



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

Honorable William J. Maloney
Commissioner
Department of Education
Colorado Department of Education
201 East Colfax Avenue
Denver, Colorado 80203

JUN -9 2005

Dear Commissioner Maloney:

The purpose of this letter is to respond to Colorado's March 31, 2004 submission of its November 12, 2004 addendum to its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part B funds used during the grant period July 1, 2002 through June 30, 2003. 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 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 B APRs directed States to address five cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education in the Least Restrictive Environment; and Secondary Transition.

Background

In OSEP's Monitoring Report of the Colorado Department of Education (CDE) dated March 30, 2001, OSEP identified the following areas of noncompliance: (1) services and supports to meet the needs of children with disabilities were not always provided (34 CFR §300.300, §300.380(a)(2)); (2) psychological counseling services were not provided when needed to enable children with disabilities to benefit from special education (34 CFR §300.300, §300.24); (3) adequate supports for children with behavior disorders were not always considered and provided (34 CFR §300.346(a)(2)(i)); (4) adequate supports for accessing the general education curriculum and learning in the least restrictive environment (LRE) were not provided to children with disabilities (34 CFR §300.342(b), §300.346(d), and §300.347(a)(3)(ii)); (5) Individualized Education Program (IEP) teams were not making decisions about appropriate accommodations and modifications for children with disabilities in statewide and district-wide assessments (34

CFR §300.138(a), §300.347(a)(5)); (6) general education teachers did not participate in IEP development (34 CFR §300.346(d)); (7) CDE did not have effective methods for identifying deficiencies in programs providing services to children with disabilities (34 CFR §300.600); (8) CDE did not have an effective system for resolving state complaints regarding violations of Part B (34 CFR §§300.660-300.662); and (9) CDE did not ensure that due process hearing decisions were reached and mailed to the parties within 45 days after the receipt of a request for a hearing (34 CFR §300.511(a)).

In response to the noncompliance, CDE submitted an Improvement Plan on September 13, 2002. OSEP approved CDE's Improvement Plan on November 12, 2002 and requested that CDE provide Progress Reports by December 31, 2002 and July 1, 2003. OSEP based its approval on the understanding that CDE's strategies, proposed evidence of change, and timelines were designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP approved the plan.

OSEP visited Colorado the week of September 27, 2004 to verify the effectiveness of the State's systems for general supervision, the collection of data under Section 618 of IDEA and statewide assessments. OSEP is providing CDE with the results of this visit in a letter issued today under separate cover. During the verification visit, CDE provided data and additional information that indicated that the State had made significant progress toward correction of some of the noncompliance that OSEP identified in its 2001 Monitoring Report; however, this additional data and information were not included in CDE's initial FFY 2002 APR submission to OSEP. Therefore, CDE submitted its November 12, 2004 addendum to its FFY 2002 APR for OSEP's consideration.

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. This letter responds to the State's FFY 2002 APR submitted to OSEP on March 31, 2004, the State's November 12, 2004 addendum to its FFY 2002 APR, the September 13, 2002 Improvement Plan, and the December 18, 2002 and July 1, 2003 Progress Reports. OSEP's comments are listed by cluster area.

General Supervision

Monitoring: Identification and Correction of Noncompliance. CDE must: (1) ensure that each educational program for children with disabilities administered within the State meets CDE's standards, including the requirements of Part B (34 CFR §300.600(a)(2)(ii)); and (2) implement proper methods of monitoring to identify and correct noncompliance in a timely manner, within one-year of identification (20 U.S.C. 1232d(b)(3)). On pages 1 through 3 of the FFY 2002 APR and on page 1 of the November 2004 APR addendum, the State included data and information that demonstrated its progress in correcting this area of noncompliance, as follows: (1) completion of all improvement strategies and activities planned to ensure that CDE's monitoring system is effective in identifying noncompliance with Part B requirements; (2) implementation of a revised monitoring system that includes quantitative and qualitative data collections and data analysis; (3) use of a local Administrative Unit (AU) self-assessment; (4) on-site monitoring by CDE; (5) development and approval of an AU improvement plan; (6) oversight of the

implementation of the improvement plan; (7) timelines for the correction of noncompliance and targeted follow-up to include on-site visits from CDE if needed; and (8) provision of technical assistance to AUs. The November 2004 APR addendum included additional data and analysis that demonstrated the implementation of the State's revised monitoring system, including progress in correction of the noncompliance identified in OSEP's 2001 Monitoring Report. However, the November 2004 APR addendum did not include documentation demonstrating that all identified noncompliance had been corrected within a reasonable period of time, not to exceed one year of identification.

