



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Joseph Chiaro, M.D.
Deputy Secretary of Health
Florida Department of Health
Children's Medical Services
4052 Bald Cypress Way
Tallahassee, Florida 32399-1707

NOV - 8 2005

Dear Deputy Secretary Chiaro:

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

Background

OSEP's November 19, 2004 FFY 2002 APR response letter required the State to submit, in the FFY 2003 APR a final progress report from the Improvement Plan OSEP accepted on March 26, 2004 demonstrating correction of the following 9 areas of noncompliance from OSEP's 2001 Monitoring Report:

- General Supervision: ensuring timely correction of identified areas of noncompliance, as required by 34 CFR §303.501(b)(4);
- Family Centered Services: ensuring that family assessments are conducted, with the concurrence of the family, and documented on the IFSP, as required by 34 CFR §303.322(d)(1);
- Early Intervention Services in Natural Environments: (1) ensuring ongoing service coordination, including the coordination and documentation of other services on the IFSP, as required by 34 CFR §§303.23(a)-(d) and 303.344(e); (2) ensuring individualized decisions by participants at the IFSP meeting, including the decision to determine the provision of services in natural environments, as required by 34 CFR §§303.12, 303.18 and 303.344(d)(1)(i); (3) revising the Service Delivery Policy and Guidelines on natural environments; (4) conducting evaluations and assessments in all five developmental domains, as required by 34 CFR §§303.322(c) and 303.344(a); (5) ensuring timely evaluations and assessments and conducting the initial IFSP meeting within 45 days of

the referral to Part C, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and §303.342(a); and (6) ensuring the provision of services in a timely manner as required by 34 CFR §§303.340(c), 303.342(e) and 303.344(f); and

- Early Childhood Transition: holding the transition meeting, with concurrence from the family, at least 90-days before the child's third birthday, as required by 34 CFR §§ 303.148(b)(4) and 303.344(h).

OSEP's November 19, 2004 FFY 2002 APR response letter also required FDOH to submit, in the FFY 2003 APR, data and required information to demonstrate progress towards correcting the two areas of noncompliance identified in OSEP's November 2004 letter. A final progress report demonstrating correction of these two areas is not due until December 19, 2005 but may be combined with the State's submission of the State Performance Plan (SPP):¹

- General Supervision: ensuring parents are informed of their procedural safeguards, as required by 34 CFR §303.403; and
- Early Childhood Transition: ensuring IFSPs included steps to support the transition of the child and family, as required by 34 CFR §303.344(h).

OSEP's November 2004 letter also required the State to submit in the FFY 2003 APR data and the required information to demonstrate improved performance in the three performance areas: (1) General Supervision: ensure the reporting of timely and accurate data; (2) Family Centered Services: the extent to which family supports and services enhance the family's capacity to enhance outcomes for infants and toddlers; and (3) Early Intervention Services in Natural Environments: the percentage of children participating in the Part C program who demonstrate improved and sustained functional abilities in the five developmental areas.

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. This letter responds to the State's FFY 2003 APR. OSEP has listed its comments by cluster area.

General Supervision

Identification and timely correction of noncompliance

OSEP's November 19, 2004 FFY 2002 APR response letter required the State to submit, in the FFY 2003 APR a final progress report demonstrating timely correction of State-identified areas of noncompliance, as required by 34 CFR §303.501(b)(4). On pages 2-5 and 22 of the FFY 2003 APR, the State included data and analysis regarding the correction of noncompliance identified in OSEP's FFY 2002 APR response letter in the following area to ensure the timely correction of identified areas of noncompliance, as required by 34 CFR §303.501(b)(4). FDOH reported trend data to demonstrate that the State completed its three-year monitoring cycle and a follow-up desk audit in all 16 local service areas. The results of the State's monitoring indicated that, from FFY 2001 to FFY 2003, 13 local service areas, including the remaining four local service areas

¹ In an e-mail dated October 25, 2005, FDOH was given a sixty day extension to submit its SPP.

identified in FFY 2002, completed the strategies in their Improvement Plans (IPs). FDOH stated in its FFY 2003 APR that the timeline for the three remaining local service areas to complete the strategies in their IP extended beyond this reporting period. In its October 2005 submission, FDOH reported that the remaining three local service areas had completed their IPs. OSEP appreciates the State's efforts in this area and looks forward to reviewing the State's data in response to Indicator #9 as part of the SPP, due December 2, 2005.

