



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

Honorable Terry Bergeson
Superintendent of Public Instruction
Washington State Office of Public Instruction
Old Capitol Building
P.O. Box 47200
Olympia, Washington 98504-7200

SEP 29 2005

Dear Superintendent Bergeson:

The purpose of this letter is to respond to Washington's April 19, 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 and Washington's July 21, 2005 letter on the State's proposed outcome-based monitoring system. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion of OSEP's February 28, 2005 FFY 2002 APR response letter required Washington to provide, in the FFY 2003 APR:

- (1) a plan, in accordance with the measures set out in OSEP's February 28, 2005 verification letter, that included strategies, proposed evidence of change, targets and timelines to ensure timely correction of deficiencies identified through monitoring that affect specific children with disabilities, within a reasonable period of time, not to exceed one year from the date that OSEP accepted the plan (34 CFR §300.600(a)(2)(ii) and 20 U.S.C. §1232d(b)(3));
- (2) data and analysis demonstrating progress toward compliance, with a report to OSEP, including documentation of compliance as soon as possible, but not later than 30 days following one year from February 28, 2005, in the following areas:

- (a) complaints were resolved within 60 days from the date of receipt of the complaint, unless the timeline was extended due to exceptional circumstances with respect to a particular complaint (34 CFR §300.661(a)(4) and (b));
 - (b) decisions in due process hearings are issued no later than 45 days after the receipt of a request for a hearing, unless the hearing officer grants a specific extension of time, at the request of either party (34 CFR §300.511);
 - (c) children in need of specially designed instruction for behavior disorders received required services despite personnel shortages (34 CFR §§300.380(a)(2) and 300.300(a)(3))
 - (d) children in need of psychological services received required services at no cost to the parents in accordance with their IEPs (34 CFR §§300.300(a)(3)). Children with disabilities in need of physical therapy and/or occupational therapy are receiving those services despite personnel shortages (34 CFR §§300.380(a)(2) and 300.300(a)(3)); and
 - (e) each child eligible for Part B services who participated in the Part C program had an IEP or individualized family service plan (IFSP) in effect by the child's third birthday (34 CFR §300.132(b)).
- (3) the results of its review of procedures of local educational agencies (LEAs) with significant disproportionality in the identification and placement of children with disabilities (34 CFR §300.755(b)), and if appropriate, revision of policies, procedures and practices that occurred during the reporting period;
- (4) data and analysis regarding suspension and expulsion rates for children with disabilities, as compared to nondisabled children or across LEAs in the State.
- (5) implementation of strategies and the resulting data demonstrating improvement in the following areas:
- (a) collection and timely reporting of accurate data;
 - (b) data regarding parent participation at meetings of the evaluation and placement teams;
 - (c) graduation and drop-out rates;
 - (d) performance of children with disabilities on statewide and districtwide assessments;
 - (e) children with disabilities educated with nondisabled peers to the maximum extent appropriate;
 - (f) placement decisions for preschool children are being made on an individual basis in accordance with applicable regulations;
 - (g) early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities, including documentation of data, targets for improved performance and strategies to achieve those targets, or a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan; and
 - (h) data indicating whether students were invited to IEP meetings when the purpose of the meeting was consideration of transition services and that representatives of

other agencies, that might be responsible for providing or paying for transition services were routinely invited to IEP meetings (34 CFR §300.344(b)).

General Supervision

Identification and timely correction of noncompliance

OSEP's February 28, 2005 letter required that the State submit a plan for correcting noncompliance involving individual children with disabilities identified through monitoring, within one year of identification (20 U.S.C. §1232d and 34 CFR §300.600(a)(2)(ii)). On page 18 of the FFY 2003 APR, the State included strategies, proposed evidence of change, targets and timelines designed to ensure correction of noncompliance involving individual children as soon as possible, not to exceed one year of identification, as required in the February 2005 letter. OSEP has reviewed and accepts this plan. The State must include data and analysis documenting progress toward compliance in the State Performance Plan (SPP), due December 2, 2005, and provide a final report to OSEP, including data and analysis demonstrating compliance as soon as possible, but no later than 30 days following one year from the date of this letter.

