



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

Honorable David Berns
Director
Department of Economic Security
1717 West Jefferson Street
P.O. Box 6123
Phoenix, Arizona 85005

SEP -8 2005

Dear Director Berns:

The purpose of this letter is to respond to Arizona's March 31, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part C during the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The Office of Special Education Programs (OSEP) has designed the APR under the IDEA to provide uniform reporting from States and result in high-quality information across States. The APR is a significant data source for OSEP in the Continuous Improvement and Focused Monitoring System (CIFMS).

The State's APR should reflect the collection, analysis, and reporting of relevant data, and include specific data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to the State's FFY 2003 APR. OSEP has set out its comments, analysis and determinations by cluster area.

Background

OSEP's May 22, 2000 Monitoring Report identified the following noncompliance with Part C. The Department of Economic Security through the Arizona Early Intervention Program (DES/AzeIP) did not ensure: (1) that monitoring procedures were effective in identifying and correcting noncompliance with Part C (34 CFR §303.501); (2) the child find system was a comprehensive, coordinated, statewide child find system (34 CFR §303.321); (3) the dissemination of public awareness information to primary referral sources (34 CFR §303.320); (4) the initial Individualized Family Service Plan (IFSP) meeting was held within 45 days from initial referral (34 CFR §303.321(a)(1)); (5) it appropriately developed interim IFSPs (34 CFR §303.322 (e)(2)); (6) the provision of all services to all eligible infants and toddlers with disabilities, including children on American Indian Reservations (34 CFR §303.322); and (7) all service coordination functions were implemented (34 CFR §303.23(a)(2)).

On March 15, 2004, in response to Arizona's Part C FFY 2001 APR and following a State visit by OSEP to Arizona in December 2003 to verify the State's systems for general supervision and collection of data under section 618 of IDEA, OSEP issued two letters documenting the Arizona Department of Economic Security's (DES's) continued noncompliance with the following four

requirements originally identified in OSEP's 2000 Monitoring Report: (1) utilizing effective monitoring procedures to ensure the identification and correction of noncompliance with Part C as required by 34 CFR §303.501; (2) conducting evaluations and assessments and initial individualized family service plan (IFSP) meetings within 45 days from referral as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a); (3) providing early intervention services identified on the child's IFSP, in a timely manner, to all eligible infants and toddlers with disabilities, including infants and toddlers on American Indian Reservations as required by 34 CFR §303.342(e); and (4) ensuring that all service coordination functions are implemented as required by 34 CFR §§303.23 and 303.344(g).

The State's FFY 2002 APR served as a Progress Report related to all seven areas of noncompliance identified in OSEP's 2000 Monitoring Report. The State's FFY 2002 APR indicated that the State had resolved three findings: (1) the development of a comprehensive, coordinated, statewide child find system as required by 34 CFR §303.321; (2) the dissemination of public awareness information to primary referral sources as required by 34 CFR §303.320; and (3) appropriately extending timelines for evaluations and assessments and routinely developing interim IFSPs as required by 34 CFR §303.322 (e)(2).

The remaining four areas of noncompliance are being addressed in the Department's Compliance Agreement with DES/Arizona Early Intervention Program (AzEIP), which was executed on December 22, 2004. The Compliance Agreement and work plans specified goals and timetables required by DES/AzEIP to come into full compliance with its Part C obligations in each of the four areas within three years of December 22, 2004. Under the Compliance Agreement, DES/AzEIP is required to submit documentation concerning its compliance with enumerated activities, goals and timetables. In addition, DES/AzEIP is required to submit quarterly reports to OSEP on progress made under these work plans, reflecting activities/goals met, any obstacles and other information related to progress. OSEP received the first quarterly report on March 31, 2005 along with the FFY 2003 APR.

General Supervision

Identification and timely correction of noncompliance

- **Monitoring procedures were not effective in identifying and correcting noncompliance with Part C (34 CFR §303.501).**

This area of noncompliance is addressed in the Compliance Agreement. OSEP will respond to Progress Reports from the first year of the State's implementation of the Compliance Agreement upon receipt of the fourth quarterly report, due March 31, 2006.

