



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

Honorable Johnny V. Rullan
Secretary
Commonwealth of Puerto Rico Department of Health
P.O. Box 70184
San Juan, Puerto Rico 00936-8184

FEB -8 2005

Dear Secretary Rullan:

The purpose of this letter is to respond to Puerto Rico's May 4, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part C funds used during the grant period July 1, 2002 through June 30, 2003. The APR reflects actual accomplishments made by the Puerto Rico Department of Health (PRDH) 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 C APRs directed States to address five cluster areas: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition.

This letter also responds to the PRDH proposed Improvement Plan (IP) intended to address each of the four areas of noncompliance identified in OSEP's December 18, 2002 Monitoring Report and the additional area of noncompliance identified in OSEP's letter of February 27, 2004.

Background

OSEP conducted monitoring activities in Puerto Rico during the weeks of January 21, 2002, and March 18, 2002, for the purpose of assessing compliance in the implementation of Part C of IDEA and assisting Puerto Rico in developing strategies to improve results for children with disabilities. A Monitoring Report was issued on December 18, 2002. The following areas of noncompliance were identified by OSEP: (1) Puerto Rico had not developed and implemented a monitoring system that ensured compliance with Part C, provided for the correction of deficiencies, and resulted in improved results for infants and toddlers with disabilities as required by 34 CFR §§303.501(a) and (b)(1)-(4); (2) Puerto Rico had not ensured that the decision-

making process at individualized family service plan (IFSP) meetings was individualized and resulted in infants and toddlers receiving early intervention services in natural environments, and each IFSP contained a justification when services were not provided in natural environments as required by 34 CFR §§303.12(b), 303.18, 303.344(d)(1), 303.344(d)(1)(ii), and 303.167(c)(2); (3) Puerto Rico had not ensured that transportation was identified and provided as an early intervention service to enable an eligible child and the child's family to receive early intervention services as required by 34 CFR §§303.12(d)(15) and 303.344(d)(2)(ii); and (4) Puerto Rico had not ensured that services were provided in a timely manner as required by 34 CFR §§303.321(e), 303.342(e), and 303.344(f).

During the week of September 8, 2003, OSEP staff conducted a visit to Puerto Rico to verify the effectiveness of PRDH's systems for general supervision and data collection under section 618 of IDEA. A letter was issued on February 27, 2004. The verification visits assist OSEP in understanding: (1) how the systems work at the PRDH level; (2) how PRDH collects and uses data to make monitoring decisions; and (3) the extent to which PRDH's systems are designed to identify and correct noncompliance. In its verification letter, OSEP stated that: (1) PRDH's systems for general supervision did not constitute a reasonable approach to the identification and correction of noncompliance; (2) PRDH was in noncompliance with the 60-day timeline for resolution of formal written complaints under 34 CFR §303.512(a); and (3) PRDH's system for collecting and reporting data was designed to be a reasonable approach to ensuring the accuracy of the data that PRDH reports to OSEP under section 618; however, the system was not in place long enough for OSEP to make any determinations regarding its effectiveness.

On June 30, 2003, PRDH submitted its FFY 2001 APR and its proposed Part C IP. OSEP responded in a separate letter dated February 27, 2004. In this letter OSEP stated that PRDH was required to revise its IP in the Proposed Future Activities to Achieve Results section of General Supervision and add strategies that ensure that PRDH will: (1) monitor all entities that provide Part C services (including the Office of the Ombudsman which conducts mediation and due process hearing resolution), including, for each visit, the issuance of a report and the approval of an IP where needed; (2) monitor for all requirements of Part C (including, for example, 34 CFR §303.344(f)(1) "The projected dates for initiation of the services in paragraph (d)(1) of this section as soon as possible after the IFSP described in 34 CFR §303.342);" and (3) ensure that all formal written complaints received under 34 CFR §303.510 (adopting complaint procedures) are investigated following all the requirements of 34 CFR §303.512 (minimum State complaint procedures). PRDH was also required to add evidence of change/benchmarks for its monitoring goals, including whatever methods it would use to evaluate the effectiveness of its IP strategies and add the timelines and resources needed for all activities related to ensuring that a full monitoring and complaint investigation system is in place and actively implemented. OSEP's February 2004 letter also required PRDH to provide, in the FFY 2002 APR, an update on the strategies implemented in the area of its comprehensive public awareness and child find system; maintenance activities that it would undertake to continue to ensure compliance in the area of Family Centered Services; and add additional strategies (proposed future activities to achieve results) for each area of the following areas of noncompliance in the area of Early Intervention Services in Natural Environments, including the methods it will use to evaluate the effectiveness of its improvement strategies, evidence of change (or benchmarks), timelines, needed resources, and the monitoring strategies that will be used for these areas: (a) failure to

