



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

Honorable Susan Castillo  
Superintendent of Public Instruction  
Oregon Department of Public Instruction  
255 Capital Street NE  
Salem, Oregon 97310-0203

JAN 14 2005

Dear Superintendent Castillo:

The purpose of this letter is to respond to Oregon's March 15, 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 for Part C: General Supervision; Comprehensive Child Find and Public Awareness; Parent Involvement; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition.

### ***Background***

OSEP's 1998 Monitoring Report identified four areas of noncompliance that ODE had failed to ensure that: (1) agencies provided early intervention services designed to meet the developmental needs of each eligible child; (2) agencies addressed the child's needs for health services necessary to participate in early intervention, and that service coordination, to assist a child in receiving services authorized under the State's early intervention program, was being implemented; (3) a systemic integration of other services, particularly health and medical services, which the child needed but were not required under Part H (now Part C), as reflected in individualized family service plans (IFSPs) had been established; and (4) early intervention services were monitored to ensure that they were provided in accordance with items one through three of this paragraph. ODE submitted its Improvement Plan (IP) to address these four areas of

noncompliance and in a letter dated May 20, 2003 OSEP informed ODE that it had completed all activities required under the IP.

Oregon's Self-Assessment was submitted in December 2001, and indicated one new area of noncompliance that was inconsistent with Part C of IDEA. Part C requires, at 34 CFR §§303.321(e), 303.322(e)(2) and 303.342(a)(1), that the evaluation and initial assessment of each child (including the family assessment) is completed, and an initial Individualized Family Service Plan (IFSP) meeting held, within 45 days of the receipt of the initial referral. Oregon's IP to address the 45-day timeline issue was accepted by OSEP in a letter dated April 30, 2003 and indicated that the timeline for Oregon to correct this area of noncompliance was one year from the date of that letter. Oregon was required to submit a Progress Report by October 1, 2003 and a final report by April 30, 2004. Oregon submitted its progress report in October of 2003 and a final report in April of 2004; however, as discussed further below in the Early Intervention Services in the Natural Environment cluster area, Oregon has provided data indicating continuing noncompliance with Part C's 45 day timeline requirement. OSEP conducted an onsite verification visit to the State the week of July 12, 2004. OSEP's conclusions regarding that visit, which are set forth in a separate letter, note that although the State has a monitoring system reasonably designed to identify noncompliance, it cannot demonstrate correction of noncompliance in a timely manner and that complaints are resolved in a timely manner.

OSEP's March 15, 2004 letter responding to Oregon's June 24, 2003 submission of its Federal Fiscal Year (FFY) 2001 Annual Performance Report (APR), noted that Oregon had, in the FFY 2001 APR, used little if any data in making performance and compliance determinations and had not addressed the FFY 2001 probes. In the FFY 2002 APR, Oregon reported the data on which it made performance and compliance decisions and Oregon addressed all the probes/questions in all indicators from the FFY 2002 APR. 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 as well as any other areas identified by the State to ensure improvement. OSEP's comments regarding Oregon's Part C FFY 2002 APR are listed by cluster area.

### ***General Supervision***

On pages 1 through 7 of the APR, ODE reported on efforts of the State to fulfill its general supervision responsibilities including: (1) monitoring; (2) dispute resolution; (3) data and (4) personnel systems. ODE reported on implementation activities conducted since its last APR, including: development and implementation of methods to report State and EI/ECSE program data (performance profile data) to programs that participated in the self-assessment phase of Systems Performance Review and Improvement (SPR and I) process (ODE's monitoring system); continued implementation of Oregon's SPR and I process that identifies noncompliance and ensures the timely correction of noncompliance; and the development and implementation of a system to track the implementation of final due process hearing officer decisions.

### Monitoring and Correction

On pages 2, 3, 5, and 6 of the APR, ODE described its SPR and I monitoring system and reported on the progress achieved so far. The State reported that the SPR and I monitoring system included: self-assessment (Phase 1) (collection, review, analysis and interpretation of data (including performance data), as well as a review of practices with regard to compliance); (Phase 2) improvement plan development; and (Phase 3) implementation of an improvement plan and evaluation (ODE reported that all programs report annually through progress reports to ODE, these reports address improved performance not correction of noncompliance). Seventeen programs participated in Phase 1 from 2000 through 2003. Phase 1 takes approximately 5 months. Data submitted indicated that ODE was able to, and did, identify noncompliance. Eleven programs were in Phase 2, improvement planning, that occurs over 60 days for compliance issues and 60-90 days for additional improvement plan development. Improvement Plans were reviewed and approved by ODE within 30 days of submission.

