



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Dr. Randy L. Dunn, Interim Superintendent
Illinois State Board of Education
100 North First Street
Springfield, IL 62777-0001

NOV 16 2004

Dear Superintendent Dunn:

The purpose of this letter is to respond to Illinois' March 31, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part B funds used during the grant period July 1, 2002 through June 30, 2003. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (OSEP), within the U.S. Department of Education. The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies) and consolidates the self-assessing and improvement planning functions of the CIFMS into one document. OSEP's Memorandum regarding the submission of Part B APRs directed States to address five cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education in the Least Restrictive Environment; and Secondary Transition.

Background

OSEP conducted a targeted monitoring review in Illinois in April 2002. In its December 31, 2002 Monitoring Report, OSEP identified the following areas of noncompliance: (1) the Illinois State Board of Education (ISBE) was not effective in identifying and ensuring the correction of all systemic noncompliance (34 CFR §300.600(a)(2) and 20 U.S.C. 1232d (b)(3)); (2) ISBE had not reported to the public on the performance of children with disabilities on alternate assessments (34 CFR §300.139(a)(1)(ii))¹; (3) ISBE did not ensure that children with disabilities were educated in the least restrictive environment (LRE) (34 CFR §§300.550-.556); and (4) ISBE did not ensure that children who needed psychological counseling services to benefit from special education received those services (34 CFR §300.24(a) and (b)(9)(v)).

¹ ISBE submitted documentation to OSEP on October 1, 2002 showing that the State was publicly reporting on the performance of students with disabilities taking the Illinois Alternate Assessment in the same grades and with the same frequency as for nondisabled students, which resolved this issue.

ISBE submitted a revised Improvement Plan (IP) on March 4, 2003 to address the findings of the monitoring report. (ISBE had submitted an initial IP on January 16, 2002, prior to OSEP's monitoring visit.) OSEP accepted the revised IP by letter of September 29, 2003. In its letter, OSEP informed the State that it must submit a final Progress Report no later than one year from the date of that letter, showing that the State corrected all of the noncompliance identified in OSEP's 2002 Monitoring Report.

In August 2003, OSEP conducted a visit to the State in order to verify its systems for general supervision, data collection and reporting, and State-wide assessment. On pages 5 and 6 of the October 23, 2003 verification letter, OSEP identified the following areas of noncompliance: (1) ISBE was not ensuring that, when extending the due process hearing timeline for issuing a decision beyond the 45-day timeline, hearing officers were doing so at the request of a party and for a specific period of time (34 CFR §300.511(a) and (c)); and (2) the State did not ensure that a majority of the members of the State Special Education Advisory Council were individuals with disabilities or parents of children with disabilities (34 CFR §300.651(b)). In addition, the State expressed concern regarding the accuracy of district-level placement data, and was instructed in the verification letter to provide OSEP with a plan for ensuring that the placement data provided as part of the next required submission of section 618 data would be accurate. In its December 31, 2003 letter to OSEP, the State provided a specific plan to ensure that future district level placement data submitted to ISBE is correct.

The State's APR should reflect the collection, analysis, and reporting of relevant data, and document data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to the State's FFY 2002 APR, the December 2003, February 2004, and September 2004 Progress Reports, and the State's December 31, 2003 response to OSEP's October 2003 verification letter. OSEP's comments below are listed by cluster area.

General Supervision

In its December 2002 Monitoring Report, OSEP found that ISBE was not effective in identifying and ensuring the correction of all systemic noncompliance (34 CFR §300.600(a)(2) and 20 U.S.C. 1232d(b)(3)). OSEP's September 2003 letter directed the State to provide documentation that it corrected these areas of noncompliance. In its October 2003 verification letter, OSEP identified two additional areas of noncompliance in this cluster: (1) ISBE was not meeting the due process hearing timeline requirements of 34 CFR §300.511(a) and (c); and (2) the State's special education advisory panel did not meet the membership requirements of 34 CFR §300.651(b).

Identification and correction of noncompliance. In its December 2002 Monitoring Report, OSEP found that ISBE was not effective in identifying and ensuring the correction of all systemic noncompliance (34 CFR §300.600(a)(2) and 20 U.S.C. 1232d(b)(3)). As indicated in OSEP's September 2003 letter, Illinois was required to

submit to OSEP, by September 29, 2004, documentation showing that the State was effective in correcting noncompliance found at the district level.

