



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

Honorable John A. Stephen
Commissioner
Department of Health and Human Services
129 Pleasant Street
Concord, New Hampshire 03301-3857

SEP 24 2004

Dear Commissioner Stephen:

The purpose of this letter is to respond to New Hampshire's March 28, 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 for Part C 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.

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 are listed by cluster area.

General Supervision

OSEP's February 13, 2004 response to the New Hampshire Department of Health and Human Services' (DHHS) FFY 2001 APR (submitted in 2003) requested that the State include strategies in the FFY 2002 APR (due on March 31, 2004) designed to maintain performance and compliance with the supervision and monitoring requirements at 34 CFR §303.501.

New Hampshire provided an analysis of noncompliance issues identified during the FFY 2002 APR reporting period (pages 7-11). The State reported that corrective action plans

were being implemented for all noncompliance issues identified during the FFY 2002 reporting period and the State had set targets that noncompliance identified during the FFY 2002 reporting period would be resolved during the FFY 2003 reporting period (within one year or less of identification). The DHHS-identified noncompliance included: (1) family-directed assessments (with parental consent) were not being recorded on the child's IFSP under 34 CFR §303.344(b); (2) evaluations and assessments of vision and hearing were not being conducted under 34 CFR §303.322(c)(3)(ii); (3) transition meeting requirements under 34 CFR §303.148(b)(2)(i) were not met. See Family Center Services, Early Intervention Services, and Transition clusters below for description of these issues.

The State reported the correction of one systemic area of noncompliance, identified prior to the FFY 2001 and FFY 2002 APR reporting periods: initial IFSP meetings were not held within 45 days of receipt of referral as required by 34 CFR §303.321(e)(2), §303.322(e)(1) and §303.342(a).¹ See the Early Intervention in Natural Environments cluster below.

The State reported that no complaints, mediations or due process hearings occurred during the reporting period and that family concerns are typically resolved at the regional level. On pages 37-40 of the FFY 2002 APR, the State provided analyses of record reviews, telephone surveys, and other monitoring data to demonstrate that the State monitored local programs to ensure procedural safeguards were being implemented.

On page 15 of the APR, DHHS provided information regarding methods it uses to ensure accuracy of its section 618 data collection. These included: making comparisons of child data from the electronic data collection system and monthly provider reports, requiring corrections if any errors were found, and providing training to ensure that data was collected according to requirements.

Comprehensive Public Awareness and Child Find System

OSEP's February 13, 2004 letter requested that the State include strategies in the March 31, 2004 APR designed to maintain compliance with the following requirements of IDEA: 34 CFR §303.320, public awareness program; 34 CFR §303.321, comprehensive child find system; and 34 CFR §303.322, timely, multidisciplinary evaluation and assessment of each child. DHHS provided a comprehensive description of its child find and public awareness system as well as analyses of referrals and identification trends over four years. The State included targets, activities and timelines designed to ensure performance. OSEP looks forward to reviewing the outcomes of DHHS' activities in the FFY 2003 APR.

¹ DHHS's Self-Assessment and Improvement Plan (IP) identified this area of noncompliance. The IP was submitted to OSEP in March 2002, amended in July 2002, and approved by OSEP on October 11, 2002. DHHS final IP progress report was submitted on September 30, 2003.

Family Centered Services

OSEP's February 13, 2004 letter requested that the State determine how it was ensuring compliance with the following requirements of IDEA: under 34 CFR §303.322(d), conducting a family-directed assessment (with the consent of the family) and under 34 CFR §303.344, including in the content of an Individualized Family Service Plan (IFSP) family resources, priorities and concerns when an assessment had been conducted.

The State reported that it monitored records to ensure family assessments were conducted and recorded in IFSPs (with parental consent) (page 9). For the FFY 2002 APR reporting period, the State identified findings of noncompliance in three regions where family directed assessments (with parental consent) were not being recorded on the child's IFSP as required by 34 CFR §303.344(b). The State reported that regions were implementing corrective action plans to remedy the noncompliance within one year or less.

In its next APR, DHHS must provide the results from its monitoring, technical assistance and corrective action plans in these three regions demonstrating that IFSPs include a family's concerns, priorities and resources when a family has consented to the assessment.

Early Intervention Services in Natural Environments

OSEP's February 13, 2004 letter requested that the State submit data demonstrating compliance that initial IFSP meetings were held within 45 days of receipt of referral under 34 CFR §303.321(e)(2), §303.322(e)(1) and §303.342(a).

45-Day Timeline

DHHS's Self-Assessment and Improvement Plan identified one area of noncompliance in this cluster: initial IFSP meetings were not held within 45 days of receipt of a referral as required by 34 CFR §303.321(e), §303.322(e) and §303.342(a).² In its February 13, 2004 letter, OSEP requested that DHHS continue to provide in the FFY 2002 APR results from its monitoring, technical assistance and corrective action plans that demonstrate full correction of this area of noncompliance. The data DHHS reported in its FFY 2001 APR and September 23, 2003 Improvement Plan Progress Report indicated that the State had made consistent improvement to ensure that within 45 days after it receives a referral, an initial IFSP meeting is held for all eligible children and families.³ Based on monitoring data provided in the FFY 2002 APR and subsequently on September 17, 2004, OSEP does not identify any additional concerns at this time.⁴ OSEP appreciates the work of the

² DHHS requires early intervention providers to obtain a *signed, completed* IFSP within 45-days of referral, whereas the Part C regulations require an *initial* IFSP meeting be held within 45-days of referral.

