



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

Honorable Peter McWalters  
Commissioner of Education  
Rhode Island Department of Education  
Shepard Building  
255 Westminster Street  
Providence, RI 02903

OCT 31 2005

Dear Commissioner McWalters:

The purpose of this letter is to respond to Rhode Island's June 15, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part B for the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments that the State made during the reporting period, compared to established objectives. The Office of Special Education Programs (OSEP) has designed the APR under the IDEA to provide uniform reporting from States and result in high-quality information across States. The APR is a significant data source for OSEP in the Continuous Improvement and Focused Monitoring System (CIFMS).

The State's APR should reflect the collection, analysis, and reporting of relevant data, and include specific data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to Rhode Island's FFY 2003 APR. OSEP has set out its comments, analysis and determinations by cluster area.

### ***Background***

The conclusion of OSEP's April 6, 2005 FFY 2002 APR response letter required the State to take specific actions regarding the following issues:

1. Either submit documentation demonstrating that the Providence District corrected all identified noncompliance, including the results of its November 2004 verification visit to the District, or provide a plan with strategies, proposed evidence of change, targets and timelines to ensure that the District corrected all identified noncompliance, as soon as possible, but not later than 30 days following one year from the date that OSEP accepted the plan;
2. Either submit data demonstrating that complaints were resolved within the 60-day timeline or provide documentation that the timeline was extended because exceptional circumstances existed with respect to a particular complaint and if the data did not show compliance, to include a correction plan;

3. Submit data demonstrating that all due process hearings are completed, including those that were settled or withdrawn, within the 45-day timeline or within a properly extended timeline, including documentation that the hearing officer granted the extension at the request of a party and for a specific period of time, and if the data does not demonstrate compliance, to include a correction plan;
4. Respond to General Supervision Indicator GS.V and include information that more clearly describes the strategies it has put in place to ensure the submission of accurate data;
5. Include data and analysis for the FFY 2002 and FFY 2003 reporting periods and clarify whether all children exiting early intervention and who were eligible for services under Part B had an Individualized Education Plan (IEP) or Individual Family Service Plan (IFSP) in effect by their third birthdays (34 CFR §300.132(b)), as well as the results of Rhode Island Department of Education's (RIDE's) strategies to ensure compliance with this requirement;
6. Clarify whether the over-representation it identified in certain disability categories and educational settings constitutes significant disproportionality on the basis of race, and if it does, whether RIDE has reviewed its policies, procedures, and practices, or required any revisions to those policies, procedures, and practices to comply with Part B (34 CFR §300.755);
7. Provide results of its review of policies, procedures, and practices, in accordance with 34 CFR §300.146, including the results of any review and any revisions deemed appropriate for affected Local Educational Agencies (LEAs);
8. Provide data and analysis demonstrating that it collects least restrictive environment (LRE) data to reflect the setting in which the educational services are delivered as well as report on the results of the implementation of these strategies and their effectiveness in providing accurate data regarding LRE;
9. Submit documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), and targets for improved performance and strategies to achieve its targets to improve outcomes for preschool children with disabilities, or a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan; and
10. Report on its analysis of the resulting data as well as the results of the implementation of strategies and their effectiveness in enhancing performance for postsecondary transition and improving post-school outcomes for students with disabilities.

The information provided by the State is addressed in the appropriate sections below.

## ***General Supervision***

### Identification and timely correction of noncompliance

On pages 6-16 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure the identification and timely correction of noncompliance. The State reported that the School Support System (SSS) was a comprehensive and collaborative system of focused monitoring that looked at compliance with IDEA and the State's Regents Regulations, districts' teaching and learning practices and the performance indicators for children with disabilities. During 2003-2004, the SSS had 10 focused areas and 42 indicators for program review. LEAs were required to address noncompliance immediately. Performance areas were identified in the continuous improvement support planning process and strategies regarding best practices and improving outcomes for children were included. The SSS team and the district developed the Support Plan that detailed technical assistance and training needed to enable the schools and district to strengthen selected educational programs. Resources were identified and made available to assist in carrying out the Support Plans. The SSS continuous improvement planning included action plans, specific resources, staff responsibilities, timelines for completion, and mechanisms for verification. Approximately nine months from the date that the RIDE accepted the monitoring support plan, verification documentation was submitted to RIDE for review. One year from the date RIDE accepted the monitoring support plan, a closure/verification letter was issued to the LEA, based on RIDE's verification of the successful completion of the Support Plan.