ensure that IFSP participants make individualized decisions for all infants and toddlers with disabilities, based on the unique needs of each child and that the decisions resulted in infants and toddlers receiving services in natural environments; (b) failure to ensure that IFSPs contain, when necessary, a justification when an early intervention service is not provided in a natural environment; (c) failure to ensure that services are provided in a timely manner; and (d) failure to ensure that transportation and related costs are provided according to an IFSP when needed by an eligible child and the child's family in order to receive an early intervention service.

In the FFY 2001 APR, PRDH did not submit data on the percentage of children participating in the Part C program who demonstrated improved and sustained functional abilities (in the developmental areas listed in 34 CFR §303.322(c)(3)(ii)). OSEP directed PRDH to include, in the next APR (for FFY 2002), either responsive data or PRDH's plan on how it would collect this data (whether through sampling, monitoring, individual IFSP review, or other methods).

While on-site in September 2003, OSEP recommended that PRDH and PRDE continue to have facilitated monthly meetings to address the challenges related to transition. In the FFY 2002 APR, PRDH was directed to report on whether meetings were held with PRDE, and the outcomes of those meetings. In addition, PRDH was required to include data demonstrating compliance with the requirements of Early Childhood Transition and strategies designed to maintain compliance.

PRDH was required to revise its IP to address each of the issues identified above and submit a revised IP to OSEP by March 31, 2004. PRDH was also required to submit a Progress Report (on the activities PRDH had submitted in this IP) with the FFY 2002 APR. OSEP told PRDH that when the revised IP was approved, PRDH would have one year from the approval date to demonstrate full compliance for each of the areas identified above.

PRDH'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 PRDH's FFY 2002 APR and its revised IP. Because of the timing of this letter, OSEP is extending the due date for the FFY 2003 APR to April 30, 2005. OSEP's comments are listed by cluster area.

General Supervision

In its December 2002 Monitoring Report, OSEP concluded that PRDH failed to develop and implement a monitoring system that ensures compliance with Part C, provides for the correction of deficiencies, and results in improved results for infants and toddlers with disabilities as required by 34 CFR §§303.501(a) and (b)(1)-(4). In its February 2004 verification letter, OSEP concluded that PRDH remained out of compliance with these requirements. PRDH submitted a proposed IP with its FFY 2001 APR. In its February 2004 response to PRDH's FFY 2001 APR and IP, OSEP stated that PRDH was required to revise its IP, in the Proposed Future Activities to Achieve Results section of General Supervision, by adding strategies that ensure that PRDH will: (1) monitor all entities that provide Part C services (including the Office of the Ombudsman which conducts mediation and due process hearing resolution), including, for each visit, the issuance of a report and the approval of an IP where needed; (2) monitor for all requirements of

Part C (including, for example, 34 CFR §303.344(f)(1) “The projected dates for initiation of the services in paragraph (d)(1) of this section as soon as possible after the IFSP described in §303.342;” and (3) ensure that all formal written complaints received under 34 CFR §303.510 (adopting complaint procedures) are investigated following all the requirements of 34 CFR §303.512 (minimum State complaint procedures). PRDH was also required to add evidence of change/benchmarks for its monitoring goals, including whatever methods it would use to evaluate the effectiveness of its IP strategies and add the timelines and resources needed for all activities related to ensuring that a full monitoring and complaint investigation system is in place and actively implemented. PRDH was to submit a revised IP to OSEP within 60 days of issuance of the February 2004 letter, or by March 31, 2004, whichever date occurred first. OSEP stated that all of the activities within the revised IP must be accomplished no later than one year from OSEP’s acceptance of the revised IP and all IP timelines must be reviewed and revised accordingly.

