



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

OCT 26 2006

Honorable Sandy Garrett
Superintendent of Public Instruction
Oklahoma State Department of Education
2500 North Lincoln Boulevard
Oklahoma City, Oklahoma 73105-4599

Dear Superintendent Garrett:

The purpose of this letter is to inform you of the results of the recent verification visit to Oklahoma conducted by the Office of Special Education Programs (OSEP). 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). OSEP conducted a visit to Oklahoma during the week of August 21, 2006.

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 Oklahoma State Department of Education (OSDE), OSEP staff met with Misty Kimbrough, Assistant State Superintendent for Special Education Services and members of OSDE's 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 the visit, OSEP staff reviewed a number of documents, including the State's Part B Grant Award Application; the Annual Performance Reports (APR) for Federal fiscal year (FFY) 2003 and FFY 2004; Oklahoma's December 2, 2005 State Performance Plan (SPP); desk audits submitted by OSDE; submissions of data under Section 618 of the IDEA; and the OSDE Special Education Services (SES) website.¹

The information that Ms. Kimbrough and other OSDE 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 OSDE's systems for general supervision, data collection and reporting, and Statewide assessment.

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.

General Supervision

In looking at 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.

OSEP believes that OSDE's monitoring procedures are reasonably designed to ensure the identification and timely correction of noncompliance. However, without collecting data at the district level, OSEP cannot determine whether the State is fully effective in identifying and timely correcting noncompliance. As set out in Table B of OSEP's February 17, 2006 SPP response letter, we look forward to reviewing data under Indicator 15 in the FFY 2005 APR, due February 1, 2007, that demonstrate full compliance with this requirement.

OSDE reported that the underlying strengths of its general supervision system are the use of mandated Statewide policies, procedures, and standard forms; the participation and accountability of local superintendents at each level of special education implementation; and the enforcement authority of the State Department of Education. OSDE described a system where each of the 540 school districts in the State adopts the State-developed and approved policies and procedures and special education forms. This system facilitates the implementation of special education programs and services. OSDE indicated that districts have flexibility with the model individualized education program (IEP) forms, but local changes to the State-developed forms require the approval of OSDE and few districts have chosen to alter the forms. OSDE reported that local superintendents have been actively involved in ensuring that their districts effectively implement special education programs and services. For example, OSDE provided documentation that local superintendents are required to assure that correction of all noncompliance identified through complaint investigations and monitoring reports has occurred. OSDE also reported close collaboration with the district superintendents and the Regional Offices of Accreditation in correcting noncompliance.

OSDE reported working closely with other State agencies to provide a free appropriate public education to students with disabilities through its interagency agreement with the Oklahoma Department of Health, the Oklahoma Commission on Children and Youth, the Oklahoma Health Care Authority, the Office of Juvenile Affairs, the Department of Human Services, the Department of Rehabilitation Services, the Oklahoma Department of Mental Health and Substance Abuse Services, and the Oklahoma Department of Career and Technical Education. OSDE indicated that it was able to utilize a comprehensive, multi-disciplinary approach to provide services to children and enhance the capacity of families to meet their needs under the interagency agreement by working closely with the other agencies.

Based upon interviews with OSDE staff and OSEP's review of monitoring protocols and records, OSEP learned that a team of compliance coordinators who are assigned expert areas conducts OSDE's system for identifying and correcting noncompliance. OSDE reported on its efforts to include more parents and peer monitors from school districts in its monitoring process. As reported, OSDE's monitoring consists of six main components: (1) annual district applications for IDEA funds and data reports; (2) desk audit reviews; (3) comprehensive monitoring; (4) concern-specific monitoring; (5) focused monitoring; (6) technical assistance and (7) dispute resolution procedures.

OSDE reported that each of the 540 districts is required to submit an annual application for funds including an assurance that the district will meet all of the requirements of Part B of the IDEA. In addition to the annual application, districts are required to submit an annual data report to OSDE including data required under Section 618 of the IDEA and other required monitoring data. As reported, each superintendent is required to certify the application for funds and annual data report and assure that the data are accurate. From this annual data report, OSDE indicated that it develops district data profiles that are returned to the district for validation and disseminated to the public. OSDE reported that it plans to use the data profiles to report to the public on the performance of each district on the indicators in the SPP and APR.

