



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

Honorable Rita H. Inos
Commissioner of Education
CNMI Public School System
P.O. Box 50130 CK
Saipan, MP 96950

JAN 14 2005

Dear Commissioner Inos:

The purpose of this letter is to respond to the Commonwealth of the Northern Mariana Islands' (CNMI) May 2003 Self-Assessment, that was developed in conjunction with its Steering Committee, and the March 31, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part B funds used during the grant period July 1, 2002 through June 30, 2003. The APR reflects actual accomplishments made by CNMI during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and territories, and result in high quality information across States and territories.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by OSEP within the U.S. Department of Education. The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies) and consolidates the self-assessing and improvement planning functions of CIFMS into one document. OSEP's Memorandum regarding the submission of Part B APRs directed CNMI to address five cluster areas: General Supervision; Early Childhood Transition; Parent Involvement; Free Appropriate Public Education (FAPE) in the Least Restrictive Environment; and Secondary Transition.

Background

CNMI submitted its Part B Self-Assessment in May 2003 and its FFY 2002 APR on March 31, 2004. OSEP provided verbal feedback to CNMI staff on CNMI's Self-Assessment during OSEP's Annual Leadership Conference in Washington, D.C. in May 2004, and also sent an informal e-mail to Ms. Joanne Nicholls outlining issues identified in the Self-Assessment on May 13, 2004.

In the informal e-mail, OSEP identified the absence of formal and comprehensive monitoring instruments and procedures (page 20 of the Self-Assessment) as an area of noncompliance. OSEP also identified the following as areas of potential noncompliance:

(1) ensuring supervision of out-of-district placements, (page 28 of the Self-Assessment) (34 CFR §300.349); and (2) ensuring that children exiting the Part C program who are eligible for Part B services receive appropriate educational services by their third birthdays (page 68 of the Self-Assessment) (34 CFR §300.132(b)). OSEP also advised in the May 13, 2004 e-mail that it had determined that the Self-Assessment did not provide information and data sufficient to make a determination of compliance or noncompliance in a number of areas, which will be addressed as appropriate in the remainder of this letter.

For FFY 2002-2003, CNMI received its Part B grant Awards subject to a special condition specifically related to reporting to the public and to the Secretary on the participation and performance of children with disabilities in grades 10 and 11 in alternate assessments. An action plan was developed and accepted by OSEP that outlined the specific steps for addressing the special condition. The public report of participation and performance results for all students in the State-wide assessment system (SAT9 and Alternate Assessment) was presented to the CNMI Board of Education in October 2003 for school year 2002-2003. As required, the report was submitted to OSEP. Based upon the information in the report, OSEP determined that the special condition regarding State-wide assessments could be removed from CNMI's FFY 2004 Part B grant award.

OSEP will visit CNMI in the Spring of 2005 to verify the effectiveness of CNMI's systems for general supervision, the collection of data under Section 618 of IDEA, and participation of children with disabilities in and reporting on State-wide assessments. OSEP will provide CNMI with a letter summarizing the results of the visit.

CNMI's APR should reflect the collection, analysis, and reporting of relevant data and document data-based determinations regarding performance and compliance in each of the cluster areas (as well as other areas identified by CNMI to ensure improvement). OSEP's comments regarding the May 2003 Self-Assessment and the FFY 2002 APR are listed by cluster area.

General Supervision

Timely Identification and Correction of Noncompliance

In CNMI, the Public School System (PSS) is the State educational agency (SEA), which is the entity that has general supervisory responsibility over all educational and early intervention programs for children with disabilities in CNMI. PSS did not ensure that its programs for children with disabilities in CNMI, including those administered by any other public agency, meet CNMI's education standards and Part B requirements, as required by 20 U.S.C. §1412(a)(11) and 34 CFR §300.600(a)(2)(ii). On page 20 of the Self-Assessment and on page 3 of the APR, CNMI stated that it did not have a formal, comprehensive monitoring system to collect and analyze data and monitor for Part B requirements, that there were monitoring and assessment forms for part B but that those forms have not been used, that there is no formal internal monitoring or compliance

process for Part B, and that, as a result, documentation in this area is limited. On page 3 of the APR, CNMI explained that PSS contracted with an independent contractor to conduct State monitoring for the 2002-2003 school year and received a draft report from the consultant in April of 2003.