Dispute resolution

On pages 2, 8 and 22 of the FFY 2003 APR, the State included data and analysis that demonstrated progress towards correction of noncompliance identified in OSEP's FFY 2002 APR response letter in the following areas: (1) to ensure that parents are informed of their procedural safeguards, as required by 34 CFR §303.403; and (2) revision of the State's complaint procedures to comply with 34 CFR §§303.500 through 303.512.

FDOH presented trend data that indicated all 16 local programs implemented an IP to ensure that families were given information regarding the procedures to file a complaint and that procedural safeguards were explained to families in a manner that they understood. Evidence of change data indicated that 13 of 16 local service areas completed the activities in their IP, from FFY 2001 to FFY 2003, to demonstrate compliance with this requirement. FDOH stated that the timeline for the three remaining local service areas to complete the strategies in their IP extended beyond this reporting period. In its October 2005 submission, the State confirmed that the three remaining local service areas have implemented the revised notice and procedural safeguards documents.

FDOH, in the State's FFY 2002 APR, included a copy of the complaint procedures and reported that the procedures were issued to all local service areas. OSEP completed its review of the State's complaint procedures and determined that revisions were needed. OSEP issued its review of the State's complaint procedures in a letter dated May 18, 2005. With the SPP, due on December 2, 2005 the State must submit a written assurance under IDEA Sections 635 and 639 that its revised complaint procedures and revised notice have been implemented and provide a copy of the memorandum to demonstrate that the complaint procedures and notice were issued to all local service areas.

On pages 5-10 and in Attachment 1 of the FFY 2003 APR, the State included data and analysis regarding compliance in this area to ensure that complaints were resolved in a timely manner as required by 34 CFR §§303.510-512. FDOH included data and analysis indicating that all complaints filed during the FFY 2003 reporting period had a decision rendered within the required timelines. FDOH stated that written findings of fact identified five allegations in the two investigated complaints that required corrective action plans. The five allegations correlated with the systemic issues identified from the State's on-site monitoring activities and included the development of the IFSP, early childhood transition, service coordination, procedural safeguards, and services in the natural environment. The State reported that all allegations identified in the State complaint during the FFY 2001 through FFY 2003 reporting periods were timely resolved prior to and during this reporting period. FDOH stated that each local service area was required to submit a self-assessment to outline the changes to their service delivery model to maintain

compliance with these systemic areas. FDOH reported that there were no requests for mediations, or due process hearings. OSEP appreciates the work of the State in ensuring compliance with this requirement. OSEP looks forward to reviewing the State's data in response to Attachment 1 to the SPP, due December 2, 2005.

Personnel

On pages 11-14 of the FFY 2003 APR, the State included data and analysis regarding its performance in this area to ensure that sufficient personnel are available to meet the identified early intervention needs of all eligible infants and toddlers and their families. FDOH reported trend data that indicated 98% of the early intervention staff met the State's credentialing criteria, within the specified timeline as required by 34 CFR §303.361. FDOH stated that the current number of personnel employed reflected a decrease during FFY 2001 to FFY 2002; however, the data represented an actual count since duplicative and inactive providers were purged from the database. FDOH reported that a statewide Comprehensive System of Personnel Development training partnership continued with the Florida Department of Education. Contracts were in place with nine Universities, and with support from the General Supervision Enhancement Grant (GSEG), training was implemented to enhance interagency collaboration, professional development, early intervention competencies, and standards, and dissemination and evaluation mechanisms were developed. To standardize training, on-line training modules were implemented in February 2005. To ensure the availability of qualified personnel, the Infant Toddler Development Specialist position became an approved Medicaid provider on June 30, 2005. OSEP appreciates the work of the State in improving performance in this area.

Collection and timely reporting of accurate data

On pages 2 and 15-16 of the FFY 2003 APR, the State included data and analysis regarding its performance and compliance in this area to ensure timely and accurate data consistent with Section 618 of IDEA, as required by 34 CFR §303.540. FDOH reported in its FFY 2003 APR that 13 of 16 local service areas monitored from FFY 2001 through FFY 2003 completed the strategies in their IP, to demonstrate 100% compliance with this requirement. The State confirmed in October 2005 that the remaining three local service areas had completed their implementation. OSEP appreciates the State's efforts to ensure timely and accurate data reporting.

