



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

APR 16 2004

Honorable Cheri Pierson Yecke, Ph.D.
Commissioner
Minnesota Department of Education
1500 Highway 36 West
Roseville, Minnesota 55113-4266

Dear Commissioner Yecke:

The purpose of this letter is to respond to the Minnesota Department of Education's (MDE's) June 30, 2003 submission of its Federal Fiscal Year (FFY) 2001 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part C funds used during the grant period July 1, 2001 through September 30, 2002. We regret that we were not able to provide the State with a written response to the State's FFY 2001 APR, before the State submitted its FFY 2002 Part C APR on March 31, 2004, and revised on April 1, 2004. We will respond to the FFY 2002 APR as promptly as possible.

The APR reflects actual accomplishments made by the State during the reporting period (as compared to established objectives). In addition, MDE used the Part C APR to report on the State's progress in meeting the goals identified in its Improvement Plan (IP) that is part of the Continuous Improvement and Focused Monitoring System (CIFMS). The APR for Part C of 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 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.

In its March 24, 2003 letter approving Minnesota's IP, OSEP identified no areas of noncompliance. OSEP noted, however, that Minnesota should enhance its improvement planning process by: (1) including benchmarks to assess, at appropriate intervals, the effectiveness of the improvement strategies in achieving the desired improvement; (2) doing further analysis to determine the effectiveness of the State's monitoring procedures in identifying

and correcting areas of non-compliance; and (3) using Part C monitoring data to further determine the issues on which the State should focus improvement efforts and systemic change.

We recognize the time and effort that went into the development of the State's APR and appreciate the State's work to describe Minnesota's performance related to serving infants and toddlers with disabilities and their families under IDEA.

OSEP Memorandum 03-6 (regarding the submission of Part C APRs) directed States to address the following five cluster areas in their Part C APRs: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition.

Minnesota's APR included relevant data collected under Section 618 of IDEA in the appropriate Part C cluster areas, but it provided no analysis of those data. In addition, the APR provided a general overview and narrative regarding the improvement planning activities that the State has undertaken and proposed to undertake in each of the five Part C cluster areas, such as establishing workgroups and developing work-plans, to achieve the desired outcomes. Beyond stating, under some of the clusters, that the State's monitoring data did not indicate the presence of a State-wide systemic problem, the APR did not include any specific monitoring data. Nor did the APR include any data from: (1) the State's new local Self-Assessment process, conducted by school districts and local Interagency Early Intervention Committees; (2) family satisfaction surveys; or (3) the State's complaint and due process/mediation dispute resolution systems. In addition, the APR did not include measurable benchmarks and clear timelines regarding incremental goals that will enable the State to assess, at appropriate intervals, the effectiveness of the improvement planning goals and strategies in achieving the desired targets in a timely and appropriate fashion. The State must include all of these components in future APRs. OSEP's comments concerning the content of the State's FFY 2001 APR for each of the five clusters are set forth below.

General Supervision

The State's Accountability and Compliance Self-Improvement Priority (submitted as an IP attachment to the APR) included, for each of six planning goals designed to enhance its birth-to-21 monitoring system, a set of desired outcomes, improvement strategies, evidence of change, and data sources. This attachment included goals to strengthen the State's systems for identifying and correcting any noncompliance with Part C requirements, but neither the IP attachment nor the APR included any data-based analysis related to the effectiveness of the State's general supervision systems in such identification and correction.

Under 34 CFR §303.501, MDE must monitor providers of early intervention services to ensure that they comply with all Part C requirements. A note on page 6 of the APR's General Supervision Cluster stated, "Respite care for infants and toddlers is not monitored through existing accountability systems." Within 60 days from the date of this letter, the State must submit to OSEP either: (1) documentation that MDE monitors to ensure that if the participants in the individualized family service plan (IFSP) meeting determine that the family needs respite care in order to participate in early intervention services, such respite care is included in the IFSP

and provided; or (2) its plan (including strategies, benchmarks, evidence of change, and timelines) for correcting a failure to monitor regarding this requirement, within a reasonable period of time, not to exceed one year from the date on which OSEP approves the State's plan for correcting the noncompliance.

