Reviews under ODE's previous monitoring process. Based on its further review of the requested data and analysis that ODE has submitted with its FFY 2003 APR, OSEP will provide ODE with its determination of whether ODE has ensured the correction of all identified noncompliance, including the noncompliance identified in OSEP's March 2001 monitoring report to ODE.

Complaints

OSEP's 2001 Monitoring Report identified that ODE's complaint management procedures did not include all provisions required by Part B (34 CFR §§300.660 -- 300.662); did not ensure adherence to complaint timelines and extensions (34 CFR §300.661(a) and (b)(1)); and did not ensure that complaint letters of findings addressed each violation of Part B (34 CFR §300.661(a)(4)). OSEP learned through review of ODE's written procedures, complaint log, complaint letters, and interviews with staff that

the revisions ODE has made to its complaint process have addressed the previously identified noncompliance. Specifically, with respect to the noncompliance that OSEP identified as a result of ODE's November 2003 Progress Report, OSEP learned during the verification visit that ODE's complaint procedures no longer require a complaint to list "the alleged violations of the law along with a proposed resolution." During the verification visit, ODE provided OSEP with its revised complaint procedures as well as documentation that its revised complaint procedures have been disseminated through SERRCs, and that the revised complaint procedures appear on ODE's website. Thus, OSEP is satisfied that ODE has provided the documentation regarding modification of complaint procedures and dissemination of revised complaint procedures that OSEP requested from ODE in its December 15, 2004 letter responding to its FFY 2002 APR.

The revised complaint process includes: the creation of a complaint tracking system; revised complaint procedures that meet all of the requirements under Part B; a revised complaint form; the creation of a complaint team to include employing seven education consultants; the assignment of an education consultant to each complaint; creating Selective Reviews and further Inquiry; and the monitoring of corrective action until completion. OSEP determined based on its review of ODE's complaint log from July 2003 through June 2004, complaint letters, and interviews with staff responsible for resolving complaints that ODE addresses all allegations in the complaint and includes findings of fact and conclusions. In its review of complaint timelines, OSEP found that decisions in four out of 170 complaints logged were not issued within the 60-day timeline because the same issue was being addressed in a due process hearing and nine out of 170 cases had timelines extended for exceptional circumstances, consistent with 34 CFR §300.661. In OSEP's December 15, 2004 letter to ODE responding to its FFY 2002 APR, OSEP requested that ODE report on its progress in ensuring full compliance with complaint timelines in the FFY 2003 APR, and OSEP will review that information in the context of its review of the FFY 2003 APR. Based on the information reviewed during the verification visit, OSEP is satisfied that ODE has addressed the noncompliance identified in ODE's March 2001 monitoring report regarding complaint procedures, complaint timelines and extensions, and complaint letters of findings.

Due Process

OSEP learned through its review of ODE's due process hearing log and interviews with staff responsible for tracking hearing timelines that decisions in due process hearings are issued within 45 calendar days from ODE's receipt of the request for a hearing, unless the hearing officer grants a specific extension of time at the request of a party, consistent with 34 CFR §300.511(a) and (c). During the verification visit, OSEP reviewed ODE's log of due process hearing requests from July 2003 through June 2004 and examined a sample of nine hearing files. Of the 185 hearing requests filed during the above period of time, 22 were adjudicated and written decisions were issued within the timelines required at 34 CFR §300.511(a) and (c), one hearing was pending, and 171 requests were settled, withdrawn or dismissed within timelines. ODE staff informed OSEP that the State has made significant revisions to its due process system. For example, ODE has developed comprehensive annual training for hearing officers and State level review officers and established stringent requirements and qualifications for both. ODE informed OSEP that since 2002, the State has implemented an accountability mechanism to conduct an annual

review of hearing officer performance. As part of each on-site monitoring visit, ODE ensures that the district has effectively implemented any hearing or complaint decisions. OSEP's response to ODE's FFY 2002 APR, issued by letter dated December 15, 2004, required ODE to provide a report to OSEP as soon as possible, but not later than 30 days following one year of the date of that letter, regarding its compliance with due process hearing timelines at 34 CFR §300.511(a) and (c). The information reviewed in the verification visit satisfies this requirement, and no further response is required on this issue.

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 identified barriers, (e.g., limitations on authority, sufficient staff or other resources, etc.) that impede the State's ability to accurately, reliably collect and report data under section 618.