OSEP's October 23, 2003 letter regarding its August 2003 verification visit to the State, informed Illinois that the improvements ISBE made to its monitoring system were reasonably calculated to correct noncompliance, and that the system was a reasonable approach to the identification and correction of noncompliance. The State's data and analysis in the APR and in the February 2004 Progress Report further demonstrated that it was making progress in this area. On pages 4, 15 and 16 of its February 2004 Progress Report, the State reported that it had implemented strategies in Goal 5 of the Improvement Plan leading to correction of systemic noncompliance, and provided documentation of those activities. Included in the evidence of change, ISBE incorporated a risk analysis methodology into the State's monitoring system that was widely communicated to all districts. The methodology includes criteria for the use of enforcement strategies to be utilized by ISBE should a district fail to correct identified noncompliance. ISBE also included in the February 2004 Progress Report, copies of follow-up letters to two districts regarding noncompliance and the potential for imposing sanctions. In Appendix S of the APR, ISBE included a summary of district-wide findings of noncompliance in Chicago District #299 for the 2002-2003 school-year, including a detailed timetable of required actions for correcting each area.

September 2004 Progress Report. Illinois reported in a September 29, 2004 letter to OSEP, that the State increased the ISBE staff to provide adequate resources for general supervision of special education State-wide. The State provided further documentation in the September 2004 Progress Report regarding three school districts with significant noncompliance issues, including copies of focused monitoring reports and follow-up letters with specific findings and correlating corrective actions required.²

For East St. Louis, ISBE included a focused monitoring report from December 2003 and letters to that district from September 2003 to February 2004. The report included serious findings of noncompliance in LRE and in access to the State-wide assessments. In the report, the district was given 30 days to implement corrective actions, and was further directed to use a portion of its Part B administrative funds to resolve the identified noncompliance. In a follow-up letter to East St. Louis in February 2004, ISBE determined that the district had provided sufficient documentation to substantiate remediation in four of eleven findings of Part B IDEA noncompliance. One finding was partly addressed, and one required an onsite review from ISBE staff to determine if the finding had been satisfied.

For Venice School District #3, ISBE included a monitoring report dated January 13, 2004 and letters to the district (and neighboring districts) from February 2003 through July 2004. The monitoring report was based on a focused compliance review of the district on December 17, 2003. Findings of noncompliance included student placement, participation in the State-wide assessments, and individualized education program (IEP)

² See Appendices B, D, and E in the State's September 29, 2004 Progress Report to OSEP, showing corrective actions and follow-up taken by the State in East St. Louis, Venice and Chicago Public Schools.

procedural violations. In the January 13, 2004 report, the State specified the actions that Venice was required to include in a corrective action plan and directed the district to ensure full implementation of the requirements by February 16, 2004. ISBE included numerous follow-up letters to the district, including a letter dated June 11, 2004 officially closing out the corrective actions for all identified noncompliance related to Part B.

ISBE also included, as part of the September 2004 submission to OSEP, copies of four LRE monitoring reports from Chicago Public Schools (Appendix F). These four reports represent a sampling of the State's ongoing monitoring efforts in Chicago for compliance issues under the *Corey H. et al. vs. Board of Education of the City of Chicago, et al. (Corey H.) Consent Decree*. In one school, the report indicated that all but one benchmark had been met.³ The other three reports were still in draft form (September 2004), however they indicated that two of the schools had successfully completed the *Corey H.* Continuous Improvement Process, and that one of the schools had not yet achieved a compliance rate of 85% on one of the benchmarks.

Within 60 days of the date of this letter, Illinois must report to OSEP further follow-up information regarding the monitoring activities that the State has used to ensure full compliance with the requirements of 34 CFR §300.600(a)(2) (i.e., ensuring that public agencies correct all identified noncompliance), including data and analysis on: (1) the numbers of districts monitored for 2002-2003; (2) of those, the number of districts that were identified with noncompliance; (3) the procedures that ISBE used to verify whether those districts implemented all required corrective actions and corrected the noncompliance; (4) the number of those districts that completed corrective actions and corrected the noncompliance within one year from the date of identification; and (5) for those districts in which noncompliance was not corrected within one year, the actions that ISBE has taken and the current status of correction.

