



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

Honorable Keith Rheault
Superintendent of Public Instruction
Nevada Department of Education
700 E. Fifth Street, Suite 113
Carson City, NV 89701-5096

JAN 24 2008

Dear Dr. Rheault:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) verification visit to Nevada during the week of September 17, 2007. My August 17, 2007 letter informed you that OSEP is conducting verification and, in some cases, focused monitoring 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, Part B of the Individuals with Disabilities Education Act (IDEA). As re-authorized in 2004, IDEA requires the Department to monitor States with a focus on: (1) improving educational results and functional outcomes for children and youth with disabilities; and (2) ensuring that States meet the program requirements, particularly those most closely related to improving educational results for children with disabilities.

The purpose of our verification visit was to evaluate the State's general supervision and data systems in order to assess and improve State compliance and performance, child outcomes, and the protection of child and parent rights and to review the State's procedures for distribution and use of IDEA funds and the timely obligation and liquidation of those funds. During the verification visit, OSEP: (1) analyzed the components of the State's general supervision and data systems to determine the extent to which they are designed to ensure compliance and improve performance; and (2) targeted compliance and results issues identified in our June 15, 2007 letter responding to the NDE's Federal Fiscal Year (FFY) 2005 Annual Performance Report (APR)/State Performance Plan (SPP).

As part of the verification visit to the Nevada Department of Education (NDE), OSEP staff met with Frankie McCabe, Part B State Director, and State personnel responsible for: (1) the oversight of general supervision (including monitoring, mediation, complaint resolution, and impartial due process hearings) and financial systems for special education; and (2) the collection and analysis of State reported data. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) Nevada's Federal Fiscal Year (FFY) 2005 APR submitted to OSEP in February 2007; (2) Nevada's SPP submitted to OSEP in December 2005; (3) Nevada's IDEA, Part B grant application for FFY 2007; (4) OSEP's previous verification visit letter to Nevada dated October 8, 2003; (6) the NDE website; and (7) other pertinent data sources.

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OSEP's discussion, conclusions and required actions for each of the critical elements used to guide our review of each State's general supervision, data, and finance systems are provided below.

General Supervision System - Discussion

Critical Element 1: Does the State have a general supervision system that is reasonably designed to identify noncompliance?

During the verification visit, the Special Education State Director, State Superintendent of Schools, Deputy Superintendent of Schools, Assistant Director of Finance, compliance and monitoring personnel, and data management personnel of the NDE described Nevada's approaches to identifying and correcting noncompliance, including noncompliance with fiscal management requirements. Following the implementation of PROJECT IMPROVE in 2002-2003, the State reported piloting a revised monitoring system in 2003-2004. The State indicated that in 2004-2005 it adopted the Special Education Focused Monitoring and Program Improvement System based on the results of the pilot and on the components of the OSEP Continuous Improvement and Focused Monitoring System (CIFMS). The State reported that its system included annual and cyclical monitoring and improvement activities carried out by State and local educational agency (LEA) staff; and the annual analysis of information gathered from the dispute resolution processes. The 2005 SPP and the APR included the results of these systems.

The State reported that it currently conducts an on-site monitoring visit in each LEA at least once every three years. Prior to the on-site monitoring visit the LEA conducts a needs assessment. In addition, when the needs assessment reveals noncompliance with IDEA or the Nevada Administrative Code (NAC), the State indicated that it begins a focused monitoring visit to inquire into the root causes and possible solutions through the use of targeted probes.

The State also reported that during 2006-2007, it revised the NAC to ensure compatibility with the final IDEA 2004 regulations, including revisions based on issues raised by OSEP after the State submitted its 2005-2006 APR. The State reported revising its monitoring protocols (including record review protocols) in 2007 to provide an analysis of student-level correction of noncompliance within one year of identification. In 2007, the State also mandated the use of a State-created form for the individualized education program (IEP) and companion IEP guidelines to further ensure alignment with IDEA and NAC. At the time of the verification visit, the State reported that it was developing technical assistance documents in the areas of discipline, surrogate parents, and extended school year.

Critical Element 2: As part of its general supervision system, does the State have 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 noncompliance issues?

NDE staff described the State's contracts with two consultants to provide on-going

comprehensive oversight of the general supervision systems for data gathering, analyses, reporting, dispute resolution, and monitoring activities and results. The State Director and the Data Manager reported that they met regularly with both consultants to review monitoring findings, correction of noncompliance, corrective action planning and evaluation. The State also reported that at least four times each year the State Director and the consultants analyzed data from the State's data systems and monitoring activities to identify systemic problems and trends. For example, the State reported that it used the results of the dispute resolution system to identify areas of noncompliance during 2006-2007. Additionally, the State also reported that NDE staff and consultants provided technical assistance to LEA staff and other NDE staff. The State Director was also the NDE staff person who had responsibility under the No Child Left Behind Act (NCLB) and worked closely with the NDE Assessment Director.