Under 20 U.S.C. §1232d(b)(3), each SEA must have a mechanism for monitoring compliance with program requirements, including conducting on-site monitoring and ensuring timely correction of deficiencies identified through monitoring. As previously indicated in OSEP's May 13, 2004 informal e-mail to Ms. Joanne Nicholls, CNMI is not in compliance with this requirement for failure to carry out its monitoring responsibilities. On page 4 of the APR, CNMI included strategies, proposed evidence of change, targets, and timelines for drafting appropriate monitoring instruments and procedures, with technical assistance from the University of Guam, and for installing and implementing a data management system to collect, analyze, and disseminate data in order to support CNMI's monitoring responsibilities. OSEP accepts these strategies and expects CNMI to demonstrate full compliance in this area within one year of the date of this letter. In the FFY 2003 APR, due March 31, 2005, CNMI must include data and analysis demonstrating progress toward compliance, including copies of its monitoring procedures and checklist addressing all applicable Part B requirements and a schedule for conducting periodic on-site monitoring, and submit a report to OSEP demonstrating full compliance, including documentation of the results of its monitoring activities, as soon as possible, but not later than 30 days following the end of the one-year timeline.

Monitoring of Out-of-District Placements

Page 28 of the Self-Assessment stated that the PSS monitored placements at Gallaudet University in Washington, DC and at the Brown Facility in Texas, but did not supervise out-of-district placements in Hawaii. As OSEP previously indicated to CNMI in the May 13, 2004 informal e-mail addressing some of the issues raised in CNMI's Self-Assessment, CNMI may not be in compliance in this area. Failure to supervise all out-of-district placements for children with disabilities, including any out-of-State public or private facilities in which children with disabilities are placed to ensure the provision of a free appropriate public education (FAPE), is inconsistent with CNMI's general supervisory responsibility, including the requirements at 34 CFR §§300.349, and 300.402. As part of the monitoring procedures that CNMI submits to OSEP in the FFY 2003 APR, CNMI must include monitoring procedures for out-of-district placements, including data and information documenting that CNMI supervises and monitors the provision of FAPE to children with disabilities in all out-of-district placements, and corrects any identified noncompliance, within one year of identification.

Dispute Resolution System Ensures Complaint Investigations, Mediations, and Due Process Hearings and Reviews Are Completed in a Timely Manner

Attachment 1 of the APR shows that there were no mediations or due process hearings since 1999 and that from July 1, 2002 through June 30, 2003, eight complaints were

investigated and resolved within timelines. All eight complaints were received through the advocacy group, Northern Marianas Protection & Advocacy Systems, Incorporated. Four of these complaints were found not within the jurisdiction of CNMI and three were resolved immediately. On page 5 of the APR, CNMI indicated that from 2001 to 2003, there were a total of 16 complaints, with only one not resolved within required timelines. With respect to mediations and due process hearings, data are not available to indicate whether due process hearings are conducted within required timelines under 34 CFR §300.511. Regarding State complaints, CNMI is required to issue its written decision on each Part B complaint within 60 calendar days from its receipt of the complaint, unless the timeline is extended due to exceptional circumstances that exist with regard to a particular complaint (34 CFR §§300.661(a)(4) and (b)(1)). In the next APR, CNMI must continue to report on its progress in ensuring full compliance regarding the issuance of timely complaint decisions.

Complaint Decisions Fail to Ensure Timely Correction of Identified Deficiencies

Page 2 of the APR indicated that complaint procedures did not ensure that a written decision was issued that addressed each allegation in the complaint (34 CFR §300.661(a)(4)). Page 6 of the APR indicated, “The complaint forms including the required elements of responding to a complaint are not maintained in one binder.” Further, “complaint decisions are in letter format. The letters are not detailed, actual resolution of complaint is not always clear, and complaint decisions do not often include corrective action plans” as required by 34 CFR §300.661(b)(2)(iii). Also, as explained on page 6 of the APR, “the log and complaint files do not indicate whether the decisions were actually implemented at the school level.” CNMI also stated, “there are no further complaints or disputes regarding the decisions so it appears that decisions may have been implemented or the complaint was otherwise resolved.”

