



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

MAR 15 2004

Dear Director Berns:

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 Arizona. As indicated in my letter to you in October 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). We conducted a verification visit to Arizona during the week of December 8, 2003.

The purpose of our verification reviews of States is to determine how they use their general supervision, State-reported data collection, and State-wide assessment 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.

As part of the verification visit to the Arizona Department of Economic Security (DEC), the State's Part C Lead Agency, OSEP staff met with Ms. Molly Dries (the State's Part C Coordinator), and members of Arizona Early Intervention Program's (AzEIP's) staff who are responsible for: (1) 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. Prior to and during the visit, OSEP staff reviewed a number of documents¹, including the State's Part C Application, multiple revised Improvement Plans, and submissions of data under Section 618 of the IDEA. OSEP also conducted a conference call on November 10, 2003, with members of the Part C Steering Committee, to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision and data collection and reporting.

The information that Ms. Dries and her staff 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 AzEIP's systems for general supervision, and data collection and reporting.

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.

General Supervision:

In looking at the State's general supervision system, OSEP collected data 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.

OSEP's Monitoring Report, issued on May 22, 2000, identified the following seven findings of noncompliance with Part C: (1) General Supervision: 34 CFR §303.501 - Ineffective Monitoring Procedures to Ensure Consistent Implementation of Part C; (2) Child Find: 34 CFR §§303.321 and 303.320 - Development of a Comprehensive, Coordinated, Statewide Child Find System; (3) Failure to Disseminate Public Awareness Information to Primary Referral Sources; (4) Failure under 34 CFR §303.322(e)(1) to convene the initial Individualized Family Service Plan (IFSP) meeting within 45 days from initial referral including identification of all needed services; (5) Failure under 34 CFR §303.322(e)(2) to appropriately extend timelines for evaluations and assessments and to routinely and inappropriately develop interim IFSPs; (6) Failure to provide all services to all eligible children under 34 CFR §303.322 including children on reservations; and (7) Failure to ensure under 34 CFR §303.23(a)(2) that all service coordination functions are implemented.

AZEIP submitted an initial Improvement Plan in March 2001. The Improvement Plan failed to appropriately address all of OSEP's seven findings. The State submitted partially revised Improvement Plans in December 2001, February 2002, July 2002 and August 2002, all of which still lacked strategies, timelines, benchmarks and evidence of change data for each of OSEP's seven findings of noncompliance. In November 25, 2002, OSEP identified 11 critical data elements that AZEIP's Improvement Plan submissions still failed to address and requested that the State submit in its next Improvement Plan those data elements. AZEIP's revised Improvement Plan and data submissions (originally due in March 2003) were submitted on July 1, 2003 as part of AZEIP's Annual Performance Report (APR) for Federal Fiscal Year (FFY) 2001. Prior to the submission of the APR, OSEP received draft Improvement Plans from AZEIP (March/April 2003) and provided technical assistance. OSEP is responding to AZEIP's July 1, 2003 APR (which included the APR and revised Improvement Plan) in a separate letter.

During OSEP's verification visit in December 2003, AZEIP staff explained that they are still developing a monitoring system and intend to refine the system based on information from the pilot monitoring process conducted in 2001 through 2003. AZEIP officials told OSEP during the visit that AZEIP is planning to conduct comprehensive monitoring activities on a five-year monitoring cycle that will include the early intervention service (EIS) programs as well as programs that serve eligible Part C children in other agencies. OSEP found from its review of the pilot monitoring documents that the pilot monitoring system is inadequate because it does not address all Part C requirements. In interviews with OSEP, AZEIP indicated that it is revising its monitoring tools to include all Part C requirements and will begin initial implementation of the monitoring system in 2004.

AZEIP confirmed in an interview with OSEP that all pilot monitoring was conducted within AZEIP only and that AZEIP does not monitor any other agencies within DES or other State agencies and programs that provide early intervention services to infants and toddlers with disabilities and their families. According to AZEIP, early intervention services (including evaluations and assessments as well as service coordination) are provided by: (1) AZEIP within DES; (2) Division of Developmental Disabilities (DDD) within DES; (3) Division of Children, Youth and Families – Child Protective Services within DES; (4) Department of Health Services (ADHS); (5) State Schools for the Deaf and Blind (ASDB); (6) Department of Education (ADE) and its local school districts (for transition purposes); (7) Arizona Health Care Cost Containment System (AHCCCS); and (8) contractors within those agencies. OSEP learned through interviews with AZEIP staff that in some regions 80% of eligible children are provided service coordination through DDD. The other agencies serve less than 10% of Part C eligible children. AZEIP staff reported that other agencies “self-monitor” but they did not know if these other agencies and DDD monitor for compliance with Part C requirements.

In interviews with OSEP, AZEIP staff reported that AZEIP is now refining its monitoring system based on results from the pilot monitoring. It was evident from interviews with the AZEIP general supervision staff that they are working hard to understand the Part C requirements, and are trying to develop monitoring tools that will provide the necessary information about local programs. The AZEIP draft monitoring process includes the use of: (1) Family Surveys and Family Interviews; (2) Program Self-Assessment; (3) Desk Audits which include the review of the State-wide IFSPs and Arizona Child Tracking System (ACTS) data; (4) Site Reviews which include File Audits of personnel, child and financial information; and (5) Community Level and Agency Level reviews which include ongoing assessment of the overall coordination of programs and agencies including the public awareness, child find, and technical assistance needs through local Program Coordination Contracts.