In addition to the FFY 2003 APR, Washington submitted a proposed monitoring plan on July 21, 2005 to address systemic compliance issues across districts. The proposed monitoring plan included strategies, proposed evidence of change, targets and timelines designed to link outcome-based indicators and associated risk factors with three types of monitoring visits: (1) focused monitoring visits; (2) technical assistance visits; and (3) random visits. The proposed indicators for focused monitoring in the State included: (1) graduation rates; (2) drop-out rates; (3) Washington Assessment of Student Learning (WASL) performance; (4) adequate yearly progress; (5) disproportionality; (6) monitoring results; and (7) least restrictive environment. Other potential indicators may also be analyzed for incorporation into the focused monitoring system. OSEP has reviewed and accepts this plan. OSEP looks forward to reviewing the State's updated data and information in this area in the SPP.

Formal written complaints

OSEP's February 28, 2005 letter required that the State include data and analysis in its FFY 2003 APR on progress toward compliance with the requirement that complaints were resolved within 60 days from the date of the receipt of the complaint, unless the timeline was extended due to exceptional circumstances with respect to a particular complaint (34 CFR §300.661(a)(4) and (b)). The State's final report demonstrating compliance in this area is due March 30, 2006.

On page 17 of the FFY 2003 APR, the State reported that Washington's Office of the Superintendent of Public Instruction's (OSPI's) APR Citizen Complaint data for FFY 2003 showed that 49 decisions were issued within the reporting period. Of those, 28 were issued within the 60-day timeline. Of the three issued beyond 60 days, two were issued one day after the due date, and one was issued three days after the due date. Of the 21 decisions with documented extensions for exceptional circumstances, the two issued outside the extension were

issued within three days after the extension.¹ The State indicated that of the complaints with extensions granted due to exceptional circumstances, the majority were granted an extension of 30 days or less. In the SPP, Washington should continue to report on its progress in ensuring full compliance with requirements for timely complaint resolution.

Mediation

On page 13 of the FFY 2003 APR, the State included data and information regarding mediation. The data indicated that the percentage of mediations resulting in agreements compared to the total number of mediation requests, not including pending mediations, increased over the last three reporting periods, i.e., 56% during 2000 to 2001, 76% during 2002 to 2003 and 87% during 2003 to 2004. OSEP appreciates the States efforts in this area and looks forward to reviewing data and information demonstrating continued improvement in this area in the SPP.

Due process hearings and reviews

OSEP's February 2005 letter required the State to include data and information demonstrating progress toward compliance with the requirement that decisions in due process hearings were issued no later than 45 days after the receipt of a request for a hearing, unless the hearing officer grants a specific extension of time, at the request of either party (34 CFR §300.511). The State's final report demonstrating compliance in this area is due March 30, 2006.

In Attachment 1, on page 14 of the APR, there were 158 hearing requests, 29 hearings held, seven decisions issued within the timeline, and 19 decisions were issued within a timeline extended under 34 CFR §300.511(c). On page 17, Washington indicated that in FY 2003, 26 of the 29 fully adjudicated decisions were issued within the 45-day timeline, or with documented extensions in accordance with 34 CFR §300.511. OSPI also identified the strategies it had implemented to ensure timely issuance of due process hearing decisions. OSEP appreciates the State's progress in meeting this requirement. In the SPP, the State should continue to report on its progress in ensuring full compliance with this requirement.

Personnel

OSEP's February 2005 letter required the State to submit: (1) data and analysis demonstrating progress toward compliance and submit a report to OSEP, with documentation of compliance as soon as possible, but not later than 30 days following one year from February 28, 2005 to ensure that children in need of specially designed instruction for behavior disorders received required services despite personnel shortages (34 CFR §§300.380(a)(2) and 300.300(a)(3)); and (2) data demonstrating whether children with disabilities in need of physical therapy and occupational therapy services were receiving those services despite personnel shortages (34 CFR §§300.380(a)(2) and 300.300(a)(3)) and, if data demonstrated noncompliance, a plan for correction of this noncompliance as soon as possible, but not later than thirty days from the date OSEP accepted the plan.

¹ The State reported different numbers, however, in Attachment 1, but provided no explanation for the differences.

OSEP is unable to determine whether Washington made progress in the area of noncompliance regarding the provision of specially-designed instruction for children with behavior disorders since required data were not included in the FFY 2003 APR. Washington must provide documentation of compliance regarding the provision of required related services to children with behavioral disorders no later than March 30, 2006.²

With regard to physical therapy and occupational therapy services, OSEP has determined that Washington monitors for the provision of all related services including the provision of physical therapy and occupational therapy services. Although OSPI has yet to make findings in this area, OSPI has in place a system for identifying and correcting deficiencies. OSEP accepts these strategies and appreciates the work of the State in ensuring compliance in this area.