Implementation of a monitoring system

The FFY 2001 APR documented progress in developing a monitoring system; however the IP did not include strategies addressing implementation of the system. On page I-2 of the FFY 2002 APR, PRDH reported that the supervision and monitoring unit developed new policies and procedures for the general supervision and monitoring of early intervention programs and activities receiving assistance under Part C and the monitoring of programs and activities used by Puerto Rico to carry out Part C, whether or not the programs and activities were receiving Part C funds, to ensure compliance with Part C regulations. These new policies were included in the Application under Part C of IDEA for FFY 2004 funds and OSEP’s analysis of these policies is reflected in OSEP’s FFY 2004 Part C grant letter to Puerto Rico. On page I-3 of the FFY 2002 APR, PRDH reported that it would monitor annually for administrative, fiscal, and programmatic compliance and performance and listed its methods for monitoring and the items that would be monitored. PRDH included a timeline for on-site monitoring visits.

Also on page I-3, PRDH reported that, upon completion of an on-site monitoring visit: (1) a draft monitoring report is completed and mailed within 30 days of the visit or completion of extended fieldwork; (2) the service provider must respond in writing within 14 days of the receipt of the draft report, indicating any disagreement and supporting documentation; and (3) PRDH issues the final monitoring report including all findings, the response from the service provider to the draft report, and required corrective actions within 60 days of the completion of the monitoring activities. On the same page, PRDH reported that it would monitor progress toward the completion of the corrective actions and that sanctions may be imposed if the provider failed to achieve acceptable performance within required timelines. The APR indicated that the timelines vary according to the corrective action needed. PRDH must ensure that any identified noncompliance is corrected within one year of its identification.

On page I-7 of the FFY 2002 APR, PRDH reported that the instruments and interview forms used in monitoring were revised in November 2003, when it was found that these instruments did not ensure the collection of all data needed to effectively monitor compliance with all of the requirements of Part C. The revised instruments and interview forms were in use as of December 2003.

Projected targets showing how Puerto Rico would evaluate the effectiveness of its strategies were listed on page I-7, along with a timeline for implementation no later than one year from OSEP's acceptance of the revised IP. OSEP accepts the proposed strategies, projected targets and timeline for implementation included with the FFY 2002 APR. Puerto Rico must submit: (1) Progress Reports demonstrating progress towards compliance in (a) the FFY 2003 APR, due April 30, 2005, and (b) on July 31, 2005; and (2) a final report 30 days following one year from the date of this letter demonstrating compliance within a reasonable period of time, not to exceed one year from the date of this letter.

Complaint procedures

OSEP's February 2004 verification letter and the letter responding to the FFY 2001 APR required Puerto Rico to ensure that all formal written complaints received under 34 CFR §303.510 (adopting complaint procedures) were investigated following all the requirements of 34 CFR §§303.510 through 303.512 (minimum State complaint procedures). On pages I-3 through I-6 of its FFY 2002 APR, PRDH reported on progress and slippage with its complaint resolution, mediation and due process systems. On page I-3, PRDH reported that it had a new interagency agreement with the Office of the Ombudsman for Persons with Disabilities. Under this new agreement, the Office of the Ombudsman would oversee the mediation and due process hearings systems and PRDH would be responsible for complaint resolution. On pages I-4 of the APR, PRDH described the procedures for filing a complaint and procedures and timelines for the complaint resolution process. On pages I-5 to I-6 of the APR, PRDH described the procedures for mediation and due process. The procedures and timelines on pages I-4 to I-6 are consistent with Part C regulations. On pages I-7 to I-8, PRDH described the activities it would assume under the new complaint resolution system and those that would be the responsibility of the Office of the Ombudsman for Persons with Disabilities regarding mediation and due process. The lists do not include the timelines that were included on the previous pages and it is not clear how PRDH will evaluate the effectiveness of its dispute resolution systems. On page I-7, there is a projected target for a complete and active complaint investigation system, meeting all requirements of 34 CFR §§303.510 through 303.512, to be implemented no later than one year from OSEP's acceptance of the revised IP. OSEP accepts the proposed strategies, projected target and timeline included with the FFY 2002 APR. Puerto Rico must submit: (1) Progress Reports demonstrating progress towards compliance in (a) the FFY 2003 APR, due April 30, 2005, and (b) on July 31, 2005; and (2) a final report 30 days following one year from the date of this letter demonstrating compliance within a reasonable period of time, not to exceed one year from the date of this letter.

