UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Brian W. Amy, M.D.
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JUN 28 2004

Dear Dr. Amy:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) recent verification visit to Mississippi. As indicated in my letter to you of June 18, 2003, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with and improving performance under Parts B and C of the Individuals with Disabilities Education Act (IDEA). OSEP staff conducted a verification visit to Mississippi during the week of March 29, 2004.

The purpose of our verification reviews of States is to determine how they use their general supervision, State-reported data collection, and Statewide assessment systems to assess and improve State performance; and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

My staff appreciated the opportunity to meet with you at the beginning of their visit to the Mississippi Department of Health (MSDH), the State's Part C Lead Agency. As part of the verification visit, they also met with Geneva Cannon (Director of the Bureau of Child and Adolescent Health), Roy Hart (the State's Part C Coordinator), and members of MSDH early intervention staff, who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings), and (2) the collection and analysis of State-reported data. OSEP also met with a consultant who is working with MSDH to develop and implement its general supervision system. Prior to and during the visit, OSEP staff reviewed a number of documents, including: (1) the State's Part C Application, Self-Assessment, Improvement Plan, and Federal Fiscal Year (FFY) 2001 Part C Annual Performance Report (APR); (2) Part C monitoring files, including documentation regarding correction of noncompliance; (3) MSDH written descriptions of its procedures for data collection and general supervision; and (4) other information and documents posted on the MSDH website.[1]

OSEP also conducted a conference call on March 2, 2004, with members of the State Interagency Coordinating Council, to hear their perspectives on the strengths and weaknesses of the State's

[1] Documents reviewed as part of the verification process were not reviewed for legal sufficiency but rather to inform OSEP's understanding of your State's systems.

systems for general supervision and data collection and reporting. Mr. Hart, Kathy Moon and Carolyn Bacon also participated in the call and assisted us by inviting the participants.

The information that Mr. Hart, his staff, and consultants provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of MSDH systems for general supervision, and data collection and reporting, for the Mississippi Early Intervention System (First Steps).

General Supervision:

In looking at the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State's ability to identify and correct noncompliance; (2) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (3) utilizes guidance, technical assistance, follow-up, and—if necessary—sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

In January 1998, OSEP conducted a targeted monitoring review of Mississippi's Part C system. In its January 22, 1999 Mississippi Monitoring Report, OSEP made eight findings of noncompliance under Part C, including the following general supervision findings under 34 CFR §303.501:

1. The State was not monitoring for compliance with all Part C requirements;

2. The State was not monitoring all programs and agencies that provided Part C services;

3. The State was not providing technical assistance, if necessary, to those agencies, institutions, and organizations; and

4. The State was not ensuring correction of all of the noncompliance that it identified.

In addition to the above-described general supervision findings, OSEP made four other findings of noncompliance in its 1999 Monitoring Report:

1. 34 CFR §303.321(b)(1) - The State had not ensured that all children who may be eligible for early intervention services were identified, located and evaluated, and received needed services without unnecessary delays in accordance with Part C;

2. 34 CFR §§303.321(e), 303.322(e), and 303.342(a) - The State had not ensured that the initial evaluation, assessment and initial Individualized Family Service Plan (IFSP) meeting was convened within 45 days from referral;

3. 34 CFR §303.23(a)(2) - The State had not ensured that service coordination that meets the requirements of Part C was provided to all eligible children and their families; and

4. 34 CFR §303.342(e) - The State had not ensured that all early intervention services to which parental consent had been obtained were provided.