Timeliness of hearing decisions. ISBE must ensure that a final decision is reached in each due process hearing and a copy of the decision mailed to each of the parties not later than 45 days after the receipt of a request for a hearing, unless the hearing officer grants a specific extension of time beyond the 45 day timeline at the request of a party (34 CFR §300.511(a) and (c)). As documented in OSEP's October 2003 verification letter, OSEP found documentation showing that hearing officers were continuing the date for the proceeding without making clear that the hearing officer had extended the timeline at the request of a party, and the specific period of time by which the hearing officer had extended the timeline. ISBE was required to submit to OSEP, by October 23, 2004, documentation that it had corrected the noncompliance noted in the verification letter relating to the timeliness of due process hearing decisions. ISBE has provided OSEP with significant documentation of the State's efforts and changes in procedure to ensure that if a hearing officer exceeds the 45-day timeline, there is documentation that the hearing officer extended the timeline at the request of a party and for a specific period of time. In Appendix F of the APR, ISBE provided documentation of the actions it took to ensure correction of the noncompliance related to 34 CFR §300.511(a) and (c). That

³ A determination of "MET" indicates that, overall, the school has demonstrated compliance with the specified objective with a rate of at least 85%.

documentation included: (1) a Memorandum, dated September 10, 2003, from ISBE to all hearing officers, clarifying the requirements relating to extensions of hearing timelines; (2) revised processes for documenting and tracking due process timelines; (3) ISBE's December 31, 2003 letter to OSEP, outlining steps the State took to correct the noncompliance; and (4) a copy of an agenda showing that the timeline issue was addressed in a meeting with all hearing officers in October 2003. ISBE also submitted a copy of a two-volume manual for training hearing officers on September 30, 2004.

OSEP appreciates the actions that ISBE has taken to correct the previously identified noncompliance and ensure that hearing officers grant extensions only at the request of a party and for a specific period of time, as required by 34 CFR §300.511(c). However, as detailed below, data in the APR show an additional problem concerning due process timelines in that the State has failed to meet the requirement, at 34 CFR §300.511(a) and (c), that the State issue hearing decisions within 45 days or an extended timeline. On page 12 of the APR, the State reported that: (1) ISBE received 477 hearing requests in 2002-2003; (2) 63 hearings were held; and (3) 118 decisions were issued after the timelines and extensions had expired. (It appears that there may be an error in these data - 118 *hearing decisions*, when there were only 63 *hearings*). No information was provided in the APR regarding the status of the remaining 296 due process hearing requests for 2002-2003. Within 60 days of the date of this letter, Illinois must either: (1) provide documentation from July 1, 2003 to the present, showing that the State is meeting the timeline requirements of 34 CFR §300.511(a) and (c) (i.e., ensuring that all hearing decisions are issued within 45 days or within a properly extended timeline); or (2) submit a plan to OSEP including strategies, proposed evidence of change, targets and timelines, designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. In the next APR, the State must clearly account for all due process hearing requests for 2003-2004, including the status of all requests for which a decision had not been issued within 45 days.

Membership of State advisory panel. At 34 CFR §300.651(b), Part B requires that a majority of the members of each State's special education advisory panel be individuals with disabilities or parents of children with disabilities. In its October 2003 verification letter, OSEP reported that the State was not meeting this requirement, and directed the State to submit, within 60 days from the date of the letter, either documentation that it corrected the noncompliance, or its plan for ensuring correction, as soon as possible but no later than one year from the date of OSEP's letter. In its December 2003 letter to OSEP, the State included documentation that it corrected the noncompliance. ISBE reported that the Office of the Governor made 11 appointments to the State advisory panel, effective November 1, 2003, and included a current list of the panel's membership, showing that a majority of the members were individuals with disabilities or parents of children with disabilities. OSEP appreciates the work of the State in ensuring compliance with this requirement.

