



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

Honorable Tammy Sandoval
Acting Deputy Commissioner
PO Box 110601
350 Main Street, Suite 229
Juneau, Alaska 99811-0601

OCT - 4 2005

Dear Commissioner Sandoval:

The purpose of this letter is to respond to the Alaska Department of Health and Social Service's (ADOHSS's) May 9, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part C for the grant period July 1, 2003 through February 28, 2005¹. The APR reflects actual accomplishments that the State made during the reporting period, compared to established objectives. 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 the State's FFY 2003 APR and the submission of the February 4, 2005 Progress Report. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion of OSEP's FFY 2002 APR response letter required the State to submit a Progress Report on February 4, 2005², to include data or other information to demonstrate correction of the four previously identified areas of noncompliance:

- General Supervision: (1) monitoring procedures that identify noncompliance with Part C requirements; and (2) timely correction of identified noncompliance consistent with 34 CFR §303.501.
- Early Intervention Services in Natural Environments: (1) complete evaluations and assessments to ensure that the initial IFSP meeting is held within 45 days of the referral, as required by 34 CFR §§303.321(e) and 303.322(e); and (2) provide services in natural environments as required by 34 CFR §§303.12 and 303.344.

ADOHSS was required to submit data in the FFY 2003 APR to demonstrate improvement with the following three areas of performance:

¹ ADOHSS submitted data and information that covered a 20-month period to address the previously identified areas of noncompliance.

² ADOHSS submitted the February 4, 2005 final Progress Report as part of its March 2005 submission of its FFY 2003 APR.

- Family Centered Services: (1) the extent to which family supports and services enhance the family's capacity to assist the child achieve their outcomes, and (2) IFSPs include a statement of the family's resources priorities and concerns with the concurrence of the family as required by 34 CFR §303.322(d) and 303.344.
- Early Intervention Services in Natural Environments: the percentage of children participating in the Part C program who demonstrate improved and sustained functional abilities in the five developmental domains.

ADOHSS was also required to submit a final Progress Report on December 15, 2005³ to demonstrate full compliance with the five previously identified areas of noncompliance:

- General Supervision: to ensure that parents understand their rights consistent with the procedural safeguards provisions as required by 34 CFR §303.403.
- Early Intervention Services in Natural Environments: a single service coordinator is identified, as required by 34 CFR §303.12(d)(11), 303.23(a)(2), and 303.321(e)(1).
- Early Childhood Transition: (1) transition meetings are held at least 90 days prior to the child's third birthday; (2) the lead agency notifies the appropriate local education agency that the child will shortly reach the age of eligibility for preschool services under Part B; and (3) IFSPs include steps to support the transition of the child and the family, as required by 34 CFR §303.148(b) and 303.344(h).

General Supervision

Identification and timely correction of noncompliance

On pages 2-9, in Attachment Table GS.1.1, and in the sample local Improvement Plans (IPs) of the FFY 2003 APR, the State included data and analysis that demonstrated correction of noncompliance identified in OSEP's FFY 2002 APR response letter with respect to monitoring procedures that identify noncompliance with Part C requirements, as required by 34 CFR §303.501. ADOHSS stated that several changes were made to improve its monitoring protocols and procedures, including increasing the frequency of on-site monitoring from once every four years to once every three years, the incorporation of 16 indicators to ensure consistency with Federal Part C requirements, and the requirement that regional programs develop a Quality Improvement Plan to address identified issues of noncompliance and demonstrate correction of noncompliance within one year of receiving the on-site monitoring report.

The State made three on-site monitoring visits in January through May 2003 and eight on-site monitoring visits from December 2003 through February 2004. The three Early Intervention Local Programs (EILPs) monitored in FFY 2002 and two of the three EILPs monitored in FFY 2003 completed the strategies in their Improvement Plans (IPs) to demonstrate compliance. The timeline for the one remaining EILP monitored during FFY 2003 and the three EILPs monitored in FFY 2004 to demonstrate compliance extended beyond the reporting period. ADOHSS provided information in the appendix of the FFY 2003 APR that demonstrated progress towards compliance

³ OSEP is requesting that ADOHSS submit its final Progress Report in conjunction with the State Performance Plan (SPP) due on December 2, 2005. The submission of the State's final Progress Report in conjunction with the SPP (although not required) will assist OSEP in its analysis to determine the status of compliance and performance in the State.

for the remaining four EILPs. Alaska appears to have a system in place that is reasonably designed to identify noncompliance with Part C requirements. OSEP appreciates the work of the State in this area.

