



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

Honorable Michael Smith
Agency of Human Services
103 South Main Street
Waterbury, Vermont 05671-0204

SEP -8 2005

Dear Secretary Smith:

The purpose of this letter is to respond to Vermont'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 used 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 July 26, 2004 response to the State's March 31, 2004 FFY 2002 APR identified specific areas of concern and recommendations for improvement. OSEP directed the Vermont Agency of Human Services (AHS) to submit a plan to OSEP, within 60 days of the date of that letter, detailing how the State would address, within a year of OSEP's acceptance of the plan, the following areas:

1. Early intervention services in the natural environment:
 - (a) Individualized family service plans (IFSPs) for all eligible infants and toddlers identify a single service coordinator (34 CFR §303.23);
 - (b) Children are assessed in all five domains and IFSPs document the child's present level of development in all five domains (34 CFR §303.344(a)(1)); and
 - (c) The initial IFSP meeting is conducted within 45 days from the date of referral to Part C (34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a)). As part of its plan to address compliance with the 45-day timeline requirement, Vermont was required to clarify the data in its FFY 2002 APR and confirm whether there were adequate and qualified personnel to provide early intervention services and provide OSEP with its analysis as to whether the lack of personnel contributes to the State's difficulty in

meeting the requirement at 34 CFR §303.321(e); if so, the State was required to submit a plan to address this cause.

2. General Supervision: The actual data, procedures and final report used by the State to document the correction of noncompliance identified at the Orleans/Essex host agency.
3. Transition: An examination of the IFSP records referenced on page 13 of the Community Review and any other relevant information related to Part C transition requirements at 34 CFR §§303.148(b)(2) and 303.344(h), including data from monitoring, and clarification of the State's compliance with these requirements. If the State determined that the data indicated noncompliance, the State was required to include steps to resolve the noncompliance.

Vermont submitted a plan on October 18, 2004 and OSEP accepted the plan in its letter dated November 15, 2004. OSEP's November 2004 letter noted that the State must provide a final report to OSEP, with data and analysis demonstrating full compliance with the requirements regarding: a) single service coordinator; b) assessment in all developmental domains and inclusion of functioning in such domains in the IFSP; c) 45-day timeline; and d) family assessment, as soon as possible but no later than 30 days after one year from November 15, 2004. The State's October 2004 letter also included the final report for the Orleans/Essex host agency showing correction of noncompliance by that agency and noted that the State has a general supervision system in place reasonably designed to identify and correct State-identified noncompliance. OSEP's November 2004 letter also noted that the data submitted by the State included monitoring results to show compliance with 34 CFR §§303.148(b)(2) and 303.344(h).

OSEP's July 2004 letter directed the State that, in its FFY 2003 APR, it was to:

1. Revise its goal related to services in natural environments on page 31 of the FFY 2002 APR;
2. Provide the actual data and its analysis to demonstrate that, with the family's concurrence, a family assessment is included as part of the initial evaluation of the child (34 CFR §303.322(d)) which was addressed in the State's October 2004 submission;
3. Analyze monitoring data related to comprehensive child find/public awareness to ensure compliance with Part C requirements; and
4. Respond to the early childhood outcome probe regarding improved and sustained functional abilities in all five developmental areas.

OSEP's November 2, 2004 verification visit letter informed the State that, in the FFY 2003 APR, it must include:

1. Revised IFSP forms with natural environment justification and present level of development content;
2. Updated monitoring and correction data on the regions monitored since 2003 that indicated correction of State-identified noncompliance; and

3. An update on the progress of reaching consensus on the definition of full time equivalency for contractors across agencies.

General Supervision

Identification and timely correction of noncompliance

Pages 5 through 14 of the FFY 2003 APR reported on the State's efforts to ensure identification and timely correction of IDEA Part C noncompliance. The State reported that it accomplished the following:

1. Adjustment of its monitoring instruments and processes after analyzing the data from the Orleans/Essex community review that was completed;
2. Determination of corrective actions at both the regional and State level in a timely manner;
3. Change of the specifications in regional host agency grants pertaining to compliance expectations, monitoring and enforcement;
4. Completion of the monitoring process including correction in two regional host agencies and completion of data collection in two additional regions; and
5. Finalization of a program improvement plan that includes revisions to the monitoring process to improve efficiency in making data-driven decisions regarding noncompliance issues.