Fiscal responsibility

In Attachment 2 of the FFY 2003 APR, the State included data and analysis regarding its performance in this area to ensure the identification and coordination of funding resources within the State that resulted in the provision of continuous early intervention services. FDOH reported that Federal Part C funds constituted the single greatest financial support for Florida's early intervention program. The other sources of funding included: (1) State general revenue; (2) Medicaid; (3) Temporary Assistance to Needy Families (TANF); (4) Federal Part B; (5) State Tobacco Settlement; and (6) GSEG funds. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information demonstrating continued improvement in this area.

Comprehensive Public Awareness and Child Find System

On pages 16-19 of the FFY 2003 APR, the State included data and analysis regarding its performance and compliance to ensure a coordinated child find and public awareness system as required by 34 CFR §§303.320 through 303.323. On pages 16-20 of the FFY 2003 APR, FDOH reported that based on an annual count, the number of infants and toddlers identified and referred to Part C reflected 5.4% of the general population. The State also reported the following information. The interagency collaborative child-find system facilitated referrals from various sources. The largest number of referrals, 25% came from families, 26% from hospitals, and 21% from private physicians. Ninety-two percent of the infants and toddlers identified and referred were determined eligible due to developmental delays and eight percent, due to established conditions.

FDOH reported that 21% of the infants and toddlers determined eligible were under one year of age. The ethnicity of infants and toddlers receiving Part C services was comparable to the general population with the exception of Hispanics, that were under-represented and whites that were over-represented. The State reported that it would continue to monitor the results of its child find and public awareness efforts in order to meet the diverse needs of all local service areas. OSEP appreciates the work of the State in ensuring performance and compliance with this requirement. OSEP looks forward to reviewing the State's data in response to the child find indicator in the SPP, due December 2, 2005.

Family Centered Services

OSEP's November 19, 2004 FFY 2002 APR response letter required the State to submit, in the FFY 2003 APR, a final progress report from the Improvement Plan OSEP accepted on March 26, 2004 demonstrating correction of OSEP's 2001 Monitoring Report finding that family assessments are conducted under 34 CFR §303.322(d)(1). On pages 2, 20-21 and 24 of the FFY 2003 APR, the State included data and analysis regarding correction of noncompliance and continued performance in the following areas: (a) ensure that family assessments are conducted, with the concurrence of the family, and documented on the IFSP, as required by 34 CFR §303.322(d)(1); and (b) the extent to which family supports and services enhance the family's capacity to enhance outcomes for infants and toddlers. FDOH reported trend data that indicated all 16 local service areas monitored in FFY 2001 through FFY 2003, including the four remaining local service areas identified in FFY 2002, completed the strategies in their IPs and that family assessments were being conducted as required by the Part C regulations.

FDOH stated that 100% of the families reported that daily routines, activities, and places identified and services documented on the IFSP were based on their concerns, priorities, and resources. FDOH provided data that indicated 100% of the families reported that early intervention professionals helped them become involved in helping their child develop to their potential. FDOH stated that a family training initiative, "New Star" was implemented and a family survey would be administered to further determine the impact of early intervention services on child and family outcomes. OSEP appreciates the work of the State in ensuring performance and compliance with this requirement.

Early Intervention Services in Natural Environments

OSEP's November 19, 2004 FFY 2002 APR response letter required the State to submit, in the FFY 2003 APR a final progress report from the Improvement Plan OSEP accepted on March 26, 2004 demonstrating correction of the following 5 areas of noncompliance in this cluster are from OSEP's 2001 Monitoring Report or the State's FFY 2001 or 2002 APR: (1) ensuring ongoing service coordination, including the coordination and documentation of other services on the IFSP, as required by 34 CFR §§303.23(a)-(d) and 303.344(e); (2) ensuring individualized decisions by participants at the IFSP meeting, including the decision to determine the provision of services in natural environments, as required by 34 CFR §303.12, 303.18 and 303.344(d)(1)(i); (3) revising the Service Delivery Policy and Guidelines on natural environments; (4) conducting evaluations and assessments in all five developmental domains, as required by 34 CFR §§303.322(c) and 303.344(a); (4) ensuring timely evaluations and assessments and conducting the initial IFSP meeting within 45 days of the referral to Part C, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a); and (5) ensuring the provision of services in a timely manner as required by 34 CFR §§303.340(c), 303.342(e) and 303.344(f). On pages 2 and 24-35 of the FFY 2003 APR, the State included data and analysis regarding these five areas, each of which is discussed below.