State complaints. The Part B regulations require that ISBE issue its written decision on each Part B formal written complaint within 60 days of receipt, unless the timeline is extended due to exceptional circumstances with regard to a particular

complaint (34 CFR §300.661(a) and (b)(1)). On page 4 and in Attachment 1 of the APR, ISBE reported that: (1) some complaints were extended beyond the 60-day timeline due to the volume of material to review and the complexity of investigations; and (2) 139 of the 155 complaints received in 2002-2003 were completed within the required timelines. OSEP could not determine from the APR whether the State failed to meet the required timelines for decisions for the other 16 complaints. Within 60 days from the date of this letter, ISBE must submit either documentation showing that it met the timeline for all complaints, or a plan, that includes strategies, proposed evidence of change, targets and timelines, that will ensure correction of the State's failure to meet the timeline, within a reasonable period of time not to exceed one year from the date when OSEP accepts the plan.

Personnel. On pages 5 through 9 of the APR, ISBE reported information, targets, activities, and timelines regarding having an adequate supply of special education personnel. The State reported that in 2002, it began implementing changes in certification requirements for all new general education and special education teachers, and for certification renewals. On page 7, ISBE reported that these changes were primarily targeted to increase the percentage of fully certified general and special education teachers who are prepared to instruct students with disabilities in the least restrictive environment.⁴ OSEP looks forward to reviewing the impact of ISBE's activities in this area in the next APR.

Data. During the August 2003 verification visit, OSEP found that Illinois could not ensure the accuracy of district-level placement data, and therefore did not meet the State's responsibility to submit accurate data under section 618 of IDEA. In its October 2003 verification letter, OSEP directed ISBE to submit, within 60 days, a plan for ensuring that the district level placement data provided as part of the next required submission of section 618 data would be accurate. In its December 31, 2003 letter to OSEP, ISBE outlined six actions to address the accuracy of the State's 618 data, including an assurance that data submitted to OSEP will be correct in the future. Through funding from a one-year General Supervision Enhancement Grant from OSEP, Illinois examined the State's processes for collection of special education data, reported several findings, and made specific recommendations for improving the quality of that data. The final report is included in the APR as Attachment E. On pages 10-11 and in Appendix E of the APR, the State reported on its efforts to improve the collection and reporting of data, including projected targets, activities and timelines. OSEP appreciates the actions that the State has taken to ensure the accuracy of district-level data, and looks forward to reviewing the State's placement data and analysis of those data in the next APR.

Early Childhood Transition

On page 13 of the APR, Illinois included baseline data showing the number of children exiting Part C Early Intervention services during July 2002-June 2003 and the number of children determined eligible for Part B services by the time of their third birthday. Of the

⁴ Based on "Final Transition Rules" under court order of August 15, 2001, in the matter of *Corey H.*

3,761 children exiting from Part C, there were 461 children for whom Part B eligibility was not determined by age three, representing approximately 13 percent of the children exiting for that year. OSEP could not determine whether these data mean that the State failed to meet its responsibility, under 34 CFR §300.132(b), to ensure that a free appropriate public education (FAPE) is made available, by the child's third birthday, to each eligible child with a disability exiting Part C. OSEP has not previously identified noncompliance within this area. Within 60 days from the date of this letter, the State must provide data, analysis, and a determination of compliance related to the requirements of 34 CFR §300.132(b). If the data demonstrate noncompliance, the State must include a plan with strategies, proposed evidence of change, targets and timelines designed to ensure correction of noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan. If data are not available, the State should submit, within 60 days from the date of this letter, a plan for collecting the data and reporting them by the FFY 2003 APR (due March 31, 2005).

Parent Involvement

On pages 14-20 of the APR, the State included information, targets, activities, and timelines for collecting baseline data and increasing parent involvement in Illinois. The State provided data in several areas, as gathered through parent surveys during July 2002 – June 2003. Based on these surveys, parent satisfaction was reported to be at 77 percent overall. Positive responses ranged from a low of 43 percent (training) to a high of 97 percent for notification of progress toward IEP goals. Illinois included a goal in the State's Improvement Plan to increase the meaningful, effective involvement of parents in the educational process of children with disabilities. Included in the activities was a plan to develop regional parent liaisons/mentors to provide training and technical assistance to parents of children with disabilities, and to increase effective parent participation in the IEP process. OSEP looks forward to reviewing the State's data and analysis, including the identification of barriers, and strategies and timelines for improving performance in this cluster in the next APR.