In the FFY 2003 APR, due March 31, 2005, CNMI must provide OSEP with data and analysis to clarify the process it is using for handling formal complaints, including the steps it is taking to ensure that complaint decisions address each allegation in the complaint, as well as a mechanism for ensuring that complaint decisions include timely and appropriate corrective actions to address identified deficiencies. If the data demonstrate noncompliance, CNMI must include a plan with strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. If data are not available, CNMI must provide an explanation of the steps it is taking to ensure collection of the data for the FFY 2004 APR.

Identification of Systemic Issues through Monitoring, Due Process Hearings, and Complaint Decisions to Impact Systems Change

Page 5 of the APR indicated that in 2001, five of the nine Part B complaints involved the provision of speech services. On Page 5 of the APR, CNMI further stated that with respect to systemic change, the limited number of complaints, the small size of the

program, and the assignment of the complaint investigation indicated that the special education coordinator was aware of all complaints and, as needed, took appropriate steps to address the identified noncompliance. For example, the comprehensive system of personnel development addressed concerns about the availability of speech services, even though it appears that the program is still understaffed in this area. Further, CNMI stated on page 4 of the APR that the lack of clear documentation, monitoring, and consistent leadership under Part B has hindered systemic improvement in previous years. In the next APR, due March 31, 2005, CNMI must provide information demonstrating the steps it is taking to improve performance and compliance in this area.

Structural Issues in Due Process System

On page two of the APR, CNMI stated that the provision of due process was found to deny parents access due to PSS's structure and procedures for accessing a hearing officer, and the action required was for PSS to demonstrate that hearing officers were appropriately trained. On page 2 of the APR, CNMI indicated that two attorneys from Saipan and attorneys from the University of Guam were trained in special education, but no further explanation is provided regarding this "access" issue.

In the next APR, due March 31, 2005, CNMI must clarify whether the attorney training it has conducted is sufficient to ensure that parents of children with disabilities initiating a Part B due process hearing have access to a trained hearing officer.

Sufficient Supply of Personnel to Ensure the Provision of FAPE

On page 7 of the APR, CNMI reported that there was an overall increase in special education personnel from a total of 166 in 2000-2001 to 174 in 2002-2003. However, the increase was primarily in teacher aide positions, with teacher and related service provider positions decreasing slightly. CNMI continued to be challenged in recruiting special education and related service providers to meet its diverse needs and was slightly understaffed in all areas except Early Childhood Preschool. Page 92 of the Self-Assessment also indicated that the delays in conducting initial evaluations might be the result of difficulty in hiring and retraining full-time psychologists.

In the next APR, due March 31, 2005, CNMI must address what effect personnel shortages are having on the provision of FAPE to children with disabilities in accordance with their individualized education programs (IEPs), including data and analysis, along with a determination of compliance or noncompliance in this area. If data demonstrate noncompliance, CNMI must include a plan with strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan. If data are not available, CNMI must include a plan that describes how CNMI will collect data to be able to determine compliance or noncompliance in this area for the FFY 2004 APR.

Collection and Reporting of Accurate and Timely Data

Page 23 of the Self-Assessment stated that CNMI needed a better method to collect data. Page 10 of the APR stated that although data have been collected manually, CNMI plans to develop an electronic data management system for maintaining and compiling data. In the FFY 2003 APR, OSEP looks forward to reviewing the results of CNMI's efforts in developing and utilizing an electronic data collection system.

Other Areas

State Advisory Panel

Page 80 of the Self-Assessment stated that membership on the State Advisory Panel was not consistent with the requirements at 34 CFR §300.651, which lists the types of individuals who should be included on the State Advisory Panel. Page 80 of the Self-Assessment also stated that the State Advisory Panel was not active since March 2000, and there was limited activity to re-activate it. This is inconsistent with 34 CFR §§300.650-300.653, which set out the particular functions of and specify the membership requirements for the State advisory panel.

CNMI provided strategies on page 16 of the APR for reactivating the State Advisory Panel and correcting the membership distribution in order to satisfy the requirements at 34 CFR §300.651. On page 16 of the APR, CNMI stated that the Special Education Coordinator would: (1) gather recommendations for possible nominations of parent representatives for the State Advisory Panel; (2) provide a list of nominees to the CNMI Board of Education and work with the Board to ensure that parent members were appointed; (3) facilitate the first quarterly meeting of the State Advisory Panel; and (4) work closely with the Chair of the State Advisory Panel to define roles and responsibilities of panel members. CNMI also included proposed evidence of change and timelines designed to ensure compliance. OSEP accepts these strategies, and CNMI must demonstrate compliance within one year of the date of this letter. In the FFY 2003 APR, CNMI must include data and analysis demonstrating progress toward compliance, and submit a report to OSEP demonstrating compliance as soon as possible, but not later than 30 days following the end of the one-year timeline.