Service Coordination

OSEP's November 19, 2004 FFY 2002 APR response letter required the State to submit, in the FFY 2003 APR a final progress report demonstrating that the State was ensuring the provision of service coordination services, including the coordination and documentation of other services on the IFSP, as required by 34 CFR §§303.23(a)-(d) and 303.344(e). On pages 2, 21 and 24 of the FFY 2003 APR, the State included data and analysis regarding the progress towards correction of noncompliance identified in OSEP's FFY 2002 APR response letter in the following area to ensure ongoing service coordination, including the coordination and documentation of other services on the IFSP, as required by 34 CFR §§303.23(a)-(d) and 303.344(e). FDOH reported that the caseload for service coordinators was reduced from 1 to 75 to 1 to 65 to facilitate service coordinators carrying out their responsibilities. FDOH stated that the 13 local service areas monitored in FFY 2001 through FFY 2003, including the remaining four programs identified in FFY 2002, completed the strategies in their IP to demonstrate 100% compliance with this requirement. The results of the statewide parent interviews and surveys conducted in FFY 2003 indicated that 100% of the families reported that they were satisfied with their service coordinator and their service coordinator listened to their needs and responded to their requests. OSEP appreciates the State's efforts to ensure compliance and improve performance in this area.

Natural Environments

On pages 2 and 25 of the FFY 2003 APR, the State included data and analysis regarding its progress in correcting noncompliance identified in OSEP's November 2004 FFY 2002 APR response letter in the following area to ensure individualized decisions by participants at the IFSP meeting, including the decision to determine the provision of services in natural environments, as required by 34 CFR §§303.12, 303.18 and 303.344(d)(1)(i). FDOH, to ensure compliance relative to services in natural environments, revised its service delivery model

effective March 2004 and disseminated its revised Service Delivery Policy on Natural Environments on February 2005 (approved by OSEP in its November 2004 FFY 2002 APR letter). Although FDOH reported that the 13 local service areas with identified noncompliance in FFY 2001 through FFY 2003 completed the strategies in their IP, FDOH has not yet monitored for the implementation of its revised Service Delivery Policy to ensure that all IFSPs identify: (1) that early intervention services are in natural environments or (2) an appropriate child outcome based justification is included when early intervention services are not provided in the child's natural environment. With the SPP, the State must provide updated data in response to the natural environments indicator regarding the number of children without appropriate child-outcome based justifications when they are not receiving services in the natural environment. If the data is monitoring data, the State must provide as part of the evidence of its correction, the data from its local service areas that the State relied upon to determine whether the local service area is in compliance.

Evaluation and Identification of needs

On pages 2 and 28 of the FFY 2003 APR, the State included data and analysis regarding its progress in ensuring correction of noncompliance identified in OSEP's FFY 2002 APR response letter in the following area to ensure that evaluations and assessments were conducted in all five developmental domains, as required by 34 CFR §§303.322(c) and 303.344(a). FDOH reported that the local service areas monitored in FFY 2001 and FFY 2002, including the four remaining local service areas identified in FFY 2002, completed the strategies in their IP to demonstrate compliance with this requirement. The State's review of IFSPs, during FFY 2003, indicated that 83% contained documentation that evaluations were conducted in all five developmental areas. The State reported in its FFY 2003 APR that three of the six local service areas, monitored during FFY 2003 completed the strategies in their IPs and in its October 2005 submission, the State confirmed that the remaining three implemented IPs and required corrective actions. OSEP appreciates the State's efforts in this area.

Individualized family service plans (IFSPs)

On pages 2 and 25-27 of the FFY 2003 APR, the State included data and analysis regarding its efforts to correct noncompliance identified in OSEP's 2001 Monitoring Report in the following areas: (1) ensure timely evaluations and assessments and conduct the initial IFSP meeting within 45 days of the referral to Part C, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a); (2) ensure the provision of services in a timely manner as required by 34 CFR §§303.340(c), 303.342(e) and 303.344(f); and (3) ensure the provision of early intervention services consistent with the IFSP as required by 34 CFR §303.344.