Personnel

On pages I-30 through I-32 of the FFY 2002 APR, PRDH reported on the numbers of available service providers, paraprofessionals, intake coordinators and service coordinators. The data indicated a reduction in service providers, but an increase in service coordinators. PRDH analyzed the data and developed activities to increase the number of service providers, including paraprofessionals, to meet the identified early intervention needs of all eligible infants and toddlers with disabilities and their families in each health region. In addition, on page I-32,

PRDH stated it would maintain the current number of intake coordinators and service coordinators to meet the identified needs of eligible infants and toddlers and their families in each health region. OSEP looks forward to reviewing the results of its strategies to meet the identified needs of all eligible infants and toddlers and their families in the next APR, due to OSEP on April 30, 2005.

Data collection

In the February 2004 verification letter, OSEP stated that PRDH's system for collecting and reporting data was designed to be a reasonable approach to ensuring the accuracy of the data that Puerto Rico reports to OSEP under section 618 of IDEA. At the time of the visit, the system had not been in place long enough for OSEP to make any determinations regarding its effectiveness. In the FFY 2002 APR, PRDH reported on the system changes that were implemented prior to the December 1, 2003 child count. PRDH must continue to analyze the data from its system and report on its effectiveness, in the next APR, due to OSEP on April 30, 2005.

Comprehensive Public Awareness and Child Find

There were no prior findings of noncompliance identified by OSEP in this cluster area. On page II-8 of the FFY 2002 APR, Puerto Rico reported that the percentage of infants and toddlers determined eligible for Part C services increased from 1.78% in 2001 to 1.95% in 2002. On page II-3 of the FFY 2002 APR, data showed that some health regions increased their referral numbers; some demonstrated no change; and some demonstrated a decrease in their referral numbers. PRDH developed specific strategies for those regions demonstrating a decrease in referral numbers, including completing a detailed analysis and targeting a broader spectrum of referral sources; and implemented maintenance activities for those other regions.

Pages II-1, II-8, II-15, and II-22 of the FFY 2002 APR contained numerical goals for increasing the number of children referred and determined eligible. While it is not inconsistent with Part C of IDEA to include a numerical goal to increase the percentages of infants and toddlers with disabilities determined eligible for services, Puerto Rico 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 through 303.323) and not based upon a numerical goal. OSEP looks forward to reviewing data and analysis and the results of specific strategies implemented in each health region in the area of comprehensive public awareness and child find in the next APR.

Family Centered Services

There were no prior findings of noncompliance identified by OSEP in this cluster area. In the FFY 2001 APR, PRDH reported that training was provided to all service coordinators on their role and the importance of providing parents with information on the availability of resources and services, and included parents in all trainings since March 2002. Pages III-1 through III-4 of the FFY 2002 APR showed a family-directed system and reported on continuing activities that PRDH undertook to ensure continued compliance in this cluster area. OSEP looks forward to

reviewing in the next APR data and analysis from PRDH's efforts to ensure compliance and improve performance in this area.