Pages 7 to 9 of the FFY 2003 APR reported in a table format findings including the three areas of noncompliance identified in OSEP's July 2004 letter from the Natural Environments cluster. The State reported that two regional host agencies' findings of noncompliance were closed and that the remaining three were to be closed by November 2005. On page 13, the State targeted two additional regions for monitoring and corrective action in 2005. The data indicate that the State is making progress in this area. OSEP looks forward to reviewing the updated monitoring data demonstrating full compliance with the three outstanding areas of noncompliance in the final Progress Report, which the State may elect to combine with the State Performance Plan (SPP), due December 2, 2005.

Dispute resolution

On page 12 of the FFY 2003 APR, the State reported that there were no formal written complaints filed or due process hearings requested during the reporting period. Page 16 of the APR provided information regarding Vermont's continuous improvement process, data sources and targeting of systems to address improvement issues, including handling of both formal and informal complaints. OSEP appreciates the State's efforts in this area and looks forward to reviewing the State's data and information in response to the applicable indicators in the SPP.

Personnel

In its July 2004 letter, OSEP requested that the State clarify data related to adequate numbers of personnel to provide early intervention services. If the State found that personnel shortages contributed to the noncompliance related to the timely delivery of early intervention services, the

State was to address the issue as part of a plan to OSEP to ensure that the initial IFSP meeting is conducted within the 45-day timeline. This issue was addressed in the plan submitted by the State in October 2004 and in OSEP's November 2004 response. On page 18 of the FFY 2003 APR, Vermont included a table showing data obtained from various sources. It indicated that personnel shortages continue to be an issue for a number of the regions. On page 19 of the APR, the State reported a portion of the State Improvement Grant (SIG) was written to address some of the personnel issues identified and on page 20 listed other ongoing efforts, including specific training that helps providers maximize their resources in the provision of early intervention services to eligible children and their families. On pages 26 and 27 of the APR, the State included further data and analysis indicating a need to improve performance in the area of personnel. The State also included strategies to improve performance. OSEP appreciates the State's efforts to improve performance in this area.

Collection and timely reporting of accurate data

On pages 29 through 32 of the FFY 2003 APR, the State included information regarding reporting of accurate data indicating that data is integrated into the State's ongoing assessment of compliance and comes from multiple sources when identifying systemic issues. In OSEP's November 2004 letter responding to the verification visit to Vermont, the State was directed to update the progress in reaching consensus on the definition of full time equivalency for contractors across the State. On page 28 of the FFY 2003 APR, the State indicated that it would apply developmental educator caseload sizes to other early intervention service providers to influence and compare calculations for the section 618 report on the levels of early intervention personnel utilized. OSEP appreciates the State's efforts and looks forward to reviewing the State's data in this area as part of its SPP due December 2, 2005.

Comprehensive Child Find/Public Awareness

OSEP requested that the State continue to analyze its monitoring data related to this cluster and provide a summary in the FFY 2003 APR to ensure compliance with Part C requirements. On pages 34 to 44 of the FFY 2003 APR, the State included data and analysis regarding its efforts to ensure compliance and improve performance in this area. OSEP appreciates the State's efforts and looks forward to reviewing the State's data in this area as part of its SPP due December 2, 2005.

Family Centered Services

In its July 2004 letter, OSEP directed Vermont to ensure in the FFY 2003 APR that the family assessment, with the family's concurrence, is included as part of the initial evaluation of the child as required at 34 CFR §303.322(d). On page 51 of the FFY 2003 APR, the State concluded that the "evaluation and assessment of the child and family needs did not always lead to identification of all child needs and family needs related to enhancing the development of the child." This conclusion was based on the collection and analysis of data from record reviews and family surveys in four regional monitoring visits. The State included strategies on page 53 that impact systemic change in the State. The State had already included strategies, proposed evidence of change, targets and timelines in its October 2004 letter. OSEP looks forward to reviewing information in the final Progress Report, which can be included with the State Performance Plan (SPP) due December 2,

2005, including further implementation of the strategies accepted by OSEP in November 2004 and the resulting data and analysis demonstrating correction of the noncompliance.

Early Intervention Services in Natural Environments

OSEP's July 2004 letter directed AHS to submit a plan to OSEP within 60 days of the date of that letter detailing how the State would address within a year of OSEP's acceptance of the plan the three areas of noncompliance in the Early Intervention Services in the Natural Environment cluster related to the IFSP: (1) each IFSP will identify a single service coordinator (34 CFR §303.344(g)(1)); (2) IFSPs will contain each child's present level of functioning (34 CFR §303.344(a)(1)) and confirmation that evaluations and assessment are conducted in all five developmental domains (34 CFR §303.322(c)(3)(ii)); and (3) the initial IFSP meeting be conducted within the 45-day timeline (34 CFR §303.342(a)).

