



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

OCT 13 2004

Carol L. Adams, Ph.D.  
Secretary  
Department of Human Services  
Harris Building, 3<sup>rd</sup> Floor  
100 South Grand Avenue  
Springfield, Illinois 62762

Dear Secretary Adams:

The purpose of this letter is to respond to Illinois' April 5, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part C funds used during the grant period July 1, 2002 through June 30, 2003. The APR reflects actual accomplishments made by the 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 C APRs directed States to address five cluster areas: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition.

### ***Background***

In its December 31, 2002 Monitoring Report, OSEP identified the following areas of Part C noncompliance: (1) the Illinois Department of Human Services' (IDHS's) monitoring procedures were not effective in identifying and ensuring the correction of all systemic noncompliance with the requirements of Part C, as required by 34 CFR §303.501; (2) IDHS failed to ensure that infants and toddlers with disabilities and their families received service coordination that met the requirements of 34 CFR §303.23(b)(4); (3) IDHS had not ensured compliance with timelines for initial evaluation and assessment, and meetings to develop the initial Individualized Family Service Plan (IFSP), as required by 34 CFR §§303.321(e), 303.322(e), and 303.342(a); and (4) IDHS did not ensure that the IFSP meeting participants determined the content of each child's IFSP.

The State submitted its February 27, 2003 Early Intervention Strategic Plan (Strategic Plan) and the FFY 2001 APR to address the findings in OSEP's 2002 Monitoring Report. In a March 24, 2004 letter, OSEP responded to both the State's FFY 2001 APR and the Strategic Plan. In that letter, OSEP stated that while the Strategic Plan and the APR included strategies to address each of the findings in the OSEP's 2002 Report, IDHS had never submitted benchmarks, timelines or evidence of change. OSEP specified the evidence of change data that IDHS must submit to OSEP to demonstrate that IDHS corrected each of the areas of noncompliance identified in OSEP's 2002 Report within one year from the date of the letter. In the March 24, 2004 letter, OSEP also specified that: (1) IDHS must submit quarterly Progress Reports on its implementation of the strategies it identified in its Strategic Plan and FFY 2001 APR to correct the noncompliance in OSEP's Monitoring Report; (2) interim Progress Reports must be submitted on June 15, 2004, September 15, 2004, and December 15, 2004, and a final Progress Report must be submitted on April 24, 2005; and (3) the first Progress Report, due on June 15, 2004, must include IDHS's schedule and procedures for monitoring Child and Family Connections (CFCs) and early intervention (EI) providers, including procedures for ensuring the correction of identified noncompliance.

The State submitted its June 15 and September 15, 2004 Progress Reports, as well as a July 23, 2004 letter that responded to OSEP's March 24, 2004 letter. The July 23, 2004 letter addressed the following area of noncompliance from OSEP's 2002 Monitoring Report: IDHS did not ensure compliance with timelines for initial evaluation and assessment, and meetings to develop the initial IFSP (34 CFR §§303.321(e), 303.322(e), and 303.342(a)). OSEP has reviewed these three documents and the State's FFY 2002 APR and comments are set forth below.

The State's APR should reflect the collection, analysis and reporting of relevant data, and document databased determinations regarding performance and compliance in each of the cluster areas (as well as any other areas identified by the State to ensure improvement). OSEP's comments regarding Illinois' continuing improvement efforts and each cluster within the APR are listed by cluster area.

### ***General Supervision***

OSEP's December 2002 Monitoring Report indicated the following area of noncompliance in this cluster: IDHS's monitoring procedures were not effective in identifying and ensuring the correction of all systemic noncompliance with the requirements of Part C, as required by 34 CFR §303.501. OSEP emphasized in its March 2004 letter that, as documented in OSEP's Monitoring Reports of 1998, 2000, and 2002, and found in its 2003 verification visit, IDHS consistently failed to meet its general supervisory responsibility to identify and correct noncompliance under Part C. In its March 2004 letter, OSEP specified that the State's first Progress Report, due on June 15, 2004, must include IDHS's schedule for monitoring CFCs and early intervention providers and IDHS's procedures for monitoring CFCs and early intervention providers, including procedures for ensuring the correction of identified noncompliance.