Other: Psychological counseling services

OSEP's February 2005 letter required the State to include data and analysis demonstrating progress toward compliance, with a report to OSEP demonstrating correction of the compliance not later than March 30, 2006, with the requirement to ensure that children in need of psychological counseling services received those services in accordance with their IEPs, at no cost to the parents (34 CFR §300.300(a)(3)). On page 4 of the FFY 2003 APR, the State included data and analysis indicating a need to improve performance in the area of provision of related services. On page 7, OSPI reported that monitoring reviews of 488 service files that included related services across the State's 289 districts found that the provision of related services was an issue in 73% of the districts, but only 28% of the files reviewed. However, because related services can include speech and language therapy, occupational therapy, physical therapy, vision and hearing services, psychological counseling, transportation, etc., and OSPI did not disaggregate its data, OSEP was unable to determine OSPI's progress toward compliance regarding the provision of needed psychological counseling services.

On page 18 of the 2003 APR, the State also included strategies to improve performance. The State reported that it would revise its Consolidated Program Review final reports to include requirements for correction and documentation of child-specific noncompliance, including psychological counseling, beginning with districts monitored in the 2004-2005 program year. Washington must provide documentation of compliance no later than March 30, 2006. Data demonstrating compliance must include disaggregated data for psychological counseling.

Collection and timely reporting of accurate data

OSEP's February 2005 letter required the State to provide implementation of strategies and the resulting data demonstrating improvement in the collection and timely reporting of accurate data. On page 36 of the FFY 2003 APR, the State included information regarding collection and timely reporting of accurate data indicating that the OSPI special education office implements an annual data collection bulletin accompanied by templates with built-in checks and balances used to reduce errors in district submissions of child count, least restrictive environment, personnel,

² Evidence of compliance must include disaggregated data indicating provision of specially designed instruction for behavior, physical therapy and/or occupational therapy as required on the child's IEP.

and suspension and expulsion data. OSPI regularly reviews the templates and makes changes based upon feedback from districts. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information in the SPP.

Early Childhood Transition

OSEP's February 2005 letter required the State to include data and analysis demonstrating progress toward compliance indicating that each child eligible for Part B services who participated in the Part C program had an IEP or IFSP in effect by the child's third birthday (34 CFR §300.132(b)). On page 39 of the APR, Washington stated that for preschool children determined eligible for Part B services, there was currently no method or process in place to assess if all children leaving the Part C program were receiving special education and related services by their third birthdays. On page 38, Washington stated that it was unable to provide data on the numbers of children served under Part C who transitioned to the Part B program. Washington provided information on its progress toward compliance that included the implementation of the following strategies: (1) establishment of data sharing agreements between Part C and Part B lead agencies; and (2) planning and development meetings between the State's 619 coordinator and the Core Student Record System (CSRS) manager. The CSRS was designed to track all eligible students leaving the Part C program and entering the Part B special education system as they make this transition into services by their third birthdays, but OSPI reported that in February of 2005, OSPI's 619 Coordinator met with the CSRS Manager to review data collection needs and to determine the feasibility of adding data fields in order to obtain early childhood transition data.

Early childhood transition is an indicator in the SPP under section 616 of IDEA that is due December 2, 2005. The State must submit responsive baseline data regarding the percentage of children referred by Part C prior to age 3 and who are found eligible for Part B and receive special education and related services by their third birthdays in the SPP. The absence of baseline data in this area will be considered in OSEP's decision about approval of the State's SPP.

Parent Involvement

OSEP's February 2005 letter required the State to provide information regarding implementation of strategies and the resulting data demonstrating improvement in data regarding parent participation at meetings of the evaluation and placement teams. On page 15 and on page 41 of the FFY 2003 APR, the State included data and information regarding improvement of parent participation at meetings of the evaluation and placement teams. Data indicated that parent participation in this area was assessed through monitoring visits and the corrective action process. Monitoring data indicated that during the 2003-04 Consolidated Program Review seven files out of 1,239 reviewed had a finding regarding parent involvement. Parent participation and involvement was not an issue in mediations conducted in the 2003-04 school year. In the area of citizen complaints, there were eight findings in the area of parent involvement/participation, and in due process hearings conducted, six findings were issued. These districts were required, as part of their corrective actions, to address this issue and any others found during the investigation by: district procedural changes; reevaluation; IEP revisions; reimbursement; IEP meetings;

trainings; independent educational evaluations; or compensatory services. In addition to the onsite Consolidated Program Review visit, parent surveys are mailed to parents prior to the CPR team's visit to the district.