Early Intervention Services in Natural Environments

In the December 2002 Monitoring Report, OSEP concluded that PRDH failed to ensure that: (1) the decision-making process at IFSP meetings was individualized and resulted in infants and toddlers receiving services in natural environments as required by 34 CFR §§303.344(d)(1) and 303.344(d)(1) (ii), and each IFSP contained a justification when a service was not provided in the natural environment, as required by 34 CFR §§303.312(b), 303.18 and 303.167(c)(2); (2) transportation was identified and provided as an early intervention service to enable an eligible child and the child's family to receive early intervention services as required by 34 CFR §§303.12(d)(15) and 303.344(d)(2)(ii); and (3) early intervention services were provided in a timely manner, as required by 34 CFR §§303.321(e), 303.342(e), and 303.344(f).

OSEP's February 27, 2004 letter responding to PRDH's FFY 2001 APR required PRDH to submit: (1) a revised IP for the three areas of noncompliance in this cluster area, with additional strategies (proposed future activities to achieve results) for each area of noncompliance, including the methods used to evaluate the effectiveness of its improvement strategies, evidence of change (or benchmarks), timelines, needed resources, and the monitoring strategies that would be used for those areas; and (2) responsive data or a plan on how PRDH would collect data to demonstrate improved and sustained functional abilities (in the developmental areas listed in 34 CFR §303.322(c)(3)(ii)) of children participating in the Part C program.

Natural environments – individualization of early intervention services

PRDH reported strategies, targets, projected targets, future activities, and projected timelines and resources to address noncompliance in this cluster in the FFY 2002 APR as part of its revised IP. To ensure the individualization of decision-making by IFSP participants, the provision of services in natural environments, and justifications on IFSPs when services are not provided in natural environments, the APR indicated that PRDH revised its policies and practices regarding evaluation, child and family assessment, and service provision. PRDH developed new policies and procedures to ensure that: (1) team decisions regarding service provision must only occur after the development of outcomes and strategies and must be determined on an individualized basis for every child; (2) the assessment of child and family needs lead to the identification of all child needs, and the family needs related to enhancing the development of the child; and (3) IFSPs will contain justifications when early intervention services cannot be provided in natural environments (APR, pages IV-3 and IV-5).

PRDH provided training on assessment practices and IFSP planning and development to intake and service coordinators and early intervention service providers in all health regions in August and October 2002. PRDH indicated that on-site monitoring visits were conducted in June 2003 to determine the effectiveness of the August and October 2002 trainings, and that findings from the monitoring visits are expected to be included in the FFY 2003 APR (APR, page IV-4).

PRDH's performance data indicated significant improvement in the area of natural environments. Early intervention services provided in service provider locations decreased over

time from 86% in 1999 to 1.2% in 2003; and early intervention services provided primarily in settings such as the home and programs with typically developing children increased over time from 13% in 1999 to 98% in 2003 (APR, page IV-7).

PRDH also delineated the service coordinator responsibilities consistent with 34 CFR §303.23 and provided training on service coordination in all health regions to ensure the individualization of IFSP decision-making (APR, page IV-1). PRDH reported a decrease in service coordinator caseloads, which allowed for greater efficiency in facilitating ongoing, timely early intervention services in natural environments (APR, pages IV 1-2). Further, PRDH reported that the IFSP was revised, incorporating a section for the specific early intervention services necessary to meet the unique needs of the child and family.

Transportation

PRDH reported that transportation and related costs were recommended after the development of outcomes and strategies and determined on an individualized basis for every child and family (APR, page IV-6). PRDH also revised its prior written notice to include a statement urging families to communicate their transportation needs to their service coordinator. PRDH indicated, however, that early intervention services are now primarily provided at home and typically developing programs where the child is participating 98.8% of the time, therefore, transportation needs are less frequently identified on the IFSP.

Timely provision of early intervention services on the IFSP

PRDH's baseline data indicated that it failed to ensure the timely provision of early intervention services as required by 34 CFR §§303.321(e), 303.342(e), and 303.344(f). Although the APR included a target that all families would have access to timely early intervention services, it did not include any data demonstrating that noncompliance has been corrected in this area. While future activities indicate that monitoring data will be analyzed and reported in the FFY 2003 APR, it is unclear whether the monitoring data will include data to determine compliance regarding the timely provision of early intervention services (APR, pages IV-1 and 2). In the FFY 2003 APR, due April 30, 2005, PRDH must provide both baseline and comparison data (whether aggregated for all children or through sampling of child records in specific regions) indicating its progress at providing timely early intervention services on the IFSP.