On page four of the APR, the State reported that a lack of staff resources affects IDHS's ability to hire or contract with monitoring staff, and to complete monitoring functions and address identified issues in a timely manner. As part of its first Progress Report, dated June 15, 2004,

IDHS attached procedures for monitoring CFCs and early intervention providers. However, the cover letter of the June 15, 2004 Progress Report reiterated that the lack of staff resources effects the State's ability to fully implement a comprehensive system of monitoring. In both the June 15, 2004 and September 15, 2004 Progress Reports, IDHS reported that a defined schedule for on-site monitoring visits of CFC offices and EI provider monitoring cannot be developed until IDHS has acquired additional staff resources either through the direct hiring or the contracting of services through an Illinois-based not-for-profit agency. In the cover letter of the September 15, 2004 Progress Report, IDHS reported that it has made significant progress in its efforts to secure sufficient resources for monitoring activities. On page 1 of the September 15, 2004 Progress Report, the State reported that a staff person has been hired to define, implement, and supervise the early intervention technical assistance and monitoring function. Page 2 of the September 15, 2004 Progress Report states that a specific vendor has been selected to develop and implement, in conjunction with IDHS staff, a plan to annually monitor a defined percentage of CFCs and early intervention providers. In a September 16, 2004 e-mail correspondence, IDHS informed OSEP that final approval was received from the Governor's office for a Technical Assistance/Monitoring vendor to begin operation on October 1, 2004.

On page 3 of the June 15, 2004 Progress Report, IDHS reported that all CFCs submitted their self-assessments by March 31, 2003, and, following a desk review, received written comments. These comments were discussed and technical assistance provided during on-site visits to each CFC by Bureau staff. Each CFC submitted an improvement plan and received written comments. The continuous improvement monitoring process for CFCs supplements monthly performance monitoring of CFC data. Page 3 of the September 15, 2004 Progress Report set the following projected timetable for implementation of monitoring: (1) October 2004: Training of monitoring staff on EI system, CFC policies and procedures, Cornerstone system, provider policy and procedures, service descriptions, billing codes and rates, family fees and insurance use; (2) October 2004: Revision of proposed monitoring processes; and (3) November 2004: Monitoring will begin at selected provider sites.

OSEP expects the December 15, 2004 Progress Report to include the progress IDHS is making to fully implement the monitoring procedures in Attachment A and B of the Progress Report. The December 15, 2004 Progress Report must include a defined schedule for monitoring CFC offices and early intervention providers, as well as any revisions made to the monitoring process. The final Progress Report, due on April 24, 2005 must include the evidence of change data requested in the March 24, 2004 letter to document that the area of noncompliance identified in this cluster area has been corrected. The final Progress Report must also include the monitoring data specified in the March 24, 2004 letter to demonstrate that the State's revision of its regulations resulted in the State's ensuring that the content of each child's IFSP is determined by the IFSP meeting participants.

### ***Comprehensive Public Awareness and Child Find System***

On page 22 of the APR, the State identified a child find goal that CFCs will identify 2.14% of children under the age of three. On page 26 of the APR, the State identified a child find goal to identify 1% of children under the age of one. While it is not inconsistent with Part C to include a numerical goal to increase the percentages of infants and toddlers with disabilities determined

eligible for services, the State must monitor to ensure that eligibility decisions by CFCs for all infants and toddlers are made in conformity with the individual evaluation and assessment requirements of Part C (at 34 CFR §§303.320-.323) and not based upon a numerical goal. In addition, the State must ensure it does not find CFCs out of compliance for failing to meet a particular numerical goal provided that eligibility decisions are made consistent with Part C.