Although ODE reported that deficiencies identified through the State's monitoring system were corrected in a timely manner, no data was submitted in the FFY 2002 APR to support this statement. OSEP conducted its visit to Oregon during the week of July 12, 2004 to verify the effectiveness of the State's systems for general supervision and data collection under section 618 of IDEA. Upon reviewing ODE's monitoring reports and tracking system, as well as interviewing ODE monitoring staff, OSEP concluded that while ODE's monitoring system was reasonably designed to identify noncompliance, it was unable to ensure the correction of the identified noncompliance in a timely manner (i.e., within one year of the State's identification). Specifically, OSEP found that ODE does not ensure that all findings of noncompliance are corrected within a reasonable period of time not to exceed one year. See 20 USC §§1412(a)(11) and 1232d (b), and 34 CFR §303.501. For example, although districts/agencies have been submitting progress reports, ODE has not been verifying that the noncompliance has been corrected and has not closed out any of the district/agency improvement plans.

In the APR submission for FFY 2003 (due March 31, 2005), ODE must submit an improvement plan that includes strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance noted above, i.e., ensuring timely correction of all identified noncompliance within a reasonable period not to exceed one year. The plan must propose to correct this noncompliance within a reasonable period of time not to exceed one year of OSEP's acceptance and include at least two progress reports to OSEP. This issue is also described in OSEP's letter addressing the July 2004 verification visit, and which is incorporated by reference. In the next APR, ODE must also provide updated monitoring and correction data for the entities monitored through March 2005 and the status of correction of each entity determined out of compliance.

### Dispute Resolution

On pages 4 and 5 of the APR, ODE reported that its dispute resolution systems include formal written complaints, mediations, and due process hearings. Although some data indicated that formal written complaints were resolved within required timelines, OSEP's July 2004 verification visit confirmed that State complaint decisions were not issued in a timely manner as required under 34 CFR §§303.510 through 303.512.<sup>1</sup> On page 6 of the APR, ODE reported that, although a system was developed for tracking monitoring activities, including activities related to dispute resolution, ODE did not have sufficient opportunity to evaluate the effectiveness of the system. There were no requests for hearings; therefore, ODE had not been able to evaluate whether the system works.

With regard to the timely resolution of state complaints, as set out in OSEP's verification letter, the State does not always ensure that the reasons for granting extensions constitute exceptional circumstances with respect to a particular complaint. For example, the State grants extensions to enable the parties to pursue mediation. Mediation cannot be used to deny any of the rights afforded under the IDEA, including the right to timely complaint resolution. See 34 CFR §§300.506(b)(1)(ii), 303.419(b)(1)(ii) and 303.420. Therefore, while mediation is generally encouraged, a State may not, as general policy, determine that mediation constitutes an exceptional circumstance that justifies a delay in the State complaint timelines for all instances where mediation is utilized. OSEP finds that ODE has failed to ensure compliance with the requirement at 34 CFR §303.512 that within 60 days of receiving a complaint, an investigation is conducted and that a written decision is issued, and failed to ensure that extensions of time for State complaint decisions only occur when exceptional circumstances exist with respect to a particular complaint.

In the APR for FFY 2003 (due March 31, 2005), ODE must submit an improvement plan that includes strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance noted above, i.e., ensuring timely resolution of State complaints and that extensions of time are only granted for exceptional circumstances with regard to a specific complaint. The plan must propose to correct this noncompliance within a reasonable period of time not to exceed one year of OSEP's acceptance of the plan and include at least two progress reports to OSEP.

### Data

On page 3, 5, and 6 of the APR, ODE listed the performance profile data that was given to programs that are entering Phase 1 of the SPR and I. ODE stated that these profiles related to each of the measurable indicators. On page 4 of the APR, ODE reported that the data collection process was collaborative between the programs and ODE, and that this collaboration led to a better process.