Failure to provide any data may result in PRDH's designation as a "high risk" grantee for its FFY 2005 Part C grant.

Early childhood outcomes

PRDH reported that it conducted on-site monitoring of all pediatric centers from October 2003 through March 2004 to evaluate the effectiveness of the May 2002 through June 2003 training regarding the implementation of Part C redesign and compliance with Part C policies and procedures. PRDH also reported that: (1) the monitoring instrument identified present and emerging child skills in the areas of physical, cognitive, communication, social or emotional, and adaptive development, as well as vision and hearing; (2) all initial, annual and revised IFSPs

included information regarding the child's skills and desired family outcomes so that the child's improved and sustained functional abilities may be documented; and (3) it adopted an early intervention model linking assessment, outcome, development, intervention and evaluation processes. PRDH reported that it would provide an analysis of monitoring data in the FFY 2003 APR on children participating in the Part C program to determine if they demonstrate improved and sustained functional abilities (APR, pages IV-4 and IV-12).

OSEP accepts the revised IP, proposed strategies, projected targets and timelines for implementation submitted with the FFY 2002 APR for all three of the following findings of noncompliance: (1) IFSP requirements at 34 CFR §§303.344(d)(1), 303.344(d)(1)(ii), 303.12(b), 303.18, and 303.167(c)(2); (2) transportation requirements at 34 CFR §§303.12(d)(15) and 303.344(d)(2)(ii); and (3) the provision of early intervention services requirements at 34 CFR §§303.321(e), 303.342(e), and 34 CFR §303.342(e). PRDH must demonstrate compliance within a reasonable period of time, not to exceed one year from the date of this letter.

In addition, OSEP is imposing an evidence of change requirement for the service provision noncompliance mentioned above that will require PRDH to provide in both the July 31, 2005 Progress Report and the final Progress Report monitoring or child record data confirming the number or percentage of eligible children and families receiving in a timely manner the early intervention services listed on the IFSP.

Early Childhood Transition

No prior findings of noncompliance were identified by OSEP in this cluster area. However, in the February 2004 FFY 2001 APR letter, OSEP requested that PRDH report whether facilitated meetings are being held with the Puerto Rico Department of Education (PRDE) regarding the transition process and the outcome of meetings already held. In addition, PRDH was asked to include data to demonstrate compliance in this cluster. Please note that in the PRDE's Part B APR, noncompliance was identified in the area of early childhood transition. PRDE has until July 1, 2005 to revise and finalize the interagency agreement between PRDE and PRDH to coordinate early childhood transition.

PRDH indicated that it was unsuccessful in coordinating meetings with PRDE and that the interagency agreement between PRDH and PRDE was not translated into Spanish, as expected (APR, page V-4). PRDH set projected targets, future activities, and projected timelines for translation of the new interagency agreement, and conducting regular meetings between Part B and Part C staff to resolve challenges relating to implementation of the new interagency agreement (APR, pages V-4 – V-5). OSEP looks forward to reviewing, in the next APR (for FFY 2003), the results of specific strategies implemented for translation of the new interagency agreement and conducting regular meetings with Part B and Part C staff to resolve challenges relating to implementation of the new interagency agreement.

PRDH reported strategies implemented to maintain compliance with the transition requirements at 34 CFR §303.344(h). The IFSP now includes a section specifically related to transition planning, providing for documentation of the required steps. In addition, PRDH conducted

transition workshops in six of their health regions in May 2003 and reported that its electronic information system was updated to collect data on transition (APR, page V-4).