Critical Element 3: Does the State have a system that is reasonably designed to correct identified noncompliance in a timely manner, including the use of State guidance, technical assistance, follow-up, and, if necessary, sanctions?

The State provided OSEP with guidance documents issued by the State during 2006 and 2007 to assist local educational agencies in correcting noncompliance. The State reported that when noncompliance is identified during the State's cyclical on-site visit or through the State's data collection system and dispute resolution system, the noncompliance is addressed through a State mandated LEA corrective action plan. Additionally, in both the LEA needs assessment process and the State's focused monitoring protocols, the State indicated that a finding of noncompliance requires the LEA to develop a corrective action plan. The State mandates that the corrective action plan demonstrate within one year of identification of noncompliance, the correction of such noncompliance. The State also reported that when the LEA implements a corrective action plan, the State conducts on-site monitoring visits during the timeframe of the plan to determine whether the approaches in the plan are likely to be effective in correcting noncompliance within one year of identification of noncompliance.

The State reported that LEAs received State discretionary grants to correct policies, procedures or practices related to the correction of noncompliance. OSEP reviewed copies of corrective action plans and State correspondence closing out the finding of noncompliance. In addition to requiring corrective action plans when noncompliance is found by the LEA or by the State, the State reported that it assists the LEA in the design of an improvement plan to address issues raised during the on-site visit that do not stem from noncompliance. Reportedly, the plan is an integrated component of the district improvement planning processes mandated by the NCLB and State law.

The State indicated that it issued its determinations of LEAs in September 2007 and delineated the steps the State will take to ensure timely correction. For example, the State reported that it will mandate enforcement actions, consistent with 34 CFR §300.604, when LEAs are in need of assistance for two consecutive years and that the State will mandate targeted technical assistance and local discretionary grants when a LEA is determined to be in need of assistance for one year. Additionally, the State

reported having raised Clark County (the State's largest LEA and the fifth largest LEA, based on student population, in the United States) to a higher level of scrutiny by assigning two full-time employees to monitor the effective implementation of corrective action plans. The State reported that it also appointed a consultant to provide oversight to the County's compliance and monitoring activities.

Critical Element 4: Has the State 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 in a timely manner? If barriers have been identified, what mechanisms has the State put in place to address those barriers?

The State Superintendent of Schools and the Deputy Superintendent of Schools met with the OSEP team during the verification visit. They, along with the State Director and the Co-Chairs of the Special Education Advisory Council (one of whom was a professor at a State university and the other was the director of the Parent Information and Training Center) stated that NDE had the authority to identify and correct noncompliance in a timely manner because the NAC permitted the State to have oversight of individual special education grants to LEAs and to withhold funds when noncompliance was not corrected. Staff reported that the State also has the authority to make discretionary funds available to LEAs when the agencies needed assistance in correcting noncompliance in a timely manner.

The State identified the barrier to correction of noncompliance to be the lack of special education teachers and related services personnel in the larger LEAs, notably Clark County in the southern area of the State. The State Director identified annual pre-service training, on-going technical assistance, and the State's discretionary local grant program to address systemic issues related to correction of noncompliance. To assist in overcoming this barrier the State also established the Nevada Teacher Quality Task Force to help LEAs recruit and retain teachers. For example, Clark County Public Schools signed cooperative agreements with housing developers to provide affordable housing for new teachers. The State reported having created an alternative licensure path and having initiated a recruitment program targeting potential special education teachers and related services personnel in all states and several other countries. The State also reported utilizing resources from OSEP's State Personnel Development Grant and the State Improvement Grant Programs to address this barrier.

Critical Element 5: Does the State have dispute resolution systems that ensure the timely resolution of complaints and due process hearings?

The State described its dispute resolution systems and provided documentation of complaint investigations and due process hearings. For the period of July 1, 2006 through June 30, 2007, the State reported that IDEA timelines were met with regard to complaint and due process cases. (Complaints: 19 reports were issued – 17 within 60 days and two within properly extended timelines; Due Process Hearings: two fully adjudicated hearings were held, both within properly extended timelines.) The SPP and previous APRs have also documented the timeliness of the dispute resolution system. To

ensure the hearing decisions are carried out, the State reported that it monitors the implementation of the decisions as a part of the State's on-going monitoring protocols at the local level.

Critical Element 6: Does the State have mechanisms that focus on improving educational results and functional outcomes for all children with disabilities?