OSEP's March 18, 2003 Self-Assessment Letter and February 27, 2004 letter in response to the State's FFY 2001 APR directed the State to use its general supervision system to ensure that findings (and additional areas of potential noncompliance that OSEP identified in its March 18, 2003 Self-Assessment letter: 34 CFR §303.301(c)(2) and (d) – Central Directory, 34 CFR §303.148(c) – Interagency Agreement with the State Educational Agency, 34 CFR §§303.18 and 303.344(d)(1)(ii) and (iii) – Natural Environments, 34 CFR §§303.344(d)(1) and 303.342) – Unique needs of the child and family, and 34 CFR §303.340(c)) – Early Intervention Services are provided as set forth on the IFSP) were corrected. In the February 27, 2004 letter, OSEP accepted the State's Improvement Plan for correcting all of the above-described noncompliance, and directed the State to submit a progress report with its FFY 2002 and FFY 2003 APRs and documentation of full correction of each of the areas of noncompliance by February 27, 2005. As detailed below, MSDH has made significant changes in its monitoring procedures since OSEP's 1999 monitoring report, but could not yet provide documentation during OSEP's March, 2004 verification visit that its general supervision systems are effective in identifying noncompliance, or in ensuring the correction of all identified noncompliance.

Structure of the State's "First Steps" Early Intervention System

Mississippi is divided into nine public health districts. Each district has a district coordinator, who supervises the service coordinators that are responsible for providing all Part C service coordination services within the district. The State's Part C coordinator emphasized that the district coordinators and service coordinators are MSDH employees and an integral part of the Lead Agency's staff, and that the district coordinators form the core of the State's Part C monitoring system. Although a health district administrator directly supervises each district coordinator, the district coordinators work in close collaboration with the State's Part C coordinator and his central office Part C staff.

The State is experiencing shortages of service coordinators (nine vacancies at the time of the verification visit) and other service providers, with the greatest shortages concentrated in three of the public health districts (District V – West Central, District VII – Southwest, and District VI – East Central). MSDH acknowledges that, as the State increases its child find efforts, these shortages will become more critical.

MSDH reported that structural changes since OSEP's 1998 monitoring visit have reduced the number of supervisory layers in the system and increased communication between the central office staff and the district offices, enabling MSDH to improve performance and compliance efforts. There have been significant changes in MSDH monitoring procedures since 2000. Prior to that time, the Lead Agency used a checklist to review a random sample of records, and then made recommendations to the district coordinators regarding changes that were needed. MSDH described the pre-2000 monitoring system as informal, with no written reports or required corrective actions. As described below, MSDH current monitoring system is significantly more formal and multifaceted.

Identification of Noncompliance

MSDH emphasized that the district coordinators are an integral part of the Lead Agency staff, and that they have the broadest on-going responsibility for ensuring that noncompliance is identified and corrected. As detailed below, MSDH provided documentation that its monitoring procedures now address, in some manner, all Part C requirements and all Part C providers. MSDH's system for identifying noncompliance consists of the following components[2]:

1. Each year, the district coordinator for each health district must submit to the central office an implementation plan, consisting of: (a) a set of assurances that the district is meeting all Part C requirements; (b) two checklists that address minimum program requirements and quality assurance that address the requirements of Part C, as well as MSDH internal program audits requirements; and (c) a narrative of information, including the number of children served, referral process, evaluation and assessment, service coordination, service provision, an analysis of funds, transition, the local interagency coordinating council, barriers to full implementation and other areas as deemed necessary by the district. The district coordinators are not required to submit any documentation to support their assurances or their indications in the checklist that the district is in compliance, and MSDH has no systematic procedures for verifying the accuracy of the plan that each district submits.

2. Each month, each district coordinator must review ten percent of each service coordinator's IFSPs to determine whether those IFSPs include all required content. If the district coordinator finds deficiencies through this review, the service coordinator must inform the district coordinator of his or her plan for correcting the noncompliance. The district coordinator sets timelines for correction, depending on the nature of the deficiency. This record review is part of MSDH performance appraisal system, and impacts each service coordinator's annual evaluation. Each district coordinator must report quarterly to the central office regarding these monthly reviews. If the same deficiencies persist on subsequent reviews of a service coordinator's files, the district coordinator consults with the central office, that may respond with technical assistance and/or an on-site monitoring review by either the contracted peer reviewer (see below) or central office monitoring staff.