### ***Family Centered Services***

The State's FFY 2001 APR included no baseline data, evidence of change, targets or improvement strategies for this cluster. In its March 2004 letter responding to that APR, OSEP emphasized that the State's FFY 2002 APR must include all required content for each of the five cluster areas, including data-based performance and compliance determinations (and data supporting those determinations) for all five cluster areas. On pages 28-32 of the APR, the State reported on its performance in this cluster area, in particular its review and analysis of the rate of terminations from intake and from the IFSP due to family reasons and IDHS's efforts to reduce these numbers. On pages 30 and 32 of the APR, the State reported that: (1) parent satisfaction surveys indicated that 85% of the responses were positive regarding the information parents received and the involvement of the parents with the early intervention process; and (2) the State was developing a family outcomes/satisfaction survey based on the tool used by the National Early Intervention Longitudinal Study (NEILS). In the next APR, the State should continue to report on its strategies to ensure compliance and performance in this cluster area

### ***Early Intervention Services in Natural Environments***

OSEP's 2002 Monitoring Report included two areas of noncompliance in this cluster, both of which are addressed below.

1. IDHS did not ensure compliance with the 45-day timeline for completing the initial evaluation and assessment, and holding a meeting to develop the initial IFSP (34 CFR §§303.321(e), 303.322(e), and 303.342(a)).

Since Spring 2002, IDHS has used Performance Contracting to rank order the CFCs on a number of variables, and to use incentives and penalties on the amount of funding each CFC receives based on its performance on the key variables, including the 45-day timeline. This performance contracting, and IDHS's monthly statistical report on each CFC's performance in meeting the timeline, are improvements to IDHS's exercise of its general supervisory responsibility. Although not required by OSEP, IDHS has provided OSEP with monthly data reports since May 2002. When these data show that a CFC is not complying with the 45-day timeline for completing initial evaluations and assessments and convening a meeting to develop the initial IFSP, IDHS staff communicate with the CFC to determine the reasons for the delays and to encourage the CFC to correct the problem. In its July 23, 2004 letter, the State reported when a CFC does not meet the 45-day timeline, it must report monthly on every case that is overdue, and provide the State with details as to how they are correcting the delay. Further, poor performers do not earn incentive funding and face State-wide notice of their poor performance when it is posted on the Internet. Under some circumstances, IDHS reduces the amount of State funding that CFCs with the poorest performance related to 45-day compliance receive.

The State has reported data regarding compliance with its 45-day timeline<sup>1</sup> in the following ways: (1) State-wide data on the percentage of evaluations, assessments and initial IFSPs meetings held [at which initial IFSPs are completed] within 45 days from referral, (2) State-wide data on the percentage of IFSPs completed more than 45 days after referral, (3) State-wide data on the percentage of IFSPs completed more than 90 days after referral, and (4) for each of the 25 CFCs, the percentage of IFSPs completed within 45 days after referral.

As documented in OSEP's 2002 Monitoring Report and OSEP's December 2003 verification letter, IDHS continues to review monthly data regarding the 45-day timeline. In March 2002, data showed that, State-wide, 32.79% of IFSPs were completed more than 45 days after referral, and 8.5% were completed more than 90 days after referral. On page 40 of the FFY 2002 APR, the State provided data that demonstrates that while its Performance Contracting improved compliance with this requirement, 16 of the 25 CFCs remained below 90 percent compliance from January to June 2003. In the fourth quarter of State fiscal year (SFY) 2003, State-wide 87.4% of IFSPs were completed within the 45-day timeline. In June 2003, 8.9% of IFSPs were completed more than 45 days after referral and 1.0% were completed more than 90 days after referral. OSEP recognizes that, as noted in IDHS's July 23, 2004 letter, the State has made very significant progress in ensuring State-wide compliance with the 45-day timeline. The State reported in that letter that on average in the first nine months of SFY 2004, 4.7% of initial IFSPs were completed more than 45 days after referral (2.9% of which were due to system reasons.) The State's data report for June 2004 showed that, State-wide, 93.7% of IFSPs were completed within 45 days from referral. That report also showed that 20 of the 25 CFCs completed more than 90% of their IFSPs within 45 days.