Free Appropriate Public Education in the Least Restrictive Environment

In its December 2002 Monitoring Report, OSEP identified two areas of noncompliance in this cluster: (1) ISBE did not ensure that children with disabilities were educated in the LRE, as required under 34 CFR §§300.550-.552; and (2) ISBE did not ensure that children with behavioral/emotional disabilities received services they needed as part of a free appropriate public education (FAPE), as required by 34 CFR §300.24(a) and (b)(9)(v). In this section of the APR and the State's February 2004 Progress Report, ISBE reported on the implementation of the strategies and activities it identified as needed to correct the noncompliance in these two areas.

ISBE did not ensure that children with disabilities were educated in the LRE. On pages 54–81 of the APR, the State provided an analysis of data, along with strategies and timelines for increasing the placement of children with disabilities in the LRE. The State included data on page 57 indicating an overall 2.5 percent increase in the number of

children with disabilities (ages 6–21) served in general education settings for 2002-2003. Goal 2 of the State's Improvement Plan stated "Illinois will increase by 4.5 percentage points per year, the number of children with disabilities (3–21) who are provided Free and Appropriate Public Education in general education classrooms (80%+ time) in the school they would attend if not disabled." The State began collecting and analyzing LRE data annually and provided reports to the local education agencies (LEAs) and to the public through Illinois Special Education Profiles and on the State's website. On page 2 of the State's February 2004 Progress Report to OSEP, Illinois reported on training and technical assistance for school administrators to increase district capacity to educate children with disabilities in the least restrictive environment. In the February 2004 Progress Report, ISBE provided an analysis of placement data for 2001-02 and 2002-03, showing an increase of 2.5 percent of student placements outside the general education classroom less than 21 percent of the time. On April 10, 2003, the ISBE Director of Special Education issued a guidance Memorandum to the field (including District Superintendents) specifying procedural requirements for ensuring "that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services." This guidance was widely distributed and is still available, as of the writing of this letter, on the ISBE website. Illinois completed most (except for those that are ongoing) of the strategies identified in Goal 2 of the State's Improvement Plan to address FAPE in the LRE. In August 2004, the State issued its first Annual State Report on Special Education that includes State-wide data on educational environments for students with disabilities (Appendix N – September 29, 2004 submission). OSEP appreciates the work of the State in ensuring compliance with these requirements and ensuring that children with disabilities are placed in the least restrictive environment, and looks forward to reviewing information in the next APR that includes both implementation of strategies and the resulting data demonstrating improvement.

ISBE did not ensure that children with behavioral or emotional disabilities were receiving the services they need as part of a FAPE, including psychological services. In Appendices N, O, P, and U of the APR, and in the February 2004 Progress Report, the State included information regarding the actions it has taken to correct the noncompliance related to the provision of services to children with behavioral/emotional disabilities. In March 2004, the State Director of Special Education sent a formal Memorandum to the field (Appendix N), directing districts to review and update, if necessary, their current special education policies and procedures to ensure that a full continuum of placement options and services was available for children with emotional and behavioral disabilities (34 CFR §§300.121 and 300.300-.301). ISBE further indicated in the Memorandum that the State, through its monitoring activities, would be verifying that such policies and procedures were in place. This directive is still posted on the ISBE website as of the writing of this letter. In Appendix O, the State provided documentation that ISBE, in conjunction with the State-wide Emotional/Behavioral Disorders Network, provided training on Positive Behavioral Intervention and Supports to administrators, teachers, related services staff, parents, foster parents and personnel from a variety of State and local community services providers. In February 2004, ISBE issued a Memorandum to all district Superintendents (Appendix P) regarding the need to develop or strengthen policies and practices related to social and emotional development. ISBE provided a