With regard to whether child find and appropriate and timely early intervention services are ensured through interagency agreements and assignment of fiscal responsibility, the APR clarified the responsibilities of the Interagency Early Intervention Committees (IEICs) regarding child find and delivery of services. The APR also stated that an analysis of the IEICs' Self-Assessments demonstrated that 64% of the IEICs were at or above the compliance standard, and 34% of IEICs were in partial compliance. The proposed evidence of change/benchmarks stated that there will be an increase in the number of local IEICs demonstrating compliance through written policies and procedures or interagency agreements that describe responsibilities regarding child find and assignment of fiscal responsibility for early intervention services. However, the APR included no information to clarify what "at or above the compliance standard" or "partial compliance" means, or any documentation that the only "partial" compliance in 34% of the IEICs had been corrected. Within 60 days from the date of this letter, the State must submit to OSEP either: (1) documentation of how the State ensures correction of any State-identified noncompliance; or (2) its plan (including strategies, benchmarks, evidence of change, and timelines) for correcting any remaining noncompliance within a reasonable period of time, not to exceed one year from the date on which OSEP approves the State's plan for correcting the noncompliance.

Regarding Minnesota's Self-Improvement Priority to ensure that there are sufficient numbers of qualified professionals and paraprofessionals to provide special education and related services, including early childhood special education and early intervention services, the APR discussed persistent shortages of personnel to maintain a quality workforce and stated that this problem was approaching crisis proportions for special education teachers (and early childhood special education teachers providing service coordination and other providers of early childhood special education and early intervention services). The APR stated that the State has established a Workforce Initiative Workgroup to develop policies and actions to address this priority. After discussing the planning goals for this Workforce Initiative, the APR, under the evidence of change/benchmarks, stated that the workforce initiative work plans were just beginning implementation at the end of the reporting cycle.

Comprehensive Public Awareness and Child Find System

Based upon December 1, 2000 child count data, Minnesota was serving 1.50% of the birth-to-three population in the State and .59% of the birth-to-one population. In the December 1, 2001 child count data, Minnesota was serving 1.59% of the State's birth-to-three population and .61% of its birth-to-one population. Under "Explanation and Analysis of Progress (or Slippage)," the State attributed this increase in its Part C child count during the FFY 2001 reporting period to: (1) an expansion of the Universal Newborn Hearing Screening Program and the Tracking and Follow-Along Program and (2) an increased understanding of special education/early intervention criteria among teams responsible for eligibility decisions.

The State included a Child-Find Self-Improvement Priority in its IP (submitted with the APR), with a goal that “Minnesota's statewide comprehensive, coordinated child find system ensures that eligible children and youth (age birth through 21) with disabilities and their families are identified, evaluated and referred for appropriate services under IDEA, Parts B and C, and Minnesota Statute of 125A.023,” and it incorporated specific outcomes, improvement strategies, evidence of change, and data sources. Similarly, the APR described a number of coordinated child find and public awareness activities, at the State level and the IEIC level, and strategies and projects developed by a Child Find Workgroup, in a comprehensive child find work plan to increase the numbers of children that the State’s early intervention system was identifying and serving, as well as meeting the child find planning goal stated above.

The State included, on pages 12-13 of the APR Child Find Cluster and pages 47-49 of the attached Child Find IP priority, under Proposed Evidence of Change/Benchmarks, goals to serve: (1) at least 1.00% of its birth-to-one population; (2) at least 2.00% of its birth-to-three population; and (3) percentages of infants and toddlers, from birth to three years of age, disaggregated by race and ethnicity, that are proportional to the general population in the State.

While it is not inconsistent with Part C to include a numerical goal to increase the percentages of infants and toddlers with disabilities determined eligible for services, the State must continue to monitor to ensure that eligibility decisions for all infants and toddlers are made in conformity with the individual evaluation and assessment requirements of Part C of IDEA (at 34 CFR §§303.320-303.323) and not based upon a numerical goal. Likewise, the use of a specific numerical goal for a racial or ethnic subgroup is inconsistent with Federal law. If the State wishes to examine whether and why infants and toddlers with disabilities in certain subpopulations are not referred, identified and/or determined eligible for services under Part C, under Title VI of the Civil Rights Act, it must do so in a race-neutral manner without the use of race- or ethnicity-specific goals. If the State has proposed these goals because it is concerned about the number of infants and toddlers with disabilities being served under Part C who are from a particular racial or ethnic subgroup, the State should instead review, and if necessary revise, its policies, practices and procedures (including monitoring) to ensure that traditionally underserved groups are not being excluded by current policies, practices and procedures. For example, the State may wish to review its eligibility procedures and practices to ensure that infants and toddlers suspected of having a disability are individually evaluated and assessed using tests and other evaluation methods consistent with 34 CFR §§303.320-303.323, including ensuring that nondiscriminatory procedures are used (see 34 CFR §303.323). In addition, the State may wish to ensure that traditionally underserved groups are involved in, and informed of, the Part C program and processes, consistent with 34 CFR §§303.128 and 303.320. The State must review and revise its Child Find IP priority to be consistent with Federal law and submit the revised language within 60 days from the date of this letter.