During OSEP's visit to Colorado the week of September 27, 2004 to verify the effectiveness of the State's systems for general supervision, CDE provided OSEP with data and information on its revised monitoring system, but CDE had not completed a full cycle of its monitoring process at the time of OSEP's verification visit; therefore, evidence of timely correction of noncompliance was not available. While OSEP concluded from the verification visit that CDE's revised procedures for ensuring correction of identified noncompliance represent a reasonable approach to the timely correction of identified noncompliance, OSEP is unable to determine whether CDE ensures correction of noncompliance that it identified through monitoring, within a reasonable period of time, not to exceed one year of identification. In the FFY 2003 APR, due 60 days from the date of this letter, Colorado must include data and analysis demonstrating that the State ensures the correction of all identified noncompliance within one year of identification, (34 CFR §300.600(a)(2)(ii) and 20 U.S.C. 1232d(b)(3)(E)), including samples of approved improvement plans, documentation of follow-up visits, and evidence of corrected noncompliance.

Other Areas of Noncompliance Identified in OSEP's March 2001 Monitoring Report

OSEP's March 2001 Monitoring Report also identified noncompliance in the following areas: (1) services and supports to meet the needs of children with disabilities were not always provided (34 CFR §300.300, §300.380(a)(2)); (2) psychological counseling services were not provided when needed to enable children with disabilities to benefit from special education (34 CFR §300.300, §300.24); (3) adequate supports for children with behavior disorders were not always considered and provided (34 CFR §300.346(a)(2)(i)); and (4) general education teachers did not participate in IEP development (34 CFR §300.346(d)). On pages 19 through 30 of the September 2002 Improvement Plan, CDE provided improvement strategies including training and technical assistance, and proposed evidence of change designed to ensure correction of the noncompliance described above. In its November 2002 letter approving those strategies, OSEP requested that CDE submit Progress Reports by December 31, 2002 and July 1, 2003 on CDE's Improvement Plan; specifically, OSEP requested CDE demonstrate that: (1) all needed services based on individual needs are included in students' IEPs; (2) teachers have access to the IEPs and behavior plans; (3) teachers know their responsibilities for implementing them; and (4) the services indicated on the IEPs are provided. CDE's Progress Reports did not include the requested data. While CDE's November 2004 APR addendum included monitoring data and analysis to address these areas of noncompliance, CDE did not include documentation that the State has ensured the correction of previously-identified noncompliance, as required by 20 U.S.C. 1232d(b)(3)(E) and 34 CFR §300.600(a)(2)(ii) in the above-described areas.

In the FFY 2003 APR, due 60 days from the date of this letter, CDE must provide documentation demonstrating correction of previously-identified noncompliance in the four areas listed below, including copies of monitoring reports, corrective action plans, and evidence of timely correction of identified deficiencies regarding services and supports to meet the needs of children with disabilities; the provision of needed psychological counseling services; the provision of adequate supports for children with behavior disorders; and the participation of general education teachers in IEP development.

Timely Completion of Complaints. CDE must ensure that a written decision is issued on a complaint alleging a violation of Part B 60 days from the date that the complaint is filed, unless the timeline is extended because exceptional circumstances exist with respect to a particular complaint (34 CFR §300.661(a) and (b)(1)). Attachment 1 of the APR included data that indicated that for the reporting period July 1, 2002 through June 30, 2003, written decisions were issued for 17 of 31 complaints entered into CDE's complaint log within the 60-day timeline, and 14 complaints had not been investigated or had been withdrawn or dismissed for lack of jurisdiction. CDE must have procedures for resolving each allegation in the complaint and for issuing a written decision that contains findings of fact and conclusions and the reasons for the State's final decision (34 CFR §300.661(a)(4)).