OSEP's April 2005 letter required the State to either submit documentation demonstrating that the Providence District corrected all identified noncompliance, including the results of RIDE's November 2004 verification visit to the district, or provide a plan with strategies, proposed evidence of change, targets and timelines to ensure that the district corrected all identified noncompliance, as soon as possible, but not later than thirty days following one year from the date that OSEP accepted the plan. On page 9 of the FFY 2003 APR, the State reported a monitoring review of the Providence School District was conducted in January 2002 around 12 focus areas. During the review, 63 areas of noncompliance were identified. In November 2004, an on-site verification review was conducted with an emphasis on verifying the Support Plan, along with a comprehensive and extensive review of initiatives and progress that Providence made in correcting identified noncompliance and in improving outcomes of children with disabilities. As of March 2005, all but one of the 63 areas of noncompliance were corrected. RIDE indicated that Providence provided a plan with strategies, proposed evidence of change, targets and timelines to correct the remaining area of noncompliance - exceeding timelines for bilingual evaluations. In order to correct the problem, the district realigned the percentages of evaluations for all preschool bilingual evaluation team members, existing resources utilizing other bilingual personnel as appropriate were redistributed, and evaluations were conducted during the summer months to alleviate the backlog. The district also engaged in ongoing recruitment and preparation of bilingual special education staff. It is anticipated that this plan will ensure compliance by December 2005. The Office of Special Populations at RIDE intends to work with the Special Education Administrators to ensure resolution of this issue by December 2005.

OSEP accepts the plan to correct this longstanding noncompliance. Not later than May 6, 2006 RIDE must provide documentation to OSEP demonstrating that all identified noncompliance in this district has been corrected.

Identification and timely correction of noncompliance is an indicator in the State Performance Plan (SPP) under §616 of the IDEA. In preparation for the submission of the SPP on December 2, 2005, the State should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements. In the SPP, the State must submit responsive baseline data regarding the percent of noncompliance related to monitoring priority areas and indicators and the percent of noncompliance related to areas not included in the above priority areas and indicators corrected within one year of identification, including the number of findings of noncompliance made related to monitoring priority areas and indicators and the number of findings not included in the above priority areas and indicators and the number of corrections completed as soon as possible but in no case later than one year from identification.

#### Formal written complaints

OSEP's April 2005 letter required the State to either provide data demonstrating that complaints were resolved within the 60-day timeline or provide documentation that the timeline was extended because exceptional circumstances existed with respect to a particular complaint. If the data do not demonstrate compliance, OSEP required the State to include a plan to ensure correction of the noncompliance identified during the verification visit, including strategies, proposed evidence of change, targets and timelines to ensure the resolution of all Part B complaints within the 60-day timeline or within properly extended timelines as soon as possible, but not later than thirty days following one year from the date that OSEP accepts RIDE's plan. On pages 2 and 10 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance in this area. The State reported the number of formal written complaints decreased from 71 in 2003 to 62 in 2004. Of the 62 complaints filed, 40 were investigated with findings and 10 complaints were investigated with no findings, eight were withdrawn or the State did not have jurisdiction and four were set aside because the issues were the subject of due process hearing requests. Of the 50 complaints investigated, 35 were investigated within the 60-day timeline and five were resolved within appropriately extended timelines. The data submitted indicate that RIDE did not meet complaint resolution timelines specified in 34 CFR §300.661 for 10 of the 50 complaints investigated.

Within 60 days of the date of this letter, the State must submit a plan to OSEP, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance as soon as possible and not more than one year after OSEP accepts the plan. No later than six months from the date of this letter, the State must submit a Progress Report including data and analysis demonstrating progress toward compliance, and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one year timeline.

An analysis of complaint issues indicated that the basis of most complaints was the implementation of IEPs. The State attributed the decrease in complaints to a greater awareness

of the available dispute resolution options. RIDE personnel worked with the parties to resolve disputes and compliance issues through telephone consultation, direct professional development activities, and dissemination of documents that fully explained the dispute resolution options, including a parent's guide to procedural safeguards in special education. In addition, concentrated monitoring through the SSS, increased training for mediators and hearing officers, and the implementation of a computerized tracking system resulted in more effective use of all the available options.

### Mediation

On pages 2 and 10 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance in this area. The number of mediations remained fairly constant, with an average of 100 per year. The data showed that there were a total of 109 mediation requests in 2003-2004 and of those requests, 5 were related to hearing requests and 104 were not related to hearing requests. Of the 104 mediation requests that were not related to hearing requests, 90 resulted in mediation agreements. Mediation issues typically were based on the implementation of IEPs, or the services included on the IEPs. OSEP appreciates the work of the State in ensuring compliance with these requirements. OSEP looks forward to reviewing the State's data regarding the number of mediations held that resulted in mediation agreements, in accordance with indicator #19 of the SPP, due December 2, 2005.