IDHS raised on pages 2 and 3 of its July 23, 2004 letter the question of "Is the required closure of cases on the 45<sup>th</sup> day the action IDHS must take to be in compliance with the [Part C's] 45-day timeline?" In that question, OSEP assumes Illinois is asking about children who are referred to Part C but the family has not responded to the State's efforts to contact the family. Under Part C, the State must make reasonable efforts to obtain parent consent but if parental consent is not obtained, an evaluation cannot be conducted under Part C under 34 CFR §303.404(a). The lead agency may wish to send a letter to the parent indicating that the parent's lack of response despite repeated efforts is resulting in the lead agency's being unable to evaluate the child. OSEP has also provided guidance that the State can review a public agency's justification for exceeding Part C's 45-day timeline and exclude those cases that exceed the timeline due to child or family nonresponse. Under Part C of IDEA, a public agency may, but is not required to, close cases on the 45<sup>th</sup> day if the public agency has documented that the family was repeatedly contacted and did not respond. We appreciate that IDHS promotes good customer service and continues to make efforts to contact families under these circumstances and it is neither required

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<sup>1</sup> Part C requires at 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a) that the evaluation and assessment be completed and an initial IFSP meeting be held within 45 days after the public agency receives a referral. In Illinois, IFSPs are developed at the initial IFSP meeting. Illinois State regulations require, at 500.70, that the CFCs complete the evaluation and assessment in all five developmental areas, and complete the development of the initial IFSP within 45 calendar days from referral.

to close such cases, nor is it required to report those cases of non-response after the 45<sup>th</sup> day as noncompliance with Part C's 45-day timeline requirements.

In response to remaining questions raised in IDHS's July 23, letter, there are many ways for Illinois to learn about information from other States regarding strategies for ensuring compliance with the 45-day timeline. For example, meetings like the October 4 and 5, 2004 National Accountability Conference and OSEP's February 2005 Early Childhood Conference provide excellent opportunities for States and the centers that comprise OSEP's Technical Assistance and Dissemination Network to share strategies that have been effective in ensuring compliance with Part C compliance requirements including the 45-day timeline. The National Early Childhood Technical Assistance Center (NECTAC) can be an excellent resource. The North Central Regional Resource Center at the University of Minnesota, which serves a nine State region, including Illinois, can also help Illinois to network with the States in the region, as well as States throughout the country through the Regional Resource Network.

Given that the data submitted in the July 23, 2004 letter and the June 2004 data demonstrate that the State has made substantial progress in ensuring compliance with the 45-day timeline and the information provided in the July 23, 2004 letter on the steps that IDHS takes when a CFC fails to meet the requirement, the State is not required to provide data in the December 15, 2004 Progress Report. In the final progress report, due on April 24, 2005, the State must include: (1) the most recent State-wide data on the percentage of IFSPs completed within 45 days from referral, the percentage of IFSPs completed more than 45 days after referral, and if available, the percentage of those IFSPs that exceeded the 45 day timeline due to system reasons (as opposed to documented family or child circumstances); (2) for each CFC, the percentage of IFSPs completed within 45 days after referral; and (3) its analysis of the factors that have impeded correction of the noncompliance in those CFCs that have not met the 45-day timeline requirement, and whether existing strategies are effective or need to be refined or targeted to ensure full compliance in such CFCs as soon as possible.

2. IDHS did not ensure compliance with the required service coordination activities, including coordinating and monitoring the delivery of available services (34 CFR §303.23(b)(4)).

On pages 33–39 of the APR, the State provided extensive data regarding caseload numbers, staffing levels and parent satisfaction survey results. On page 38 of the APR, the State reported that the CFC Procedure Manual would be updated so that service coordinators have up-to-date complete instructions on performing their duties and that in March 2004 training for service coordinators would be updated based on the new Manual. OSEP looks forward to receiving, in upcoming progress reports and the next APR, the evidence of change data requested in this area in the March 24, 2004 letter, such as documentation that the training for the service coordinators was provided and other data that indicate that IDHS is making progress in ensuring infants and toddlers with disabilities and their families receive service coordination that meets Part C requirements.