OSDE stated that it conducts yearly desk audit reviews on approximately 90 school districts, randomly selected from six enrollment clusters, and based on a six-year cycle. The desk audit reviews include a comparison of district-reported information through the web-based data collection system to the performance and compliance targets in the SPP (see discussion in data section below). OSDE reported that compliance coordinators review the districts' performance against the targets and any justifications for not reaching targets. OSDE indicated that it requires improvement plans to address noncompliance identified through desk audit reviews.

In addition to applications and desk audit reviews, OSDE reported identifying and investigating noncompliance through comprehensive and concern-specific monitoring. As described, comprehensive monitoring is conducted based on issues and needs identified through district applications, data reports, desk audit reviews, parent surveys and the dispute resolution systems (i.e., due process hearings, mediations and State complaints). Comprehensive monitoring is also conducted at the request of district superintendents or district special education directors and as a follow-up to noncompliance identified through other mechanisms. OSDE reported that its team of coordinators conducts onsite monitoring through methods such as the review of student records, student tracking, interviews of students, personnel and parents, and the review of administrative records. OSDE reported that comprehensive monitoring is intended to verify compliance with all requirements of Part B of the IDEA. Concern-specific monitoring is conducted based on any compliance concern that is reported consistently in a district or school and includes on-site monitoring that focuses on the area of concern.

OSDE reported that, with the assistance of the National Center for Special Education Accountability and Monitoring (NCSEAM), it supplemented its monitoring system by implementing a focused monitoring process during the 2005-2006 school year. Specifically, a focused monitoring stakeholder group chose the areas of least restrictive environment and disproportionality as focus areas and OSDE monitored for one of the two areas in each district

selected from each of six enrollment clusters based on rank-ordered data and in two randomly selected districts. OSDE reported that its coordinators met with parents and district personnel to determine the root causes of any identified noncompliance in the focus area and to develop improvement plans to systemically correct such noncompliance.

OSDE reported that it provides monitoring reports to districts for noncompliance identified through any of the above-listed monitoring procedures and requires districts to complete and implement corrective action plans or improvement plans to correct any noncompliance within sixty days of the issuance of the monitoring report. Districts are required to obtain an assurance from the district superintendent that the noncompliance will be corrected and that the district will conduct an in-service training, generally presented by OSDE staff, in the area of noncompliance. Based upon OSEP's review of corrective action plans, improvement plans and progress reports, it appeared that OSDE reviewed evidence of correction and required further evidence where the submitted evidence was insufficient. OSDE granted extensions to the 60-day timeline for correcting noncompliance but in no case granted extensions that exceeded one year. OSDE reported that only one district had exceeded one year in demonstrating correction, but that OSDE was able to resolve the matter through the district superintendent and the Regional Accreditation Office.

OSEP staff met with OSDE coordinators responsible for dispute resolution to review complaint, mediation and due process logs. OSDE reported that it contracts with Oklahoma State University to conduct its due process hearings but that hearing requests are submitted to, and tracked by, OSDE. The Office of Dispute Resolution at the Supreme Court of Oklahoma conducts mediations that also are tracked and monitored by OSDE. Through review of logs and records, OSEP verified that, as reported in the SPP, OSDE completed all due process hearings and complaint investigations within Federal timelines. As noted above, OSDE reported using the results of due process hearings, mediations and complaints in its desk audit reviews of districts and its identification of districts for both comprehensive and concern-specific monitoring.

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

OSEP believes that OSDE's system for collecting and reporting data for Part B of the IDEA is reasonably designed to ensure the accuracy of the data that OSDE reports to OSEP under Section 618 of the IDEA.

OSEP met with OSDE staff, including the Special Education Data Coordinator and staff from OSDE Data Services. OSDE staff explained that they use a secure, web-based 618 data collection system, the Special Education Child Count System (SECCS). Trained district-level personnel enter child-specific, as well as district-level data for their district. Staff responsible for data entry receive on-going training, including a comprehensive tour of each data collection screen and field. Additionally, OSDE provides each district with a comprehensive training manual and OSDE staff is readily available for on-going technical assistance. The SECCS contains internal checks to ensure that data is entered correctly and that all required data is entered. Data is validated and certified by the district superintendent prior to being finalized and submitted for child count reports on October 1 and December 1 and the annual district data reports. Validated and certified data cannot be changed after submission by the district unless OSDE approves the change.