3. Each service coordinator is responsible for monitoring all of the agencies and individuals that provide early intervention services to the children and families on the coordinator's caseload, through interviewing families, reviewing service provider reports, and observing at IFSP meetings. The service coordinator must report any issues or problems that she or he finds through these procedures to their district coordinator. There is no systematic, formal process for ensuring correction of noncompliance.

4. MSDH has established a peer quality review process. An individual who is under contract with MSDH conducts an on-site review of each agency that provides early intervention services (regardless of funding source) in the health districts in the northern half of the State; MSDH will be contracting with a second individual to conduct these reviews in the southern half of the State. MSDH explained that the peer quality review process is intended to focus

[2] The Part C coordinator stated that MSDH would develop and implement procedures to ensure inter-rater reliability between monitoring conducted by district coordinators and that conducted by MSDH central office staff.

on performance, rather than compliance, and that it does not include any standard procedures for determining compliance; if, however, the peer reviewer finds noncompliance during a visit, she reports it to the central office for corrective action and follow-up. MSDH explained that it requires documentation of correction within 30 days.

5. Since the latter part of 2003, a central office manager and two MSDH field staff have begun conducting an on-site reviews of each of the nine health districts twice a year, to determine whether the district office is meeting the Part C requirements that apply to service coordinators (intake, evaluation and assessment, IFSP development and review, transition planning, and other service coordination requirements). As part of each visit, they conduct file reviews and interview district staff. MSDH issues a written report that identifies any noncompliance (indicating which service coordinators have not met requirements), and specifies required corrective actions and timelines. When MSDH conducts its next visit, it follows up to ensure that any noncompliance identified in the previous visit has been corrected. However, the State acknowledged to OSEP during its verification visit that its system is still in progress and has not been fully operational long enough for the State to be able to demonstrate it can identify and correct noncompliance.

6. MSDH conducts targeted case management audits, which focus on whether Medicaid-eligible families actually receive the Part C services for which Medicaid is billed. Further, MSDH central office staff conducts on-going reviews of billing documents, comparing them with IFSPs and contracts to ensure that specified services are provided.

7. The Mississippi Department of Mental Health (MSDMH) is the primary public provider of early intervention services, providing services directly as well as sub-contracting with private providers. MSDMH has designated a staff member who, in close collaboration with MSDH, conducts two on-site compliance monitoring reviews of each early intervention provider who works for, or under contract with, MSDMH.[3] MSDMH submits an annual report to MSDH, which sets forth the findings that MSDMH has made and the corrective actions that have been taken.

8. As noted above, service coordinators are responsible for monitoring the agencies and individuals that provide early intervention services to the families whom the coordinators serve. This includes regional rehabilitation and outpatient centers. In addition, the two largest rehabilitation centers conduct self-monitoring and satisfaction surveys, and submit summaries of those data to the district coordinators on a quarterly basis.

9. MSDH has established a process for service quality audits, across a number of MSDH programs, including early intervention. The focus of this process is service quality, rather than compliance with Part C requirements.

MSDH is working in collaboration with a consultant from Louisiana State University's Rockhold Center to add components to develop a complete Continuous Improvement and Focused Monitoring System (CIFMS). The current monitoring system does monitor all programs and agencies that provide Part C services and also monitors for all Part C requirements. MSDH staff stated that as the

[3] This MSDMH employee also serves as a member of the State Interagency Coordinating Council.

State works to improve its monitoring system, it will focus on integrating and systematizing the processes so there is consistency and effectiveness State-wide. It appears likely that the existing monitoring system (including proposed changes discussed during OSEP's verification visit) will help the State to create a more systemic, data-based approach in identifying and correcting noncompliance that will enhance the effectiveness of Mississippi's early intervention system. OSEP recognizes the Lead Agency's efforts to focus on improved performance. Without collecting data at the local level, OSEP could not determine whether MSDH current systems are effective in identifying noncompliance. However, OSEP will review and respond separately to MSDH's progress reports in its FFY 2002 and 2003 APRs.