Child Find: Initial Evaluations

Page 92 of the Self-Assessment stated that of 227 referrals for initial evaluation, 84 children had not received a completed evaluation. Delays of a year or more were evident for some children. These issues indicate that the child find requirements at 34 CFR §300.125 which require CNMI to ensure that all children who are in need of special education and related services are identified, located, and evaluated, and the requirements at 34 CFR 300.531, requiring a public agency to conduct a full and individual initial evaluation before the initial provision of services to eligible children, were not always being implemented. Page 101 of the Self-Assessment indicates that there were only 2 or

3 children evaluated as having behavioral problems, and that improvement was needed in this area. This suggests that children with behavioral problems or children with suspected emotional and behavioral problems may not always be evaluated in a timely manner. As a result, CNMI may not always be meeting its responsibility to ensure the timely and appropriate provision of special education and related services to children with disabilities, as required by 34 CFR §300.300(a)(3).

The FFY 2002 APR did not include strategies, proposed evidence of change, targets and timelines that would ensure correction of the noncompliance in CNMI's child find and initial evaluation procedures. Therefore, CNMI must submit a plan to OSEP in the FFY 2003 APR, due March 31, 2005, that includes strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan. The plan must also include: (1) data and information about the number and dates of referrals of children for initial evaluation over the past year; (2) information showing the dates when those evaluations were completed; (3) an analysis of the availability of personnel to conduct evaluations when referrals are made; and (4) data and information demonstrating that children with suspected behavioral and emotional problems are referred and evaluated.

Translation of Parents' Rights Notices

Page 17 of the Self-Assessment stated that Part B does not provide written translations of Parents' Rights Notices. Parents of children with disabilities must be provided with a Parents' Rights notice "in the language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so" (34 CFR §300.503(c)(2)(ii)). On page 18 of the Self-Assessment, CNMI indicated that parents' rights information should be conveyed simply and in languages that the parent can understand, and that the notice is not translated. In the next APR, due March 31, 2005, CNMI must demonstrate either: (1) that the Parents' Rights notice is translated into the native language of parents of children with disabilities, or (2) if it has not been translated, an explanation of why it is clearly not feasible to do so.

Interagency Agreements

Page 26 of the Self-Assessment stated that interagency agreements are out of date. Under 34 CFR §300.142, States and territories are required to ensure interagency agreements, or other mechanisms are in effect regarding the provision and payment for services needed to provide FAPE for children with disabilities. In the FFY 2003 APR, CNMI must include updated interagency agreements or other mechanisms to ensure the timely payment and provision of appropriate special education and related services for children with disabilities.

Early Childhood Transition

Under 34 CFR §300.132(b), children transitioning from Part C to Part B must have an IEP or an individualized family services plan (IFSP) in effect by their third birthday. Page 68 of the Self-Assessment stated that 10% of the children exiting the Part C program, who were eligible for Part B services, did not receive appropriate special education services by their third birthdays. Page 11 of the APR provided data showing that 26% of children who transitioned from Part C to Part B did not receive appropriate special education and related services by their third birthdays. However, the APR stated that these data might not be accurate.

On page 13 of the APR, CNMI stated that it would initiate activities to facilitate the transition from Part C to Part B, including: (1) the design and use of a transition checklist; (2) the design of a booklet explaining the transition process; (3) sharing data between the Part C and Part B programs; (4) developing a tracking system for the transition planning conference; and (5) monitoring for the provision of Part B services for children who transition from Part C to Part B. The strategies also included evidence of change, targets, and timelines designed to ensure compliance in this area. OSEP accepts these strategies. In the FFY 2003 APR, CNMI must include data and analysis demonstrating progress toward compliance and submit a report to OSEP demonstrating compliance, as soon as possible, but not later than 30 days following one year from the date of this letter.

OSEP assumes that any Part C to Part B tracking system that CNMI develops will not involve the disclosure of personally identifiable information from student's education records or, if it will, that it is consistent with the IDEA and the Family Educational Rights and Privacy Act (FERPA). OSEP has enclosed, for your information, a copy of its February 11, 2004 letter to Mary Elder, which discusses the limited disclosure of personally identifiable information for purposes of meeting IDEA's child find mandate.