Dispute Resolution

On pages 13 and 14 of the FFY 2003 APR, the State included data and analysis demonstrating continued compliance in this area. DES/AzEIP reported that it logs both informal and formal complaints and that, in the reporting period, there were thirteen informal complaints received and all were resolved through informal procedures. In addition, there were three formal complaints

that were completed within required timelines. OSEP looks forward to reviewing the State's data regarding complaints, mediations and due process hearings in the State Performance Plan (SPP), due December 2, 2005.

Personnel

On pages 17-20 of the FFY 2003 APR, the State included data and analysis regarding its performance in this area. DES/AZEIP reported personnel data that indicated an 11% increase in the number of personnel who provide early intervention services from the previous year. DES/AZEIP also reported the expansion of its contracts with early intervention services providers, which increased the early intervention providers in the State. OSEP appreciates the work of the State in this area.

Collection and timely reporting of accurate data

On pages 23-24 of the FFY 2003 APR, the State included data and analysis regarding compliance in this area. DES/AZEIP reported that three AZEIP participating agencies and all contractors submit child-tracking data on a monthly basis. Furthermore, throughout the reporting period, the DES/AZEIP data manager held meetings with the data managers of participating agencies to discuss data requirements and to ensure accurate data reporting. OSEP looks forward to reviewing the State's response to the indicator regarding its reported data (618 and State Performance Plan and Annual Performance Report) that are timely and accurate in the SPP.

Comprehensive Public Awareness and Child Find System

OSEP's December 2004 response letter required DES/AZEIP to report its progress on increasing the number of children served in the State and the status of the Memorandum of Agreement (MOA) with the Reservations.

On page 28 of the FFY 2003 APR, DES/AZEIP reported an increase in referrals from 4,115 in 2002 to 6,186 in 2003. Child count data for infants and toddlers birth to three indicated improvement from 1.36% in 2002 to 1.39% in 2003. Child count data for birth to one also improved from .5% in 2002 to .6% in 2003. In addition, DES/AZEIP reported that the Intergovernmental Agreement (IGA) between DES/AZEIP and the Navajo Nation was finalized in October 2004, and additional IGAs or MOAs will be developed with four other Native American tribes. OSEP looks forward to reviewing the State's data in the SPP regarding the percent of infants and toddlers birth to one and birth to three with IFSPs compared to: (a) other States with similar eligibility definitions; and (b) National data.

Family Centered Services

On pages 36-40 of the FFY 2003 APR, the State included data and analysis regarding its performance in this area. DES/AZEIP reported that site visits, child file audits, family surveys, and family interviews indicated family satisfaction with the Part C system. The IFSPs reviewed indicated that families' resources, priorities, concerns and functional outcomes were included. OSEP appreciates the State's efforts in this area and looks forward to reviewing the plan for

collecting data in the SPP regarding the percent of families in Part C who report that early intervention services have helped the family: (a) know their rights; (b) effectively communicate their children's needs; and (c) help their child develop and learn.

Early Intervention Services in Natural Environments

Service coordination

- **Not ensuring that all service coordination functions are implemented (34 CFR §303.23(a)(2)).**

This area of noncompliance is addressed in the Compliance Agreement. OSEP will respond to Progress Reports from the first year of the State's implementation of the Compliance Agreement upon receipt of the fourth quarterly report, due March 31, 2006.

Evaluation and identification of needs

- **Not convening the initial individualized family service plan (IFSP) meeting within 45 days of referral (34 CFR §303.321(a)(1)).**

This area of noncompliance is addressed in the Compliance Agreement. OSEP will respond to Progress Reports from the first year of the State's implementation of the Compliance Agreement upon receipt of the fourth quarterly report, due March 31, 2006.

Individualized family service plans (IFSPs)

- **Not ensuring the provision of all services to all eligible infants and toddlers with disabilities, including children on American Indian Reservations (34 CFR §§303.340(c) and 303.342(3)).**

This area of noncompliance is addressed in the Compliance Agreement. OSEP will respond to Progress Reports from the first year of the State's implementation of the Compliance Agreement upon receipt of the fourth quarterly report, due March 31, 2006.