### Due process hearings and reviews

OSEP's April 2005 letter required the State to provide data demonstrating that all due process hearings were completed, including those that were settled or withdrawn, within the 45-day timeline or within a properly extended timeline, including documentation that the hearing officer granted the extension at the request of a party and for a specific period of time. If the data do not demonstrate compliance, OSEP required the State to include a plan, including strategies, proposed evidence of change, targets and timelines, to ensure completion of all due process hearings, including those settled or withdrawn, within the 45-day timeline or within properly extended timelines as soon as possible, but not later than thirty days following one year from the date that OSEP accepts RIDE's plan.

Pages 2 and 10 of the FFY 2003 APR included data and analysis regarding due process hearing requests and timelines. OSEP noted in its review that the sum of due process hearing decisions issued within the 45-day timeline and within properly extended timelines did not add up to the total number of due process hearings held. In order to clarify these data, OSEP contacted the State complaint officer who provided the following information. Of 41 hearings requested in 2003-2004, 11 were fully adjudicated, while 30 were withdrawn or settled. Of the 41 hearings requested, 19 were fully adjudicated, settled, or withdrawn within the 45-day timeline. Twenty-one requests were adjudicated, settled, or withdrawn within properly extended timelines. The remaining request was settled beyond the 45-day timeline, but was not properly extended.

RIDE's due process hearing procedures were amended to include the following changes: (1) documentation of scheduled pre-hearing conferences held prior to the hearing in an attempt to reach a settlement; (2) hearing officers required to schedule a pre-hearing conference within 15

calendar days of the appointment as a hearing officer; (3) hearing officers taken out of rotation and/or off the list of hearing officers for failure to adhere to hearing timelines; (4) hearing officers required to document extensions to the 45-day timeline and said extensions must be made by the granting of an order after a motion filed by one or both parties; (5) hearing officers required to maintain a hearing file that includes all correspondence, motions, orders, witness lists, documentation of evidence and exhibits, Memoranda of Law, etc.; and (6) the hearing file must be provided to RIDE upon conclusion of the hearing. RIDE anticipates that these changes will result in due process hearings being completed within the required timeline and that hearing officers will properly document all extensions to timelines. OSEP appreciates the work of the State in ensuring compliance with these requirements and looks forward to reviewing the State's data in this area in the SPP, due December 2, 2005.

### Personnel

On pages 20-23 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure a sufficient supply of qualified personnel. The increase in the number of special educators reflected demand in low-incidence categories. The number of special educators not fully certified decreased from a high of 10% in 2002 to less than 2% as of Fall 2004. The largest decreases in the percentages of not fully certified teachers were for teachers of students with severe/profound disabilities and secondary special education teachers. The number of paraprofessionals in instructional positions continued to increase and data indicated teacher assistants would meet the highly qualified requirements of both the No Child Left Behind Act (NCLB) and the IDEA by January 2006. The number of administrators of special education not fully certified decreased, as did the number of vacancies.

Rhode Island reported that major accomplishments during 2003-2004 are in the areas of data, recruitment/retention of educators and paraprofessionals, nontraditional certification pilot programs and leadership initiatives, including alignment of the data reporting systems for the Consolidated Resource Application (CRP) to better address personnel reporting requirements under §618 of the IDEA, and establishing the Rhode Island Personnel Center. The Personnel Center Data Taskforce was created and completed the following activities: (1) developed a comprehensive plan for the collection and refinement of data by identifying existing data and identifying additional data needs; (2) continued development of a plan to synthesize and analyze personnel needs; and (3) established a mechanism to ensure policies and practices were based upon reliable data. A Rhode Island Personnel Center Diversity Recruitment Taskforce was established and, through the resources of the National Personnel Center, provided intensive professional development in four core urban school districts, including the design of a diversity recruitment campaign. The Rhode Island State Improvement Grant (RISIG) established and implemented a statewide recruitment action plan. The Rhode Island Teacher Assistant initiative continued proactive and aggressive recruitment and initiated a career network and retention plan designed to recruit and retain sufficient numbers of highly qualified teacher assistants. In collaboration with Providence College and the Northern Rhode Island Collaborative, RIDE also completed Cohort I and Cohort II of a pilot non-traditional certification program for secondary special education teachers. In collaboration with the Sherlock Center (Rhode Island University Center for Excellence in Developmental Disabilities (UCEDD)), Rhode Island College and the Providence District, a non-traditional certification program for special education teachers of

students with severe/profound disabilities was established. RIDE also implemented the Center for Teacher Quality Action Plan and aligned Beginning Teacher Standards with Interstate New Teacher Assessment and Support Consortium (INTASC) model standards for general education teachers working with students with disabilities. RIDE completed the first year of a RISIG special education administrator mentor program, a formal support network for special education administrators who have been administrators for less than three years. RISIG provided and expanded the Principals' Leadership series to provide information for more than 60 new principals on meeting the needs of children with disabilities. OSEP appreciates the extensive work of the State in improving performance in this area.

