



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

Mr. Michael J. Willden, Director
Department of Human Resources
505 East King Street, Room 600
Carson City, NV 89701-3708

FEB 27 2004

Dear Director Willden:

The purpose of this letter is to respond to the Nevada Department of Human Resources (NDHR) June 30, 2003 submission of its Federal Fiscal Year (FFY) 2001 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part C funds used during the grant period July 1, 2001 through September 30, 2002. The APR reflects actual accomplishments made by the State during the reporting period (as compared to established objectives). In conjunction with the Part C APR, NDHR submitted the June 1, 2003 progress report of its implementation of the Improvement Plan (IP). The IP progress report describes NDHR's progress in correcting those areas of noncompliance identified in NDHR's Self Assessment and documented in the Office of Special Education Programs (OSEP) February 5, 2003 letter approving the IP. The APR for Part C of IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement 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 February 5, 2003 letter approving Nevada's IP indicated that the timeline for NDHR to address each of the identified areas of noncompliance was one year from the date of the letter. NDHR submitted its final progress report on February 4, 2004. (OSEP agreed that rather than submitting a progress report on December 1, 2003, as required in OSEP's February 5, 2003 letter approving Nevada's IP, NDHR could submit a final progress report on February 5, 2004.) The February 4, 2004 progress report includes an analysis of data current as of November 2003. In the February 4, 2004 progress report, Nevada states that implementation of its revised Tracking Resources and Children (TRAC III) data system has been delayed and it anticipates that more current data will be available and included in its FFY 2002 APR. OSEP is therefore extending the timeline for ensuring correction of the noncompliance identified in OSEP's February 5, 2003 letter from February 5, 2004 to March 31, 2004, the expected submission date of the FFY 2002 APR. OSEP's response to the FFY 2002 APR will include an analysis of the February 4, 2004 final progress report and the FFY 2002 APR, which OSEP expects will include updated data from the TRAC III system.

We recognize the time and effort that went into the development of NDHR's APR and the June 1, 2003 progress report and appreciate NDHR's work to describe Nevada's performance related to serving infants and toddlers with disabilities and their families under IDEA. This letter serves as a response to our review of NDHR's FFY 2001 APR and June 1, 2003 progress report¹. OSEP reviewed progress made from the baseline information documented in the Self Assessment to current evidence of change data contained in the APR and addendum. It appears that NDHR is making progress to implement strategies to address identified areas of noncompliance.

OSEP Memorandum 03-6 (regarding the submission of Part C APRs) directed States to address the following five cluster areas: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition. OSEP's comments regarding the content of NDHR's APR, inclusive of the addendum, regarding each of the cluster areas, is set forth below.

General Supervision

In its Self Assessment, NDHR data demonstrated a lack of effective procedures to ensure correction of identified noncompliance, with particular emphasis on: (1) eliminating waiting lists for services, (2) failing to inform families of their rights until after an Individualized Family Service Plan (IFSP) is developed, and (3) failing to complete evaluation and assessment and conduct an initial IFSP meeting within 45 days of referral.

As referenced in the October 27, 2003 letter to NDHR on the results of OSEP's verification visit, OSEP recognized that NDHR reorganized the early intervention system in the summer of 2003 to address State identified barriers to implementing the early intervention program in accordance with Part C requirements. The Bureau of Early Intervention Services (BEIS) in NDHR is now implementing and managing all components of the program and is in the process of approving a hierarchy of enforcement actions to address the correction of identified noncompliance. The enforcement actions are found on p. 3, section 1 of the General Supervision Part C Staff Quarterly Action Plan Report (QAPR)² in the addendum. In the next APR, OSEP expects NDHR to submit the final and approved enforcement actions, to report on how the actions are being used, to submit local corrective action plans, if any, that have been submitted to NDHR, to report on whether some regions have persistent noncompliance and what the State does in those instances, and the results of actions taken by the State.

Nevada submitted data that indicates that eligible infants and toddlers were not receiving services in a timely manner. In the 2001 baseline data documented on p. 16 of the APR, NDHR reported less than half of the potentially eligible children were receiving early intervention services. In the May 2003 data on p. 1, section 2 of the QAPR, approximately 54% of eligible children were receiving early intervention services. The State identified that data accuracy needed to be addressed to ensure all programs reported valid and reliable data

¹ Henceforth, the June 1, 2003 progress report will be referenced as the addendum to the APR.

² Henceforth, the document will be referred to as the QAPR. The page numbers of the document appear to be linked to clusters. Each time pagination starts over in the report, OSEP refers to it as section # 1,2,3. etc.

informed of their rights at the point of referral in all programs, consistent with 34 CFR § 300.504 (a)(1).

Comprehensive Public Awareness and Child Find System

There were no findings of noncompliance under this cluster area in the Self Assessment. It appears efforts to find children are consistent with the average percentage of eligible infants and toddlers nationwide (APR p. 16). If NDHR served all children it has identified as potentially eligible, the State would be serving approximately 2% of the birth to three population. NDHR did not include information regarding dissemination of information about the BEIS system, referral procedures, or data about referral sources in the APR. OSEP expects BEIS to include referral and identification rate information by geographical location (i.e. county, region) in the next APR to demonstrate that the BEIS system ensures all eligible infants and toddlers and their families have access to services in all areas of the State.