OSEP also previously identified noncompliance with respect to the timely correction of identified noncompliance, as required by 34 CFR §303.501. The State acknowledged on page 4 of its FFY 2003 APR that it has not made follow-up visits to verify corrections of noncompliance, and therefore, did not provide copies of correspondence confirming the status of correction for each EILP monitored, as requested by OSEP in its November 2004 letter. Along with the State Performance Plan (SPP) on December 2, 2005, the State must submit copies of correspondence confirming the status of correction for each EILP monitored, and updated data and analysis for the four remaining EILPs, to demonstrate compliance with this requirement. OSEP looks forward to reviewing the State's data in this area in the SPP due December 2, 2005.

Dispute resolution

On pages 8-10 and 47-48 of the FFY 2003 APR, the State included data and analysis that demonstrated progress towards correction of the noncompliance identified in OSEP's FFY 2002 APR response letter in the following area: parents are provided their procedural safeguards as part of the prior written notice, as required by 34 CFR §303.403. The State reported data from record reviews that indicated 91% of families received and signed information regarding their rights. In addition, the results from the parent survey indicated 93% of families agreed that they received information on their rights in an understandable manner, 6% indicated neutral, and 1% disagreed. ADOHSS stated that the EILPs where noncompliance was identified in this area continued to implement the strategies in their IPs. ADOHSS also reported that no complaints, mediations, or due process hearings were filed during the reporting period. In the final Progress Report, due on December 2, 2005, the State must include data and analysis demonstrating full compliance with this requirement for the remaining EILPs continuing to implement the strategies in their IPs. OSEP looks forward to reviewing the State's data in this area in the SPP due December 2, 2005.

Personnel

On pages 10-11 and in Attachment GS.IV.1 of the FFY 2003 APR, the State included data and analysis regarding performance in this area to ensure that sufficient personnel are available to meet the identified early intervention needs of all eligible infants and toddlers and their families. ADOHSS reported that the total number of full-time equivalent staff available to serve Part C eligible children, remained constant from FFY 2003 to FFY 2004. ADOHSS reported that in some rural areas of the State it was difficult to fill staff vacancies in a timely manner, and that may have an impact on the timely provision of services, as described in the Early Intervention Services in Natural Environments section of this letter. ADOHSS stated that the implementation of a trans-disciplinary model and other relevant strategies were employed to address this issue and to ensure the recruitment and retention of qualified personnel. OSEP appreciates the work of the State regarding performance with this requirement.

Collection and timely reporting of accurate data

On pages 12 -13 of the FFY 2003 APR, the State included data and analysis regarding compliance in this area. ADOHSS reported compliance with the requirement for all local programs to submit

the required data sets, including the 618 data in a timely manner, consistent with the State's contract provisions. ADOHSS stated that with assistance from the General Supervision Enhancement Grant (GSEG) a pilot project would be implemented to convert the EILP database to a web-based system in order to improve data quality and the availability of child and family outcome data. OSEP looks forward to reviewing the State's data in this area in the SPP due December 2, 2005.

Comprehensive Public Awareness and Child Find System

On pages 14-16 and in Table CC.1.1, Graphs CC.I.2, CC.II.1 and CC.II.3 of the FFY 2003 APR, the State included data and analysis regarding this cluster area. ADOHSS provided data from the analysis of its public awareness and child find activities as required by 34 CFR §§303.320, 303.321 and 303.323 of Part C of the IDEA. ADOHSS reported that although the State has a narrow eligibility definition⁴, the number of eligible children birth to three served increased from 2.1% in FFY 2002 to 2.2% in FFY 2003, consistent with the national average. The State reported that the number of eligible children under one year of age increased from .8% in FFY 2000 to .9% in FFY 2003. ADOHSS stated that the referrals from primary referral sources remained consistent over four years, referrals from neonatal intensive care units and Child Protective Services demonstrated an increase. Alaska attributed this increase to the implementation of the Child Abuse Prevention and Treatment Act (CAPTA) regulations. OSEP looks forward to reviewing the State's data in this area in the SPP due December 2, 2005.

Family Centered Services

In OSEP's November 2004 letter to the State, OSEP identified two areas of concern: (1) only 48% of the IFSPs reviewed contained documentation that the family assessment was voluntary on the part of the family, as required by 34 CFR §303.322(d)(2); and (2) the State did not provide data regarding achieving family outcomes that demonstrate the family's capacity to enhance child outcomes.