The State reported that stakeholders and State staff meet periodically throughout the year to review IDEA funding allocations at the State and local levels, compliance and performance data, and policy guidance to ensure NDE has a comprehensive approach to focusing its resources on improving results for children with disabilities and their families. When the State identifies areas for improvement, NDE refocuses its efforts by reviewing policy guidance, discretionary funding allocations, and technical assistance priorities to promote the effective implementation of the State's improvement activities. Data obtained through the State's integrated monitoring system are used as evaluation criteria on which to measure LEA program performance. Based on the results of the evaluation, the State guides the use of district-level Federal and State funds in LEAs determined to need assistance.

General Supervision System - Conclusions and Required Actions

OSEP did not identify concerns regarding Nevada's systems for identifying and correcting noncompliance in a timely manner. Based on a review and analysis of the data collected OSEP believes that the State uses focused monitoring visits to identify barriers to LEA correction of noncompliance and to help the LEAs develop and implement improvement strategies. OSEP cannot, however, without also collecting data and conducting reviews at the local level, determine whether all public agencies in the State implement the State's policies and procedures in a manner that is consistent with Part B.

The State must continue to review its improvement activities in the State's SPP and revise the activities, if appropriate, to ensure these activities will enable the State to include data in the FFY 2006 APR, due February 1, 2008, that demonstrate substantial compliance with the requirements in IDEA section 616(a)((1)(C)(ii).

Data Collection System - Discussion

Critical Element 1: Does the State have a data system that is reasonably designed to collect and report to the Department and the public, timely valid and reliable data and information?

NDE staff described the components of the Nevada student data system and the Nevada data system for students with disabilities. Staff reported that, taken together, these systems had the capacity to gather and report all data (section 618, SPP and APR, etc.) required by OSEP in a timely manner. In addition to these systems, during 2007 the State reported that it began requiring LEAs through the local application process to report all graduation and dropout data directly to the special education office so that NDE would

receive the data prior to the State's due date for general education students. (Previously, data in the APR regarding the comparison of graduation and dropout data were incomplete.) This requirement allowed NDE special education staff adequate time for review and analysis prior to reporting the results of the data in the Nevada FFY 2006 APR.

Staff indicated that LEAs report data to the State using electronic digital databases. NDE reported that it designed and implemented automated error checking systems, based on and aligned with verification and edit systems created by WESTAT, the Department's contractor for IDEA data collection. Based on OSEP's review, all required APR data were reported on the State's education website.

Critical Element 2: Does the State provide clear guidance and ongoing training to public agencies regarding requirements and procedures for reporting data under section 618 of IDEA and the SPP/APR?

The State reported that each year for more than eight years, it has convened an annual training event known as the Data University for LEA personnel and NDE personnel who collect and enter data in the State data systems. The State reported providing annual data tables and instructions for use by LEAs in the agencies' local application process. The State indicated that the instructions were aligned with section 618 data collection instructions and with APR measurement instructions. Additionally, the State explained the changes in data collection and reporting protocols based on OSEP guidance received at the OSEP conference for State data managers. Each LEA in the State received a "report card" describing strengths and areas for improvement, based upon previous data submissions. Staff indicated that the event allowed participants to identify what had worked and not worked well the previous year. The State reported using the forum to set priorities, develop and revise improvement activities and target the use of State set-aside funds to improve the quality of data submissions and analyses. NDE staff and State consultants indicated that they also reviewed any security enhancements of the State system (e.g., student-level file password-protections and monitoring procedures to ensure access only by authorized personnel).

The State reported that it revised annual data tables and instructions to ensure that the State was collecting and reporting valid and reliable data. For example, to meet the APR reporting requirements, the State indicated that it mandated the use of an IEP form that included specific provisions for reporting codes for placement, race and ethnicity. The State also reported that it required "triangulation of data," or review of related data collections to ensure consistency, such as comparing graduation rates with the results of the high school proficiency examination.

The State also reported that as a follow-up to the Data University, NDE staff and consultants met regularly throughout the year at State-sponsored meetings and in the respective LEAs to allow NDE staff and consultants to discuss data entry issues and to ensure that local staff followed State procedures.

Critical Element 3: Does the State have 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 sections 616 and 618 of the IDEA, OSEP guidance, and the State's procedures?

The State reported that it implemented many data verification activities such as analyzing and comparing current and previous reports to identify possible discrepancies and conducting in-depth on-site verification visits when discrepancies are identified. The State also reported that it conducted random verification visits to interview persons responsible for data entry and to review data collection and reporting practices at the local level.