OSEP's 2001 Monitoring Report found that CDE was not resolving all Part B complaints within timelines, did not have a standard for granting an extension of the 60-day timeline that complied with the Part B regulation at 34 CFR §300.661(b)(1), and had complaint procedures that were inconsistent with the Part B requirements at 34 CFR §§300.660-300.662. The September 2002 Improvement Plan included baseline data, improvement strategies, evidence of change, benchmarks and timelines to address this area of noncompliance. In its November 12, 2002 letter regarding CDE's Improvement Plan, OSEP requested that CDE demonstrate that its written decisions in Part B complaints: (1) address each of the allegations in the complaint; (2) include findings of fact and conclusions; and (3) are based on an independent review conducted by CDE, and not on the complainant's having to meet a particular burden of proof. As indicated in OSEP's letter issued to CDE today under separate cover regarding the results of OSEP's September 2004 verification visit to CDE, OSEP is satisfied that CDE has addressed the noncompliance identified in CDE's March 2001 monitoring report regarding complaint procedures. In the FFY 2003 APR, due 60 days from the date of this letter, CDE must continue to report on its compliance and performance in this area.

Due Process. OSEP's 2001 Monitoring Report found that CDE was unable to ensure that, not later than 45 days after the receipt of a request for a hearing, a final decision was reached and a copy of the decision was mailed to each of the parties, unless a specific extension of time was granted by the hearing officer at the request of either party (34 CFR §300.511(a) and (c)). The September 2002 Improvement Plan included baseline data, improvement strategies, evidence of change, and timelines to address this area of noncompliance. Attachment 1 of the APR included data that indicated that of the 29 hearing requests, one decision was issued within the 45-day timeline and the remaining 28 hearing requests were either withdrawn or dismissed for lack of jurisdiction. During the verification visit, OSEP reviewed CDE's log of due process hearing requests from January 2003 through September 2004. OSEP examined a sample of eight hearing files, and interviewed CDE staff responsible for CDE's due process hearing system. Of the 31

hearing requests filed during the above time period, written decisions were issued for three hearing requests within the 45-day timeline. The other 28 requests were settled, withdrawn, or dismissed within the 45-day timeline. As a result, OSEP finds that CDE has addressed the issue regarding due process hearings in CDE's 2001 monitoring report and is in compliance with Part B due process hearing requirements at 34 CFR §300.511(a). In the FFY 2003 APR, due 60 days from the date of this letter, CDE must continue to provide data and analysis demonstrating performance and compliance in this area.

Sufficient Supply of Qualified Personnel. On page 7 of the FFY 2002 APR, the State reported data from 2000-2001 through 2002-2003 on the numbers of teachers applying for licensure in special education. CDE identified activities including State Improvement Grant (SIG) initiatives to improve the quantity and quality of special education staff in the state. On page 8 of the APR, CDE reported that the State did not have a systemic method of tracking teacher vacancies. On page 2 of the November 12, 2004 APR addendum, CDE acknowledged that services and supports to meet the needs of children with disabilities are not always provided due to a lack of personnel. CDE included targets and activities to develop a data collection mechanism in the summer of 2004 and collect baseline data for the 2004-2005 school year. In the FFY 2003 APR, due 60 days from the date of this letter, CDE should continue to report on the implementation of strategies to ensure an adequate supply of qualified personnel.

Data Collection and Reporting. The instructions to this cluster ask States whether State practices and procedures ensure the collection of accurate and timely data. On page 3 of the FFY 2002 APR, and in its November 12, 2004 addendum to the FFY 2002 APR, the State included data and information regarding data collection and analysis as a component of CDE's Continuous Improvement Monitoring Process (CIMP). CDE identified the following CIMP data collections: (1) AU Self Assessment; (2) staff survey; (3) parent survey; (4) student record review (IEP); (5) Colorado Student Assessment Program (CSAP) Performance Analysis; (6) December Count; (7) focus groups; and (8) AU checklists. In the FFY 2003 APR, due 60 days from the date of this letter, CDE should continue to report on the implementation of its strategies to ensure the collection and reporting of accurate and timely data.