With respect to the issue of whether family assessments were voluntary, OSEP concluded in the November 2004 letter that, since the data reflected a review of only 21 IFSPs, it was unclear whether family assessments were voluntary, and asked Alaska to provide updated data in the FFY 2003 APR. On pages 17-24 of the FFY 2003 APR, the State reported that 93% of the records reviewed contained documentation for parental consent to conduct a family assessment.⁵ The remaining records did not contain documentation of a family assessment or did not indicate whether the family declined to participate in the voluntary family assessment process. ADOHSS stated that EILPs where noncompliance with this requirement was identified were required to develop strategies to improve within 12 months of the monitoring review, and were scheduled for a follow-up visit to ensure correction of the noncompliance. OSEP appreciates the work of the State in this area.

⁴ ADOHSS's eligibility criteria required a child to demonstrate a 50% delay or equivalent standard deviation below the norm in one area.

⁵ OSEP notes that, although a State may do so, IDEA does not require that a State obtain prior informed written consent under 34 CFR §§303.401 and 303.404 from the family prior to conducting a family assessment. Rather, family assessments must be voluntary on the part of the family and the State may track this concurrence by documenting the family's concurrence on the IFSP. 34 CFR §303.322(d)(2).

Regarding progress towards achieving child and family outcomes that demonstrate the family's capacity to enhance child outcomes, the State provided the requested data. ADOHSS reported on page 19 of the FFY 2003 APR that 98% of the individualized family service plans (IFSPs) contained documentation that reflected family concerns, priorities, and resources. The result of the State's family survey indicated: (1) 88% of the families agreed, 10% were neutral and 3% disagreed with the statement that family needs were considered in the development of the IFSP; (2) 93% of the families agreed, 6% were neutral and 1% disagreed with the statement that information and training was provided to assist the parent to help their child; and (3) 90% of the families reported that their child's development was enhanced by EILP services, 10% of the families were neutral and 1% disagreed. The State reported it would continue to explore strategies with support from the GSEG to measure the impact of early intervention services on child and family outcomes. OSEP looks forward to the State's response to the family outcomes indicator in the SPP.

Early Intervention Services in Natural Environments

Service coordination

On pages 24-25 and in Table GS.I.2 of the FFY 2003 APR, the State included data and analysis demonstrating correction of noncompliance identified in OSEP's November 2004 FFY 2002 APR response letter to the identification of a single service coordinator, as required by 34 CFR §§303.12(d)(11), 303.23(a)(2), and 303.321(e)(1). ADOHSS reported data that indicated 93% of the records reviewed contained documentation that a service coordinator was assigned at the time of referral. Quarterly data analyses for FFY 2004 indicated that 100% of enrolled children had a service coordinator assigned and designated on the IFSP. OSEP appreciates the work of the State regarding this requirement, and has no further concerns regarding this issue.

Evaluation and Identification of needs

OSEP previously identified noncompliance with the requirement at 34 CFR §§303.321(e)(2) and 303.322(e)(1) that the State complete evaluations and assessments, and ensure that the initial IFSP meeting is held, within 45 days of the referral.⁶ On pages 25-26, and in Attachment Graph CE.I.2 of the FFY 2003 APR, the State included data and analysis demonstrating some progress in this area. Alaska reported that in FFY 2004, 74% of Part C eligible children had comprehensive evaluations and assessments and IFSPs completed within 45 days of referral, an increase from 50% of eligible children the previous year. The State also reported that it reviewed a sample of 10 IFSPs in which evaluations and assessments were not completed in a timely manner. The State found that the delays in completing evaluations and assessments for these 10 children were caused by family/child circumstances 90% of the time and program or staff issues 10% of the time. Some of the delays are attributed to provider shortages and severe weather conditions. ADOHSS reported that it took the following steps to improve compliance in this area: implemented local improvement plans with strategies to correct 45-day timeline deficiencies, quarterly monitoring of data, statewide meeting of coordinators to discuss various strategies, and technical assistance. EILPs where noncompliance was identified continued to implement the strategies in their IPs. With the SPP due December 2, 2005, the State must submit updated data documenting compliance with the requirement that evaluations and assessments are completed in order to hold the initial IFSP

⁶ ADOHSS policy requires EILPs to complete the IFSP within 45 days from referral rather than hold the initial IFSP meeting within 45 days from referral.

meeting within 45 days of the referral, as required by 34 CFR §§303.321(e) and 303.322(e), and the initial IFSP meeting is held within 45 days of the referral to Part C, as required by 34 CFR §303.342(a). The State must submit updated data and analysis documenting compliance with these requirements, including the status of the Improvement Plans for each EILP where noncompliance was identified. OSEP will review that data and respond at a later date.

