



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

Honorable Marilyn Howard
Superintendent of Public Instruction
Idaho Department of Education
Len B. Jordan Office Building
650 West State Street
Boise, Idaho 83720

MAY 27 2004

Dear Superintendent Howard:

The purpose of this letter is to respond to the Idaho April 29, 2004 submission of its Revised 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, 2003.¹ The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (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 the CIFMS into one document. OSEP's Memorandum regarding the submission of Part B APRs directed States to address five cluster areas: General Supervision, Early Childhood Transition, Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment, and Secondary Transition.

Background

On February 27, 2004, OSEP responded to Idaho's Improvement Plan Progress Report. In that response, OSEP suggested that the Idaho Department of Education (IDE) continue to report progress in three areas identified by the Idaho Steering Committee and IDE as areas needing improvement and include such progress in Idaho's FFY 2002 APR. The areas of improvement are (a) increasing the participation of stakeholders in decision-making activities at all levels, (b) increasing the number of personnel trained in providing services to children with disabilities in the least restrictive environment; and (c) improving student outcomes as a result of the Idaho Bureau of Special Education's leadership and effective general supervision through, specifically, ensuring enforceability of interagency

¹ The APR was first submitted to OSEP on March 31, 2004. Idaho revised its APR based on technical assistance provided by OSEP during the OSEP verification visit to Idaho during the week of April 19, 2004.

agreements to provide a free appropriate public education for children with disabilities, and ensuring the accuracy of the data collected by IDE. OSEP and Idaho did not identify noncompliance in the State's Self-Assessment (submitted December 2001), in the State's Improvement Plan (submitted April 15, 2002), or in the State's Improvement Plan Progress Report (submitted June 30, 2003). The purpose of including the three areas of improvement in the FFY 2002 APR is to clearly demonstrate IDE's use of data to make data-based performance and compliance determinations.

The State'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 any other areas identified by the State to ensure improvement). OSEP's comments regarding each cluster area within the APR are set forth below.

General Supervision

The State provided data and information on pages one through 15 of the APR demonstrating that IDE's policies and procedures identified compliance, ensured correction of noncompliance, and encouraged positive program performance. The State has baseline and trend data, indicators, targets, future activities, timelines, and projected resources to address each of the following topics in this cluster: (a) effective general supervision, (b) identification and remediation of systemic noncompliance, (c) timely dispute resolution, (d) sufficient personnel, and (e) accurate and timely data collection and reporting.

On pages one and two of the APR, IDE described in Table 1 the tasks used by the State to conduct focused monitoring. Steps included such tasks as (a) publishing data reports with local performance goals and indicators for each LEA; (b) conducting training for LEAs to understand the self-evaluation process; and (c) establishing data verification protocol. In addition, IDE identified that eight of the 11 tasks are completed. The State maintained an adequate number of trained hearing officers to ensure dispute resolutions were addressed in a timely manner.

On pages three through five of the APR, IDE described the steps the State has taken to identify and remediate systemic issues found through an analysis of data collected during the monitoring process, complaint investigations, and hearing resolutions. The APR states that all noncompliance is remedied within one year.

On pages six and seven of the APR, IDE reported that, of the hearings held in 2002-2003, all hearings were completed within 45 days unless extended by the hearing officer. The APR identified all but one complaint met the 60-day timeline. (The one that did not meet the 60-day timeline involved a case in which both parties sought an early complaint resolution (ECR) and requested that the State delay its finding. When the local school board failed to approve the agreement that the LEA representative and parents had negotiated, the State immediately issued its findings.) The APR also identified that 90% of the mediations were successful.

On pages eight through 12 of the APR, IDE discussed the status of trained personnel to meet the educational needs of all children with disabilities in the State. (This State goal is also a component of the State's Improvement Plan Progress Report.) The State included trend data, indicators, explanation of progress and slippage, targets, future activities, timelines and projected resources for reaching this goal.

On pages 13 and 14 of the APR, the State identified the goal to collect accurate and timely data to use in reports and decision-making. The State submits an annual report on performance indicators to each local educational agency and to the State Legislature. Each report contained three years of trend data. All of the reports were submitted to OSEP and to the local educational agencies by the due dates.