Early Childhood Transition

The instructions to this cluster ask States to determine whether children participating in the Part C program who are eligible for Part B services have an IEP or IFSP in effect by their third birthday, as required by 34 CFR §300.132(b). On pages 12 through 15 of the FFY 2002 APR, CDE included 2003 CIMP survey data that indicated: (1) 48.6 percent of preschool general and special education teachers were invited to attend transition planning conferences for children turning 3; and (2) 90.8 percent of appropriate staff reported that services were provided in a timely manner to children transitioning from Part C to Part B. CDE did not include data and analysis corresponding to the FFY 2002 APR reporting period—July 1, 2002 through June 30, 2003—indicating whether children participating in Part C who were found eligible for Part B services had an IEP or IFSP in effect by their third birthday, as required by 34 CFR §300.132(b). In the FFY 2003 APR, due 60 days from the date of this letter, CDE must submit data and analysis corresponding to the FFY 2003 APR reporting Period—July 1, 2003 through June 30, 2004—indicating whether children who participated in Part C who were found eligible for Part B

services have an IEP or IFSP in effect by their third birthday (34 CFR §300.132(b)). If data demonstrate noncompliance, CDE must include in the FFY 2003 APR a plan with strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance as soon as possible, but not later than one year from the date that OSEP accepts the plan.

OSEP assumes that any Part C to Part B tracking system that Colorado develops will not involve the disclosure of personally identifiable information from students' education records, or if it will, that it is consistent with the IDEA and the Family Educational Rights and Privacy Act (FERPA). OSEP has enclosed for your information a copy of its February 11, 2004, letter to Mary Elder, Executive Director, Texas Interagency Council on Early Childhood Intervention, which discusses the limited disclosure of personally identifiable information for purposes of meeting IDEA's child find mandate.

Parent Involvement

On pages 16 and 17 of the FFY 2002 APR, CDE provided parent survey data along with targets and future activities for improving parent involvement in special education. CDE included targets, explanation of progress or slippage, activities, timelines and resources. On page 17 of the FFY 2002 APR, CDE provided future activities to include continued partnerships in educating parents and the dissemination of information on early childhood transition. OSEP looks forward to reviewing the results of the implementation of these strategies in the next APR.

Free Appropriate Public Education in the Least Restrictive Environment

Disproportionality. On page 32 of the FFY 2002 APR and in Attachment 2, CDE provided data and information on the identification of students with disabilities in disability categories and in educational environments. On page 32 of the APR, CDE indicated that overall, Colorado overidentifies Black and American Indian students and underidentifies Asian students, but identifies Hispanic students at a rate closely consistent with their rate in the general student population. CDE also stated that these data are reflected in the identification rates for students in the disability categories of significantly limited intellectual capacity, emotional disability, perceptual/cognitive, and physical disabilities, including autism and traumatic brain injury. With respect to placements, while CDE acknowledged that the "familiar pattern of over identifying Black and American Indian students and under identifying Asian students emerges," CDE indicated that "some of this may be due to unreliable data reporting from the local level" and inconsistent guidelines. CDE also indicated on page 32 of the APR that local identification practices are reviewed as part of the CIMP, and that if disproportionality is determined, further data collection, investigation, and review are undertaken by the CIMP team, and a local Improvement Plan may be written and implemented. However, CDE did not provide its determination of whether the patterns it identified with respect to identification and placements constitute significant disproportionality on the basis of race in the identification of children in particular disability categories and the placement of children in particular educational settings in accordance with the Part B regulation at 34 CFR §300.755.

34 CFR §300.755 requires States that identify significant disproportionality on the basis of race in the identification of children with disabilities (including identification within particular categories of disability), or in placements into particular settings, to provide for the review and, if appropriate, revision of the policies, procedures, and practices used in identification or placement to ensure that they comply with Part B. Colorado's FFY 2003 APR must include its assessment of whether the identification and placement patterns noted above constitute significant disproportionality on the basis of race in the identification and placement of children with disabilities, and if they do, whether the State has undertaken a review of its policies, procedures, and practices used in the identification and placement, and the results of that review to ensure that they are consistent with the Part B requirements at 34 CFR §300.755.