Parent Involvement

Page 15 of the Self-Assessment stated that due to low return of the parent survey, data needed to determine parent training needs and the percentage of parents actively participating at IEP meetings was not available. Page 76 of the Self-Assessment stated that there was a low rate of return on the parent surveys, but that parent surveys and IEP record reviews showed that 80% of parents participated in their child's IEP meeting. On page 16 of the APR, CNMI stated that the Special Education Coordinator will conduct a parent training needs assessment and facilitate an orientation program for new parents and family members, and stated that CNMI will develop a system to document parent participation at IEP meetings. OSEP looks forward to reviewing the results of these strategies in the next APR.

Free Appropriate Public Education in the Least Restrictive Environment

Disproportionality

On page 17 of the APR, CNMI provided race/ethnicity data showing that almost all children with disabilities who received special education services were in the category “Asian/Pacific Islander.” CNMI also provided a breakout of the “Asian/Pacific Islander” category by the ethnic groups represented in the general school population and in special education.

Graduation and Drop-out Rates

The instructions to this cluster ask States and territories to provide information on the graduation rates and drop-out rates for children with disabilities as compared with those for nondisabled children. On pages 20 and 21 of the APR, CNMI provided data and information regarding high school graduation rates and drop-out rates. The graduation rate of students with disabilities has increased from 29.8% in 1998 to 64.2% in 2003. This compares to the increase in the general school population from 74.9% to 91.5% for the same time period.

On page 21 of the APR, CNMI indicated that the CNMI Board of Education does not have a policy that relates to the definition of dropouts and procedures for addressing those identified as dropouts. For school year 2002-2003, the drop-out rate was 2.58% for the general population and 3.03% for students with disabilities. On page 21 of the APR, CNMI stated that procedures for collecting these data needed improvement because CNMI School Board policies regarding graduation and drop-out criteria were not consistent, and there was a lack of a formal centralized system to track graduation and drop-out data. CNMI provided targets, explanations for slippage, activities and timelines to improve the collection and analysis of this data.

In the FFY 2003 APR, CNMI must include data and analysis, along with the results of its strategies to ensure improved performance in this area.

Suspension and Expulsion

On pages 20 and 21 of the APR, CNMI provided data and information regarding suspension and expulsion rates. On page 21 of the APR, CNMI stated that for school year 2002-2003, 12.66% (1,336 out of 10,554) of students without disabilities were suspended, whereas 2.04% (12 out of 588) represented students with disabilities suspended. Although the percentage for students with disabilities continues to be lower when compared to students without disabilities, the percentages for both groups have increased from previous years.

On page 21 of the APR, CNMI indicated that procedures for collecting these data needed improvement because there was a lack of a formal centralized system to track suspension and expulsion data. CNMI provided targets, explanations for slippage, activities and

timelines to improve the collection and analysis of this data. OSEP looks forward to reviewing the results of this improved data collection in the next APR.

Participation and Performance of Children with Disabilities on State-Wide Assessments

States and territories are required to ensure that children with disabilities are included in general State- and district-wide assessment programs with appropriate accommodations and modifications in administration, if necessary (34 CFR §§300.138 and 300.347(a)(5)). On page 104 of the Self-Assessment, CNMI stated that the PSS did not have a method for ensuring that each school used appropriate modifications and accommodations when they were needed by children with disabilities to participate in State-wide assessments. Page 104 of the Self-Assessment also states that the administration of State-wide assessment for students with disabilities follow the same guidelines for students without disabilities, which may indicate that modifications in administration are not provided in accordance with 34 CFR §§300.138 and 300.347(a)(5). This is inconsistent with information in CNMI's biennial performance report, dated June 27, 2002, which stated the PSS provided appropriate modifications and accommodations when they were needed for general assessments. On page 106 of the Self-Assessment, CNMI noted that the alternate assessment used, which is the Brigance, may not be able to fully assess the achievement and progress of students with disabilities, and there stands a need to explore other alternate assessment instruments to ensure alignment with the approved standards and benchmarks for all tested grades.