Alaska reported that 93% of the records reviewed indicated that the IFSP summarized the child's growth and level of development in all five developmental domains. The results of the family survey indicated 86% of the families agreed with the statement that their child's needs were included on the IFSP, 12% were neutral and 2% disagreed.

Individualized family service plans (IFSPs)

On pages 33-35 of the FFY 2003 APR, the State included data and information indicating noncompliance in ensuring that all services identified on the IFSP were provided as required by 34 CFR §303.340(c). This is an area of noncompliance not identified by OSEP in the FFY 2002 APR. ADOHSS indicated 73% of the IFSPs reviewed demonstrated that all services were provided consistent with the documentation on the IFSP. The remaining 27% indicated gaps in services or a change in the frequency of services. ADOHSS reported factors that contributed to the gaps in services: (1) provider vacancies; and (2) families away from home due to seasonal employment, accessing extended family supports out of State, and the child receiving medical care outside of the area. ADOHSS indicated that the results of the family survey demonstrated that 84% of families agreed that their child received all services as documented on the IFSP. The State indicated that its data did not capture when families are away from home due to seasonal employment or other factors that are out of the control of the State, and ADOHSS indicated that it would implement procedures to have the IFSPs more accurately reflect why services are not being provided, or being provided at a change in frequency. The State also reported that EILPs where noncompliance was identified have developed an IP.

In the FFY 2003 APR, the State included strategies, proposed evidence of change, targets and timelines to ensure compliance within a reasonable period, not to exceed one year from the date of this letter. OSEP accepts this plan. In the SPP, the State must also include data and analysis demonstrating progress toward compliance and provide a final Progress Report to OSEP, with data and analysis demonstrating compliance as soon as possible, but not later than 30 days following the one year from the date of this letter. OSEP looks forward to reviewing the State's data demonstrating progress in this area in the SPP due December 2, 2005.

Natural environments

OSEP's November 2004 letter identified noncompliance with the natural environments requirements of 34 CFR §303.344(d)(1)(ii), and required the State to submit data demonstrating full compliance with this requirement in its February 2005 final progress report. On pages 36-38, Table GS.I.2, and in Graph CE.IV.1 of the FFY 2003 APR, the State included data and analysis demonstrating substantial compliance in ensuring that services are provided in the natural environment to the maximum extent appropriate to the needs of the child, and appropriate justifications of the extent, if any, to which services were not provided in the natural environment are included on the IFSP, as required by 34 CFR §§303.12(b) and 344(d)(1)(ii). In Table GS.I.2, and on pages 36 – 37 of the FFY 2003 APR, the State reported that a summary of child record

reviews at 6 regional sites indicated that early intervention services were provided in the natural environment or there was a justification in the IFSP in 96% of the files reviewed. Only two records did not have an appropriate justification; and the State indicated additional follow-up. ADOHSS stated that EILPs where noncompliance was identified implemented strategies in their IPs. The State also reported in Graph CE.IV.1 that as of December 2003 94% of early intervention services were provided in the home or programs for typically developing children. OSEP appreciates the State's efforts in this area.

Early childhood outcomes

On pages 38-40 of the FFY 2003 APR, the State included data and analysis regarding the requirement that children participating in the Part C program demonstrate improved and sustained functional abilities. ADOHSS reported that a comparison of initial assessment scores with assessment results suggests that enrolled children make gains in developmental areas of identified concerns. However, the State did not provide any specific data in this area. The results of the family survey indicated that 90% of families agreed with the statement that their child's development was enhanced by the EILP services, 10% were neutral, and 1% disagreed. ADOHSS reported that with assistance from the GSEG and the Early Childhood Outcomes (ECO) Center, methods would be explored to capture and report this data. 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. OSEP looks forward to reviewing the State's plan for collecting this data, in the SPP.

Early Childhood Transition

On pages 40-47, Attachment Table GS.1.2, and Attachment Graphs CT.I.1 and CT.I.2 of the FFY 2003 APR, the State included data and analysis demonstrating progress in correcting noncompliance with ensuring: (1) transition meetings are held at least 90 days prior to the child's third birthday, as required by 34 CFR §303.148(b)(2)(i);⁷ (2) the lead agency notifies the appropriate local education agency that the child will shortly reach the age of eligibility for preschool services under Part B, as required by 34 CFR §303.148(b)(1); and (3) IFSPs include steps to support the transition of the child and the family, as required by 34 CFR §§303.148(b)(4) and 303.344(h).