#### Collection and timely reporting of accurate data

OSEP's April 2005 letter required the State to respond to the General Supervision Indicator GS.V and include information that more clearly describes the strategies it has put in place to ensure the submission of accurate data. On page 24 of the FFY 2003 APR, the State included an update on its efforts to ensure compliance in this area. RIDE reported that revisions made to the current special education census accurately reflected data regarding children with disabilities. The State is developing an integrated data collection system that will produce a single student-based profile. The State expected to have a universal student-level identification system fully implemented by Summer 2005. OSEP appreciates the State's efforts in this area and its response to OSEP's April 2005 letter. OSEP looks forward to reviewing the State's data in this area in the SPP, due December 2, 2005.

#### ***Early Childhood Transition***

OSEP's April 2005 letter required the State to provide data and analysis for FFY 2002 and FFY 2003 reporting periods and to clarify whether all children exiting EI and who were eligible for services under Part B had an IEP or IFSP in effect by their third birthdays (34 CFR §300.132(b)), as well as the results of RIDE's strategies to ensure compliance with this requirement. On pages 25-27 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance and improve performance in this area. EI data indicated that, in 2002, 544 (80%) children exiting Part C were eligible for special education and related services and 595 (82%) were eligible in 2003.

RIDE reported that the Office of Special Populations is working with a new lead agency (Department of Human Services) to review and analyze data regarding the dates of initial IEPs. OSEP's September 2004 verification visit prompted modifications to discharge codes in the data system to implement Federal definitions. Professional development and technical assistance has been and will continue to be provided to Part C and Part B staffs on the transition process, as part of RIDE's CSPD system. RIDE also hired a coordinator to provide professional development and technical assistance for the statewide Child Outreach Program, as part of the joint CSPD system. Program performance standards were developed that identified quality activities within transition, and a self-assessment tool was developed that was aligned with the program performance standards for transition. Guidelines for transition were written into health certification standards and monitored through RIDE's quality assurance plan.

Effective Transition is an indicator in the SPP under §616. In preparation for the submission of the SPP on December 2, 2005, the State should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements. The State must submit responsive baseline data regarding the percentage of children referred by Part C prior to age three, who are found eligible for Part B and have an IEP developed and implemented by their third birthdays, in the SPP.

### ***Parent Involvement***

On pages 29-34 of the FFY 2003 APR, the State included data and analysis regarding its compliance in this area. RIDE's Office of Special Populations developed a school-family-community partnership policy advisory board to self-educate and enable its members to enhance their representative groups' capacities to advise, influence, and participate in the special education decision-making process. The Board intended to constructively engage general education and special education family organizations, as well as school representatives in: (1) program/policy development; (2) decision-making; (3) advising on policy development that addresses student needs; and (4) promoting efforts that support school-family partnerships.

Parent members of the State Interagency Coordinating Council (ICC) and the State Education Advisory Council (SEAC) served in new roles as information liaisons to both groups for advocacy and support of family partnerships and needs of children with disabilities. Two statewide networking meetings were conducted by the State's PTI in collaboration with RIDE to provide local and State SEACs direct support in their advisory role. Priority areas for support and collaborative efforts were identified and statewide committee communication, such as listservs, were established. RIDE's *Parent's Guide to Procedural Safeguards and Parents' Rights in Special Education* and a brochure entitled *Resources and Options for Families* were finalized and disseminated for families, in collaboration with the Rhode Island Technical Assistance Project (RITAP) at Rhode Island College. Families accessed local training opportunities and technical assistance regarding special education, including: communication, parenting, partnering with schools, transitions, and challenging behavior. New data elements were identified and incorporated in the State special education census that enabled the State to collect data regarding parent participation in IEP meetings. OSEP appreciates the State's efforts to ensure performance and compliance in this area.

The SPP instructions establish a new indicator in this area (#8), for which States must provide baseline data in the FFY 2005 APR, due February 1, 2007. The State should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the State's plan to collect this data, in the SPP.