In the FFY 2003 APR, due March 31, 2005, CNMI must either provide: (1) documentation that students with disabilities are receiving appropriate accommodations and modifications in administration of general State assessments, if needed, or (2) if needed accommodations and modifications in administration are not being provided, a plan to ensure correction of the noncompliance within 30 days following one year from the date of this letter. In the FFY 2003 APR, CNMI must also provide an explanation of whether its alternate assessment instruments are aligned with standards used for all children in the grade assessed, and if they are not, the steps CNMI is taking to ensure alignment of alternate assessments with appropriate achievement standards in the FFY 2004 APR.

Children with Disabilities Are Educated with Nondisabled Peers to the Maximum Extent Appropriate

Although the Self-Assessment addressed participation in nonacademic and extracurricular activities, CNMI did not provide data regarding the number of children with disabilities participating in nonacademic and extracurricular activities with their nondisabled peers (see pages 106 and 107 of the Self-Assessment). Under 34 CFR §300.553, PSS must ensure that children with disabilities participate in nonacademic and extracurricular activities with their nondisabled peers. Each child's IEP also must contain a statement regarding the child's participation in nonacademic and extracurricular services and activities (34 CFR §300.347(a)(3)-(4)).

In the FFY 2003 APR, CNMI must include data and analysis, along with a determination of compliance or noncompliance in meeting the requirements at 34 CFR §300.553, including data about any barriers to such participation, such as lack of transportation. If the data demonstrate noncompliance, CNMI must include a plan with strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan. If data are not available, CNMI must include a plan that describes how CNMI will collect data to be able to determine compliance or noncompliance in this area in the FFY 2004 APR.

On page 23 of the APR, CNMI stated that children with disabilities spend more time in the general education classroom than the national average, and that preschool children with disabilities are in full inclusion settings. We look forward to reviewing information about CNMI's performance in this area in the FFY 2003 APR, due March 31, 2005.

Improvement of Language/Communication, Pre-reading, and Social-Emotional Skills of Preschool Children with Disabilities

CNMI stated, on page 23 of the APR, that data on early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities were not readily available. On page 23 of the APR, CNMI stated that children with disabilities who participated in preschool activities performed better on the first-grade diagnostic evaluation. However, since there were no kindergarten requirements in CNMI, language deficits were not diagnosed prior to the first grade. PSS services preschool children in the Head Start program. CNMI provided explanations of slippage, activities, timelines, and resources, and on page 24 of the APR, CNMI provided a target to establish a mechanism for assessing improvement in the skills of preschool children with disabilities by August 2004.

In the FFY 2003 APR, CNMI should either submit documentation of data (whether collected through sampling, monitoring, individual IEP review, or other methods), targets for improved performance, and strategies to achieve those targets for this area or a plan to collect the data for the FFY 2004 APR, including a detailed timeline of the activities necessary to implement that plan.

Secondary Transition

Secondary Transition Data

The instructions to this cluster ask States and territories to indicate whether the percentage of students with disabilities participating in post-school activities (e.g., employment, education, etc.) is comparable to that of nondisabled children. Page 118 of the Self-Assessment stated that there were insufficient data to indicate whether: (1) transition services were included in IEPs (see 34 CFR §300.347(b)); (2) staff from outside agencies who may be responsible for providing or paying for needed transition services were invited to participate in the IEP meeting (see 34 CFR §300.344(b)(3)); (3)

whether interagency agreements regarding the provision of services were implemented (see 34 CFR §300.142); or (4) whether transition services were provided to children with disabilities in accordance with their IEPs (see 34 CFR §300.348). Page 119 of the Self-Assessment stated that data were not sufficient to verify whether youth with disabilities participated in transition planning (34 CFR §300.344(b)(1)). Without these data, CNMI cannot demonstrate compliance with the Part B secondary transition requirements at 34 CFR §§300.344(b), 300.347(b) and 300.348.

In the FFY 2003 APR, CNMI must include data and analysis, along with a determination of compliance or noncompliance with the requirements at 34 CFR §§300.344(b), 300.347(b) and 300.348. If data demonstrate noncompliance, CNMI must include a plan with strategies, proposed evidence of change, targets, and timelines designed to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date when OSEP accepts the plan. If data are not available, CNMI must include a plan that describes how CNMI will collect data to enable it to determine compliance or noncompliance in this area in the FFY 2004 APR.