Ohio uses one system to collect data on all students attending Ohio's Public Schools, State Operated Programs, and Community Schools. The Education Management Information System (EMIS) is a Web-based data collection system used to collect more than 1000 data points for Ohio's 1.8 million students. EMIS disaggregates data into meaningful units for analysis, and generates customized reports that display data for comparative and summary analysis within and between districts. ODE staff informed OSEP about several points related to the validity of data including specific student identifiers issued to all students, data reported by the students' district of residence, and State data definitions that match OSEP's 618 data definitions. EMIS also automatically checks all data entered by districts for common errors and requires correction before additional data can be entered. All districts are required to submit data to a designated data acquisition site that does a comprehensive analysis of the data for any additional errors, and if errors are present, requires correction by the district. To ensure the reliability and accuracy of data, ODE: provides detailed instructions in both hard copy and online; requires that districts identify an EMIS coordinator; and conducts a mandatory annual EMIS conference with two sessions devoted to special education data. They also explained that ODE provides tailored technical assistance to districts through regional field service conferences and utilizing "Subject Management Experts" to provide data clarification. ODE staff further explained that FM, CCIP and MAR monitoring teams conduct verification of data as part of monitoring reviews to ensure validity and reliability of the EMIS data.

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 Ohio's system for statewide assessment, OSEP also discussed with ODE staff how the alternate assessment is aligned with grade-appropriate content standards.

OSEP learned, through interviews with ODE staff and review of the Implementation Schedule for Ohio's Statewide Assessment System, that ODE has developed procedures for, and conducts statewide assessments in, grades three through eight and in grade ten. The tenth grade assessment is a "high stakes" assessment; students must pass the test to graduate. Ohio law requires all tenth grade students to participate in the tenth grade assessment; however, an IEP team may exempt a student from the "high stake" graduation requirement. Exemption from the "high stake" graduation requirement does not preclude a student with a disability from graduating with a regular high school diploma if that student meets other requirements. In the FFY 2002 APR, ODE reported 98 percent participation of students with disabilities on statewide assessments. OSEP learned through discussion with ODE staff that there are no exemptions or waivers for statewide assessments, and that the 2 percent not participating were not in attendance. ODE has developed an alternate assessment to assess grade-level content standards for each subject area and grade in which statewide assessments are administered.

ODE informed OSEP that they have provided training to public agencies through the regional SERRCs and through ODE statewide training on the administration of assessments, including alternate assessments. ODE developed the Ohio Statewide Testing Program Rules Book that includes sections on administering assessments, appropriate accommodations for statewide assessments, and alternate assessments. ODE staff provided OSEP with training schedules and presentations used to train SERRCs and districts.

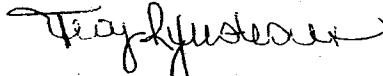
ODE monitors the administration of statewide assessments through focused monitoring, described above. Districts are required to report participation on assessments through CCIP and through the EMIS data system. ODE reports statewide assessment results on the State's website and through the dissemination of ODE State and district report cards. ODE reports to the public on the performance of children with disabilities on the statewide regular and alternate assessments with the same frequency and in the same detail as it reports on the performance of nondisabled children.

OSEP learned through discussions and review of ODE's assessment system that some districts also conduct district-wide assessments; however, at the time of OSEP's visit

ODE did not know the extent to which districts throughout the State conduct district-wide assessments and if children with disabilities are included in those district-wide assessment programs with appropriate accommodations and, where necessary, are included in alternate assessments. As set forth at 34 CFR §300.138, ODE must ensure that children with disabilities are included in State and district-wide assessment programs, with appropriate accommodations and modifications in administration, if necessary, and develop guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in district-wide assessment programs. ODE must submit a report, due 60 days from the date of this letter, describing the steps that the State is taking to ensure that districts that conduct district-wide assessments have developed guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments with individual accommodations, and provide copies of samples of alternate assessment guidelines. If data demonstrate noncompliance, the State must include a plan with strategies, proposed evidence of change, targets and timelines designed to ensure correction of any identified noncompliance as soon as possible, but not later than one year from the date that OSEP accepts the plan.

We appreciate the cooperation and assistance provided by your staff during our visit and look forward to collaborating with Ohio as you continue to work to improve results for children with disabilities and their families.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education
Programs

cc: Mr. Mike Armstrong