Critical Element 4: Does the State have procedures for identifying anomalies in data that are reported to the State and for correcting any inaccuracies?

The State indicated that it used Excel and FileMakerPro database systems to aggregate and verify data. The State reported that it used the procedures and criteria used by WESTAT to identify anomalies. When errors were found through electronic error-checking tools, the State contacted the LEA and investigated the source of the error. The State indicated that it required correction of errors and re-submission of the data.

The State reported that it expanded capacity for data collection, analysis and reporting by contracting with independent consultants to work with LEA staff when necessary. The State also indicated that it used State set-aside funds to improve data collection and analysis at the local level.

Data Collection System - Conclusions and Required Actions

OSEP did not identify concerns with the electronic database system designed by the State to collect and report information required under section 618 and through the SPP/APR process. OSEP cannot, however, without also conducting a review of data collection and reporting policies, procedures and practices at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures in a manner that is consistent with Part B.

Fiscal Management System - Discussion

Critical Element 1: Does the State have procedures reasonably designed to ensure appropriate distribution of IDEA funds at the State level?

The State demonstrated that it had policies and procedures for making calculations for section 611 and section 619 grant funds distributions to LEAs for 2005, 2006 and 2007. The State reported that the computations for the grant awards were based on the population and poverty in each respective LEA. (No charter schools functioned as LEAs in the State.)

NDE's policies and procedures provide that the base amount under section 611 must be the amount the LEA would have received under section 611 for fiscal year 1999 if NDE had distributed 75% of the grant award for fiscal year 1999. NDE's policies and procedures also provide that the base amount under section 619 must be the amount the LEA would have received under section 619 for fiscal year 1997 if NDE had distributed 75% of the grant award for fiscal year 1997. Staff also indicated that annually, the State awards subgrants to LEAs by no later than August 15.

Critical Element 2: Does the State have procedures reasonably designed to ensure appropriate use of IDEA funds at the LEA level?

NDE reported that it utilized the Local Application, *LEA Eligibility Documents for Fiscal Year 2008 under Part B of the Individuals with Disabilities Education Act as amended by Public Law 108-446*, as one of the procedures to ensure that local programs use IDEA funds appropriately. The State examines documents detailing the use of IDEA and State funds during the State's monitoring visits to LEAs and during periodic reviews of fiscal data submitted to the State throughout the year.

The State reported that the instructions in the local application parallel the instructions for collecting and reporting section 618 data and data for the State's SPP and APR. The State also indicated that the application included submission statements, mandated assurances, budget and expenditure details, and ten tables related to items such as excess cost computation, child count, and implementation of FAPE and that the instructions for completing each of the tables were included in the application package. Staff reported that the local application documented both the formula for distribution of funds and the actual distribution of funds to charter schools in the five LEAs that had charter schools within their jurisdictions.

The State reported that applications were reviewed by the NDE Office of Special Education, Elementary and Secondary Education, and School Improvement Programs and the NDE Office of Fiscal Services for compliance with IDEA and for compliance with NDE fiscal procedures, including the requirement for local maintenance of effort. The State reported that the applications and the quarterly fiscal reports submitted by LEAs form the basis for review when fiscal audits are conducted by the State and by third-party auditors. The State also reported that each year, the IDEA funds for each LEA were monitored by a third-party fiscal auditor to determine that IDEA funds were used appropriately. The State reported that it had no audit findings for FFY 2005-2006.

Critical Element 3: Does the State have procedures reasonably designed to ensure the timely obligation and liquidation of IDEA funds?

The NDE Assistant Director of Fiscal Services described the State's mechanisms for the timely obligation and liquidation of IDEA funds. The State reported that it follows the fiscal principle of "first in-first out" for expending IDEA funds within the respective Federal grant period. OSEP staff examined NDE fiscal records for FFY 2005-2006 and reviewed third-party audit reports for LEAs and for the State. Based on this review, it

appears that all FFY 2005 IDEA funds were obligated and liquidated within federal timelines.

Fiscal Management System - Conclusions and Required Actions

As a result of OSEP's review of the State's written policies and procedures, it appears that Nevada has policies and procedures that are reasonably designed to ensure that the State appropriately distributes Part B funds to LEAs, LEAs properly use Part B funds and IDEA funds are timely obligated and liquidated. OSEP cannot, however, without conducting audits at the State and local levels, determine whether all public agencies in the State implement the fiscal procedures in a manner that is consistent with Part B and other relevant federal fiscal requirements.

The information provided by NDE staff during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of the Nevada systems for general supervision, data collection and reporting, and financial systems.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to collaborating with you to continue to work to improve results for children with disabilities and their families.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

cc: Frankie McCabe