The SPP instructions establish a new indicator in this area, for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. In the SPP due December 2, 2005, Washington must describe how data are to be collected for this new indicator so that Washington will be able to report baseline data and targets in the FFY 2005 APR due February 1, 2007. OSEP looks forward to reviewing this information in the SPP. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information demonstrating continued improvement in this area in the SPP.

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

Disproportionality

OSEP's February 2005 letter required the State to provide the results of its review of policies and procedures of local educational agencies (LEAs) with significant disproportionality in the identification and placement of children with disabilities (34 CFR §300.755(b)) and if appropriate, revision of policies, procedures and practices that occurred during the reporting period. On page 52 of the APR, Washington stated that it addresses the issue of disproportionality within the compliance monitoring process. Procedures, policies, and student files are reviewed to insure that eligibility and placement decisions are not biased with regard to the race/ethnicity of the students. Specific targets were not established for the 2003-04 reporting period because the State was not aware of any significant disproportionality issues or problems.

Based on a review of policies, practices and procedures related to disproportionality, Washington, with the assistance of WESTAT, revised the process used to determine disproportionality within the State and identified 11 target areas for improvement in the 2004 through 2005 reporting period. Washington also included strategies to improve performance in this area that included: (1) reviewing risk ratios for seven disability categories and two least restrictive environment categories by five racial/ethnic groups over five years to identify trends; (2) using the results of its review to set priorities and targets for disproportionality; and (3) addressing disproportionality in the State's compliance monitoring process that would examine policies and procedures to ensure that districts are not systematically over-identifying children based on race and ethnicity, and placement decisions were made in conformity with IDEA regulations. OSEP appreciates the work that Washington has done in this area.

Disproportionality in the representation of racial and ethnic groups in special education and related services and disproportionality in the representation of racial and ethnic groups in specific disability categories that result from inappropriate identification, are new indicators in the SPP due December 2, 2005, for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. The State should carefully review the instructions to the SPP in developing its plans for these collections. In the SPP due December 2, 2005, Washington must describe how data are to be collected for these new indicators so that the State will be able to

report baseline data and targets in the FFY 2005 APR due February 1, 2007. OSEP looks forward to reviewing this information in the SPP.

Graduation and drop-out rates

OSEP's February 2005 letter required the State to provide data and information on the implementation of strategies and the resulting data demonstrating improvement in graduation and drop-out rates of children with disabilities. On page 57 of the APR, Washington included data and analysis indicating a need to improve performance in graduation and drop-out rates for students with disabilities. The data indicated that the graduation rate of 49.7 percent for students with disabilities was 16 percentage points lower than the 65.7 percent graduation rate of nondisabled students. The data also indicated that the drop-out rate of 24.1 percent for students with disabilities was 1.9 percent higher than the 24.3 percent drop-out rate for nondisabled students. The State also reported its efforts to standardize data definitions, data collection, and calculation methods to measure and report graduation and drop-out data, and stated that data for 2003 through 2004 were not available for measuring progress or slippage. The State included strategies to improve performance that included: (1) establishing standard definitions and calculations that provide a basis to compare data for students with disabilities in this area with State averages and other "adequate yearly progress" groups; (2) targeting districts with the largest discrepancies between local data and State averages for further monitoring and technical assistance; and (3) developing a rating scale to assist districts in analyzing their performance. OSEP looks forward to reviewing information in the SPP, including the implementation of strategies and resulting data and analysis.