Since OSEP’s Monitoring Report was issued in 2000, AZEIP has made some improvements to its early intervention system, including: (1) redesigning the process for entry into the Part C system to make it a single point of entry for families, (the Initial Planning Process (IPP)) which was initiated in December 2003; (2) redesigning service regions in the State for the IPP to better serve the children by location and provide monthly data reports; (3) developing and revising some monitoring tools; (4) hiring a full time data expert in 2000 to improve data consistency, expand data collection, and to use the data to look at the system for trends; (5) revising contracts for service coordination through other agencies to provide clearer guidelines for performing required functions; (6) developing Standards of Practice for all personnel in all agencies servicing Part C children; and (7) revising the ACTS which initially only tracked the number of children served in the State, but now provides more data regarding compliance such as referral of child for assessment, multidisciplinary team information, evaluation and results, eligibility review and results, IFSP service provision timeline, outcome statistics, and transition and AZEIP exit.

At the time of OSEP’s visit, AZEIP had not established a menu of formal sanctions to impose on programs that fail to take required actions to correct noncompliance. AZEIP staff reported that they have begun to look at trend data and will conduct informal technical assistance visits to programs with low ranking data. Furthermore, AZEIP has not developed a schedule to monitor and provide technical assistance to the lowest ranking districts. In interviews with AZEIP staff, OSEP was informed that AZEIP’s new contracts will include sanctions and financial accountability for due process complaints.

OSEP also reviewed AzEIP's system for the resolution of State complaints, due process hearings, and mediation. Although the State has adopted State complaint, due process hearing and mediation procedures, to date (7/1/01-6/30/03) there have been only three formal system complaints and three requests for due process hearings. OSEP found, based on its review of State complaint and due process hearing requests, that all complaints filed from 2001-2003 were resolved within required timelines, and all due process requests filed from 2001-2003 were settled before any hearings. According to AzEIP staff, most complaints have been resolved through informal procedures. OSEP cannot determine whether the limited number of administrative complaints and or due process hearing requests is due to a high degree of family satisfaction with Part C services, or whether parents have not been sufficiently informed regarding the State's Part C dispute resolution procedures. AzEIP must make sure, through its monitoring activities, that parents receive the prior written notice required under 34 CFR §303.403(b).

Based on the information reviewed prior to and during the verification visit, OSEP concludes that AzEIP lacks a comprehensive monitoring system that has a systemic data-based approach to identifying and correcting noncompliance with Part C requirements. OSEP expects AzEIP to submit by March 31, 2004, its monitoring system plan and protocols, strategies, benchmark data for each area of noncompliance, and evidence of change data for each area of noncompliance that includes all of the elements set forth in the attached APR letter. Failure to provide all of the information may negatively affect the State's eligibility for FFY 2004 Part C grant funds.

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.

OSEP believes that AzEIP's system for collecting and reporting data is a reasonable approach to ensuring timely and accurate data under section 618 of the IDEA. AzEIP hired a full time data expert in 2000 to develop a database and increase the consistency of State reported data. AzEIP staff informed OSEP that all Part C data are entered into the database system. All programs in AzEIP use the ACTS. The data expert developed an audit feature that identifies all the data entry errors. The system also allows the State to track each child's program file. The system has some set reports and is able to do a query on any piece of the data that is in the system. A "tickler system" is also built into the database to remind program managers of eligible children who need to have an IFSP review or transition meeting, and local programs can run reports to audit their own files.

AzEIP staff informed OSEP in an interview, that they disseminate the annual OSEP data collection policy letters and instructions to local early intervention programs both in AzEIP and other agencies providing Part C services. All other programs that serve Part C children have a separate database

system which they pull information from, copy it, and send to AzEIP. One State level employee, who is responsible for AzEIP's data collection, provides technical assistance to these programs either on the phone or by visiting a local program. AzEIP staff stated that when inconsistencies arise they call the local programs and have the data corrected. AzEIP staff expressed confidence in the accuracy of the data they report to OSEP.

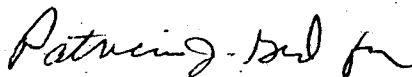
As reported by AzEIP, DDD, proportionately in the State, provides a significant amount of services to eligible Part C children. DDD uses the ASSIST database system, which is used by DDD for billing and child count purposes, to enter all information about the children served in DDD which provides guidelines for entering data. AzEIP staff reported that they have compared ASSIST's guidelines with the information provided in OSEP's Federal guidelines and data definitions to assist personnel to provide valid and reliable data to AzEIP. In the future, DDD will report data to AzEIP on a monthly basis instead of annually. OSEP recommends that AzEIP maintain a coordinated data collection system with DDD to ensure the reliability of the data since DDD serves a large number of Part C eligible children.

AzEIP provided documentation that it has made additional changes to the ACTS data collection system that includes a breakdown of all data from all agencies by county and a comparison of monitoring data and data collected under Section 618 of the IDEA. AzEIP must provide OSEP with a summary and its analysis of those data by county and agency. AzEIP stated that it would require IPP contractors throughout the State to report on referral, child count and public awareness activities.

OSEP is concerned about AzEIP's ability to submit and implement an Improvement Plan that contains all the required data and other elements necessary for AzEIP to demonstrate to OSEP AzEIP's measurable progress on implementation of its monitoring system, correction of the seven findings in OSEP's 2000 Monitoring Report. AzEIP has indicated it may need additional time (but not more than three years) to come into full compliance with the seven findings in OSEP's 2000 Monitoring Report and OSEP is discussing with AzEIP the possibility of entering into a Compliance Agreement with the U.S. Department of Education to address any issues that may require a longer time period. Please inform OSEP by March 31, 2004 if the State requires additional time and whether it wishes to enter into a Compliance Agreement.

We look forward to collaborating with Arizona as you continue to work to improve results for infants and toddlers with disabilities and their families.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Molly Dries
Part C Coordinator