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<sup>1</sup> Although the complaints reviewed during the verification visit were state complaints filed under Part B, ODE applies the same complaint resolution procedures for Parts B and C and thus, the finding of noncompliance regarding failure to timely issue complaints applies to Part C as well under 34 CFR §303.512.

On pages 6 and 7 of the APR, ODE included activities/strategies and benchmarks designed to maintain compliance and to improve the SPR and I and data systems. ODE reported that it would carry over the target of implementing and evaluating the tracking of due process hearing timelines. OSEP looks forward to reviewing the results of ODE's strategies in the next APR.

On pages 7 through 10 of the APR, ODE reported on its efforts, and progress or slippage in the identification and remediation of systemic issues identified through information and data collected from all available sources, including monitoring, complaint investigations, and hearing resolutions. ODE reported that two systemic issues were identified, including a growing trend toward EI services not being provided in natural environments, and failure to meet the 45-day timeline from referral to the initial IFSP meeting.

On pages 15 and 16 of the APR, ODE addressed Oregon's procedures and practices to ensure the collection and reporting of accurate and timely data. ODE stated that although it had not tracked information on specific data collection or reporting problems within agencies, the validity and reliability of its data were high and that the web application for submitting the December 1 data had required that all records be error free. ODE listed the methods it used to validate data entered by local programs. OSEP noted that, in this APR, ODE's target was: "All EI/ECSE agencies will accurately report all required special education data in a timely fashion." ODE reported it was meeting its target. The State included strategies and benchmarks designed to ensure compliance. OSEP looks forward to reviewing data and analysis from the State's implementation of these strategies in its next APR.

### Personnel

On pages 12 through 15 of the FFY 2002 APR, ODE addressed the issue of sufficient numbers of administrators, teachers, related service providers, paraprofessionals, and other providers to meet the identified educational needs of all children with disabilities in the State. On page 13 of the APR, ODE stated that Oregon's EI staff Full Time Equivalency (FTE) increased in 2000-2001 and 2001-2002, but decreased in 2002-2003. On page 15 of the APR, ODE stated that the decrease could be explained by three factors: (1) the number of children receiving EI services decreased, and the Oregon EI population continues to follow a slight downward trend, ODE submitted a chart that showed in March of 2001-2002 the number of eligible children was 1843 and the number of exiters was 142 and that in March of 2002-2003 the number of eligible children was 1808 and the number of exiters was 166; (2) several EI programs started to implement changes to their service delivery model by employing a collaborative team approach that requires less FTE by offering an integrated approach to flexible service provision and sharing of work and information across disciplines; and (3) there was a possible variance in how programs entered personnel census data for the category of "Other Professional Staff." There was a significant decrease in this category, from 40 in 2001-02 to 20.25 in 2002-03. ODE stated that an interpretation of this difference requires further analysis. ODE

submitted activities/strategies and targets to improve performance. OSEP looks forward to reviewing the results of ODE's strategies in the next APR.

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

On pages 18 through 21 of the FFY 2002 APR, ODE stated that 1.38% percent of its infants and toddlers were determined eligible and received early intervention services in Oregon as compared to the national average, which is 2.24%. ODE attributed the discrepancy to the fact that Oregon did not serve at-risk children and used narrow eligibility criteria. However, OSEP notes that in comparing performance among States with comparable eligibility criteria, Oregon continues to reflect child find identification rates well below the expected average. On page 19 of the FFY 2002 APR, ODE reported that the aggregate number of children receiving EI services is increasing, although the percentage served is still significantly below the national average.<sup>2</sup> However on page 15 of the APR, ODE reported data on the number of children eligible for EI services, and the number of children exiting the EI program in March of 2001-2002 and March of 2002-2003 and stated that the number of children receiving EI services had decreased from March 2002 to March 2003 and that the Oregon EI population continued to follow a slight downward trend, creating a decrease in the number of FTE needed for the EI program. This appears to contradict the data the State reported in the Comprehensive Public Awareness and Child Find cluster. The data reported by Oregon in its Section 618 data reports indicates a slight decrease in the percentage of infants and toddlers with disabilities served under Part C from birth to three (from 1.42% in 2001 and 2002 to 1.38% in 2003). On pages 22 through 24 of the APR, ODE reported that the percentage served of eligible infants with disabilities under the age of one was .52 %, as compared to the national average of 1.00 %. ODE reported that between 2000 and 2002 the percentage served had varied between .48 % and .52 %.<sup>3</sup> ODE provided the same explanation for the low percentage served as it did for the birth through two group. On page 21, ODE stated that it had reached its goal of increasing the number of children receiving EI services. However, OSEP is concerned about ODE's conclusions in this cluster area.

