



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

Honorable Ronald A. Lebel, Esq.
Acting Director of Human Services
Rhode Island Department of Human Services
Louis Pasteur Building
600 New London Avenue
Cranston, Rhode Island 02920

OCT - 4 2005

Dear Honorable Lebel:

The purpose of this letter is to respond to Rhode Island's submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part C funds used during the grant period July 1, 2003 through June 30, 2004. This letter also responds to the State's March 29, 2005 letter to the Office of Special Education Programs (OSEP) in response to OSEP's January 14, 2005 letter informing Rhode Island of the results of its on-site visit during the week of September 27, 2004, and a May 11, 2005 email to OSEP. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States. The APR is a significant data source 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 document data-based determinations regarding performance and compliance in each of the cluster areas. OSEP's comments on the State's FFY 2003 APR are listed by cluster area.

Background

Based on Rhode Island's Self-Assessment, its FFY 2002 APR, and OSEP's verification visit, OSEP had identified 3 areas of noncompliance: (1) public awareness requirements at 34 CFR §303.320, (2) prior written notice requirements at 34 CFR §303.403, and (3) the requirement at 34 CFR §303.501 that the State have a reasonable system in place to correct noncompliance in a timely manner. With respect to public awareness, OSEP's January 14, 2005 verification letter confirmed that OSEP had reviewed the Final Progress Report submitted by Rhode Island on September 27, 2004 and acknowledged that the State had resolved this issue. With respect to the prior written notice requirements, OSEP directed the State to submit a plan in its FFY 2003 APR that included strategies, targets and timelines to resolve this issue. This issue is discussed more fully in the section of this letter under General Supervision, Dispute Resolution. Finally, OSEP, in its January 2005 letter, directed Rhode Island to provide a plan in its FFY 2003 APR to ensure timely correction of noncompliance identified by the State in its monitoring procedures. This issue is discussed under the General Supervision cluster area.

In addition, based on its review of Rhode Island's Self-Assessment, its FFY 2002 APR, and OSEP's verification visit, OSEP had identified 5 areas of potential noncompliance: (1) the

requirement at 34 CFR §303.501 that the State have a monitoring system reasonably designed to identify noncompliance; (2) the requirement at 34 CFR §303.540 that Rhode Island's data system collect the data the State is required to report under Section 618 of IDEA; (3) the provision of early intervention services in accordance with IFSPs, as required by 34 CFR §303.340(c); (4) the 45-day timeline from referral to initial IFSP meeting, 34 CFR §§303.321(e)(2)(ii) and 303.342(a); and (5) the requirements of 34 CFR §303.344(d)(1)(ii) regarding natural environments.

Rhode Island submitted its final Progress Report during the verification visit, conducted during the week of September 27, 2004. OSEP reviewed the Report and responded in its January 14, 2005 verification visit letter to the State, and required DHS to submit, in its FFY 2003 APR its proposed monitoring procedures that will be used monitor all entities that are part of the Part C system to ensure identification and correction of noncompliance with Part C requirements. Additionally, OSEP directed that, in the FFY 2003 APR, the State must:

1. Demonstrate that the initial evaluation is completed within 45 days from the date of referral as required by 34 CFR §303.321(e)(2)(i);
2. Submit its plan including strategies, targets and timelines to ensure timely correction of noncompliance within a reasonable period not to exceed one year from when the noncompliance is identified by the State;
3. Submit documentation demonstrating that parents are informed of how to file a complaint, including the option to file a formal written complaint;
4. Submit a plan that includes strategies, targets, and timelines to ensure that prior written notice is provided to parents when required under 34 CFR §303.403; and
5. Report on the progress in updating its data system to accurately reflect exiting data as required under Section 618 of IDEA (including its review of the requirements for reporting exiting data, to ensure that the definitions used by the State match OSEP's definitions and are reported accurately in the appropriate exiting categories). The State was also required to provide its data-based conclusions as to whether its procedures and practices ensure collection and reporting of accurate and timely data, and submit its plan to ensure that the data from all services will be reported under Section 618 reporting including those provided by the three specialty providers.