Suspension and expulsion

OSEP's February 2005 letter required the State to provide data and information on the implementation of strategies and the resulting data demonstrating improvement in suspension and expulsion of children with disabilities. On pages 59 through 65 of the FFY 2003 APR, Washington included data and information regarding suspension and expulsion rates for children with disabilities. It stated that it determined that there were no significant discrepancies across LEAs. The State included strategies to improve performance at the district level in this area that included: (1) developing and implementing procedures to alert districts when there may be issues in this area; (2) training staff on appropriate procedures for discipline of children with disabilities receiving special education through monitoring and in-service training; and (3) requiring districts to address suspension and expulsion policies and procedures in the application for Federal special education flow-through funds. The State also reported on page 63 of the FFY 2003 APR, that districts were required to review policies, practices and procedures related to suspension and expulsion in their application for Federal special education flow-through funds. The district's review must also include the district's plan to either maintain or lower suspension and expulsion rates depending on the district's specific data reported. OSEP looks forward to reviewing information in the SPP, including the implementation of strategies and resulting data and analysis.

Statewide and district-wide assessment

OSEP's February 2005 letter required the State to provide data and information on the performance of children with disabilities on statewide and district-wide assessments. On pages 66 through 88 of the FFY 2003 APR, Washington included data and information on participation of children with disabilities on statewide and district-wide assessments indicating that all children with disabilities, except children with parental exemptions, or children who were absent the day of the test, participated in the math and reading regular assessment or alternate assessment. Enrollment data indicated that the following percentage of children with disabilities participated in the regular and alternate math assessment: (1) fourth grade math, 97.9 percent and fourth grade reading, 97.4 percent; (2) seventh grade math, 95.7 percent and seventh grade reading, 95.5 percent; and (3) tenth grade math, 93.8 percent and tenth grade reading, 87.8 percent. OSEP looks forward to reviewing the State's updated data in this area in the SPP.

On page 66 of the FFY 2003 APR, the State included data and information regarding performance on statewide and district-wide assessments indicating that on the Washington Assessment of Student Learning (WASL) and the Washington Alternate Assessment System (WAAS), in all content areas at grades four, seven, and ten, children with disabilities made progress in meeting proficient or advanced achievement standards. On the WAAS, the percentage of students with significant disabilities meeting the alternate achievement standard increased approximately 25 percent to 50 percent in each grade level in all content areas. OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information demonstrating continued improvement in this area in the SPP.

Least restrictive environment (LRE)

OSEP's February 2005 letter required the State to provide data and information on the implementation of strategies and the resulting data demonstrating improvement in: (1) children with disabilities educated with nondisabled peers to the maximum extent appropriate; and (2) placement decisions for preschool children being made on an individual basis in accordance with applicable regulations. On page 87 of the FFY 2003 APR, Washington included data and information regarding educating all children with disabilities with nondisabled peers to the maximum extent appropriate, indicating that children aged 3 to 5 in the State were most often served in early childhood special education settings (57.69%). Children with disabilities aged 6 to 21 were comparable to national trend data and were most often served in the regular classroom (47.13%). State monitoring data indicated that only four percent of the districts had a finding in LRE, and LRE was not an issue in citizen complaints or due process hearings. State data for children aged 3 to 5 indicated that, statewide, districts that received an inclusion grant had a higher percentage (37%) of children with disabilities being served in typical early childhood settings than districts without an inclusion grant (19.4%). OSEP appreciates the State's efforts in this area and looks forward to reviewing data and information demonstrating continued improvement in this area in the SPP.

OSEP is unable to determine whether OSPI made progress in ensuring that placement decisions for preschool children were made on an individual basis in accordance with applicable regulations since required data were not included in the FFY 2003 APR. The State reported only

that there was no change in the percentages of students receiving services in typical early childhood settings, and attributed this to the lack of universal pre-kindergarten in Washington and lack of available funding to keep pace with demands for services, coupled with increased program costs resulting in a reduced number of program slots. OSPI must provide the data required by OSEP's February 2005 letter in the SPP. OSEP will review this information and determine what further action, if any, is required.

Washington should note that preschool LRE (children with disabilities aged three through five) is a separate indicator in the SPP due December 2, 2005. In preparation for the submission of the SPP on December 2, 2005, the State should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements.