Correction of Noncompliance

As noted above, district coordinators and MSDH central office staff document, in written reports, any findings of noncompliance that they make regarding service coordinators' implementation of requirements related to evaluation and assessment, IFSP development, transition, and other service coordination requirements. District coordinators follow up with service coordinators to ensure that they correct any noncompliance within established timelines, and report on a quarterly basis to the central office regarding findings and correction. When central office staff find noncompliance through their twice-yearly onsite review of each health district, they issue a written report that identifies any noncompliance (indicating which service coordinators have not met requirements), and specifies required corrective actions and timelines. MSDH follows up to ensure correction, when it conducts its next visit. Similarly, MSDMH submits an annual report to MSDH, which sets forth the findings that MSDMH has made in its monitoring of all early intervention providers who work for, or under contract with, MSDMH, and of the corrective actions that they have taken. MSDH acknowledged that its procedures for ensuring the correction of any noncompliance that service coordinators identify in monitoring other early intervention service providers are not systematic, and could not provide documentation that service coordinators are effective in ensuring such correction.

Until MSDH can present a more fully designed system of correction procedures and provide evidence of the system's effectiveness in ensuring the effective and timely correction of noncompliance, OSEP cannot determine whether MSDH systems for general supervision constitute a reasonable approach to correcting noncompliance. As required in OSEP's February 27, 2004 letter accepting the State's Part C Improvement Plan, MSDH must provide evidence that its procedures for correction are effective by February 27, 2005. As part of that documentation, MSDH will need to demonstrate that it has ensured the correction of OSEP's findings in the 1999 letter, as well as the additional areas of noncompliance that OSEP identified in its March 18, 2003 Self-Assessment letter, and that it is effective in ensuring the timely correction of any noncompliance that MSDH identifies.

Technical Assistance and Training

MSDH requires all staff and early intervention providers to participate in a two-day training session twice a year. MSDH has recently revised its service coordinator handbook, which includes all required forms, policies and procedures, and will be including training of this handbook as a part of the mandatory training to all staff and providers. The Lead Agency sponsors a State-wide early intervention conference yearly. In collaboration with the University of Southern Mississippi

Institute of Disability Services, MSDH provides ongoing technical assistance and training as requested by the districts or identified by the central office as a result of its monitoring efforts. MSDH also collaborates with Willowood on team training focusing on child find. This training includes Part B and C providers, hospital providers, and other interested agencies. Every other month, there is an interactive videoconference called Conversations that is available to all providers and lead agency staff in the field. Each Conversation focuses on a specific issue, and participants may earn continuing education credits. MSDH and MSDMH sponsor a yearly Autism conference. The Part C coordinator stated that MSDH continues to expand training opportunities by working with the university and others. Finally, the staff stated that the early intervention credentialing process seems to be helping provide incentive for providers to attend trainings. This process is available but not required at this time. OSEP encourages MSDH to consider including the credentialing process as a required training and data-reporting component.

Complaints, Due Process Hearings, Mediation, and Notice of Procedural Safeguards

MSDH informed OSEP that prior to 2003, it had received no written complaints, pursuant to 34 CFR §§300.510-512. MSDH had, by the time of OSEP's March 2004 verification visit, received two written complaints and resolved both of them within 60 calendar days. If a health district receives a Part C complaint, the district coordinator must notify the Central Office, investigate the complaint, and send a proposed decision to the Part C coordinator, who is responsible for issuing a decision.

At the district level the districts have received phone calls and informal complaints. The central office has begun to require the district coordinators to track all complaints received and the resolution of these whether formal or informal. The Lead Agency follows up on all complaints, including those that are not in writing and encourages the complainant to put the issues in writing.

MSDH has elected, pursuant to 34 CFR §303.420, to develop procedures for mediation and hearings that are consistent with 34 CFR §§303.419 and 303.421-303.424, rather than to adopt procedures that are consistent with the Part B requirements at 34 CFR §§300.506-300.512. MSDH informed OSEP that it had never received a request for a Part C hearing or mediation.