On page 52 of the APR, the State reported that one of its goals is that 90% of families would receive services in the natural environment. States may establish performance goals for

providing early intervention services in natural environments provided that they are specifically monitoring to ensure that the establishment of the goal does not override the Part C requirements that service setting decisions are individualized under Part C regulations. Setting a numerical goal to serve a specific percentage of the State's population in natural environments raises specific compliance concerns under Part C of IDEA. The Part C regulations, at 34 CFR § 303.12(b), require that "[t]o the maximum extent appropriate to the needs of the child, early intervention services must be provided in natural environments, including the home and community settings in which children without disabilities participate." The IFSP must include a statement of 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." See 34 CFR §303.344(d)(1)(ii). Therefore, in the next APR, the State must report on the specific monitoring methods it has used to ensure that IFSP service settings decisions are made on an individualized basis, in accordance with Part C requirements.

The Part C FFY 2001 and FFY 2002 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)). On page 53 of the APR, IDHS reported that it is in the process of developing a family outcomes satisfaction survey based on NEILS. In the FFY 2003 APR, Illinois must submit an update on its plan to develop the survey, any available data, and IDHS's analysis of the data, including targets for improved performance and strategies to achieve those targets for this area.

### ***Early Childhood Transition***

On pages 55-56 of the APR, the State reported on its performance in this cluster area, in particular its review and analysis of data on the percentage of children transitioning at age 3 with special education eligibility or an alternative referral. Page 56 of the APR states that the Part C and Part B programs have developed strategies to document that a referral was made and an effective transition took place, including use of a new Early Intervention to Early Childhood Tracking Form. In the next APR, OSEP is requesting that the State continue to report on its strategies to ensure performance and compliance in this area and include the data that will be available from the Early Childhood Tracking Form.

### ***Conclusion***

In the Progress Report due on December 15, 2004 and the final Progress Report due on April 24, 2005, IDHS must include the evidence of change data specified in the March 24, 2004 letter, to demonstrate correction of the following three identified areas of noncompliance: (1) IDHS's monitoring procedures are not effective in identifying and ensuring the correction of all systemic noncompliance with the requirements of Part C, as required by 34 CFR §303.501; (2) IDHS has failed to ensure that infants and toddlers with disabilities and their families receive service coordination that meets the requirements of 34 CFR §303.23(b)(4); and (3) IDHS has not ensured that the IFSP meeting participants determine the content of each child's IFSP. The December 15, 2004 Progress Report must include a defined schedule for monitoring CFC offices and early intervention providers, as well as any revisions made to the monitoring process.

In the final Progress Report due on April, 24, 2005, IDHS must include the evidence of change data specified in this letter to demonstrate correction of the following area of noncompliance: IDHS has not ensured compliance with the 45-day timeline for completing the initial evaluation and assessment, and holding a meeting to develop the initial IFSP, as required by 34 CFR §§303.321(e), 303.322(e), and 303.342(a). Rather than submitting the FFY 2003 APR on March 31, 2005 and a final Progress Report on April 24, 2005, the State may, but is not required, to elect to submit the final Progress Report as part of the FFY 2003 APR due on March 31, 2005.

In the FFY 2003 APR, the State must submit an update on its plan to develop a family outcome satisfaction survey survey, any available data that demonstrates the percentage of children participating in the Part C program that demonstrate improved and sustained functional abilities in the five developmental areas, and IDHS's analysis of the data, including targets for improved performance and strategies to achieve those targets for this area. In the FFY 2003 APR, OSEP expects IDHS to submit the data that will be available from the Early Childhood Tracking Form.

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, or would like any assistance in developing and implementing correction strategies and the development of the required Progress Reports, please contact Mary Louise Dirrigl at (202) 245-7324.

Sincerely,



Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: Janet Gully  
Part C Coordinator