General Supervision

Identification of noncompliance

OSEP's January 14, 2005 verification letter to the State noted that, because of the change in lead agency in the State effective July 1, 2004, OSEP could not determine if the new lead agency, the Rhode Island Department of Human Services (DHS), had a monitoring system reasonably designed to identify noncompliance. However, OSEP also noted in that letter that, with the exception of the area of timely evaluations, the previous lead agency, the Department of Health (DOH), had a system in place that was reasonably designed to identify noncompliance, and directed DHS to submit its proposed monitoring procedures with the State's FFY 2003 Part C APR.

The State indicated in its March 2005 letter that DHS intends to use the same quality assurance monitoring procedures used by DOH. The State also submitted a description of these procedures on pages 63 and 64 of its amended FFY 2004 application and on pages 6 and 7 of the FFY 2003 APR. In its submissions, Rhode Island reported that each early intervention service provider annually completes a comprehensive self-assessment checklist to assess compliance with Part C and State requirements. DHS reviews these checklists to identify program strengths and weaknesses and provides technical assistance when needed. DHS visits each provider every other year, and also monitors any programs providing services through an IFSP. Rhode Island uses the early intervention management information system (EIMIS) to track information, including service coordination caseloads, referral sources, insurance review, service appointments, children who have turned 3, but have not been discharged, comprehensiveness of evaluation, completeness and timeliness of IFSP content, services data, IFSP within 45-days of referral, rates of services delivered in natural environments, and transition. The State checks the accuracy of this data against paper records through quarterly reviews. With the exception of the issue of identifying noncompliance with timely evaluations, Rhode Island appears to have monitoring procedures that are reasonably designed to identify noncompliance. However, OSEP is unable to make a final determination until the State submits monitoring data.

With respect to the issue of having a monitoring system in place reasonably designed to identify noncompliance with the issue of timely evaluations, Rhode Island reported in its March 2005 letter that DHS is in the process of aligning the state definition of the 45-day rule with the Part C requirements. However, this change in definition only addressed the fact that Part C requires an IFSP meeting to be convened within 45 days of referral, rather than the IFSP completed within 45 days of referral, and did not address monitoring of timely evaluations. Therefore, OSEP is unable to conclude that the State has a system in place that is reasonably designed to identify noncompliance with respect to timely evaluations. In the State Performance Plan (SPP) due December 2, 2005, Rhode Island must submit a plan, including strategies, proposed evidence of change, targets, and timelines to ensure identification of noncompliance -- as required by 34 CFR §303.501 -- with the issue of identifying whether evaluations are timely, as required by 34 CFR §§303.321(e)(2)(i) and 303.322(e)(1), as soon as possible, not to exceed one year from the date when OSEP accepts the plan. In addition, in the SPP, the State must submit monitoring data on Part C requirements, including timely evaluations, from FFY 2004, listing any noncompliance identified by the State.

Timely correction of noncompliance

OSEP's January 2005 letter found that Rhode Island did not appear to have a system in place to ensure that noncompliance is corrected within a timely manner, as required by 34 CFR §303.501. OSEP directed Rhode Island to submit with its FFY 2003 APR a plan to ensure timely correction of noncompliance identified by DOH in its monitoring procedures, including strategies, targets and timelines to ensure correction of noncompliance within a reasonable period not to exceed one year from when the noncompliance is identified.

On pages 7 and 8 of the FFY 2003 APR, the State acknowledged that its standard for timely correction is "not to exceed one year from when the non-compliance is identified by the State." OSEP appreciates the work of the State in clarifying this standard.