draft page from a district monitoring report (Appendix U) related to the provision of psychological services. In its final Progress Report to OSEP, submitted September 29, 2004, Illinois included additional documentation and analysis demonstrating that the State is identifying and correcting noncompliance in this area. As reported in Section II of the cover letter, ISBE indicated that psychological services is included as one of seven focus areas in each district's monitoring report. The State further indicated in the cover letter that systemic findings were made in this area in 20 out of 50 districts monitored, and included copies of two district reports in the September 29 submission of documents to OSEP (Appendix H). Within 60 days of the date of this letter, ISBE must submit to OSEP follow-up information regarding the monitoring activities that the State has used to ensure full compliance with the requirements of 34 CFR §300.24(a) and (b)(9)(v), including data and analysis on: (1) for 2002-2003, the number of districts identified by ISBE with noncompliance related to the provision of psychological services; (2) for 2002-2003, the number of those districts that completed such corrective actions; and (3) for those districts in which noncompliance related to the provision of psychological services was not corrected, the status of the State's involvement, including interventions and sanctions.

On pages 21 through 31 of the APR, the State included performance indicators, data and analysis, activities and timelines regarding the under and over-representation of children in certain disability categories and placements. The State identified under and over representation of children in various race/ethnicity groups in special education in general, and in particular disability categories. In addition, the State identified under and overrepresentation of children in various race/ethnicity groups in special education placements, including comparisons of each to the national average.

Illinois did not have a goal or performance indicator to specifically address disproportionality; however, the State indicated on page 21 of the APR that they planned to include the following target under Goal 2 of the Improvement Plan: "Illinois will increase by 4.5 percent per year, by race/ethnicity, the number of children with disabilities (age 3 - 21) who are provided a free and appropriate public education in general education classrooms for at least 80 percent of the time, in schools they would attend if not disabled." While it is not inconsistent with IDEA to include a numerical goal to increase the percentages of children with disabilities appropriately placed in less restrictive settings, the State must continue to monitor policies, procedures, and practices to ensure that placement decisions for all children are made in conformity with the requirements of Part B (at 34 CFR §§300.550 - .554) and not based upon a numerical goal. Further, the State's planned goal would be a race-specific goal for increasing placements in the least restrictive environment. The proposed use of numerical goals based upon race raises serious concerns under federal civil rights laws and the United States Constitution and is not an appropriate way to address the potential compliance problems that significant disproportionality may indicate. Any proposed use of numerical goals/targets based upon race, even where the numerical goal is based upon comparable numbers in the general population, raises the same legal concerns. In addressing significant disproportionality related to identification, under 34 CFR §300.755, it is appropriate to look at policies, procedures and practices in the referral,

evaluation and identification process to determine if they are educationally appropriate, consistent with the requirements of Part B and race neutral. Such an examination generally would include a review of the availability and use of pre-referral intervention services, the selection and use of evaluation instruments and materials, the selection and use of evaluation criteria, and the reasons for referral for special education evaluations. The State must submit revised goals regarding placement, consistent with Federal law, in the next APR.

In addition, 34 CFR §300.755 requires that States that identify significant disproportionality on the basis of race in the identification of children with disabilities (including identification within particular categories of disability) or in placements into particular settings must provide for the review and, if appropriate, revision of the policies, procedures and practices used in identification or placement to ensure that they comply with Part B. The instructions to the 2002 APR require States that identify significant disproportionality to report on the results of that review of policies, procedures and practices. The State's 2002 APR, however, while identifying significant disproportionality, did not include any information indicating that the State had provided for a review of policies, procedures or practices used in identification or placement of children with disabilities. In the next APR, the State must include the information required by the instructions. If the 2003 APR does not include information indicating that the State, when it identifies significant disproportionality, has either conducted a review of policies, procedures or practices used in identification or placement of children with disabilities or otherwise ensured that such a review was done, OSEP will conclude that the State is not complying with the regulation.

On pages 32-33 and in Appendices E and J of the APR, Illinois provided data and analysis regarding the State's graduation and dropout rates for children with disabilities. In 2002, Illinois reported that 69 percent of children with disabilities exited with a high school diploma, as compared to 89 percent for all exiting children. The State's goal was to increase annually, by 4.5 percent, the number of children with disabilities that exit school with a standard high school diploma, reaching a goal of 90 percent by 2007. The State included data for 2003 indicating that 72 percent of children with disabilities exiting school received a standard diploma, representing a 3 percent increase in one year.