Although PRDH reported on strategies it implemented to ensure compliance in this cluster area, it did not provide monitoring or other data indicating compliance. In the next APR, PRDH must include monitoring or other data demonstrating compliance with the transition requirements at: (1) 34 CFR §303.148 (b)(1) to describe how PRDH will notify the local education agency (LEA) for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B (data may include sampling or an aggregate report on the number of children at transition age whose information has been referred to PRDE); (2) 34 CFR §303.148(b)(2)(i) that, in the case of a child who may be eligible for preschool services under Part B, with the approval of the family of the child, a conference be convened among the lead agency, the family, and the LEA at least 90 days, and at the discretion of the parties, up to six months, before the child is eligible for the preschool services, to discuss any services that the child may receive (data examples could include a review of IFSPs of children at age three to determine if the transition conference was held timely); and (3) 34 CFR §303.344(h)(1) that the IFSP include the steps to be taken to support the transition of the child (data examples could include the number of IFSPs of children at transition age that contain transition steps).

Conclusion

In the next APR, due April 30, 2005, and in its July 31, 2005 Progress Report, Puerto Rico must demonstrate progress towards compliance in the following four areas of noncompliance and provide a final report to OSEP no later than 30 days following one year from the date of this letter demonstrating compliance:

In the General Supervision cluster

1. Data and analysis demonstrating progress toward compliance with: (1) the monitoring requirements at 34 CFR §§303.501(a) and (b)(1)-(4); and (2) timely resolution as required at 34 CFR §§303.510-303.512;

In the Early Intervention Services in Natural Environments cluster

Data and analysis demonstrating progress towards compliance regarding the IFSP decision-making process regarding:

2. Services in the natural environment as required by 34 CFR §§303.344(d)(1) and 303.344(d)(1)(ii) and monitoring or other data demonstrating that each IFSP contains a justification when a service was not provided in the natural environment as required by 34 CFR §§303.12(b), 303.18, and 303.167(c)(2);
3. Transportation being identified and provided as an early intervention service as required by 34 CFR §§303.12(d)(15) and 303.344(d)(2)(ii); and
4. The provision of early intervention services in a timely manner, as required by 34 CFR §§303.321(e), 303.342(e) and 303.344(f);

In the next APR, due April 30, 2005, Puerto Rico must provide to OSEP:

- In the General Supervision cluster: an analysis of the effectiveness of PRDH's data system;
- In the Early Intervention Services in Natural Environments cluster: (1) an analysis of monitoring data on children participating in the Part C program to determine if they demonstrate improved and sustained functional abilities (in the developmental areas listed in 34 CFR §303.322(c)(3)(ii)); (2) baseline and comparison data on its progress at providing timely early intervention services on the IFSP; and (3) monitoring or child record data confirming the number or percentage of eligible children and families receiving in a timely manner the early intervention services listed on the IFSP. Failure to provide any data may result in PRDH's designation as a "high risk" grantee for its FFY 2005 Part C grant;
- In the Transition cluster: (1) the results of specific strategies implemented for translation of the new interagency agreement and conducting regular meetings with Part B and Part C staff to resolve challenges relating to implementation of the new interagency agreement; and (2) monitoring or other data demonstrating compliance with the transition requirements at 34 CFR §303.148 (b)(1) to describe how PRDH will (a) notify the local education agency (LEA) for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B (data examples could include a report on the number of children at transition age whose information has been referred to PRDE), (b) 34 CFR §303.148(b)(2)(i) that, in the case of a child who may be eligible for preschool services under Part B, with the approval of the family of the child, a conference be convened among the lead agency, the family, and the LEA at least 90 days, and at the discretion of the parties, up to six months, before the child is eligible for the preschool services, to discuss any services that the child may receive (data examples could include a review of IFSPs of children at age three to determine if the conference was held timely), and (c) 34 CFR §303.344(h)(1) that the IFSP include the steps to be taken to support the transition.

OSEP recognizes that the APR and its related activities represent only a portion of the work in the Commonwealth, and we look forward to collaborating with you as you continue to improve results for infants and toddlers with disabilities and their families. If you have questions, please contact Linda Whitsett at 220-245-7573.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Naydamar Perez Otero, MD