Conclusion

In the FFY 2003 APR, CNMI must include data and analysis demonstrating progress toward compliance, and submit a report to OSEP demonstrating compliance as soon as possible, but not later than 30 days following one year from the date of this letter:

- implementing a formal and comprehensive monitoring system. CNMI also must provide OSEP with copies of the monitoring instruments, checklist, procedures and monitoring schedule, including documentation of monitoring activities, including monitoring procedures for out-of-district placements, and evidence that CNMI corrects any identified noncompliance within one year of identification (34 CFR §300.600 and 20 U.S.C. 1232);
- implementing the requirements at 34 CFR §§300.650-300.653 regarding the State Advisory Panel, including membership requirements; and
- ensuring that children transitioning from the Part C to the Part B program have an IEP or an IFSP in effect by their third birthdays, consistent with 34 CFR §300.132.

CNMI must submit a plan to OSEP in the FFY 2003 APR, including strategies, proposed evidence of change, targets, and timelines designed to ensure correction of noncompliance within a reasonable period of time, not to exceed one year from the date OSEP accepts the plan, in the following area:

- implementing the requirements at 34 CFR §§300.125, 300.300, and 300.531 for providing a complete, individual evaluation in a timely manner for each child who is identified and referred for a Part B evaluation. The plan must also include: (1) data and information about the number and dates of referrals of children for initial evaluation over the past year; (2) information showing the dates when those evaluations were completed; (3) an analysis of the availability of personnel to conduct evaluations when referrals are made; and (4) data and information demonstrating that children with behavioral problems or children with suspected emotional and behavioral problems are referred and evaluated.

In the FFY 2003 APR, CNMI must provide data and analysis, along with a determination of compliance in the following areas. If data demonstrate noncompliance, CNMI must submit a plan to OSEP to ensure correction of the noncompliance within a reasonable period of time, not to exceed one year from the date that OSEP accepts the plan. If data are not available, the FFY 2003 APR must include a plan describing how CNMI will collect the data to determine compliance or noncompliance:

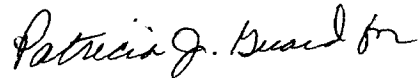
- the process that is used to handle formal complaints and ensure the timely issuance of complaint decisions with implementation of appropriate corrective actions (34 CFR §§300.660-300.662);
- supplying adequate qualified staff to provide FAPE (see 34 CFR §§300.300 and 300.381);
- providing documentation that students with disabilities are receiving appropriate accommodations and modifications in administration of general State assessments, if needed (34 CFR §§300.138 and 300.347(a)(5));
- providing an explanation of whether CNMI's alternate assessment instruments are aligned with standards used for all children in the grade assessed, and if they are not, the steps CNMI is taking to ensure alignment of alternate assessments with appropriate achievement standards in the FFY 2004 APR;
- implementing transition planning and services for youth with disabilities, including the requirement at 34 CFR §300.344(b)(1) requiring the public agency to invite a student with a disability to attend IEP meetings conducted to consider transition service needs or needed transition services; and
- ensuring the participation of children with disabilities in nonacademic and extracurricular activities with their nondisabled peers, to the maximum extent appropriate, or explain why this is not occurring and what will be done to correct it (34 CFR §300.553).

CNMI also must provide in the FFY 2003 APR:

- Written translations of Parents' Rights notices in the native language of the parent, or if not provided, an explanation of why it is clearly not feasible to do so (34 CFR §300.503(c)(1)(ii));
- Copies of updated interagency agreements, or describe other mechanisms used to ensure the timely payment and provision of appropriate special education and related services to children with disabilities (34 CFR §300.142);
- Clarification of whether the attorney training it has done is sufficient to ensure that parents of children with disabilities initiating a Part B due process hearing have access to a trained hearing officer;
- Either documentation of data, targets for improved performance and strategies to achieve those targets concerning improvement in the language/communication, pre-reading and social-emotional skills of preschool children with disabilities, or a detailed plan to collect that data for the FFY 2004 APR; and
- The results of CNMI's efforts in developing and utilizing an electronic data collection system, and a system for parent training and increasing parental participation in IEP meetings.

OSEP recognizes that the APR and its related activities represent only a portion of the work in CNMI, and we look 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 Lucille Sleger at (202) 245-7528.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie J. Smith Lee".

Stephanie Smith Lee
Director
Office of Special Education Programs

Enclosure

cc: Ms. Joanne Nicholls, Coordinator
Special Education Programs