With respect to correcting noncompliance in a timely manner, on page 7 of the FFY 2003 APR, the State reported that it added a section to its Quality Assurance Plan entitled "REPORTING AND CORRECTIVE ACTION PLAN TIMELINES." DOH sends a monthly reimbursement adjustment form to each provider, noting any errors or corrective actions that the provider must take. If action is not taken within 30 days, a formal corrective action plan will be requested. DOH will schedule record reviews quarterly, and after the review, a summary is sent to the EI provider within 30 days of completion of the review. The EI provider is required to respond to DOH and all corrective actions must begin within 60 days after the date of the report. Failure to comply within 60 days results in an on-site visit by DOH to provide technical assistance and determine status of compliance issues. On page 2 of its March 2005 letter, DHS stated that in all instances of noncompliance, a corrective action plan will be developed to include strategies, proposed evidence of change, targets, and timelines (not to exceed one year) designed to ensure compliance. It stated that in extreme cases or where there is persistent noncompliance, the State would impose sanctions. DHS designated staff to regularly follow up each instance of noncompliance and to document the progress made in implementation of the corrective action plan. In addition, DHS plans to introduce a reduced reimbursement schedule in its revised certification standards by December 2005. OSEP accepts the State's plan. In the SPP due on December 2, 2005, the State must include monitoring data and analysis, including a list of corrective actions taken, and the status of any noncompliance identified, and provide a final report to OSEP, including data and analysis demonstrating compliance with 34 CFR §303.501, no later than 30 days following one year from the date of this letter.

Dispute resolution

As indicated above, OSEP had identified noncompliance with 34 CFR §303.403 in the area of Rhode Island's prior written notice documents. In its January 2005 letter, OSEP requested that the State submit documentation demonstrating that parents are informed of how to file a complaint, including the option to file a formal written complaint, and submit a plan that includes strategies, targets, and timelines to ensure that prior written notice is provided to parents when required by 34 CFR §303.403. On page 3 of the FFY 2003 APR, the State reported that the new lead agency, DHS, would submit a comprehensive application to OSEP reflecting the revisions to the prior written notice and communication materials to families regarding the process of filing formal written complaints. This was addressed in the March 2005 letter from DHS. On page 2 and 3 of that letter, DHS reported that it was revising all family communication materials including sample letters to clarify the process of filing formal written complaints. In addition, DHS reported that it had updated policies, procedures, regulations, and materials pertaining to prior written notice and clarified to providers and families that this right may not be waived. OSEP accepts the plan detailed in the March 2005 letter. In the FFY 2005 revised Application Rhode Island submitted an assurance in Section II-9 #14 that by October 7, 2005 the State would have procedural safeguards with respect to programs under Part C, as required by 20 U.S.C. 1439. Thus, the prior written notice documents must meet the requirements of 34 CFR §303.403 and include a description of Part C procedural safeguards. In the SPP, the State must confirm that the prior written notice documents were revised as of October 2005 and are being provided to parents when required under 34 CFR §303.403(a).

On page 2 of the FFY 2003 APR, the State reported that there were six informal family complaints between July 1, 2003 and December 31, 2004 that were investigated and resolved. The average amount of time from informal complaint to resolution was 4.5 days. No formal complaints or requests for mediation or due process hearings were received. OSEP looks forward to receiving updated information to address this indicator in the SPP due December 2, 2005.

Personnel

On page 4 of the FFY 2003 APR, the State reported that training was not always available to agencies providing early intervention services and to new direct service providers. It stated that strategies were now in place to improve the quality and comprehensive system of training for personnel within the early intervention service delivery system.

Collection and timely reporting of accurate data

On page 8 of OSEP's January 2005 letter, OSEP discussed its concern that Rhode Island's data system does not collect all of the Section 618 data requirements. Therefore, OSEP directed the State to include in its FFY 2003 APR: (1) its progress in updating its data system, so that exiting data is accurate, as required under Section 618 of IDEA (34.CFR §303.540), (2) its data-based conclusions as to whether the State's procedures and practices ensure collection and reporting of accurate and timely data, and (3) a plan to ensure that the data from all services will be reported under Section 618 reporting, including those provided by the three specialty providers.

With respect to its progress in updating its data system to ensure that exiting data is accurate, Rhode Island reported in its March 2005 letter that in January 2005 it modified EIMIS so that that the discharge data collected by early intervention service providers matches Part C requirements. In addition, the transition coordinator reviewed the updated discharge form and developed a guide sheet for providers to use when inputting data regarding discharging children.