OSDE reported that upon receipt of district data, special education and data services staff check the submission for anomalies, inaccuracies, and duplication. Data is compiled into reports for 618 data as well as for district data profiles. OSDE indicated that this system also has the capability to collect and report data by specific SPP/APR indicators, allowing for more accurate and complete data to be submitted to OSEP.

In addition to the SECCS, OSDE makes Special Education Automation Software (SEAS) available to all districts at no cost. OSDE reported that approximately 80% of districts used SEAS to automate students' IEPs and to track relevant child-based data. If a district uses SEAS, they are able to upload child data directly from SEAS to SECCS. OSDE reported that this process eliminates duplication of effort and provides more accurate data to OSDE. Both data collection systems have some built-in data checks to ensure accurate collection. Additionally, OSDE reported that staff hand-check those data elements for which a built-in check has not yet been implemented.

Statewide Assessment

In looking at the State's system for Statewide assessment, OSEP collected information regarding a number of elements², including whether the State: (1) establishes procedures for Statewide assessments 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.

² Title I of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001, also includes a number of requirements related to including children with disabilities in State assessment programs and reporting on their participation and performance on regular and alternate assessments that in many instances are more specific than requirements in the IDEA. For example, the Title I regulations require, at 34 CFR §200.2(b)(3) and (4), that all State assessments must, "(3)(i) Be aligned with the State's challenging academic content and student academic achievement standards; and (ii) Provide coherent information about student attainment of those standards. (4)(i) Be valid and reliable for the purposes for which the assessment system is used; and (ii) Be consistent with relevant, nationally recognized professional and technical standards." This letter does not, and should not be interpreted to, address Oklahoma's compliance with requirements of Title I.

OSEP met with OSDE staff responsible for Statewide and districtwide assessments as well as OSDE's Assistant Superintendent for the Office of Accountability and Assessment. OSDE reported that it has established procedures that provide for the participation of all students with disabilities either in the Oklahoma State Testing Program (OSTP), with or without accommodations, or in the Oklahoma Alternative Assessment Program (OAAP). OSDE reported that it also has established procedures that require districts to ensure the participation of all students with disabilities in any districtwide assessment that the district administers. OSDE staff reported working together with the Offices for Accountability and Assessment and Curriculum to develop guidelines for participation on alternate assessments based on alternate grade-level achievement standards as well as alternate assessments based on modified achievement standards. OSDE reported that the administration of the alternate assessment based on modified achievement standards would begin during the 2006-2007 school year.

Based on staff interviews and review of Statewide assessment procedures and protocol, OSEP determined that the OSTP tests students in third through eighth grade in the areas of reading and math and in certain grades in the areas of social studies, science, writing, geography and U.S. history. In addition, the OSTP assesses high school students at the conclusion of their instruction for Algebra 1, U.S. History and English 2. Participation in those courses and subsequent participation in the end-of-instruction assessments are required for graduation with a standard diploma. OSDE reported that it plans to implement high-stakes testing that will require students to pass these assessments. OSDE reported that it does not allow testing waivers or out-of-level testing.

OSEP reviewed protocols and training materials developed by OSDE to assist IEP teams in making decisions related to testing accommodations and participation on the alternate assessments for State and districtwide assessments. OSDE reported that it developed and disseminated a list of State-approved accommodations that the State indicated do not affect the validity of the assessment results on the OSTP and that IEP teams are trained on selecting appropriate accommodations from the approved list, including them on the IEPs of students who require accommodations for State and districtwide assessments, and implementing the accommodations during classroom instruction in order to familiarize students with them prior to the test administration. OSDE reported that it provides comprehensive training to general and regular education teachers on testing accommodations for the OSTP and the OAAP. OSDE indicated that it monitors for the inclusion of appropriate accommodations in IEPs during its comprehensive review process. In addition, districts must submit and certify an annual assessment survey prior to administering Statewide assessments. As described, the survey includes information on the number of students with disabilities who participate in the regular assessment with accommodations, in the regular assessment without accommodations, and in the alternate assessment. This survey is intended to assist OSDE to ensure students participate in the correct assessment with appropriate accommodations and to report accurate participation rates.