As noted above, MSDH has received only two written complaints and no requests for mediation or a due process hearing. Therefore, as part of its evaluation of the State's dispute resolution system, OSEP reviewed MSDH prior written notice documents, required pursuant to 34 CFR §303.403, to determine whether they include all of the required information regarding complaints, due process hearings, and mediation, and whether any lack of required notice content might be a factor in the lack of complaints, and due process hearing and mediation requests. At 34 CFR §303.403(a), the Part C regulations require that written prior notice must be given to the parents a reasonable time before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of the child, or the provision of appropriate early intervention services to the child and the child's family. The regulations further require, at 34 CFR §303.403(b), that, "The notice must be in sufficient detail to inform the parents about—...(3) All procedural safeguards that are available under §§303.401-303.460 of this part; and (4) The State complaint procedures under §§303.510-303.512, including a description of how to file a complaint and the timelines under those procedures."

There is a prior notice form that is mailed to the parents before an evaluation is conducted. There are also two sets of Parent Rights (a short form and a more complete long form based on the federal regulations) that are handed out to all parents. The Parent Rights are currently only handed out to parents at the initial evaluation but the Part C coordinator assured OSEP staff that these will now also be handed out any time there is a change. The Parent Rights are also in Braille and in Spanish. A copy of the prior notice form and the Parent Rights were provided to OSEP at the verification visit.

As noted in the attached memo, OSEP finds that MSDH prior notice forms on parents' rights do not include all of the required content under 34 CFR §303.403. MSDH must revise its prior written notice documents to ensure that they meet the requirements listed in the attached memo. OSEP is available to work with MSDH to ensure that the required information is included. Please submit the revised notice materials to OSEP within 60 days from the date of this letter.

Data Collection under Section 618 of the IDEA:

In looking at the State's system for data collection and reporting, OSEP collected data regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local and/or regional level do so accurately and in a manner that is consistent with the State's procedures, OSEP guidance, and section 618; (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) has identified any barriers (e.g., limitations on authority, sufficient staff or other resources, etc.) that impede the State's ability to accurately, reliably and validly collect and report data under section 618 of the IDEA.

Under section 618, States must report five categories of Part C data. Mississippi uses the same definitions provided by OSEP in the instructions to the 618 Tables.

MSDH uses Microsoft ACCESS as the software platform for the First Steps Information System (FSIS). Service coordinators enter data for the children and families they serve into ACCESS on their personal computers, and then electronically export a copy of those data to the district coordinator in a temporary file. (Two service coordinators who are not physically located in a district office provide their data on a disk.) The district coordinators import the data from the temporary file to a database that MSDH Part C data analyst can directly access from the central office, so that he can aggregate/disaggregate the data for the State's 618 report to OSEP. The State's October 2002 Self-Assessment reported that some service coordinators in two districts were not entering data for their caseloads; during the verification visit, MSDH informed OSEP that it resolved the issue by having the system analyst provide technical assistance and training to these service coordinators.

MSDH first began to use the FSIS on a trial basis in late 1999, with full implementation in Spring 2000. Prior to this, MSDH used a "paper and pencil" system to collect Part C data. MSDH continues to adapt the system as new data needs arise or inaccuracies are detected. For example, MSDH is developing revisions that will allow better sharing of transition data with the Mississippi Department of Education.

Through the ACCESS database, the system analyst accesses the most recent child count data from each of the nine health districts. The system analyst also uses the software to disaggregate the data by age and race/ethnicity. MSDH acknowledged that: (1) although most service coordinators enter data in a timely manner, MSDH has established no standards for how frequently they must update the database; and (2) there is currently no system in place to ensure that children who leave the Part C program before 36 months are exited from the database in a timely manner. MSDH stated that it would revise the system to address these weaknesses.

Through the ACCESS database, the system analyst pulls exiting data from each of the nine health districts. The database includes fields for the date of exit and the reason for exiting (this is a drop down menu). The software does not currently include an edit check that will flag an illogical response (e.g., a child's date of birth indicates that he is 24 months, and reason for exit is "aged out"). During the verification visit, MSDH began to revise the software to include such an edit check.