### ***Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE)***

#### Disproportionality

OSEP's April 2005 letter required the State to clarify whether the over-representation it identified in certain disability categories and educational settings constituted significant disproportionality on the basis of race, and if it did, whether RIDE reviewed policies, procedures,



and practices, or required any revisions to those policies, procedures, and practices to comply with Part B (34 CFR §300.755).

On pages 35-37 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance in this area. The State used the risk ratio to analyze data and the analysis indicated that, at the State level, White children were 6.07 times more likely than all other children to be identified as autistic. Black, Hispanic, and Asian/Pacific Islander children were underrepresented in many disability categories: Asian/Pacific Islander children in 11 of 12 disability categories; Black children in 10 of 12 disability categories; and Hispanic children in 10 of the 12 disability categories. Black children were overrepresented in mental retardation and emotional disturbance, while Hispanic children were overrepresented in mental retardation. White children were overrepresented in 10 of 12 disability categories and underrepresented in mental retardation. American Indian/Alaska Native children were overrepresented in mental retardation, emotional disturbance and learning disabilities. The State also provided district level disproportionality data and analysis.

FFY 2003 data indicated White, Black, or Hispanic children with disabilities were approaching equal representation outside of the general education classroom less than 21% of the time, however, Black, Hispanic and American Indian/Alaska Native children were still overrepresented outside of the general education classroom more than 60% of the time and in combined separate facilities (White children were underrepresented in this category).

Using risk ratios for State-level analysis and weighted risk ratios for district level analysis, RIDE reported that the data indicated statewide underrepresentation occurred more than overrepresentation while pockets of overrepresentation existed for some disability categories and placements. Pockets of disproportionality also existed at the local levels. RIDE indicated that to address this disproportionality, it will continue to examine State and district policies and procedures for identifying students with disabilities for bias and will continue to provide support to districts for culturally competent, standards-based teaching. RIDE will also continue to provide guidance and professional development to districts on best practices for identifying and instructing English language learners who may also have disabilities and will incorporate district-level disproportionality analyses into its monitoring system. RIDE reported that it had completed revisions to the State policies and guidelines for identification of children with learning disabilities and that the State guidelines for identification of children with speech or language impairments, *The Speech and Language Entrance and Exit Guidance*, were developed and implemented statewide.

RIDE's Projected Target for this area for the next reporting period has been changed, pursuant to OSEP's April 2005 letter. RIDE's goal language now indicates that its policies, procedures and practices for identification and placement of children with disabilities will be non-biased and more inclusive of Response To Intervention referral practices and where patterns of disproportionality are evident, the State will provide continued guidance, technical assistance, and professional development on appropriate pre-referral intervention services, the selection and use of non-biased evaluation instruments and materials, the selection and use of nonbiased evaluation criteria, and placement in the least restrictive environment. In an effort to meet its Projected Target, RIDE has indicated that it will continue to collaborate with the University of

Rhode Island to analyze State- and district-level disproportionality data, continue to enhance and streamline its data collection systems to improve accurate placement and race/ethnicity reporting, and will jointly examine Parts B and C disproportionality data for future trends and themes. OSEP appreciates the work of the State in this area.

The SPP instructions establish two new indicators in this area (#9 and #10), for which States must provide baseline data in the FFY 2005 APR, due February 1, 2007. The State should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the State's plan for collecting this data, in the SPP.

#### Graduation and drop-out rates

On pages 38 and 39 of the FFY 2003 APR, the State included data and analysis regarding its efforts to improve performance in this area. The State reported progress in collecting accurate data from the districts. With the implementation of an individual student identifier, the State was able to verify data reported from the LEAs. RIDE closely monitored the quality of data submitted by the districts, discovered minor discrepancies and provided technical assistance to correct them. RIDE is addressing a working definition of, "graduation with a regular high school diploma" and "dropout" through the implementation of the new Rhode Island High School Regulations. Special education representatives were involved in the development of this regulation, both at the State and local levels. Initial guidance for the Rhode Island Diploma System (Graduation Requirements) is expected by February 2005, with development of a Peer Review Process for all high schools initiated by Spring 2005.

RIDE reported that the graduation rate for students with disabilities was 71.79% in 2003-2004 and the rate for general education was 84.88%. While this represented a decline of 1.51% from 2002-2003, the overall trend from 2002-2004 showed an increase of 2.51%. The implementation of the Rhode Island Diploma System with the class of 2008 will be monitored closely for potential impact on the graduation rate of students with disabilities.