Graduation and Dropout Rates. The instructions to this cluster ask States to determine whether graduation and dropout rates for children with and without disabilities are comparable. On pages 33 and 34 of the FFY 2002 APR, CDE provided baseline data and analysis on graduations and dropouts, and indicated barriers to comparing graduation and dropout rates for children with disabilities to children without disabilities due to different methods for calculating dropout rates for disabled and nondisabled children. CDE reported on page 33 of the APR baseline data from December 1, 2002 through December 1, 2003 that indicated the following: the dropout rate for children with disabilities 14 years and older was 19.5 percent and the graduation rate for children with disabilities was 74.8 percent. During OSEP's visit to Colorado the week of September 27, 2004, CDE informed OSEP that the collection and reporting of graduation and dropout data have presented challenges due to changes in exit definitions and the accurate reporting of data from all AUs. On pages 33 and 34 of the APR, CDE indicated that it has established a goal of increasing the graduation rate from 74.8 percent to at least 80 percent and decreasing the dropout rate from 19.5 percent to 17 percent. CDE also reported activities designed to provide guidance and technical assistance on graduation requirements and policies and practices to local districts, advocacy organizations and parents, including identification of confusion or discrepancies relating to graduation and award of diplomas, and information relating to discriminatory practices relating to grading, transcripts, promotions, and diplomas for the 2004-2005 school year.

CDE also described the following strategies that it has developed to increase graduation rates and decrease dropout rates: disseminating information through its "Transition Toolkits" to assist in planning futures for students with disabilities; using the School to Work Alliance Project to assist at-risk students with community employment options and assistance in graduating; and reviewing this information as part of the CIMP and requiring AUs to develop and implement improvement plans where deficiencies are identified.

In the FFY 2003 APR, due 60 days from the date of this letter, CDE must include strategies to ensure the collection and reporting of accurate data on graduation and dropout rates, and must report on the continued implementation of the strategies that it has developed to improve performance in this area.

Suspension and Expulsion. On pages 25 and 26 of the FFY 2002 APR, CDE included data and analysis that described how CDE evaluates statistically significant suspension/expulsion and explained that it uses a statistical significance test on what percentage of the AUs' total special

education population is suspended or expelled for more than 10 days. Based on this analysis, CDE reported that four AUs were identified as over-suspending/expelling students with disabilities. CDE indicated further that when a district is identified as “over-suspending/expelling” students with disabilities, that information is forwarded to the CIMP team for review and use in the process or for possible selection for monitoring in the future.

Where the State determines that significant discrepancies are occurring in the rates of long-term suspension or expulsion of children with disabilities across LEAs or compared with the rates for nondisabled children, it must review and, if appropriate, revise (or require the affected State agency or LEA to revise) its policies, procedures and practices relating to the development and implementation of IEPs, the use of behavioral interventions, and procedural safeguards to ensure that the policies, procedures, and practices comply with Part B. In the FFY 2003 APR, due 60 days from the date of this letter, the State must include information indicating that it has examined all data for all LEAs to determine whether significant discrepancies are occurring across LEAs or compared to the rates for nondisabled children, and that when it identifies significant discrepancies, it reviews, and if appropriate, revises (or requires the affected LEAs to revise) policies, procedures, and practices consistent with 34 CFR §300.146.

Participation and Performance of Children with Disabilities on Statewide Assessments. OSEP’s March 30, 2001 Monitoring Report found that IEP teams were not making decisions about appropriate accommodations and modifications for children with disabilities in State and district-wide assessments or including them in IEPs (34 CFR §300.138(a), §300.347(a)(5)). On pages 26 through 28 of the September 2002 Improvement Plan, CDE included baseline data, improvement strategies, evidence of change, and timelines designed to ensure that all children with disabilities will participate in a standards-driven curriculum as indicated on their IEPs with adequate accommodations and modifications, and supports where appropriate in the classroom and on statewide assessments. On pages 28 through 30 of the FFY 2002 APR and in Attachment 3, CDE reported on the performance and participation of children with disabilities on statewide assessments. On pages 27 through 29 of the FFY 2002 APR, CDE included CIMP data and analysis that indicated improved participation rates in the Colorado Student Assessment Program (CSAP) and the Colorado Student Assessment Program Alternate (CSAPA) from 2002 (95%) to 2003 (98%). CDE included explanation of progress, targets and strategies to improve participation and performance of children with disabilities on the CSAP and CSAPA. However, CDE did not provide monitoring data or compliance data demonstrating that IEP teams were making decisions about appropriate accommodations and modifications for children with disabilities in State and district-wide assessments or that teams were including appropriate accommodations in IEPs (34 CFR §300.138(a) and §300.347(a)(5)). Further, OSEP could not ascertain from the verification visit whether those AUs that conduct district-wide assessments had developed accommodation guidelines. In the FFY 2003 APR, due 60 days from the date of this letter, CDE must provide data and analysis demonstrating compliance with 34 CFR §300.138(a) and §300.347(a)(5) with respect to the IEP team’s role in determining whether students should participate in statewide and district-wide assessments with any needed accommodations and including those accommodations in students’ IEPs, and whether AUs that conduct district-wide assessments have developed accommodation guidelines, including providing copies of samples of those guidelines.