In the next APR, ODE must include detailed data and analysis of its continued performance in the area of child find (which can include a review of its primary referral source analysis and analysis by district in order to identify those districts that may be potentially underserving eligible children). Using all available data from the entire reporting period, ODE may also reevaluate its performance targets for child find and public awareness under CC.I and CC.II. and how it can better improve results for children with disabilities and their families. After ODE has reviewed its performance in this cluster area using more recent data, it should review the strategies in this cluster to determine if they are still viable or if additional strategies are needed. OSEP looks forward

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<sup>2</sup> The data used were from the Oregon State Data Center and the Oregon Populations Estimates and Projections Project.

<sup>3</sup> ODE reported that the data used was from the Oregon Center for Health Statistics and Oregon Department of Education.

to reviewing ODE's updated data and analysis and additional strategies to improve performance in this area in the next APR.

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

On pages 25 through 28 of the APR, ODE addressed the provision of family-centered services, embedded in all aspects of the early intervention process from initial identification through the child's transition to Part B or other services. ODE recorded under "efforts," State statutes, required competencies of providers of early intervention services, guidelines for EI programs, sponsorship of parent coaching workshops, and a proposed CSPD survey. ODE reported that it had reached its target in this area and stated that data collected through a parent survey best illustrated this fact. In general, parents "agreed" or "strongly agreed" with the statements on the survey related to EI services positively impacting families. The State reported that most families also reported a high level of satisfaction with their child's progress and the dedication of staff to providing quality services. On page 24 of the APR, ODE included projected targets, activities/strategies and timelines for improving/maintaining performance. In the next APR, OSEP looks forward to reviewing the results of these efforts.

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

#### **Natural Environments**

On pages 39 through 41 of the APR, ODE addressed whether children were receiving services primarily in the natural environments and if not, whether IFSPs justified why services were not provided in natural environments. On pages 40 and 41, ODE addressed the issue of justifications, reporting that in 2001-2002, three out of eight programs were out of compliance with the justification requirement and in 2002-2003, one out of six programs was out of compliance with this requirement. On page 41 of the APR, ODE included projected targets, and timelines for improving/ensuring compliance in this area.

ODE applied in 2002 for a WESTAT grant to investigate the growing trend for EI services to be provided in settings not the natural environment. The resulting study showed some of the factors for this trend, including transportation issues, budget reductions, and parent preference for center-based programs which offer parent-child interaction groups. From the information submitted, OSEP cannot determine if ODE investigated these factors to determine if there was noncompliance related to the provision of transportation services as an early intervention service (a violation of 34 CFR §§303.344(d)(1) and 303.344(d)(1)(ii)), and if there was noncompliance related to IFSP decisions being made by all members of the IFSP team (a violation of 34 CFR §303.343). OSEP has not previously identified noncompliance with these regulations. In the next APR, ODE must include data such as IFSP record reviews regarding services in natural environments, the provision of transportation and the IFSP decision-making process and ODE's analysis, along with a determination of compliance or noncompliance in these areas. If the data demonstrate noncompliance, the State must also include in the next APR a plan with strategies, proposed evidence of change, targets and timelines

designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan.

#### 45-Day Timeline

Oregon's Self-Assessment, submitted in 2001, reflected noncompliance with Part C's 45-day timeline (see 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a)). Oregon's IP that was accepted by OSEP in a letter dated April 30, 2003, identified the goal for this area as follows: "By July 2003, 100% of Early Intervention/Early Childhood Special Education (EI/ECSE) programs will complete evaluations and eligibility determinations within a 45-day timeline." Activities to address this goal included: (1) provide technical assistance to EI/ECSE programs on the development of systems to track referrals to the EI system, evaluation, assessment, and IFSP development, and (2) would monitor the implementation and effectiveness of the required actions to determine whether compliance with the 45-day timeline had improved. OSEP indicated, in its April 30, 2003 letter, that the timeline for Oregon to correct this area of noncompliance was one year from the date of that letter. Oregon submitted its progress report in October of 2003 and a final report in April of 2004.