The State reported that consistent data reporting and analysis of drop-out rates between special education and general education were in place. For general education, drop-out rates declined from 17.29% to 15.12% from 2002-2003 to 2003-2004. For students with disabilities during that same time period, the rates increased from 26.70% to 28.21%. While this was a 1.51% increase, according to the 2002-2004 data, there was an overall decrease of 2.51%. The implementation of the Rhode Island Diploma System with the class of 2008 will be monitored closely for potential impact on the drop-out rate for students with disabilities.

OSEP looks forward to reviewing the State's data in this area in the SPP, due December 2, 2005.

#### Suspension and expulsion rates

OSEP's April 2005 letter required the State to provide the results of its review of policies, procedures, and practices, in accordance with 34 CFR §300.146, including the results of any review and any revisions deemed appropriate for affected LEAs.

On page 41 of the FFY 2003 APR, the State reported a slight increase in the total number of suspensions of children with disabilities from 393 to 410 from June 2003 through June 2004. The State reported that this rate, in comparison to children without disabilities, remained essentially the same with a slight decrease from 29% in June 2003 to 28.5% in June 2004. There were three LEAs with significant increases in the number of suspensions of children with disabilities and three LEAs with significant decreases. RIDE reported that the rates in comparison to children without disabilities at the LEA-level did not appear to have changed significantly.

RIDE is working with the National Center on Positive Behavior Intervention and Support (PBIS) and has been and will continue to provide professional development opportunities, and school- and district-specific training and technical assistance in this area. RIDE anticipates that 20 schools will have formal agreements with the newly established State Center on PBIS to implement school-wide approaches in the next reporting period.

OSEP is unable to determine whether RIDE examined the rates of suspension and expulsions for children with and without disabilities at the LEA level or whether RIDE examined the rates of suspension and expulsion for children with disabilities across LEAs to determine whether there are significant discrepancies. RIDE reports numbers for children with disabilities (393 and 410) but for children without disabilities RIDE reports percentages (29% and 28.5%). In addition, RIDE did not provide the information requested in OSEP's April 2005 letter. Therefore, within 60 days of the date of this letter, RIDE must provide: (1) clarification of the basis on which it examined data of suspension/expulsion rates to determine significant discrepancies; (2) clarification of whether it determined if there are significant discrepancies, and (3) if it identified significant discrepancies, a description of its review of policies, procedures and practices related to the development and implementation of IEPs, use of behavioral interventions, and procedural safeguards to ensure they comply with Part B, including the results of the review by affected LEAs, if necessary, and any revisions required, as required under 34 CFR §300.146(b).

#### Statewide and districtwide assessment

On pages 42-44 of the FFY 2003 APR, the State included data and analysis regarding its efforts to improve performance in this area. The State reported that caution must be used in comparing year-to-year assessment results, due to changes in the grades tested and in the focus of the assessment. The State developed a new assessment through the New England Common Assessment Program (NECAP) with New Hampshire and Vermont, aligned with NCLB requirements, resulting in changes in both content and grades tested. Data indicated that children with disabilities increased proficiency at a rate equal to, or better than, the rate for children without disabilities at most grade levels and in both reading and math. Analysis of the State report card data indicated that children with disabilities also met the NCLB targets for the FFY 2003 reporting year indicating positive movement in closing the achievement gaps for students with disabilities in comparison to their non-disabled peers. This trend will need to be monitored over time as the new assessment program is implemented to ensure that all children continued to meet NCLB targets. The State intends to continue implementation of strategies that proved effective in increasing participation and performance of children with disabilities in statewide assessment.

The State reported that, in reading, the percent of children with disabilities who met or exceeded the standards increased: (1) in 4<sup>th</sup> grade, from 30.3% in 2003 to 39.8% in 2004; (2) in 8<sup>th</sup> grade, from 14.4% to 22.8%; and (3) in 10<sup>th</sup>/11<sup>th</sup> grade, from 16.6% to 21.7%. For children without disabilities during the same periods, the increases were: <sup>1</sup> (1) in 4<sup>th</sup> grade, from 61.8% to 67%; (2) in 8<sup>th</sup> grade, from 40.96% to 52%; and (3) in 10<sup>th</sup>/11<sup>th</sup> grade, from 42.2% to 53.32%. For children with disabilities, in math, the percentages were: (1) 4<sup>th</sup> grade, from 24.1% to 33.6%; (2) 8<sup>th</sup> grade, from 11.3% to 15.3%; and (3) 10<sup>th</sup>/11<sup>th</sup> grade, from 9.5% to 14.6%, while children without disabilities increased: (1) 4<sup>th</sup> grade, from 41.8% to 51.28%; (2) 8<sup>th</sup> grade, from 34.06% to 39.26%; and (3) 10<sup>th</sup>/11<sup>th</sup> grade, from 33.74% to 43.97%. RIDE reported that changes to high schools' grade participation and implementation of the NECAP may result in a fluctuation in the accuracy of performance data.