Early Childhood Transition

On pages 15-18 of the APR, IDE discussed its performance in serving all children eligible for Part B services by their third birthday. Based on trend data, the number of three-year-olds on the Part B December 1 child count and the number of children transitioning from Part C to Part B programs were rising. The number of children whose eligibility was undetermined at age three was 11. One of the State's indicators to measure progress in the future was that 100% of the children exiting Part C would have Part B eligibility determined. The State would also monitor interagency agreements to ensure the agreements are effective and enforceable.

Parent Involvement

On pages 19-22 of the APR, IDE discussed its progress in including stakeholders in the decision-making process at all levels (individual, school building, district, State) to ensure improved outcomes for students with disabilities. This goal was also a goal of the State Improvement Plan Progress Report. Idaho interviewed a random sample of parents from each district as part of the State's monitoring process. Ninety percent of the parents reported attending their child's last IEP meeting and 80% reported participating in the child's placement decision. In addition, using the National Parent Teacher Association standards for parent and family involvement, Idaho's parent training organization conducted a State-wide survey to determine strengths and weaknesses of parent-school relationships and barriers to the relationship. The State incorporated findings from the survey into the parent interviews conducted as a part of the monitoring visit. The State had baseline and trend data, indicators, targets, future activities, timelines, and projected resources to address this cluster. IDE should report the State's progress in involving parents as stakeholders in the decision-making process in the State's next APR.

Free Appropriate Public in the Least Restrictive Environment

On pages 23-36 of the APR, IDE provided information about the State's goals to appropriately identify and serve all students eligible for Part B services. The State presented baseline and trend data for enrollment, educational environment, and assignment to disability category. The data were disaggregated by race and ethnicity. Idaho utilized the E-formula handed down by the Ninth U.S. Circuit Court of Appeals in the *Larry P.* case regarding the over-identification of Blacks in California. Idaho elected to use the E-formula because it was legally defensible within the Ninth Circuit. (The State used the .20

methodology suggested by OSEP when the State completed Attachment 2 in the APR.) Regarding the disproportionate enrollment, educational environment, and assignment to a disability category, the State included the target that 100% of identified compliance issues regarding State and local policies, procedures, and practices when found through the monitoring process would be remedied within one year.

The State had goals to increase the graduation rate and decrease the dropout rate. Baseline data, targets, explanation of progress and slippage, projected targets, future activities, projected timelines, and projected resources were included in the APR. Targets for increasing the graduation rate and decreasing the drop rate were exceeded. IDE attributed the progress to the public reporting of the data and district level monitoring interventions. IDE has a data development project in place to meet the No Child Left Behind goal to decrease the gap between general and special education graduation rates. The State will be able to disaggregate the graduation rates for students with disabilities and students without disabilities using the same population parameters in the 2005-2006 school year. This will allow them to compare graduation rates for the two populations.

The national average percentage of students with disabilities who are suspended or expelled more than ten days in a school year was just over 1.0%. The rate in Idaho was .25% in 02-03, down from .39% in 01-02. The State had trend data for years 1998-2003. Baseline data, targets, explanation of progress and slippage, projected targets, future activities, projected timelines, and projected resources were included in the APR

The large-scale assessment in Idaho was the Idaho Standards Achievement Test (ISAT). The State noted that consequences of the No Child Left Behind Act motivated general educators to take an active role in ensuring that all students with disabilities participate. The State presented training programs on appropriate accommodations for the assessments, monitored to determine compliance with IDEA participation and reporting requirements, and widely reported special education participation and performance results. The APR identified baseline data, explanation of progress and slippage, projected targets, future activities, projected timelines, and projected resources. In the State's next APR, OSEP encourages Idaho to continue to report baseline data for performance indicators and report the State's progress in narrowing the achievement gap between students with disabilities and all students.

Idaho had a State goal to educate all students in the least restrictive environment while maintaining a full continuum of services. The State had baseline and trend data, targets, explanation for slippage and progress, projected targets, future activities, timelines, and projected resources to address this issue. Indicators for this goal included the percentage of students who are educated in the general education classroom greater than 80% of the day. The rate at the national level was 47% in 1999-2000. The rate in Idaho was 66%. Since then the State rate fell to 62%. Thirty-one percent of the students, aged three through five years, were served in natural settings, early childhood centers, regular kindergarten or in the home.