Oregon's October 2003 Progress Report stated that each Area Service Plan for contractors included a request for data on the numbers and percentages of EI evaluations completed and IFSPs written within the 45-day timeline. The plans were due in the fall of each year and, if the program was not meeting the 45-day timeline at 100%, the contractor was required to include information on how the 45-day timeline would be met. Oregon also submitted in October 2003 a copy of a blank Area Service Plan form. The State's October 2003 data indicated that 51% of the EI programs were meeting the State standard for the 45-day timeline. ODE stated that the reasons given included: inability to contact the family after initial referral, families not keeping appointments and illnesses in the family. These documented family circumstances represent reasonable explanations for exceeding the 45-day timeline and therefore should be excluded when determining noncompliance with Part C's 45-day timeline requirement.

Oregon's Final Report, submitted in April 2004, provided data indicating that Oregon remained out of compliance with the 45-day timeline. On page 1 of that report, ODE indicated that Area Service Plan data from the fall of 2003 showed that 20% of early intervention programs are meeting the 45-day timeline at the 100% criteria. Fifty-one percent of programs are completing 90% or more of early intervention evaluations within 45 days.

On page 10 of the FFY 2002 APR, ODE reported on its projected targets, timelines and activities for meeting the 45-day timeline requirement; however, OSEP notes that the first activity in the FFY 2002 APR is the same activity included in the State's original Improvement Plan, which is to provide technical assistance. OSEP recommends that the EI programs out of compliance with the 45-day timeline requirement be required to report monthly on their performance related to the 45-day timeline, and that ODE monitor and follow up monthly on these reports.



In the next APR (due March 31, 2005), ODE must provide to OSEP: (1) documentation that it has completed correction of the noncompliance; or (2) if there are any providers that are not in full compliance by that date, (a) its analysis of the factors that have impeded correction of the noncompliance with those providers and whether existing strategies are effective or need to be revised; (b) documentation of the specific corrective action steps, including any sanctions that it has taken to ensure correction, and the impact of those actions; and (c) the proposed additional or revised strategies and timelines to ensure full compliance as soon as possible. Failure to provide data demonstrating compliance with Part C's 45-day timeline requirement may result in the State's designation as a high-risk grantee for its FFY 2005 Part C grant.

### Service Coordination

On pages 29 through 31 of the FFY 2002 APR, ODE reported on access to a service coordinator who facilitates ongoing, timely early intervention services in natural environments. On page 31, ODE reported that approximately one program per year is out of compliance with the requirement to appoint a service coordinator at the time of referral (Oregon monitors a different set of programs each year). ODE also reported that only one program in the last three years was out of compliance with the requirement that ongoing service coordination be provided to all children and families eligible for EI services. On page 31 of the APR, ODE included projected targets, activities/strategies and timelines for improving/ensuring performance. In the next APR, OSEP looks forward to reviewing the results of these efforts.

### IFSP Services

On pages 36 through 39 of the APR, ODE addressed whether IFSPs included all services necessary to meet the identified needs of the child and family, and whether all services identified on the IFSPs were provided. ODE also reported monitoring data. In 2001-2002, four of eight EI programs were out of compliance on the issue of including all services necessary on the IFSP (failure to document all needed information on the IFSPs such as amounts or service to be provided, or the frequency of the service). In 2002-2003 only one of six programs was out of compliance with the same issue. No noncompliance was found related to programs failing to include services addressing all areas of suspected disability on the IFSP. ODE noted that during the last three years only one out of 17 programs failed to provide services documented on the IFSPs. Record-keeping errors were found on some IFSPs but focused review data show that services were provided even when errors occurred in documenting specific information about the services on the IFSPs. ODE reported that it had reached its target for this area. On page 39 of the APR, ODE included projected targets, activities/strategies and timelines for improving/ensuring performance. In the next APR, OSEP looks forward to reviewing the results of these efforts.

