



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Keith W. Rheault  
Superintendent of Public Instruction  
Nevada Department of Education  
700 E. Fifth Street  
Carson City, Nevada 89701-5096

**AUG 19 2005**

Dear Superintendent Rheault:

The purpose of this letter is to respond to Nevada'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 B 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. 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***

The conclusion of OSEP's May 27, 2004 FFY 2002 APR response letter to the State suggested that the State's FFY 2003 APR include the following: (a) the State's progress in increasing the effectiveness and ensuring the enforcement of the interagency agreement between the Nevada Department of Education (NDE) and the Nevada Department of Human Resources (NDHR) to ensure transition from Part C to Part B meets IDEA requirements; (b) the State's progress in determining eligibility of all children exiting Part C by the child's third birthday; (c) each district's progress in participating in transition planning conferences arranged by NDE. See 34 CFR §§300.121(c) and 300.132 (b) and (c); (d) continue to report analyses of data related to graduation and drop-out rates; and (e) baseline data to determine the early language/communication, pre-reading, and social-emotional skills, of preschool children with disabilities receiving special education and related services; and targets, explanation of slippage or progress, projected targets, future activities, and projected timelines and resources to address improving outcomes for preschool children.

### ***General Supervision***

OSEP identified no noncompliance in this area in the FFY 2002 APR. The State included information in Cluster I-General Supervision, pages 1 through 19 and in Appendix 1, page 1.

### Identification and timely correction of noncompliance

On pages 1 through 8 of the FFY 2003 APR, the State included information regarding the identification and timely correction of noncompliance. The State piloted a revised monitoring system during the reporting period that focused on procedural compliance and improvement. The State reported that 100% of the identified compliance issues were corrected within one year of identification by the State. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the State Performance Plan (SPP).

### Formal written complaints

On pages 4 through 5, 11 and in Attachment 1(a) of the FFY 2003 APR, the State included information regarding formal written complaints. The State reported 35 complaints were filed with 26 decisions issued within IDEA timelines. Seven complaints were pending as of August 30, 2004. Two of the seven were filed during the last week of the school year. Five of the seven were filed during the summer break. All seven were resolved by September 30, 2004. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

### Mediation

On pages 6 through 7, 11 and in Attachment 1(b) of the FFY 2003 APR, the State included information regarding mediation. The State reported 17 mediations and an 85% response rate from parents that the mediation process was positive. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

### Due process hearings and reviews

On pages 5, 11 and in Attachment 1(c) of the FFY 2003 APR, the State included information regarding due process hearings and reviews. The State reported four fully adjudicated hearings were pending at the close of the date for dispositions, three of the pending cases were on appeal to a State Review Officer (Nevada has a two-tier due process system) and a review decision was subsequently reached within extended timelines under 34 CFR §300.511(c). A decision was also reached in the fourth case within extended timelines under 34 CFR §300.511(c).

### Personnel

On pages 13 through 15 of the FFY 2003 APR, the State included information regarding personnel. The State identified challenges to securing special education staff and activities and initiatives to address the challenges. The State used resources from the OSEP funded State Improvement Grant to address these challenges, including recruitment and training programs. OSEP appreciates the State's efforts in this area.

### Collection and timely reporting of accurate data

On pages 16 through 17 of the FFY 2003 APR, the State included information regarding collection and timely reporting of accurate data. The State commented that collection and timely reporting of accurate data to OSEP and to the general public was due, in part, to the advances in technology and improvement in instructions and analyses supplied by WESTAT and OSEP.

OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

### ***Early Childhood Transition***

OSEP identified no noncompliance in this area in the FFY 2002 APR. OSEP's May 2004 letter suggested that the State include, in the FFY 2003 APR, its progress in increasing the effectiveness and ensuring the enforcement of the interagency agreement between NDE and NDHR to ensure transition from Part C to Part B meets IDEA requirements; the State's progress in determining eligibility of all children exiting Part C by the child's third birthday; and each district's progress in participating in transition planning conferences arranged by NDE. See 34 CFR §§300.121(c) and 300.132 (b) and (c). On pages 1 through 6 of the Cluster II-Early Childhood Transition section of the FFY 2003 APR, the State included information regarding early childhood transition, including information about the interagency agreement between the NDE and NDHR. The State found no evidence that the school districts monitored in 2003-2004 did not comply with the requirements to participate in transition planning conferences arranged by Part C early intervention programs. During the reporting period, there were no complaint investigations or due process hearings concerning school district participation in early childhood transition. When the State identified noncompliance in local education agencies with the requirement that an individual education program (IEP) be in place for eligible children by their third birthday, the noncompliance was corrected within one year of identification by the State. The State found no noncompliance with the requirement that three-year-old children receive the services outlined in their IEPs, including extended school year services when determined appropriate by the student's IEP committee, when monitoring local education agencies during the reporting period. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

### ***Parent Involvement***

OSEP identified no noncompliance in this area in the FFY 2002 APR. On pages 1 through 6 of Cluster III-Parent Involvement of the FFY 2003 APR, the State included information regarding parent involvement. The State expanded its outreach to parents through wider distribution of a survey to parents of children with disabilities. The State received 841 of 3321 possible responses (25%). The State planned to consult with parent training and advocacy personnel to develop strategies to increase the response rate. The State provided technical assistance to help parents become more meaningfully involved in individualized decision-making and continued its priority to ensure that diverse parent representatives were meaningfully involved in IDEA committees and task forces. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

### ***Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE)***

OSEP identified no noncompliance in this area in the FFY 2002 APR. In Cluster IV-Free Appropriate Public Education in the Least Restrictive Environment, pages 1 through 35 and in Appendix 2, page 1 and Appendix 3, pages 1 through 18, the State included information regarding FAPE in the LRE.