With respect to the remaining two issues, on page 6 of its FFY 2003 APR, the State reported that local programs submit complete and accurate data into the EIMIS under the supervision of a Quality Assurance Coordinator. The State reported on page 7 of its FFY 2003 APR that it has taken the following steps to maintain an accurate data system: reimbursement for file management, on-site technical assistance, quarterly meetings of all data managers with the Quality Assurance Coordinator, and checking EIMIS data against paper records during quarterly record reviews. Finally, in its March 2005 letter and on page 6 of its FFY 2003 APR, Rhode Island reported that it is collecting service data from specialty providers, that early intervention service providers are required to continually update the EIMIS data system, and that service providers are required to attend quarterly EIMIS meetings (92% attendance rate in 2004). Record reviews established an accuracy rate of 90.4% between the data in the EIMIS and client records. OSEP accepts this plan. In the SPP, the State must include data and analysis demonstrating progress toward compliance and provide a final report to OSEP, with data and analysis demonstrating compliance as soon as possible, but not later than 30 days following one year from the date of this letter.

Comprehensive Public Awareness and Child Find

On page 1 of its September 2003 letter, based on its review of Rhode Island's Part C Self-Assessment and Improvement Plan, OSEP identified public awareness as an area of noncompliance under 34 CFR §303.321. The State submitted a final Progress Report during OSEP's verification visit in September 2004. In its January 2005 letter, OSEP acknowledged that Rhode Island had completed its Improvement Plan strategies regarding public awareness. In addition, the FFY 2003 APR indicated on page 12 that the State is serving a higher proportion of eligible children compared with other States. OSEP looks forward to reviewing the State's data in response to the child find indicator in the SPP.

Family Centered Services

The State provided information regarding its performance in this cluster area in the FFY 2003 APR. On page 15 of the FFY 2003 APR, the State reported that DHS would promote a strong collaboration with the Rhode Island Parent Information Network (RIPIN) as well as with parent representatives from the State Interagency Coordinating Council (SICC) to ensure optimal family involvement. DHS reported that it extended the contract with RIPIN to include a parent consultant as part of the DHS team for policy and programmatic decision-making. It will be important for DHS to include in its monitoring the use of family resources, priorities and information in the development of outcomes on the individualized family service plan (IFSP). OSEP looks forward to reviewing the State's response to the family outcomes indicator in the SPP.

Early Intervention Services in Natural Environments

Service coordination

OSEP identified no previous noncompliance regarding service coordination in previous APRs or during the verification visit in September 2004. On May 11, 2005, the State submitted an addendum to the FFY 2003 APR that included data and analysis regarding service coordination. The State concluded that all enrolled children have access to service coordination. This data was captured by the early intervention management information system (EIMIS) and was used for monitoring. OSEP appreciates the State's efforts to improve performance in this area.

Implementation of IFSPs

Part C regulations require the lead agency to ensure that an IFSP is developed and implemented for each eligible child in accordance with 34 CFR §303.340(c). On page 2 of its September 2003 letter, and on page 3 of its September 2004 letter, OSEP identified the implementation of IFSPs as an area of potential noncompliance. In the conclusion of the September 2004 letter, OSEP required the State to provide in the FFY 2003 APR "updated data it collects regarding IFSP implementation" and "information regarding the actions it is taking to address that issue." On page 19 of Rhode Island's FFY 2003 APR, the State reports that family survey results in 2003 indicate that "87% of families reported to receive all of the services/supports in their IFSP" and "94% of families report that they worked with EI staff to decide when, where and how often their

child would receive services to meet their goals.” This is the same data that Rhode Island reported in its FFY 2002 APR. Rhode Island indicated on page 19 of its FFY 2003 APR that it is addressing this issue by conducting a family survey and using the EIMIS to monitor the indicators from January 2005 through June 2005. OSEP notes that on page 18 of the FFY 2003 APR, the State reported that the IFSP forms were revised in November 2003 (the revised form is included in the appendix of the FFY 2003 APR) and fully implemented by February 2004. As part of the training on the new form, the State also developed a guidebook, included in the appendix of the FFY 2003 APR.