### Early Childhood Outcomes

On pages 42 through 44 of the APR, ODE addressed whether or not children participating in the Part C program have demonstrated improved and sustained functional abilities. ODE reported two studies that addressed the progress of children birth to three in the EI/ECSE program. Both studies were completed in 2001. One study examined data from an urban program serving the city of Portland and a rural program serving two counties. Results showed that children in both programs made developmental gains on curriculum-based assessments. The second study described developmental outcomes for children in programs representing three counties on curriculum-based assessments designed to guide IFSP development and to monitor developmental progress. In general, the State reported that all children made progress over time. More substantial gains were observed in children who had been involved with the EI/ECSE program for longer periods of time. Initial data indicated that 98% of children in Oregon's EI/ECSE program made measurable developmental gains. OSEP acknowledges the progress that the State has made, but notes that both of the studies were completed in 2001, the previous APR reporting period. On page 44 of the APR, ODE included projected targets, activities/strategies and timelines for improving/maintaining performance. In the next APR, the State must provide updated responsive data (if available), whether collected through sampling, monitoring or other methods, on the percentage of children participating in the Part C program who demonstrate improved and sustained functional abilities in the developmental areas listed at 34 CFR §303.322(c)(3) or its plan to collect and report on such data by the FFY 2004 APR.

### *Early Childhood Transition*

On pages 45 through 47 of the APR, ODE addressed whether all children exiting Part C received the transition planning necessary to support transition to preschool or other appropriate community services by their third birthdays. ODE noted that Oregon's Self-Assessment indicated that performance exceeded expectations in the area of transition, reporting that the data showed 100% of the children leaving Part C who were eligible for Part B services, received Part B services by their third birthdays. On page 46, ODE reported on three years of monitoring data for the five required transition activities. Last year, three of six programs were found to be out of compliance with three of the required transition activities. One of six programs was out of compliance with the requirement that transition planning be initiated at 90 days prior to the child's third birthday. Another program was out of compliance with the requirement to discuss possible future placements with the families and another program was out of compliance with the requirement to prepare the child for changes in service delivery. On page 47 of the APR, ODE included projected targets, activities/strategies and timelines for improving/ensuring compliance. In the next APR, OSEP looks forward to reviewing the results of these efforts.

### ***Conclusion***

In the next APR, ODE must submit to OSEP:

1. 1. Data demonstrating compliance with Part C's 45-day timeline requirements at 34 CFR §§303.321(e)(2)(i) and (ii), 303.322(e)(1) and 303.342(a) and if compliance cannot be demonstrated for specific providers, then additional and/or revised strategies, proposed evidence of change, targets and timelines to ensure compliance as soon as possible. Failure to provide data demonstrating compliance with Part C's 45-day timeline requirement may result in the State's designation as a high risk grantee for its FFY 2005 Part C grant.
2. strategies, proposed evidence of change, targets and timelines designed to ensure that ODE-identified noncompliance is corrected in a timely manner and updated monitoring and correction data and analysis;
3. strategies, proposed evidence of change, targets and timelines designed to ensure that complaint decisions under 34 CFR §303.512 are issued in a timely manner;
4. data and analysis regarding its performance in the area of child find (including a review of its primary referral source analysis and analysis by district in order to identify those districts that may be potentially underserving eligible children) and additional and/or revised strategies and performance targets;
5. data, such as IFSP record review data, regarding services in natural environments, the provision of transportation and the IFSP decision-making process and its analysis of these data, along with a determination of compliance or noncompliance related to the factors found in the WESTAT study to be contributing to the increase of services not being provided in the natural environments, specifically: (1) 34 CFR §303.344(d)(1), transportation not being provided as an early intervention service; (2) 34 CFR §303.344(d)(1)(ii), services not being provided in the natural environments or appropriate justifications not included on the IFSP; and (3) 34 CFR §303.343, IFSP decisions not being made by all members of the IFSP team. If the data for any of these areas demonstrate noncompliance, the State must include the data, its analysis and a plan with strategies, proposed evidence of change, targets and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan.
6. data (if available), whether collected through sampling, monitoring or other methods, on the percentage of children with disabilities participating in the Part C program who demonstrate improved and sustained functional abilities in the developmental areas listed at 34 CFR §303.322(c)(3) or its plan to collect and report on such data to OSEP by the FFY 2004 APR.

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 Linda Whitsett at (202) 245-7573.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephanie Smith Lee".

Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: Nancy Latini  
Associate Superintendent