Natural environments

On pages 52-53 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance and improve performance in this area. DES/AzEIP reported that 86% of children were provided services in the home or in a program for typically developing children and that 11% of children were provided services in "Other" settings that include parks, libraries and community centers. OSEP looks forward to reviewing the State's data in the SPP regarding the percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or programs for typically developing children.

Early childhood outcomes

Under the Government Performance and Results Act of 1993, 31 U.S.C. 1116, the effectiveness of the IDEA Part C program is measured based on the extent to which children receiving Part C services demonstrate improved and sustained functional abilities in the cognitive, physical, communication, social or emotional and adaptive developmental areas. The Part C FFY 2001, 2002 and 2003 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 pages 60 and 61 of the FFY 2003 APR, the State provided data and information as follows: (1) child file audits regarding services provided indicated that IFSP outcomes were addressed 78% of the time and site visit data indicated that IFSP outcomes were addressed 70% of the time; (2) child file audits indicated that progress towards outcomes on IFSPs was addressed 86% of the time and 82% of the time site visits indicated that progress towards outcomes on IFSPs was addressed; and (3) family survey data indicated that families believed their service providers helped them understand the supports and services that led to IFSP outcomes. DES/AzEIP reported that the data demonstrated a need for improvement in documenting the results of services in relation to IFSP outcomes. In the State's submission of its SPP on December 2, 2005, the State should incorporate and update the data and information collected for and reported in the State's FFY 2001, 2002, and 2003 APRs to address the requirements related to this indicator. The SPP instructions establish a new indicator in this area, for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under section 616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

Early Childhood Transition

OSEP's December 2004 letter required DES/AzEIP to report on its efforts to ensure compliance for timely transition planning. The State was to provide evidence of progress in correcting any identified noncompliance, including supporting data and its analysis.

On page 65 of the FFY 2003 APR, DES/AzEIP reported the following data and information: sampling data from Maricopa County (August 2002-September 2003) indicated that of 931 children that transitioned to Part B services, 51% were past their third birthday. DES/AzEIP did not include data on Part C's transition requirements under 34 CFR §§303.148(b)(1) and (b)(2) that transition steps and a plan are identified on the child's IFSP for all children exiting Part C and, for children potentially eligible under Part B, that the lead agency notify the LEA and conduct, with family concurrence, the transition conference at least 90 days prior to the child's third birthday.

While the State also included strategies, proposed evidence of change, targets and timelines designed to collect additional data that would provide information on the causes for late entry into the Part B system, the State did not provide OSEP with data or analysis to determine whether transition planning conferences were timely and whether they invited Part B representatives to transition conferences. In the SPP, the State must include data and analysis,

along with a determination of compliance or noncompliance with the transition planning timelines at 34 CFR §§303.148(b)(1) and (2). If the data indicate noncompliance, the State must provide in the SPP strategies, targets, timelines and evidence of change to correct the noncompliance no later than one year from when OSEP accepts the plan.

Conclusion

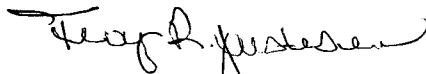
In the State Performance Plan, due December 2, 2005, DES/AzEIP must submit to OSEP:

- (1) Its determination on whether data collected related to early childhood outcomes and plans to collect additional data will be responsive to those requirements.
- (2) Data and analysis, along with a determination of compliance or noncompliance with transition planning requirements regarding transition steps and plan, LEA notification, and 90 day conference at 34 CFR §§303.148(b)(1) and (2); and if data indicate noncompliance with any requirement, the State's plan to address the noncompliance.

IDEA 2004, §616, requires each State to submit an SPP that measures performance on monitoring priorities and indicators established by the Department. These priorities and indicators are, for the most part, the same as clusters and probes in the APR. OSEP encourages the State to carefully consider the comments in this letter as it prepares its SPP, due December 2, 2005.

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 Julia Martin at (202) 245-7431.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Molly Dries
Part C Coordinator