### Disproportionality

On pages 1 through 9 and Attachment 2 of the FFY 2003 APR, the State included information regarding disproportionality. The State reported significant disproportionality through the use of the risk ratio calculations. The results for all three years of reporting (2000-2001, 2002-2003, and 2003-2004) were reported as almost identical. During these three reporting periods, the State found no evidence of noncompliance from any source related to bias in evaluations. The State examined local and State policies, procedures, and practices and found that the policies, procedures, and practices were race-neutral. The State also found no evidence of noncompliance. To ensure that disproportionality was not the result of inappropriate identification or evaluation practices, the State planned to continue examining policies, procedural requirements, and practices as a part of the State's on-going monitoring activities. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

### Graduation and drop-out rates

On pages 10 through 13 and in Appendix BF-1 of the FFY 2003 APR, the State included information regarding graduation and drop-out rates. OSEP's May 2004 letter suggested the State continue to report analyses of data related to graduation and drop-out rates. The State's drop-out rate for students with disabilities grew from 6.4% in 1999-2000 to 7.4% in 2003-2004. During the same five years, the drop-out rate for all students fluctuated but during the previous three years, the rate fell from 6.3% in 2001-2002 to 5.9% in 2003-2004. The overall trend for the State's graduation rate for all students was a slight increase; for students with disabilities, a slight decrease. In response to this data, the State identified future activities, including a new component in the State's monitoring system, to assist districts in analyzing their graduation and drop-out data for use in school-based and districtwide planning, to increase the graduation rate and decrease the drop-out rate. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

### Suspension and expulsion

On pages 14 through 16 of the FFY 2003 APR, the State included information regarding suspension and expulsion. The State compared the unduplicated count of children ages 3-21 expelled or suspended for more than ten days for school years 2001, 2002, 2003, and 2004. While the rate increased, the rate was within the State's acceptable range of +/- 0.2. The State planned technical assistance and training activities to address this State priority. NDE also planned to work collaboratively with the Nevada Parents Empowering Parents Center and local school districts to identify training needs related to positive behavioral supports and develop a statewide training program to implement the plan. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

### Statewide and districtwide assessment

On pages 17 through 23 and in Attachment 3 of the FFY 2003 APR, the State included information regarding statewide and districtwide assessment. During the reporting period, criterion-referenced tests were administered to children in grades three, five and eight. A high school assessment was administered to children in grades ten and eleven. The State reported that between 2002-2003 and 2003-2004, performance of children with disabilities, as reflected in

national percentile ranks, remained the same in two areas (tenth grade reading and language arts) and increased in every other subject area, at every grade level. The performance of all students remained somewhat static. The State reported in Attachment 3 the number of students participating in the statewide assessments and the performance results, including the participation and performance results of students taking the alternate assessment. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

#### Least restrictive environment (LRE)

On pages 24 through 29 of the FFY 2003 APR, the State included information regarding least restrictive environment (LRE). The State reported that 53% of students with disabilities spend at least 80% of the school day in the regular education environment and that more than 80% spend at least 40% of the school day in the regular education environment. These data are similar to national data. For students aged 3-5, 58.3 % were in early childhood education settings in 2003-2004. These data are higher than the national data of 36%.

On pages 27 and 28 of the FFY 2003 APR, the State identified numerical goals for increasing the number of children included in general education environments and early childhood environments. On page 28, the State included monitoring data related to this goal, indicating that monitoring data and planned future activities would be used to continue to ensure that placement is based on the individual needs of the child as determined by the IEP team. While a numerical goal is not inconsistent with IDEA, the State must continue to monitor to ensure that eligibility decisions for all children are made in conformity with the requirements of Part B of IDEA at 34 CFR §§300.550-556 and not based upon a numerical goal. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

#### Preschool performance outcomes

OSEP's May 2004 letter suggested that the State include baseline data to determine the early language/communication, pre-reading, and social-emotional skills, of preschool children with disabilities receiving special education and related services; and targets, explanation of slippage or progress, projected targets, future activities, and projected timelines and resources to address improving outcomes for preschool children. On pages 30-32 of the FFY 2003 APR, the State included information regarding preschool performance outcomes. The State used the Preschool Language Scale 4 (PLS-4) to assess 62 randomly selected four-year-olds at the beginning and conclusion of the 2003-2004 school year and included the mean gain for auditory and expressive communication. The State included a plan to design a data collection system for this performance indicator during the following two to three years. In preparation for submission of the SPP on December 2, 2005, the State should carefully consider data and information collected for the APRs, along with OSEP's responses, against the requirements related to this indicator in the August 9, 2005 SPP packet. The State must make a determination whether plans currently in place to collect data related to this area will be responsive to those requirements. OSEP looks forward to reviewing the information in the SPP.

#### *Secondary Transition*

OSEP identified no noncompliance in this area in the FFY 2002 APR. In Cluster V - Secondary Transition pages 1 through 7 of the FFY 2003 APR, the State included information regarding

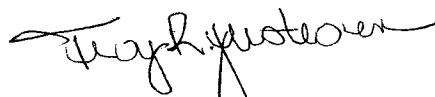
secondary transition. The State identified its current and future activities to assist youth with disabilities to have a comprehensive and successful transition from school to post-school activities. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

***Conclusion***

IDEA 2004, §616, requires each State to submit a 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 looks forward to collaborating with you as you continue to improve results for children and youth with disabilities and their families. If you have questions, please contact Marie Mayor at (202) 245-7433.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy R. Justesen". The signature is fluid and cursive, with a large loop at the end of the last name.

Troy R. Justesen  
Acting Director  
Office of Special Education Programs

cc: Frankie McCabe