Illinois' dropout rate was calculated as a percentage of all children in grades 9 through 12. The APR provided somewhat conflicting data for 2002-2003, with page 32 reporting 11.7 percent of children with disabilities dropping out (as compared to 5.4 percent of nondisabled students), and on page 85 of Appendix E reporting 11.7 percent of students with disabilities dropping out (as compared to 5.6 percent of nondisabled students). The State should review its data for accuracy and completeness and revise its analysis of this issue in the next APR. The State also included future activities and timelines for improving graduation and dropout performance. OSEP looks forward to reviewing implementation of these strategies and the resulting data demonstrating improvement in the next APR.

On page 34 of the APR, the State included baseline data, targets, activities and timelines for addressing expulsion of students with disabilities. The data indicates that in 2002-2003, less than .25 percent of students with disabilities were expelled from school. No reference could be found in the APR regarding suspension of students with disabilities. The State did not include baseline information, targets, or strategies for collecting and analyzing suspension data; however, the Illinois Continuous Improvement Plan included a target to "decrease the percentage of students with disabilities who are suspended" in its Desired Result 1.E. 34 CFR §300.146 requires that States examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities either among LEAs in the State or compared to the rates for nondisabled children within the agencies. Where the State determines that significant discrepancies are occurring, it must review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards to ensure that the policies procedures and practices comply with Part B. The instructions to the FFY 2002 APR directed States to describe which of these comparisons it did, as well as the method the State used to determine possible discrepancies, what constitutes a discrepancy, the number of agencies with significant discrepancies, and, if significant discrepancies are occurring, a description of those discrepancies and how the State plans to address them. In the next APR, the State must include the information required by the instructions. If the 2003 APR does not include information indicating that the State has examined all data for all LEAs to determine whether significant discrepancies are occurring in the LEAs based on either one of the comparisons described above, and that when it identifies significant discrepancies it reviews and, if appropriate, revises (or requires the affected State agency or LEA to revise) its policies, procedures and practices consistent with 34 CFR §300.146, then OSEP will conclude that the State is not complying with the regulation.

On pages 36-38 and in Attachment Three, the State included information regarding the participation of children with disabilities in State-wide assessments, including baseline data, targets, activities, and timelines. For 2002-2003, Illinois reported that nearly 99 percent of children with disabilities in the grades assessed participated in either the regular assessment or the alternate assessment. However, in comparing the number of children with disabilities coded as "absent" with the number of children with disabilities that the State reported as having IEPs, the data appeared to indicate that nearly 10 percent of third graders and over 20 percent of 11th graders did not participate in the reading assessments. For example, of the 14,771 children in the 11th grade with IEPs, the State reported that 2,809 of those children were absent from the reading assessments.⁵ Similar absentee rates are indicated for children with disabilities taking the math assessments, with about 6 percent of 3rd graders and 20 percent of 11th graders not participating. On pages 29-30 of Appendix E, ISBE's Data Study Report addressed this issue, indicating an overall participation rate of 84.4 percent for students with disabilities. Also, on pages 8, 10 and 11 of Appendix S, ISBE reported that Chicago Public Schools had a significantly higher rate of nonparticipation than in the rest of the State. Illinois further reported that in reading, nonparticipation of children with disabilities in the district was 15 times

⁵ Illinois APR, Attachment Three, pages 42 and 44

greater than the State's rate and in math, 22 times greater than the rate for the State as a whole.⁶

On pages 37-38, 41 and 49 of the APR, the State provided data (including Attachment 3) and analysis on the performance of children with disabilities in the general assessment and the alternate assessment, along with strategies and timelines for improving performance. In addition, the Illinois State Continuous Improvement Plan provided detailed targets and strategies in Goal One that addressed performance on the State-wide assessments, including promoting access to the general curriculum. The data reported in the APR indicated an increase in the performance of children with disabilities at the 4th and 8th grade levels in math and English/language arts (ELA) each year since the 2000-2001 school-year. OSEP looks forward to reviewing information in the next APR that includes both implementation of strategies and the resulting data demonstrating improvement in the performance of children with disabilities on the State-wide assessments.