Family Centered Services

In the February 5, 2003 IP letter, OSEP noted that NDHR found that the early intervention system did not ensure that all family services were being provided as documented on the IFSP. Based on the clarification of data on the number of children waiting for services discussed above, OSEP reviewed the data submitted in the Self-Assessment, APR and the addendum on this issue and found that the data indicates that Nevada was not ensuring that family supports and services are consistently identified and included on the IFSP. No data was submitted that demonstrates that family support and services identified on the IFSP are not provided. The APR and addendum listed the following progress in ensuring that family supports and services are consistently identified and included on the IFSP: new service coordinator training specific to families rights and services (p. 6, section 2 QAPR); formal assessment tools are being used to identify family resources, priorities, and concerns (pp. 8 and 9, section 2 QAPR; pp. 5-7, section 3 QAPR); and monitoring procedures were modified to include review of individualization of child outcomes and family needs on IFSPs (p. 10, section 2 QAPR; APR p. 21). It appears the State is making progress in addressing the noncompliance and OSEP will review the evidence of change data submitted by the State in the February 2004 progress report and the next APR. OSEP expects data from the TRAC system, monitoring or other data that demonstrates family supports and services are consistently being identified and included on the IFSP.

Early Intervention Services in Natural Environments

In the Self Assessment, NDHR identified the following areas of noncompliance in this cluster: (1) failure to provide appropriate service coordination that effectively facilitates timely and comprehensive services in the natural environment; (2) evaluations and assessments are not complete and initial IFSP meetings are not held within 45 days of referral (addressed above under *General Supervision*); (3) early intervention services are not consistently provided in the natural environment; and (4) all early intervention services are not provided as documented on the IFSP.

As noted above, the data submitted by the State in its Self-Assessment, APR and addendum does not demonstrate that children are not receiving the early intervention services identified on their IFSP. The TRAC data system has been modified to collect data on percentage of services on the IFSP that are delivered. (APR p. 31). NDHR must provide this data in the next APR, and if no data is available, the State's plan for collecting and analyzing this data.

The Part C FFY 2001 APR 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. Please provide to OSEP in the next APR either responsive data or the State's plan on how it will collect this data (whether through sampling, monitoring, individual IFSP review, or other methods).

The NDHR reported in the APR and addendum that it made the following progress: State-wide, programs made improvements in the percentage of children receiving services in the natural environment (APR p. 23); service coordinator training includes information about services and ensuring that all service coordination responsibilities are provided (p. 6, section 2 QAPR); program supervisors and State monitoring will include determinations about service implementation (p. 6, section 3 QAPR); and the TRAC data system was revised to track implementation of all services and the location (p. 11, section 2 QAPR). It appears the State is making progress in addressing the noncompliance in the area of service coordination and natural environments and OSEP will review the evidence of change data submitted in the February 2004 progress report and the FFY 2002 APR.

Early Childhood Transition

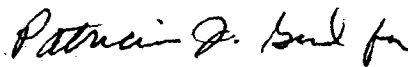
OSEP's February 5, 2003 IP approval letter to NDHR identified one area of noncompliance in this cluster: failure to ensure transition planning conferences are held at least 90 days before a child's third birthday for those who may be eligible for Part B, or make reasonable efforts to convene a transition conference for children who are not likely to be eligible for Part B services. The NDHR reported in the APR and addendum that it made the following progress: program monitoring (chart reviews and Transition Surveys completed by families) can document the extent of transition compliance (APR p. 32); TRAC was modified to gather transition data (p. 1, section 4 QAPR); a cross-agency data system for transition exists and the BEIS is monitoring to ensure that program personnel are appropriately entering data (p. 1 section 4 QAPR); a General Supervision Enhancement Grant was submitted in cooperation with Part B personnel to fund the development of a data system specific to tracking implementation of transition requirements (p. 1 section 4 QAPR); a transition curriculum for families, service providers, and community partners is being revised (p. 2, section 4 QAPR); a transition form is being developed to share with and receive information from Part B to ensure all children are tracked through transition (p. 5, section 4 QAPR); the transition page in the IFSP was modified to include a reminder of transition needs (p. 8, section 4 QAPR); program monitoring and TRAC data review can determine implementation of transition requirements (APR p. 33), and the Memorandum of Understanding between NDHR and the Nevada Department of Education was being revised to ensure full compliance with all transition requirements of Part B and Part C of IDEA (p. 3, section 4 QAPR).

Although it appears NDHR is making progress in addressing program issues that impact noncompliance, NDHR did not provide data from the TRAC system or other monitoring data to demonstrate whether the State has made progress in ensuring that all children have a timely transition conference. OSEP expects NDHR to submit TRAC or other monitoring data in the next APR to supplement family survey data. OSEP will review the evidence of change data submitted in the February 2004 report and the FFY 2002 APR.

As noted above, the final progress report submitted on February 5, 2004 and the FFY 2002 APR must contain data reflecting the evidence of change that demonstrates compliance in each of the areas of noncompliance identified above. Please contact Kelly Worthington, the OSEP Part C State Contact for Nevada, at (202) 401-4022 if you have questions.

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

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Janelle Mulvenon, Chief
Wendy Whipple, Part C Coordinator