District-wide Assessments. Under 34 CFR §300.138, CDE must ensure that students with disabilities are included in district-wide assessments with appropriate accommodations and that in addition to their responsibility for developing accommodation guidelines, districts have developed guidelines for the participation in alternate assessments of children with disabilities who cannot take the general district-wide assessment with individual accommodations. OSEP learned during the verification visit that CDE did not know to what extent those AUs that conduct district-wide assessments conduct alternate assessments for those children who cannot take the regular district-wide assessment with accommodations, and whether such districts have developed alternate assessment guidelines. In the FFY 2003 APR, due 60 days from the date of this letter, CDE must describe the steps that it is taking to ensure that AUs that conduct district-wide assessments have developed guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments with individual accommodations, and provide copies of samples of alternate assessment guidelines. If data demonstrate noncompliance, the State must include a plan with strategies, proposed evidence of change, targets and timelines designed to ensure correction of any identified noncompliance as soon as possible, but not later than one year from the date that OSEP accepts the plan.

Children with Disabilities Educated with Nondisabled Peers to the Maximum Extent

Appropriate. OSEP's March 30, 2001 Monitoring Report found that adequate supports for accessing the general education curriculum and learning in the least restrictive environment (LRE) were not provided to children with disabilities (34 CFR §300.342(b), §300.346(d), and §300.347(a)(3)(ii)). On page 20 of the FFY 2002 APR, CDE reported baseline data from its December 2003 Child Count that indicated 73.2 percent of students with disabilities received their special education services outside the general education classroom less than 21 percent of the day. On page 13 of CDE's November 12, 2004 APR addendum, CDE reported CIMP data from 2003-2004 that demonstrated progress in correction of this noncompliance. The data indicated that 90 percent of IEPs reviewed included accommodations and modifications in order for the student to participate in the general education curriculum; 94.3 percent of IEPs reviewed included the extent to which the student will participate in regular education. On page 20 of the FFY 2002 APR, the State set out continued activities to ensure that children with disabilities are educated with nondisabled peers to the maximum extent appropriate. These include: participation in projects with a focus on assessing student inclusion and trainings on differential instruction; the development and dissemination of guidance designed to improve the provision of accommodations and modifications in the general education environment; and ongoing monitoring of access to the general curriculum in the LRE through the State's CIMP. OSEP has determined that CDE has addressed the noncompliance in this area that was identified in OSEP's March 2001 monitoring report to CDE. CDE must continue to report in the FFY 2003 APR, due 60 days from the date of this letter, on the impact of these strategies and on its progress in ensuring full compliance with the Act's LRE requirements.

Early Language Communications, Pre-Reading, and Social Emotional Skills of Preschool

Children with Disabilities. The State did not address this probe in the FFY 2002 APR. Under 20 U.S.C. §1418(a)(2), States are required to provide information that the Secretary requires. Moreover, under 20 U.S.C. §1232d(b)(4), States are required to cooperate in carrying out any evaluation conducted by the Secretary. Under the Government Performance and Results Act of

1993, 31 U.S.C. §1116, the effectiveness of the IDEA §619 program is being measured based on the extent to which early language communication, pre-reading, and social-emotional skills of preschool children with disabilities receiving special education and related services are improving. In the FFY 2003 APR, due 60 days from the date of this letter, the State must either submit documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