Timely evaluations and assessments

FDOH reported that 62.1 % of initial IFSPs were completed within 45 days of referral.² FDOH reviewed IFSPs where initial meetings were not held within the required 45 days and identified that the 47% of these were delayed due to family- or child-related issues, such as illness or family cancellation. FDOH reported that the State's database was revised to better identify and

² The State completes the initial IFSP at its initial IFSP meetings.

capture the barriers to holding the initial IFSP meeting within 45 days and the provision of early intervention services. The State must submit with the SPP due December 2, 2005, data reflecting compliance with Part C's 45-day timeline requirement. If the data is monitoring data, the State must provide as part of its evidence of correction, the data from its local service areas that the State relied upon to determine whether the local service area is in compliance. If the data indicate noncompliance, the State must include its analysis and provide any additional strategies to ensure compliance.

Timely provision of early intervention services

On pages 2 and 25-27 of the FFY 2003 APR, the State included data and analysis regarding correction of noncompliance identified in OSEP's 2001 Monitoring Report to ensure that services were provided in a timely manner as required by 34 CFR §§303.340(c), 303.342(e) and 303.344(f). FDOH reported that 68.5% met the State's timely provision of services standard. The results from record reviews indicated that delays were contributed to child- and family-related issues. FDOH stated that barrier codes would be added to the State's database in order to identify and track circumstances that may impede the timely provision of services. The State reported that early intervention services must be provided in Florida within 22 days after completion of the IFSP. The State must submit with the SPP data reflecting compliance with Part C's timely provision of early intervention services requirement. If the data is monitoring data, the State must provide as part of its evidence of correction, the data from its local service areas that the State relied upon to determine whether the local service area is in compliance. If the data indicate noncompliance, the State must include as part of Indicator #1 its analysis and provide any additional strategies to ensure compliance as soon as possible.

Provision of early intervention services consistent with the IFSP

On pages 2 and 24 of the FFY 2003 APR, the State included data and analysis regarding correction of noncompliance identified in OSEP's FFY 2002 response letter in the following area to ensure that early intervention services are provide to eligible children consistent with the documentation on the IFSP as required by 34 CFR §303.344. FDOH reported that all 16 local service areas monitored in FFY 2001 through FFY 2003, including the remaining four local service areas identified in FFY 2002, completed the strategies in the IP to demonstrate 100% compliance with this requirement. OSEP appreciates the work of the State in ensuring compliance with this requirement.

Early childhood outcomes

On page 34 of the FFY 2003 APR, the State included data and analysis regarding its continued performance in this area to determine the percentage of children participating in the Part C system who demonstrate improved and sustained functional abilities in the five developmental areas. FDOH provided data indicating that 93% of the local programs reported that approximately 3,088 children demonstrated improved/sustained functional status across the five developmental areas. FDOH reported that with the support from the GSEG, a system evaluation workgroup was formed to assist the State in developing a plan to measure the outcomes of early intervention services. The SPP instructions establish a new indicator in this area, for which States

must provide entry 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. OSEP looks forward to reviewing the State's plan for collecting this data, in the SPP.

Early Childhood Transition

Holding the transition meeting

On pages 2 and 36-38 of the FFY 2003 APR, the State included data and analysis regarding its effort to correct the noncompliance identified in OSEP's 2001 Monitoring Report: to hold the transition meeting, with concurrence from the family, at least 90 days before the child's third birthday, for children potentially eligible under Part B as required by 34 CFR §303.148(b)(2)(i). FDOH provided data indicating that 67% the local records reviewed demonstrated compliance in this areas. FDOH did not provide data to determine the extent to which delays were due to family, child, or other circumstances. The State must submit with the SPP data reflecting compliance with Part C's 90-day transition conference requirement at 34 CFR §303.148(b)(2)(i). If the data is monitoring data, the State must provide as part of the evidence of its correction, the data from its local service areas that the State relied upon to determine whether the local service area is in compliance. If the data indicate noncompliance, the State must include its analysis and provide any additional strategies to ensure compliance as soon as possible