Preschool performance outcomes

OSEP's February 2005 letter required the State to provide data and information on the implementation of strategies and the resulting data demonstrating improvement in early language and communication, pre-reading, and social-emotional skills of preschool children with disabilities, including documentation of data, targets for improved performance and strategies to achieve those targets, or a plan to collect the data, including a detailed timeline of the activities necessary to implement the plan. On page 90 of the FFY 2003 APR, the State provided a plan to collect data and information in this area as follows: development of benchmarks that will provide language and communication, pre-reading, and social and emotional development learning expectations to assist in curriculum development and training. The State was also developing an Early Childhood Assessment Manual to serve as a complement to State benchmarks. The SPP instructions establish a new indicator in this area, for which States must provide baseline data in the FFY 2005 APR, due February 1, 2007. Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under §616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

Secondary Transition

OSEP's February 2005 response letter to Washington's 2002 APR required the State to include data and analysis demonstrating progress toward compliance in ensuring that students with disabilities were invited to IEP meetings when a purpose of the meeting was consideration of transition services, and that representatives of other agencies that were likely to be responsible for providing or paying for transition services, were routinely invited to IEP meetings (34 CFR §300.344(b)). OSEP is unable to determine if the State made progress in this area since required data were not included in the FFY 2003 APR. On page 96 of the FFY 2003 APR, the State included data indicating that of 2,610 youth and families that were contacted six months after graduation, 1,862 or 71 percent had agency linkages on their IEPs. Although the FFY 2003 APR provided data that agency linkages were identified on the IEP, OSEP is unable to determine if representatives of other agencies likely to be responsible for providing or paying for transition services were invited to the IEP meeting or if students were invited to IEP meetings. Regulations at 34 CFR §300.344(b) require that the public agency invite a student with a disability of any age to attend his or her individualized education program (IEP) meeting if a

purpose of the meeting will be the consideration of transition services needs (beginning no later than age 14) or transition services (beginning no later than age 16) or both. Note that, effective July 1, 2005, IDEA 2004 no longer includes the requirements for students with disabilities beginning at age 14. If the student does not attend the IEP meeting, the public agency must take other steps to ensure that the student's preferences and interests are considered. Data and information describing compliance with these requirements may include: (1) a description of policies, procedures and practices to ensure that public agencies invite students with disabilities when transition service needs or transition services are considered along with monitoring data demonstrating implementation of those policies, procedures and practices; (2) a description of policies, procedures and practices describing actions to be taken by public agencies to consider students' preferences and interests when they do not attend IEP meetings where transition will be considered along with monitoring data demonstrating implementation of these policies, procedures and practices; and (3) an explanation for instances where public agencies did not appropriately implement required policies, procedures and practices. Washington must provide OSEP with documentation of compliance no later than March 30, 2006.

The SPP instructions establish new indicators on secondary transition and post-school outcomes, for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. Washington should carefully review the instructions to the SPP in developing its plans for these collections. In the SPP due December 2, 2005, Washington must describe how data are to be collected for this new indicator so that Washington will be able to report baseline data and targets in the FFY 2005 APR due February 1, 2007. OSEP looks forward to reviewing this information in the SPP.

Conclusion

In the SPP, due December 2, 2005, Washington must submit data and analysis documenting progress toward compliance regarding the following:

1. Timely correction of noncompliance involving individual students (20 U.S.C. §1232d and 34 CFR §300.600(a)(2)(ii));
2. Due process hearing decisions are issued within required timelines (34 CFR §300.511); and
3. Insuring that placement decisions for preschool children were made on an individual basis in accordance with applicable regulations since required data were not included in the FFY 2003 APR.

As noted above, Washington must provide documentation of compliance no later than March 30, 2006, on the following:

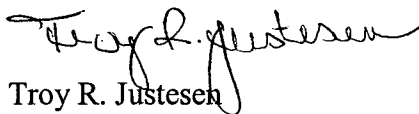
1. Complaint decisions are issued within timelines (34 CFR §300.661(a)(4) and (b));
2. Decisions in due process hearings are issued no later than 45 days after the receipt of a request for a hearing, unless the hearing officer grants a specific extension of time, at the request of either party (34 CFR §300.511);
3. Children in need of specially-designed instruction for behavior disorders receive required services despite personnel shortages, and children in need of psychological counseling services are receiving those services in accordance with their IEPs, at no cost to the parents (34 CFR §300.300(a)(3)); and

4. Students with disabilities are invited to IEP meetings when the purpose of the meeting is the consideration of transition services, and that representatives of other agencies that are likely to be responsible for providing or paying for transition services are routinely invited to IEP meetings (34 CFR §300.344(b)).

IDEA 2004, §616, requires each State to submit a State Performance Plan (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 Dr. Al Jones at (202) 245-7394.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Dr. Douglas Gill