The FSIS uses a drop down menu for the definitions for settings. The service coordinators input settings for each service. They also input the frequency and intensity of the services. The system analyst has programmed the system to apply a formula to these two types of data, and identify the primary setting for each child.

As with child count and exiting data, the system analyst uses the ACCESS database to pull the services data from each of the nine health districts. (These data reflect the services set forth in children's IFSPs, and do not necessarily reflect the amount of service actually received. As noted above, district coordinators are responsible for ongoing monitoring of service providers to ensure that they are providing the services set forth in the IFSP.)

MDSH does not use the FSIS to generate the personnel report. MSDH receives from MSDMH a report of full-time equivalents (FTEs) providing early intervention services in mental health centers. For other individuals providing early intervention services, MSDH counts FTEs based on available hours pursuant to MSDH contracts with providers. The State staff acknowledged that this system does not capture individuals who provide early intervention services but do not receive Part C funds. The Part C coordinator stated that MSDH is considering ways in which to use the FSIS to generate more complete and accurate data for the 618 Table.

MSDH required all district coordinators and service coordinators to participate in a two-day training session to prepare full implementation of the FSIS. As part of mandatory orientation training, all new coordinators receive training on using the FSIS to report data. The system analyst develops four monthly reports for district coordinators: (1) a list of possible duplicates within and between districts, which the district coordinators must resolve; (2) "null" reports, which identify fields that are empty and that the districts must complete; (3) a list of children who are over 36 months of age but still included in FSIS as active Part C cases; and (4) a report of the number of children receiving Part C services, by district and service coordinator. Future plans for monthly reports include: (1) a report on overdue initial IFSP meetings, disaggregated by district and service coordinator; (2) a "logical date progression," which identifies illogical data (such as a referral date before the reported date of birth), and potentially illogical data (such as an exit date before 36 months of age); and (3) a

"timely data entry" run, to track whether service coordinators comply with the standards that MSDH will establish for data entry.

MSDH acknowledged that, beyond the fields and drop-down menus built into the software, MSDH has not provided written procedures or other guidance to service coordinators and district coordinators on data entry. The system analyst works closely with district personnel and provides ongoing training and technical assistance, but MSDH acknowledged that it will be important to provide more written guidance to ensure data accuracy and consistency across the State.

MSDH approximated that there is a one percent error rate in its data (errors such as incorrect birthdates, referral dates and IFSP dates). MSDH acknowledged that its only current tool to identify such errors is a visual scan of the data. During the verification visit the Part C coordinator and the system analyst stated that there will be changes to the edit checks and all reviews will be mandatory.

While it appears that, in general, MSDH system for data collection is reasonably designed to collect and report data under section 618 of the IDEA, OSEP cannot, in light of the concerns addressed above, determine whether the system does in fact result in fully accurate data. OSEP expects that MSDH will submit a plan within 60 days of the date of this letter that addresses the concerns about the accuracy of the data and to ensure that the State's December 1, 2004 report under IDEA section 618 will be accurate. It will also be important that, as part of its FFY 2003 APR, due March 31, 2005, the State provide its data-based conclusions as to whether the State's procedures and practices ensure collection and reporting of accurate and timely data. The proposed future plans discussed during the verification visit and described above for the FSIS could enhance the accuracy of the data that the State reports.

We appreciate the cooperation and assistance provided by your staff during our visit, and we look forward to collaborating with Mississippi as you continue to work to improve results for children with disabilities and their families. As I explained in my letter to you of June 8, 2004 describing OSEP's plans for focused monitoring and intervention activities in Mississippi, OSEP will be working closely with the State to improve Mississippi's performance on the settings in which infants and toddlers receive early intervention services.

Sincerely,

Patricia J. Guard for

Stephanie Smith Lee
Director
Office of Special Education Programs

Enclosure

cc: Roy Hart, Part C Coordinator