Family Centered Services

The APR, on page 14, stated that “Minnesota has no baseline data regarding whether family supports, services and resources increase the family’s capacity to enhance outcomes for infants and toddlers and their families.” This APR Family Centered Service Cluster described, under proposed future activities, using a family survey, implemented in May 2003, to survey parents of children with disabilities, ages birth through five, to determine their satisfaction with the early intervention process. In addition, the APR, on page 15, described a Family Involvement Work Plan and set forth a goal of “authentic involvement and participation by family members in all aspects and levels of the special education process, within the context of a birth to 21 interagency service delivery system.”

Early Intervention Services in Natural Environments

In the APR, the State reported that a review of State monitoring data revealed no systemic deficiencies regarding service coordination and evaluation and assessment or any systemic problems with the provision of appropriate and timely early intervention services and informal supports in natural environments to meet the unique needs of infants and toddlers with disabilities and their families. However, because the APR included no data-based determinations as to the effectiveness of the State’s procedures for identifying noncompliance and no specific monitoring data, OSEP could not determine whether the reported lack of monitoring findings in this area shows that there is no noncompliance.

Based on data from the 2000-2001 school year, the APR stated that approximately 77% of infants and toddlers with disabilities were served in their home or in the home of a family child-care provider, and an additional five percent were served in integrated programs with children without disabilities. OSEP cannot determine how the State monitors for compliance with Part C natural environment requirements that all children have IFSPs reflecting that to the maximum extent appropriate, early intervention services are provided in natural environments or the IFSP contains a justification of the extent, if any, to which the services will not be provided in a natural environment.

Early Childhood Transition

One of the State’s first Self-Improvement Priorities in Part I of its Improvement Plan was to improve the ability of children and youth to make successful transitions (including both early childhood transitions and secondary transitions). In the APR, the State explained that difficulties in transition from Part C to Part B have been minimized, because: (1) the right to receive special education and related services begins at birth; (2) the State education agency is the Lead Agency for Part C; and (3) school districts are the primary providers of Part C services at the local level. The APR stated that the State’s IFSP team planning process requires that IFSP participants address transition to Part B, as specified under the Federal Part C early childhood transition requirements. The APR reported that the State’s monitoring process (traditional monitoring and self-assessments) ensures that IFSP teams address the transition requirements. The APR stated, under Evidence of Change and Benchmarks, that “no systemic compliance issues were identified in this area during the reporting period.” However, because the APR included no data-based

determinations concerning the effectiveness of the State's procedures for identifying noncompliance and no specific monitoring data, OSEP could not determine whether the reported lack of monitoring findings in this area demonstrates that there is no noncompliance. The APR, under Activities to Achieve Results, stated that MDE has established a Transition Workgroup for the purpose of identifying existing policies, service gaps, and options for action in relation to transition issues, and that this group had identified six leading causes and barriers that impact the ability of children and youth to make successful transitions (i.e., early childhood and secondary transitions): (1) lack of interagency collaboration, (2) State restructuring efforts, (3) staff turnover, (4) lack of systematic data collection and follow-up analysis, (5) lack of a formal tracking system to measure transition between separate sites, and (6) a lack of pre-service opportunities within Institutes of Higher Education. The APR included a goal to ensure effective early childhood transitions to facilitate continuity across interagency service delivery systems, and stated that no systematic data have been collected to address this goal.

Conclusion

As specified above, the State must submit to OSEP, within 60 days from the date of this letter:

1. either: (a) documentation of how the State ensures correction of any State-identified noncompliance; or (b) its plan (including strategies, benchmarks, evidence of change, and timelines) for correcting any remaining noncompliance within a reasonable period of time, not to exceed one year from the date on which OSEP approves the State's plan for correcting the noncompliance;
2. either: (a) documentation that MDE monitors to ensure that, if the participants in the IFSP meeting determine that the family needs respite care in order to participate in early intervention services, such respite care is included in the IFSP and provided; or (b) its plan (including strategies, benchmarks, evidence of change, and timelines) for correcting a failure to monitor regarding this requirement, within a reasonable period of time, not to exceed one year from the date on which OSEP approves the State's plan for correcting the noncompliance; and
3. Revision of the goals in the State's Child Find Priority, consistent with the guidance in this letter.

We appreciate your efforts in preparing the Annual Performance Report and look forward to collaborating with Minnesota as you continue to improve results for infants and toddlers with disabilities and their families.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie Smith Lee".

Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Norena Hale
Jan Rubenstein