Targets identified in this section included percentage goals as evidence that students with disabilities were educated in the least restrictive environment. A goal of increasing the percentage of children with disabilities appropriately served in less restrictive environments can be one way for the State to measure whether it is improving services for

children with disabilities, and is consistent with the Part B requirements that children with disabilities be served in the least restrictive environment. In meeting the goal to increase the number of children served in the general education classroom, however, the State must ensure that it will continue to meet the least restrictive environment requirements of Part B. The placement decision, including the decision about what is the least restrictive environment for each child, must be made consistent with the requirements of Part B. This means that the placement decision must be made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of evaluation data, and the placement options and must be based on the child's individual needs as identified in his or her IEP. 34 CFR §300.552.

Thus, while it is not inconsistent with Part B of the IDEA to include a numerical goal to increase the percentages of children with disabilities appropriately placed in less restrictive settings, the State must continue to monitor to ensure that placement decisions for all children are made in conformity with the LRE requirements of Part B and not based upon a numerical goal. Therefore, Idaho must describe in the State's next APR how Idaho will achieve its goal of increasing the number of children in less restrictive settings while continuing to make the full continuum of alternative placements (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions) available and ensuring that each individual child is placed in a setting that meets his or her identified needs consistent with the Part B regulations.

The State of Idaho established a goal that children will enter school with pre-literacy skills and ready to learn. The State used the percentage of children, ages three through five years, who received special education services and scored "at age level" scores on the Pre-Kindergarten Idaho Reading Indicator as the performance indicator for this goal. The State had baseline and trend data, targets, explanation for slippage and progress, projected targets, future activities, timelines, and projected resources to address this goal. OSEP encourages Idaho to continue to collect baseline data and submit it in the State's next APR.

Secondary Transition

On pages 37-40 of the APR, the State discussed the goal of improving post-school outcomes for youth with disabilities to reflect participation in post-school activities, including post-secondary education and employment. The State established four indicators to measure the State's performance in reaching this goal as the percentage of youth with disabilities who were (a) attending post-secondary programs, (b) working one year after graduation, (c) reporting average or above average participation in their IEP development, and (d) reporting that their high school connected them with a job, college or community agency (such as vocational rehabilitation.) The APR data showed that graduates with disabilities enroll in post-secondary education at a rate of less than half of all graduates (24.5% vs. 47.8%). Data collection for the Idaho Post School Outcome Survey began with the Class of 2000. Surveys were conducted within a month preceding graduation and at one, three, and five years following graduation. The State reported baseline and trend data, targets, explanation for slippage and progress, projected targets, future activities, timelines, and projected resources to address this goal. In the State's next APR, OSEP encourages

Idaho to continue to collect baseline data for performance indicators and report the State's progress in improving post-school outcomes.

Conclusion

Idaho provided the necessary data and information to document the IDE's ability to ensure compliance and gather performance outcome data. As previously stated, IDE identified numerical goals in the section of the APR addressing placement in the least restrictive environment. Therefore, in the State's next APR, IDE must describe how Idaho will achieve its goal of increasing the number of children in less restrictive settings while continuing to make the full continuum of alternative placements (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions) available and ensuring that each individual child is placed in a setting that meets his or her identified needs consistent with the Part B regulations. Also, as noted above, OSEP suggests that Idaho submit in the State's next APR to OSEP: (1) baseline data for preschoolers and the State's progress in increasing the effectiveness of interagency agreements to assist in determining Part B eligibility of children ages three through five years; (2) progress in involving parents as stakeholders in the decision-making process at all levels; (3) trend data for indicators new in 2004 regarding State-wide assessments; and (4) baseline and trend data for children who receive special education services and who score "at age level" on the Pre-Kindergarten Idaho Reading Indicator.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State. We appreciate your work on the APR and we look forward to collaborating with Idaho as you continue to improve results for students with disabilities and their families. If you have questions, please contact Marie Mayor at (202) 260-1392.

Sincerely,



Stephanie Smith Lee

Director

Office of Special Education Programs

cc: Jana Jones