OSEP appreciates the steps that Rhode Island took to improve the IFSP forms and their implementation. However, OSEP is concerned whether Rhode Island has a plan in place to ensure that all eligible children and families are receiving the early intervention services listed on their IFSPs. In the SPP due December 2, 2005, Rhode Island must submit to OSEP updated data in response to indicator #1 in the SPP regarding whether eligible children are receiving the early intervention services listed on their IFSPs, including data that DHS is collecting through the EIMIS and family surveys on the implementation of IFSPs from January 2005 through June 2005. If this data indicates noncompliance, the State must submit in the SPP a plan, including strategies, proposed evidence of change, targets, and timelines to ensure correction of the noncompliance as soon as possible, not to exceed one year from the date when OSEP accepts the plan.

45-Day timelines

Referral to evaluation

In its January 2005 verification visit letter, OSEP required the State to demonstrate in its FFY 2003 APR that the initial evaluation is completed within 45 days from the date of referral. On page 20 of the FFY 2003 APR, the State reported that, during the period from July 1, 2003 to June 30, 2004, 57% of evaluations were conducted within the 45-day timeline, and from July 1, 2004 to December 31, 2004 61% of evaluations were conducted within the 45-day timeline. While these data indicate some limited progress, the State is not meeting the 45-day timeline from referral to evaluation as required by 34 CFR §§303.321(e)(2)(i) and 303.322(e)(1).

The FFY 2003 APR did not provide any explanation for these data or a plan to address this issue, other than to indicate that the State had revised the State definition regarding meeting the 45-day timeline with respect to *the initial IFSP meeting* so that it would align with Part C requirements. Furthermore, on page 2 of the March 2005 letter from DHS, the State provided information about the 45-day timeline with respect to *the initial IFSP meeting*, but did not provide any information regarding the 45-day timeline from referral to evaluation. In the SPP due December 2, 2005, Rhode Island must submit a plan to OSEP, including strategies, proposed evidence of change, targets, and timelines to ensure correction of this noncompliance as soon as possible, not to exceed one year from the date when OSEP accepts the plan.

Referral to initial IFSP meeting

On page 4 of the September 2004 letter responding to the FFY 2002 APR, OSEP identified potential noncompliance with the requirement that the State, within 45 days after it receives a referral, hold an IFSP meeting as required by 34 CFR §§303.321(e)(2)(ii) and 303.342(a). The State was given 60 days to provide either the data demonstrating compliance with this requirement or a plan, including strategies, proposed evidence of change, targets and timelines to address this area within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan.

During the verification visit, staff from DOH and DHS provided some data and strategies regarding this potential area of noncompliance and requested an extension to submit a plan and additional data. In FFY 2004, the State changed lead agencies from the Department of Health to the Department of Human Services. OSEP granted an extension of the due date of the plan regarding this potential area of noncompliance until March 31, 2005, when the FFY 2003 APR was due.

Rhode Island addressed this issue on pages 19 - 21 of its FFY 2003 APR and in its March 2005 letter. The State reported on page 20 of the FFY 2003 APR that of 192 records reviewed in 2002, 68% of IFSPs were developed within 45 days of intake or documented a reason for the delay. The State also reported on page 20 of the FFY 2003 APR, and on page 2 of the March 2005 letter, that in January 2005, it updated the EIMIS to collect data tracking the time from referral to the initial IFSP meeting, and not to the initiation of services. On page 21 of its FFY 2003 APR, the State indicated that it had updated its regulations in this area. OSEP notes that Section 9.14 of Rhode Island's regulations requires that "[a] meeting to develop the initial IFSP will be conducted within the forty-five (45) day time limit."

While OSEP appreciates the State's efforts to align its requirements with Part C requirements, OSEP is unable to make a determination regarding compliance with the requirement to hold an initial IFSP meeting within 45 days of the referral. In addition to the data required by the SPP 45-day timeline indicator, the State must provide in the SPP data that was previously requested by OSEP's September 2003 letter – i.e., data on the number and percentages of initial IFSP meetings that were convened within 45 days of referral to Part C. If these data show noncompliance, the State must submit a plan to OSEP, including strategies, proposed evidence of change, targets, and timelines to ensure correction of this noncompliance as soon as possible, not to exceed one year from the date when OSEP accepts the plan.