RIDE reported average participation rates for children with disabilities were 90% for math and 87% for reading. <sup>2</sup> The Office of Assessment and Accountability continues to provide technical assistance to districts to ensure accurate participation rates and will monitor the accurate reporting of participation rates. RIDE anticipates that, as the State continues to refine the student identifier system and student identification numbers are used for all children as well as grades tested, fluctuation in data would be eliminated.

RIDE does not allow for exemptions from assessment except for a medical exemption granted by the State and an English Language Learner (ELL) exemption for children in a district less than one year. All children not accounted for receive "no scores" in the State accountability system. RIDE's SSS monitoring system also addresses participation rates in school districts. OSEP appreciates the State's efforts to improve performance in this area and looks forward to reviewing the State's data in this area in the SPP, due December 2, 2005.

#### Least restrictive environment (LRE)

OSEP's April 2005 letter requested that the State provide data and analysis demonstrating that it collects LRE data to reflect the setting in which the educational services are delivered as well as report on the results of the implementation of these strategies and their effectiveness in providing accurate data. On pages 46-47 of the FFY 2003 APR, the State reported the statewide average percentage of children with disabilities receiving special education services outside of the regular classroom less than 21% of the day increased from 47.2% in 2001 to 66% in 2003. The statewide average for children with disabilities receiving special education services outside of the regular classroom more than 60% of the day also decreased from 22.1% in 2001 to 18% in 2003. RIDE also reported the range among LEAs of the percentage of children with disabilities receiving special education outside the regular classroom less than 21% of the day increased from 25% to 66% in 2001 to 39% to 86% in 2003. The range among LEAs of the percentage of children with disabilities receiving special education services outside the regular classroom more than 60% of the day decreased from 6% to 46% in 2001 to 3% to 38% in 2003.

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<sup>1</sup> The FY 2003 APR titles this data as "Performance of all Students on State Assessment." OSEP is uncertain whether this data also includes children with disabilities.

<sup>2</sup> The regulations under the No Child Left Behind Act (NCLB) at 34 CFR §200.20(c) provide that, in order to make adequate yearly progress (AYP), a school or LEA must ensure that not less than 95 percent of its children with disabilities in the grades tested participate in the State assessments under 34 CFR §200.2.

RIDE's data collection system changed prior to the December 2003 count to provide accurate data regarding location of service delivery. Data provided for 2001 reflected Rhode Island's regulatory caseload/class size descriptions rather than actual locations where children received special education services. The 2003 data indicated services were delivered in more inclusive environments than data from 2001 and 2002 indicated. Districts whose data indicated wide variation from the mean were required to review and analyze their data for accuracy and develop plans to improve both inclusiveness of service delivery and accurate data recording. RIDE provided technical assistance to all LEAs to improve implementation of the new data collection system and emphasized the importance of accurate reporting of data. Through SSS monitoring, RIDE continued to evaluate and emphasize delivery of services with non-disabled peers to the maximum extent appropriate for each individual child, and worked with LEAs to facilitate these efforts.

RIDE did not report placement data for children with disabilities, aged 3-5, as required by the instructions to the APR. For the SPP, due on December 2, 2005, the State must include in response to indicator #6, information on the percent of preschool children with IEPs who received special education and related services in settings with typically developing peers (e.g., early childhood settings, home, and part-time early childhood/part-time early childhood special education settings).

#### Preschool performance outcomes

OSEP's April 2005 letter required the State to provide documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), and targets for improved performance and strategies to achieve those targets to improve outcomes for preschool children with disabilities, or a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan. On page 49 of the FFY 2003 APR, the State reported that baseline data collection and analysis is projected to occur during the 2005-2006 school year. RIDE reported that between July 1, 2003-June 30, 2004, constituencies met to review and refine mechanisms for gathering data and addressing targets in this area and that a number of focused initiatives (e.g., Rhode Island Early Learning Standards, Keys to Quality which promotes national accreditation, etc.) were implemented targeting the improved quality of services and outcomes to the preschool population. The State indicated that, during the next reporting period, constituencies would continue to meet and refine action plans for improving outcomes for preschool children with disabilities.