OSEP accepted the State's plan in each of these three areas in a November 2004 letter and directed the State to provide data and information demonstrating progress toward compliance in the FFY 2003 APR and a final report demonstrating compliance within 30 days after one year from the date of that letter. OSEP's comments are reflected below.

Service coordination

In the FFY 2002 APR, data indicated that a single service coordinator had not been identified on every child's IFSP. Additionally, in the FFY 2002 APR, the State reported that it was difficult to gather data regarding whether service coordinators provided the range of services required by 34 CFR §303.23. In its October 2004 plan, AHS indicated its intent to review policy and related regulations, revise and distribute changes in policy, train staff and partners, provide technical assistance, incorporate the new policy into its monitoring process and report on progress in the FFY 2003 APR. On page 49 of the FFY 2003 APR, the State reported noncompliance was found during monitoring of four regions. The State also reported that corrective action plans were approved and addressed any findings of noncompliance and the two regions found noncompliant were found in compliance after a follow-up record review. On page 50 of the FFY 2003 APR, the State reported that all of its targets for the reporting period were accomplished and that several training events occurred during which the issue of a single service coordinator was discussed. OSEP looks forward to reviewing the State's updated data and information in the final Progress Report, which can be combined with the SPP, demonstrating full compliance with this requirement.

Evaluation and identification of needs

In the FFY 2002 APR, data indicated that IFSPs did not document that children were assessed in all five domains (34 CFR §303.344(a)(1)), that a child's present level of functioning in all five domains was not listed on the IFSP (34 CFR §303.322(c)(3)(ii)), and that the evaluation, assessment and initial IFSP meeting were not conducted within the 45-day timeline (34 CFR §303.342(a)). In its October 2004 plan, the State listed strategies, evidence of change, targets and timelines to correct these areas of noncompliance and intended to include progress on this area in the FFY 2003 APR. On pages 52 through 54 of the FFY 2003 APR, the State reported that all of the targets were completed and that it was finalizing policy changes and changes to its IFSP form to ensure efficient

and appropriate documentation. OSEP looks forward to reviewing updated data and information in the final Progress Report, which can be included with the SPP, demonstrating full compliance with this requirement.

Individualized family service plans (IFSPs)

In its November 2, 2004 verification letter, OSEP directed the State to submit in the FFY 2003 APR, its revised IFSP form with the required IFSP content including natural environments/ justification and present levels of functioning. The revised IFSP form was included with the FFY 2003 APR and contained the required content. OSEP appreciates the State's efforts in this area.

Natural environments

OSEP directed the State to revise its goal included in the FFY 2002 APR that indicated it intended to maintain the current level of services in natural environments for the next reporting period. The State must ensure that services for all of its infants and toddlers with disabilities are provided in natural environments and that the IFSP for a child who is not receiving an early intervention service in that child's natural environment contains an appropriate justification for a setting that is not the natural environment as required under 34 CFR §303.344(d)(1)(ii). On page 56 of the FFY 2003 APR, the State provided an assurance under the projected targets that "all services are provided in natural environments unless justified and documented in the IFSP." In addition, the revised IFSP, included with the APR, has a justification page and the child count data collected by the lead agency requires checking the IFSP for a justification if the setting of any service is not a natural environment. OSEP appreciates the State's efforts in this area.

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 57 through 61 of the FFY 2003 APR, the State did not provide OSEP with any data in response to this performance indicator. The State did indicate a need to improve performance in the area of early childhood outcomes and included strategies to improve performance in this area. 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 July 2004 letter directed AHS to submit, within 60 days of that letter, a review of its transition data along with a determination of compliance or noncompliance. AHS submitted its analysis of the transition data showing that it had addressed compliance with 34 CFR §§303.148(b)(2) and 303.344 in October 2004 and in its November 2004 letter, OSEP accepted the data from the State's October 2004 submission.

In addition, OSEP's November 2004 letter requested the State to submit an updated interagency agreement on transition with the Vermont Department of Education. The State in Section II of its Part C FFY 2005 Application assured that a finalized agreement would be submitted to address updated transition requirements from the IDEA 2004 amendment by June 30, 2006.

OSEP looks forward to reviewing information in the SPP, including the further implementation of strategies and resulting data and analysis regarding transition in the State's final Progress Report, which can be submitted with the SPP and a finalized interagency agreement on transition by June 30, 2006.

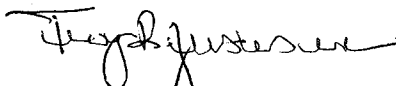
Conclusion

The State's final Progress Report may be included with the SPP due December 2, 2005.

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, similar to 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 Ginger Johnson at (202) 245-7353.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Helen Keith, Part C Coordinator
Honorable Richard Cate