³ The FFY 2001 APR reported 100% compliance in two regions and substantial progress toward compliance in six regions.

⁴ Monitoring data provided to OSEP on September 17, 2004 consisted of follow-up record reviews for the five regions that the State previously identified as being in noncompliance; the record reviews confirmed compliance with Part C's 45-day timeline requirement.

State in ensuring compliance that initial IFSP meetings are held within 45 days of receipt of a referral and the State's efforts to provide documentation of correction. In the FFY 2003 APR, OSEP is requesting that DHHS continue to report on its strategies to ensure compliance with Part C's 45-day timeline requirements.

Other Early Intervention Services Components

On pages 44-45 of the APR, DHHS reported that the State provided ongoing training opportunities for service coordinators and were required to attend a two-day orientation. The State monitored to ensure service coordinators carried out all responsibilities. No systemic noncompliance was reported for service coordination.

The State reported results of record reviews for conducting evaluations and assessments in all developmental areas for the FFY 2002 reporting period (p. 47). DHHS found that two regions were not providing evaluation and assessment of vision and hearing as required by 34 CFR §303.322(c)(3)(ii). Corrective action plans were in place to remedy these findings and the State planned to develop and provide training addressing evaluation of vision and hearing during 2004. In its next APR, DHHS must provide the results from its monitoring, technical assistance and corrective action plans that demonstrate correction of this area of noncompliance in these two regions.

On pages 50-51 of the APR, DHHS reported results of record reviews that demonstrated that all early intervention services listed on IFSPs were not provided in three regions. ("Summary of Compliance Issues by Region.") In less than one year from identification of noncompliance, the three regions had achieved 70%, 84%, and 90% compliance respectively. In its next APR, DHHS must provide the results from its monitoring, technical assistance and corrective action plans that demonstrate correction of this area of noncompliance in these three regions.

On pages 52-53 of the APR, DHHS reported data regarding services provided in natural environments. Ninety-nine percent (99%) of eligible children between 1999-2002 were served in natural environments and the State monitored to ensure that the 1% of children not served in natural environments had a justification recorded in their IFSPs. No systemic noncompliance was reported for services in natural environments.

Submission requirements for the Part C FFY 2001 and 2002 APRs requested data on the percentage of children participating in the Part C program that demonstrated improved and sustained functional abilities (in the developmental areas listed in 34 CFR §303.322(c)(3)(ii)). On pages 54-55 of the APR, the State reported the following information regarding this issue: no baseline data was available for the reporting period; the State was continuing to focus its training, technical assistance, and monitoring on development and documentation of functional outcomes on each child's IFSP; the State would review national reports regarding methods to measure child and family outcomes; the State would convene a workgroup of parents, service providers, and other interested parties to create a plan for collecting child and family outcome data (spring 2003-fall 2004), implement the plan, and begin data collection in the winter of 2004. In the next

APR for FFY 2003 (expected due date March 31, 2005), DHHS must report on the implementation of its plan and, if available, submit responsive data (whether collected through sampling, monitoring, IFSP review, or other methods).

Early Childhood Transition

OSEP's February 13, 2004 letter requested that the State include activities in the March 31, 2004 APR designed to maintain compliance with the requirements of IDEA required by 34 CFR §303.148, transition to preschool programs and 34 CFR §303.344(h), transition steps on the IFSP.

On pages 57-72 of the APR, the State reported the following information regarding transition: (1) an analysis of child referral trends to demonstrate the status of timely referrals to local education agencies of children potentially eligible for preschool special education services; (2) two regions had corrective action plans in place for not implementing transition meeting requirements under 34 CFR §303.148(b)(2)(i)); (3) all regions would be monitored for transition requirements, including transition meeting and transition plan requirements in 2004; and (4) numerous collaborative activities would be implemented with the State Education Agency staff to increase data-based decision making and improve transitions for infants, children and youth with disabilities and their families.⁵

In its FFY 2003 APR, DHHS must provide the results from its monitoring, technical assistance and corrective action plans that demonstrate correction of Part C's transition meeting requirements in the two regions identified by DHHS.

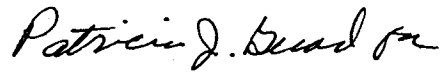
Conclusion

As noted in the General Supervision, Family Centered Services, Early Intervention Services in Natural Environments, and Transition clusters, in the next APR (for FFY 2003), the State must provide data and its analysis to support the correction of State-identified noncompliance regarding: (1) family assessments (with parental consent) are recorded in IFSPs as required by 34 CFR §303.344(c); (2) evaluations and assessments of vision and hearing are conducted as required by 34 CFR §303.322(c)(3)(ii); (3) the status of implementation of the State's plan to collect child outcome data (whether collected through sampling, monitoring, IFSP review, or other methods) and, if available, responsive data; and (4) the transition meeting requirements are met as required by 34 CFR §303.148(b)(2)(i).

⁵ The State's General Supervision Enhancement Grant supports the activities of DHHS and the State Education Agency.

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 Sheryl Parkhurst at (202) 245-7472.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Carolyn Stiles
Part C Coordinator