Natural environments

On page 4 of OSEP's September 2004 FFY 2002 APR response letter, OSEP identified the requirements concerning natural environments as an area of potential noncompliance. OSEP required the State, in its final Progress Report, due September 30, 2004, to confirm that it complied with the requirement at 34 CFR §303.344(d)(1)(ii) to include in the IFSP the natural environments in which early intervention services will be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment. If the State could not confirm compliance, Rhode Island was required to submit, by October 31, 2004, a plan

(including strategies, proposed evidence of change, targets, and timelines) to ensure correction of the noncompliance within a reasonable period, not to exceed one year from the date when OSEP accepts the plan. In the September 2005 verification letter OSEP extended the due date for this plan until the FFY 2003 APR.

There are four issues under 34 CFR §§303.12, 303.18, and 303.344(d)(1)(ii) regarding the provision of early intervention services in natural environments that the State needed to address: (1) provision of services in the natural environment to the maximum extent possible; (2) the goals set by Rhode Island for compliance with Part C natural environments requirements were less than 100%; (3) written justifications on the IFSP when services are not provided within the natural environment; and (4) making individualized determinations regarding natural environments.

With respect to the first issue, the State's data on the location where early intervention services are provided is unclear. In Appendix NA4 of its FFY 2003 APR, the State reports the following:

Location of Service	Service Provider Site	Home	Other Setting
July 02-June 03	18%	73%	9%
July 03-June 04	11%	82%	7%
July 04-Dec 04	11%	81%	7%

The State also reported on the percentage of types of programs during this same time period:

Type of Program	Designed for Typical Children	Designed for EI Children
July 02-June 03	63%	32%
July 03-June 04	73%	27%
July 04-Dec 04	70%	30%

In addition, the most recent child count data from www.ideadata.org indicates that 11% of children receive services in programs for developmentally delayed, 17% in programs for typically developing children, 70% at home, less than 1% at a service provider site, and 1.5% other setting.

This data is unclear – for example, for the period July 03 – June 04, the State reported that 11% of children receive early intervention services at a service provider site, that 30% of children received services in programs designed for EI children, but the child count data states that less than 1% of children received services at a service provider site. OSEP is unable to determine from this conflicting information where children are receiving early intervention services. In the SPP due December 2, 2005, States are required to provide data indicating the percentage of infants and toddlers with IFSPs who primarily receive early intervention services in the home or programs for typically developing children. The State should carefully review its data collection system to ensure that it will be able to provide data responsive to this indicator in the SPP. In addition, in the SPP, the State must clarify the data provided in the FFY 2003 APR and in the child count data submitted to OSEP, including an explanation of the chart in Appendix NA4 of

the FFY 2003 APR, which discusses types of programs, and how that information correlates with the prior chart on location of services.

On pages 2 and 3 of its September 2003 letter, OSEP asked Rhode Island for additional information with respect to the goals set by the State regarding compliance with Part C natural environments requirements, and the requirement that IFSPs include written justifications when services are not provided in the natural environment. At that time, Rhode Island's goals were set at less than 100% compliance and not until 2007. OSEP indicated that if the State was not ensuring compliance with the Part C requirements regarding natural environments, it was to revise the Improvement Plan to ensure full compliance no later than September 2004. In its final Progress Report, submitted as part of its FFY 2003 APR, the State confirmed that it had complied with the requirement that all IFSPs either identify the service setting that is the child's natural environment, or contain an appropriate justification if the early intervention service is not provided in the child's natural environment. OSEP appreciates the State's efforts in this area.

With respect to the issue of making individualized determinations regarding natural environments, on page 4 of its September 27, 2004 letter, OSEP requested that in the FFY 2003 APR, the State report on the specific monitoring methods it used to ensure that IFSP service setting decisions were made on an individualized basis, in accordance with the Part C regulations. Pages 18 and 19 of the FFY 2003 APR showed that providers have been informed about making individualized decisions regarding this issue. OSEP appreciates the State's efforts to ensure compliance in this area.