The SPP instructions establish a new indicator in this area, for which States must provide entry data in the FFY 2005 APR, due February 1, 2007. Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under section 616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

#### *Secondary Transition*

OSEP's April 2005 letter suggested that the State report on its analysis of the resulting data as well as the results of the implementation of strategies and their effectiveness in enhancing

performance for postsecondary transition and improving post-school outcomes for students with disabilities. On pages 54-63 of the FFY 2003 APR, the State reported that comparable post-school outcome data was either not available or not analyzed in the State systems. Outcome data existed in Rhode Island's Outcome Study, 1999 and the National Transition Longitudinal Study; however, data did not have comparable cohorts for students without disabilities. RIDE established a transition data workgroup in partnership with the Sherlock Center at Rhode Island College, to research the most effective method to collect and analyze data for the State Improvement Plan. The workgroup managed the development and implementation of the Rhode Island Transition Outcome Study, 2004 that was initiated in Spring 2004 and completed in February 2005. Recommendations are to be provided to RIDE by Fall 2005. The 2004 study utilized comparative data from the National Transition Longitudinal Study (NTLS 2) and data from the National Center for Education Statistics for comparison to the general education population. RIDE also planned to develop strategies through the 2004 Outcome Study for integration of the data fields into the data system and/or a statewide outcome data system for all students.

The State reported the Rhode Island transition council received several resignations in Spring 2002 and focused on reestablishing membership; however, activities related to this indicator continued to move forward. RIDE and the Department of Human Services/Office of Rehabilitation Services (DHS/ORS) entered into a Memorandum of Understanding (MOU) in 2004. A cooperative agreement between RIDE and DHS/ORS has also existed since 2001 and will be revised this year. Both agreements address the coordination of transition services. The transition council was governed by a cooperative agreement that calls for all State agencies to identify and close gaps in transition services. Data collection on the effectiveness of the cooperative agreements was provided by ORS client outcome data and program review of services delivered under the cooperative agreement.

RIDE established a Transition Academy at the Community College of Rhode Island in 2000 for students who reached the age of graduation in need of continued transition services in an age-appropriate environment. This model was expanded in 2004. In Fall 2002, DHS/ORS agreed to purchase employment services for eligible students enrolled in the Transition Academies that will allow these students to access DHS/ORS services prior to graduation. RIDE, in collaboration with the Sherlock Center at Rhode Island College, the DHS/ORS and the Rhode Island Department of Mental Health Retardation and Hospitals Division of Developmental Disabilities is implementing a Federal grant project titled Family Support 360. This project is intended to provide case management supports to a demonstration group of families of young adults with developmental disabilities who are transitioning from public education to the adult services of the ORS and the Division of Developmental Disabilities. This initiative will help to identify service gaps in the transition of students with developmental disabilities to the adult service system.

The SPP instructions establish two new indicators in this area (#13 and #14), for which States must provide baseline data in the FFY 2005 APR, due February 1, 2007 (#13) and the FFY 2006 APR due February 1, 2008 (#14). Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under §616(d) of the IDEA. The State should carefully review the instructions to the SPP in

developing its plans for this collection. OSEP looks forward to reviewing the State's plan for collecting these data, in the SPP.

**Conclusion**

Within 60 days of the date of this letter, RIDE must:

- (1) submit a plan to OSEP, including strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance identified with regard to formal written complaints as soon as possible and not more than one year after OSEP accepts the plan. No later than six months from the date of this letter, the State must submit a Progress Report including data and analysis demonstrating progress toward compliance, and provide a report to OSEP, with data and analysis demonstrating compliance, as soon as possible, but not later than 30 days following the end of the one year timeline; and
- (2) provide: (a) clarification of the basis on which it examined data of suspension/expulsion rates to determine significant discrepancies; (b) clarification of whether it determined if there are significant discrepancies; and (c) if it identified significant discrepancies, a description of its review of policies, procedures and practices related to the development and implementation of IEPs, use of behavioral interventions, and procedural safeguards to ensure they comply with Part B, including the results of the review by affected LEAs, if necessary, and any revisions required, as required under 34 CFR §300.146(b).

Additionally, not later than May 6, 2006 RIDE must provide documentation to OSEP demonstrating that all identified noncompliance in the Providence District has been corrected.

IDEA 2004, §616, requires each State to submit a SPP that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are, for the most part, similar to clusters and probes in the APR. OSEP encourages the State to carefully consider the comments in this letter as it prepares its SPP, due December 2, 2005.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State and looks 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 Kimberly Mitchell at (202) 245-7453.

Sincerely,



Troy R. Justesen  
Acting Director  
Office of Special Education Programs

cc: Virginia M.C. daMota