Secondary Transition

The instructions to this cluster ask States to provide information on whether the percentage of youth with disabilities participating in post-school activities is comparable to that of nondisabled children. On pages 35 through 38 of the FFY 2002 APR, CDE provided monitoring data, including survey data to establish baseline data. On page 35 of the APR, CDE reported that of the 718 IEPs reviewed where the determination of assistance from an outside agency was possible, 53.76 percent were determined to require assistance from an outside agency after receiving secondary services, and 15.53 percent had documentation of an invitation to a representative from an outside agency. In the remainder of this cluster, CDE reported on the results of its surveys regarding the availability of career education and the extent to which parents are aware of transition options. CDE developed four performance indicators to address this cluster; however, these indicators do not address whether transition outcomes for students with and without disabilities are comparable. CDE included targets, explanation of progress or slippage, activities, and timelines designed to improve secondary transition for students with disabilities. For example: CDE has developed, provided training, and disseminated "Transition Toolkits;" CDE reported on the Transition Outcomes Project, in collaboration with the State Workforce Development Office; and the Parents Encouraging Parents conference series. CDE planned to undertake a post-school outcomes study in the fall of 2004 to enable it to estimate the number of youth who actually do link with outside agencies. In the FFY 2003 APR, due 60 days from the date of this letter, CDE must provide data comparing post-school outcomes of students with and without disabilities and should report on the impact of the transition strategies described above in the FFY 2002 APR.

Conclusion

In the FFY 2003 APR, due 60 days from the date of this letter, CDE must provide data and analysis demonstrating compliance with the following requirements (including, where appropriate, correction of previously-identified noncompliance):

1. Ensure correction of noncompliance identified through monitoring, within a reasonable period of time, not to exceed one year of identification, by providing documentation, including samples of approved improvement plans, documentation of follow-up visits, and evidence of corrected noncompliance.
2. Ensure correction of identified deficiencies resulting from findings in OSEP's March 2001 Monitoring Report to CDE, including copies of monitoring reports, corrective action plans, and evidence of timely correction of identified deficiencies, with respect to the following:

- a. Ensuring the provision of services and supports to meet the needs of children with disabilities;
 - b. Ensuring the consideration, availability and provision of positive behavioral supports for students who need them;
 - c. Ensuring the provision of psychological counseling services for students who need them; and
 - d. Ensuring that general education teachers participate in IEP development.
3. Provide data corresponding to the reporting period for the FFY 2003 APR—July 1, 2003 through June 30, 2004—demonstrating that children who participated in Part C who were found eligible for Part B services have an IEP or IFSP in effect by their third birthday.
 4. Report on whether the State has identified significant disproportionality on the basis of race with respect to the identification of children in certain disability categories and placements of children with disabilities in particular educational settings, and if it has, provide the results of its review, and any appropriate revisions to, policies, procedures and practices governing the identification and placement of children with disabilities, consistent with Part B of the Act.
 5. Include information indicating that when the State identifies significant discrepancies in the rate of expulsions and suspensions, it reviews, and if appropriate, revises (or requires the affected AUs to revise) policies, procedures, and practices consistent with 34 CFR §300.146.
 6. Include strategies to ensure the collection and reporting of accurate data on graduation and dropout rates, and report on the continued implementation of the strategies that it has developed to improve performance in this area.
 7. Provide documentation ensuring that:
 - a. Appropriate accommodations are provided for children with disabilities in State and district-wide assessments;
 - b. Districts that conduct district-wide assessments have developed accommodation guidelines and provide copies of samples of those guidelines; and
 - c. Districts that conduct district-wide assessments develop guidelines for the provision of alternate assessments, provide samples of those guidelines, and administer alternate assessments in accordance with Part B requirements when district-wide assessments are administered.

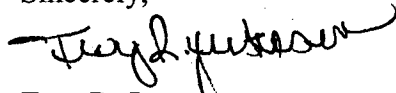
If data demonstrate noncompliance, CDE must provide a plan with strategies, proposed evidence of change, targets and timelines to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date that OSEP accepts the plan.

8. Submit documentation of data regarding preschool skills (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan.
9. Provide data for the APR reporting period—July 1, 2003 through June 30, 2004—indicating whether transition outcomes for children with and without disabilities are

comparable, and continue to report on the implementation of strategies to improve performance in this area.

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 children and youth with disabilities and their families. If you have questions, please contact Margaret Romer at (202) 245-7501.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education
Programs

cc: Lorrie Harkness

Enclosure