ADOHSS reported a review of a sample of 45 IFSPs, including 23 children who were approaching or beyond their 3rd birthday. Of the 23 IFSPs reviewed, 82% of the families had a transition conference at least 90 days prior to the child's third birthday, compared to 79% reported in the September 2004 Progress Report. ADOHSS reported that its database did not capture data regarding the lack of parental consent or other factors that may have contributed to the delay in conducting the transition conference.

⁷ Section 637(a)(9)(A)(ii)(II) of the IDEA Amendments of 2004 changed the transition conference timeline from "not more than 6 months" to "not more than 9 months" before the child is eligible for preschool services (i.e., before the child's third birthday).

With respect to the requirement that the lead agency notify the local educational agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act, ADOHSS stated on page 43 of the FFY 2003 APR that a review of the 23 IFSPs referenced above indicated that 86% contained documentation that the lead agency notified the local education agency, and that three records from three different EILPs did not contain the required documentation, an increase from 82% reported in the September 2004 Progress Report.

ADOHSS reported on page 41 of the FFY 2003 APR that a review of the 23 IFSPs referenced above indicated that 91% included a transition plan and 83% of the transition plans included steps to prepare the child and family for transition. The region in which transition plans were found to be incomplete implemented strategies to correct this noncompliance. In addition, on page 41 of the FFY 2003 APR, the State indicated that the Alaska EILP data system reported that 21% of children older than 30 months of age did not have a transition plan in both FFYs 2003 and 2004. However, the EILP data base was modified in early 2004 to include a reminder list of children over 27 months of age and in need of a transition plan, and by December 2004, the percentage of children who did not have a transition plan was 15%. The results from the family survey indicated that 79% of the families agreed that they were satisfied with the way their child was prepared for the transition from EILP to another program, 13% of families were neutral and 8% disagreed. ADOHSS reported that further analysis of the data would be conducted to determine the extent to which the delays in the development of transition plans were due to family/child issues or to the enrollment of children over 30 months of age.

ADOHSS reported that all local programs where noncompliance was identified were implementing strategies in their IPs. In the final Progress Report due December 2, 2005, the State must include the data and analysis demonstrating full compliance with these transition requirements. In addition, the State must submit the data that the State is collecting to determine the reasons for delays in transition plans, copies of the EILP Improvement Plans, and documentation of the status of progress for each Improvement Plan. OSEP looks forward to reviewing the State's data in this area in the SPP.

Conclusion

As noted above, the State must submit to OSEP a final Progress Report in conjunction with the SPP, due on December 2, 2005, including updated data and analysis to demonstrate compliance with the six previously-identified areas of noncompliance:

- General Supervision: (1) ensure the timely correction of identified areas of noncompliance for the four remaining local program that did not complete the strategies in their IP as required by 34 CFR §303.501(a)(2)(b); and (2) ensure that parents understand their rights consistent with the procedural safeguard provisions, as required by 34 CFR §303.400.
- Early Intervention Services in Natural Environments: evaluations and assessments are completed in order to hold the initial IFSP meeting within 45 days of the referral, as required by 34 CFR §§303.321(e) and 303.322(e), and the initial IFSP meeting is held within 45 days of the referral to Part C as required by 34 CFR §303.342(a).

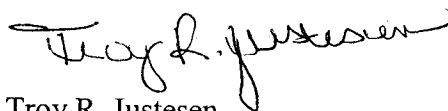
- Early Childhood Transition: (1) transition meetings are held at least 90 days prior to the child's third birthday, as required by 34 CFR §303.148(b)(2)(i); (2) the lead agency notifies the appropriate local education agency that the child will shortly reach the age of eligibility for preschool services under Part B, as required by 34 CFR §303.148(b)(1); and (3) IFSPs include steps to support the transition of the child and the family, as required by 34 CFR §§303.148(b)(4) and 303.344(h).

In the SPP due December 2, 2005, ADOHSS must submit data and required information to demonstrate compliance, or progress towards compliance, with the one newly-identified area of noncompliance -- Early Intervention Services in Natural Environments -- to ensure that all services identified on the IFSP were provided as required by 34 CFR §303.340(c). A final Progress Report on this area of noncompliance is due no later than 30 days following one year from the date of this letter.

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 as 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 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 Alma McPherson at (202) 245-7443.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Jane Atuk
Part C Coordinator