OSEP learned that, in addition to monitoring for participation in Statewide assessments with accommodations and in alternate assessments during its comprehensive reviews, OSDE collects information through the districts' annual application for funds and the annual data report on the participation of students with disabilities in State and districtwide assessments. OSDE reviews these data against the data submitted in the assessment survey prior to the administration of

Statewide assessments as well as data collected by the Office of Accountability and Assessment to ensure accurate data.

Although it appears that the State's procedures for conducting Statewide assessments, including the use of accommodations, were consistent with Part B requirements, OSEP cannot, without also collecting data at the local level, determine whether all public agencies in the State are implementing the State's procedures in a manner that is consistent with Part B. In addition, as set out below, OSEP has determined that, in its public reporting, OSDE did not meet the IDEA's requirements at 20 U.S.C. 1412 (a)(16)(D). Under this provision, the State (or in the case of districtwide assessments, the school district) must report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children the following information: 1) the number of students with disabilities participating in regular assessments; 2) the number of students with disabilities participating in regular assessments with accommodations; 3) the number of students with disabilities participating in the alternate assessment aligned with the State's challenging academic content and student academic achievement standards; 4) the number of students with disabilities participating in the alternate assessment aligned with alternate achievement standards; and 5) the performance of students with disabilities on the regular and alternate assessments compared with the achievement of all children (where the information is statistically reliable and its reporting does not reveal personally identifiable information about an individual student).

OSEP reviewed OSDE's website containing public reporting on participation and performance in the Statewide assessment program. OSEP noted that OSDE reports on the OSTP in the Annual Report Cards at both the school district level and the school level. OSEP reviewed the Annual Report Cards for school years 2003-2004 and 2004-2005. OSEP noted that OSDE reported the percentage participation for students with individualized education programs (IEPs) for 2003-2004, but had not reported any participation rates for such students on any of the 2004-2005 reports. OSEP contacted OSDE and the 2004-2005 reports were revised to include the same type of participation information that was reported the previous year. However, OSEP also advised OSDE that these reports to the public on participation did not meet the requirements of 20 U.S.C. 1412(a)(16)(D)(i)-(iii). Specifically, the Annual Report Cards did not specify the number of children with disabilities participating in the regular assessment, the number who were provided accommodations in order to participate in the regular assessment, and the number of children with disabilities participating in alternate assessments aligned to alternate standards.³

Additionally, in its reports on the performance of children with disabilities on the Annual Report Cards for districts and schools, OSDE did not include, or otherwise report on, the performance of children with disabilities on the alternate assessments as required by 20 U.S.C.

1412(a)(16)(D)(iv). OSEP did note a separate public report on the performance of students with disabilities on the alternate assessment at the State level but not at the district and school levels.

Based upon this, OSEP concludes that OSDE is not in compliance with 20 U.S.C. 1412(a)(16)(D). The State must demonstrate correction and compliance with this requirement as soon as possible. Failure to demonstrate correction and compliance on or before June 30, 2007

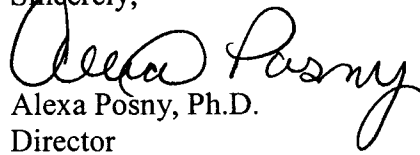
³ As noted above, for 2003 through 2005, OSDE did not administer an alternate assessment aligned with the State's challenging academic content and student academic achievement standards.

may result in the State's designation as a high-risk grantee and the imposition of special conditions on the State's grant awards under Part B of the IDEA for fiscal year 2007.

Conclusion

As set out above, the State must demonstrate compliance with 20 U.S.C. 1412(a)(16)(D) as soon as possible. OSEP's verification review has assisted in gaining a better understanding of your State's systems for monitoring, data collection and Statewide assessment related to children with disabilities served under Part B of the IDEA. We appreciate the cooperation and assistance provided by your staff during our visit, and look forward to our continued collaboration with Oklahoma to support your work to improve results for children with disabilities and their families.

Sincerely,

A handwritten signature in black ink, appearing to read "Alexa Posny". The signature is fluid and cursive, with the first name "Alexa" written in a larger, more prominent script than the last name "Posny".

Alexa Posny, Ph.D.

Director

Office of Special Education Programs

cc: Ms. Misty Kimbrough