Early childhood outcomes

Under the Government Performance and Results Act of 1993, 31 U.S.C. §1116, the effectiveness of the IDEA Part C program is measured based on the extent to which children receiving Part C services demonstrate improved and sustained functional abilities in the cognitive, physical, communication, social or emotional and adaptive developmental areas. Instructions for completing the Part C FFY 2001, 2002 and 2003 APRs requested data on the percentage of children participating in the Part C program that demonstrate improved and sustained functional abilities in the developmental areas listed in 34 CFR §303.322(c)(3)(ii). The State did not provide OSEP with any data in response to this performance indicator. 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.

Early Childhood Transition

OSEP identified no previous noncompliance in this cluster area. The State provided baseline and trend data on page 22 of the FFY 2003 APR regarding the State's identification of children eligible for Part B services by their third birthdays. On page 24 of the FFY 2003 APR, the State reported that DHS and the transition coordinator would work with early intervention providers to expand transition options for children and their families not eligible for Part B. OSEP looks

forward to reviewing the State's data response to the early childhood transition indicator in the SPP.

Conclusion

Along with the required content of the SPP due on December 2, 2005, the State must also:

- (1) Submit a plan, including strategies, proposed evidence of change, targets, and timelines to ensure identification of noncompliance -- as required by 34 CFR §303.501 -- with the issue of identifying whether evaluations are timely, as required by 34 CFR §§303.321(e)(2)(i) and 303.322(e)(1), as soon as possible, not to exceed one year from the date when OSEP accepts the plan. In addition, the State must submit monitoring data on Part C requirements, including timely evaluations, from FFY 2004, listing any noncompliance identified by the State;
- (2) With respect to timely correction of noncompliance, submit monitoring data and analysis, including a list of corrective actions taken, and the status of any noncompliance identified, and provide a final report to OSEP, including data and analysis demonstrating compliance with 34 CFR §303.501, no later than 30 days following one year from the date of this letter;
- (3) Confirm that the prior written notice documents were revised as of October 2005 and are being provided to parents when required under 34 CFR §303.403(a);
- (4) With respect to the collection and timely reporting of accurate data, submit data and analysis demonstrating progress toward compliance and provide a final report to OSEP, with data and analysis demonstrating compliance as soon as possible, but not later than 30 days following one year from the date of this letter;
- (5) With respect to implementation of IFSPs, submit updated data in response to indicator #1 in the SPP regarding whether eligible children are receiving the early intervention services listed on their IFSPs, including data that DHS is collecting through the EIMIS and family surveys on the implementation of IFSPs from January 2005 through June 2005. If this data indicates noncompliance, the State must submit in the SPP a plan, including strategies, proposed evidence of change, targets, and timelines to ensure correction of the noncompliance as soon as possible, not to exceed one year from the date when OSEP accepts the plan;
- (6) With respect to the 45-day timeline from referral to evaluation, submit a plan including strategies, proposed evidence of change, targets, and timelines to ensure correction of this noncompliance with 34 CFR §§303.321(e)(2)(i) and 303.322(e)(1) as soon as possible, not to exceed one year from the date when OSEP accepts the plan;
- (7) With respect to referral to initial IFSP meeting, submit data that was previously requested by OSEP's September 2003 letter -- i.e., data on the number and percentages of initial IFSP meetings that were convened within 45 days of referral to Part C. If the data shows noncompliance, the State must submit a plan to OSEP, including strategies, proposed

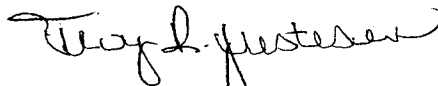
evidence of change, targets, and timelines to ensure correction of this noncompliance as soon as possible, not to exceed one year from the date when OSEP accepts the plan; and

- (8) With respect to natural environments, clarify the data provided in the FFY 2003 APR and in the child count data submitted to OSEP, including an explanation of the chart in Appendix NA4 of the FFY 2003 APR, which discusses types of programs, and how that information correlates with the prior chart on location of services.

IDEA 2004, §616, requires each State to submit a State Performance Plan that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are similar to the 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 Ginger Johnson at (202) 245-7353.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Deborah Florio, Part C Coordinator
Michelle Mickey, Program Analyst
Deb Garneau, Department of Health