On page 82-83 of this section, the APR noted that Illinois was not currently collecting skills data on preschool children, and indicated that the State would explore options for data collection and analysis relative to this area. Illinois is a part of the Pre-Elementary Education Longitudinal Study (PEELS) and indicated in the APR that it intends to use the PEELS data and results for future planning. Under the Government Performance and Results Act of 1993, 31 U.S.C. 1116, the effectiveness of the IDEA section 619 program is being measured based on the extent to which early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities receiving special education and related services are improving. In the FFY 2003 APR, the State must submit either documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

Secondary Transition

Illinois reported information on pages 83-84 and in Appendix L of the APR that included post-secondary information on students with disabilities who exited school. The State did not meet its intended goal for 2002-2003, however, during 2003-2004 ISBE designed a follow-up survey to sample students with IEPs who were leaving school (at one, three, and five year intervals) to determine the effectiveness of IEP/transition plans. Through a one-year pilot, the State intends to follow these three cohorts of exiting students, and report on the results by June of 2005. OSEP looks forward to reviewing information in the next APR that includes progress made in the State's secondary transition goal.

⁶ Please note that the regulations under the No Child Left Behind Act (NCLBA) provide, at 34 CFR §200.20(c), that, in order to make adequate yearly progress (AYP), a school or LEA must ensure that not less than 95 percent of its students with disabilities in the grades tested participate in the State assessments under 34 CFR §200.2.

Conclusion

As noted above, within 60 days from the date of this letter, ISBE must submit the following documentation to OSEP:

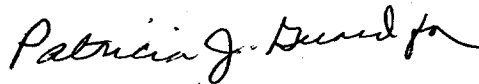
1. Monitoring data and analysis that includes: (a) the number of districts ISBE monitored during 2002-2003; (b) of those, the number of districts that were identified with noncompliance; (c) the procedures that ISBE used to verify whether those districts implemented all required corrective actions and corrected the noncompliance; (d) the number of those districts that completed corrective actions and corrected the identified noncompliance within one year from the date of identification; and (e) for those districts in which noncompliance was not corrected within one year, the actions that ISBE has taken and the current status of correction;
2. Either: (a) documentation from July 1, 2003 to the present, showing that that the State is meeting the due process hearing timeline requirements of 34 CFR §300.511(a) and (c) (i.e., ensuring that all hearing decisions are issued within 45 days or within a properly extended timeline); or (b) a plan, including strategies, proposed evidence of change, targets and timelines, designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan;
3. Either: (a) documentation showing that it met the timeline for all complaints in 2002-2003, or (b) a plan that includes strategies, proposed evidence of change, targets and timelines that will ensure correction of the State's failure to meet complaint timelines, within a reasonable period of time not to exceed one year from the date when OSEP accepts the plan;
4. Data, analysis, and a determination of compliance related to early childhood transition and 34 CFR §300.132(b). If the data demonstrate noncompliance, the State must include a plan with strategies, proposed evidence of change, targets and timelines designed to ensure correction of noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan. If data are not available, the State should submit, within 60 days from the date of this letter, a plan for collecting the data and reporting them by the FFY 2003 APR; and
5. Data and analysis on: (a) for 2002-2003, the number of districts ISBE identified with noncompliance in the provision of psychological services; (b) for 2002-2003, the number of those districts that completed such corrective actions; and (c) for those districts in which noncompliance related to the provision of psychological services was not corrected, the status of the State's involvement, including interventions and sanctions.

As noted above, in the next APR, due March 31, 2005, Illinois must include:

1. Clear accounting of all due process hearing requests for 2003-2004, including the status of all requests for which a decision had not been issued within 45 days;
2. Information indicating that the State, when it identifies significant disproportionality, has either conducted a review of policies, procedures or practices used in identification or placement of children with disabilities or otherwise ensured that such a review was done;
3. Baseline suspension data, including information regarding the comparison the State did between the rate of long-term suspensions and expulsions of children with disabilities, either among LEAs in the State or compared to the rates for nondisabled children within the agencies, to determine whether significant discrepancies are occurring in the rate of long-term suspensions or expulsions; and if significant discrepancies are occurring, a description of those discrepancies and how the State plans to address them; and
4. Either documentation of skills data on preschool children (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State and we look forward to collaborating with you as you continue to improve results for children and youth with disabilities and their families. If you have questions, please contact Cynthia Bryant at (202) 245-7284.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Dr. Christopher A. Koch