Steps on the IFSP to support transition

OSEP's November 19, 2004 FFY 2002 APR response letter required FDOH to submit, in the FFY 2003 APR, data and required information to demonstrate progress toward correcting the Part C transition requirement that IFSPs include steps to support the transition of the child and family, as required by 34 CFR §§303.148(b)(4) and 303.344(h). On pages 36-38 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure that IFSPs included steps to support the transition of the child and family, as required by 34 CFR §§303.148(b)(4) and 303.344(h). The State reported that 17% of the records reviewed demonstrated compliance in this area. FDOH reported that revisions were made to the State's database to capture the appropriate data and information. FDOH reported that numerous transition activities were being implemented across the State, however local service providers were not documenting the activities on the IFSPs. In a telephone conference call with the State on May 1, 2005, FDOH reported that a form would be developed to assist local service areas in documenting the results of the transition activities. OSEP is concerned about the limited data available and the low level of noncompliance in this area. The State must submit by December 19, 2005 (but may submit with the SPP as part of Indicator #8), a final progress report with data and information demonstrating that IFSPs included steps to support the transition of the child and family, as required by 34 CFR §§303.148(b)(4) and 303.344(h). If the data submitted by the State is monitoring data, the State must include data by local service area regarding compliance with the transition planning requirements.

Conclusion

As noted above, the State must submit with the SPP, due on December 2, 2005, data and information that demonstrate compliance with the following four areas of noncompliance from OSEP's 2001 Monitoring Report (or the State's FFY 01 APR):

- Early Intervention Services in Natural Environments: ensure individualized decisions by participants at the IFSP meeting, including the decision to determine the provision of services in natural environments, as required by 34 CFR §§303.12, 303.18 and 344(d)(1)(i) and provide specifically the number of children without appropriate child-outcome based justifications when they are not receiving services in the natural environment. The State must submit with the SPP updated data in response to the natural environments indicator regarding the number of children without appropriate child-outcome based justifications when they are not receiving services in the natural environment.
- The State must ensure timely evaluations and assessments and conduct the initial IFSP meeting within 45 days of the referral to Part C, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and §303.342(a). The State must submit data reflecting compliance with Part C's 45-day timeline requirement.
- The State must ensure the provision of services in a timely manner as required by 34 CFR §303.344(f). The State must submit with the SPP data reflecting compliance with Part C's timely provision of early intervention services requirement. If the data indicate noncompliance, the State must include as part of Indicator #1 its analysis and provide any additional strategies to ensure compliance as soon as possible.
- Transition: hold the transition meeting, with concurrence from the family, at least 90-days before the child's third birthday for children potentially eligible for Part B services, as required by 34 CFR §303.148(b)(2)(i).

The State must submit with the SPP data reflecting compliance with Part C's 90-day transition conference requirement at 34 CFR §§ 303.148(b)(2)(i).

If the data in the four areas above is monitoring data, the State must provide as part of the evidence of its correction, the data from its local service areas that the State relied upon to determine whether the local service area is in compliance. If the data in the four areas above indicate continuing noncompliance, the State must include with the SPP its analysis and provide any additional strategies to ensure compliance as soon as possible. Failure to demonstrate compliance in these four areas may result in the State being considered as a "high risk" designee for its FFY 2006 Part C grant under the IDEA.

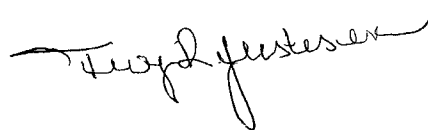
The State must also submit with the SPP a written assurance under IDEA Sections 635 and 639 that its revised complaint procedures and revised notice have been implemented and provide a copy of the memorandum to demonstrate that the complaint procedures and notice were issued to all local service areas.

The State must submit by December 19, 2005 (but may submit with the SPP), a final progress report with data and information demonstrating correction of the following one area of noncompliance identified initially in OSEP's November 2004 letter (from the State's FFY 2002 APR): Early Childhood Transition: ensuring IFSPs included steps to support the transition of the child and family, as required by 34 CFR §§303.148(b)(4) and 303.344(h). If the data submitted by the State is monitoring data, the State must include data by local service area regarding compliance with the transition planning requirements.

IDEA 2004, §616, requires each State to submit a State Performance Plan (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 Alma McPherson at (202) 245-7443.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy R. Justesen". The signature is written in a cursive style with a long horizontal stroke at the beginning and a large loop at the end.

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Janice Kane