



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

Honorable Sandy Garrett  
Superintendent of Public Instruction  
Oklahoma State Department of Education  
Hodge Education Building  
2500 North Lincoln Boulevard  
Oklahoma City, Oklahoma 73105-4599

AUG 13 2004

Dear Superintendent Garrett:

The purpose of this letter is to respond to the Oklahoma State Department of Education (OSDE) March 31, 2004 submission and May 20, 2004 revised 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 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***

In OSEP's October 18, 2002 letter regarding the OSDE Improvement Plan, OSEP requested Oklahoma continue to review the Oklahoma Improvement Plan and subsequent Oklahoma Improvement Plan Progress Reports to determine what additional data may be needed to (1) clarify the State's performance around specific components of the Improvement Plan; (2) assess the adequacy of the State's Improvement Plan; and (3) ensure that all areas of noncompliance are adequately addressed.

OSEP's September 9, 2003 letter regarding the Oklahoma Improvement Plan Progress Report requested that the State of Oklahoma report information in the FFY 2002 APR about the State's progress or slippage in the areas addressed in the Improvement Plan. OSEP informed OSDE that, as part of CIFMS, it expected OSDE to continue to work on

improvement activities and include data that indicated maintenance of compliance in these areas in the State's APR.

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 are listed by cluster area.

### ***General Supervision***

The State provided data and information, on pages one through 18 of the APR, demonstrating that OSDE's policies and procedures identified noncompliance, ensured correction of noncompliance within one year of identification, and encouraged positive program performance. The State reported baseline and trend data, indicators, targets, activities, timelines and resources to address each of the following topics in this cluster: (1) effective general supervision; (2) identification and remediation of systemic compliance; (3) timely dispute resolution; (4) sufficient personnel; and (5) accurate and timely data collection and reporting.

On pages one through five of the APR, OSDE described the State's timeliness in complaint investigations, due process hearings and mediations. The State included information about OSDE's activities to implement the OSDE Improvement Plan. The State had no overdue complaint investigations or due process hearings. The State planned to collect the number of mediations and number of mediation agreements related to due process hearing requests by July 2005.

On pages 13 through 16 of the APR, OSDE discussed the status of trained personnel to meet the educational needs of all children with disabilities in the State. OSDE identified the strengths and challenges of ensuring an adequate supply of special education administrators, teachers and related services personnel. The State reported on the results of the Oklahoma Educators Supply and Demand Study of 2002, a study conducted by the State Regents for Higher Education. The Study identified contributing factors to teacher shortage including the State's salary schedule (Oklahoma was ranked 50<sup>th</sup> of 51 States/entities with an average salary of \$29,525 or 70.6% of the national average) and a lack of financial incentives such as hiring bonuses, annual stipends and housing subsidies. In response to the Study, OSDE used the State's State Improvement Grant (SIG) to address recommendations of the Oklahoma Blueprint for Recruitment, Retention, and Retraining. The State also began an incentive system for the State's 858 teachers who held National Board Certification. These teachers will receive a \$5,000 retention bonus for the next ten years.

On pages 17 and 18 of the APR, the State identified its efforts to collect accurate and timely data to use in reports and decision-making. OSDE planned to continue to participate in the OSEP/WESTAT sponsored meeting for data managers. Additionally, to further enhance the State's capacity to report and analyze data, OSDE planned to collaborate with

OSDE Data Services in the further development and implementation of the State Student Information System.

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

On pages 19 through 21 of the APR, OSDE described efforts to ensure that children eligible for Part B services would receive special education and related services by their third birthday. The State included baseline data, indicators, explanation of progress or slippage, targets, activities, timelines and resources for reaching this goal. The State also reported that the Part C and Part B data systems were not originally designed to coordinate and determine whether children who were eligible for Part B received services by their third birthday. OSDE should report in the next APR: (1) the State's progress in ensuring that transition from Part C to Part B meets IDEA requirements; (2) the State's progress in determining Part B eligibility for all potentially eligible children exiting Part C; and (3) each district's progress in participating in transition planning conferences arranged by OSDE under section 637(a)(8) of the Act (at 34 CFR §§300.121(c) and 300.132 (b) and (c)).

### ***Parent Involvement***

On pages 22 and 23 of the APR, OSDE discussed its progress in reaching its goal that the provision of a free appropriate public education was facilitated by parent involvement. The State had one performance indicator for reporting progress on this goal. The indicator addressed establishing baseline data to identify the level of parent participation in determining appropriate services for children with disabilities. On page 22 of the APR, OSDE stated, "although 77% of the districts monitored during 2002-2003 school year received a citation for parent participation, the majority of the citations were a result of procedural errors rather than parents not in attendance." OSDE planned to report additional information about parent involvement in the next APR. OSEP is unable to determine from the State's information in this cluster the reason OSDE cited districts in the area of parent involvement. OSDE must report in the next APR data regarding parent involvement to document compliance with IDEA requirements.

### ***Free Appropriate Public Education in the Least Restrictive Environment***

On pages 24 through 46 of the APR, OSDE provided an overview of its efforts to examine State-wide assessment, graduation rates, dropout rates, incidents of expulsion and suspension, racial and ethnic disproportionality in identification and placement and young children's early development skills.

The State presented baseline and trend data for racial and ethnic disproportionality in enrollment data, educational environment, and assignment to disability category, including data in Attachment 2 of the APR. Projected targets on page 27 for this cluster included that "by July 2007, trend data at the state level will document movement toward a more equitable distribution of students based on race/ethnicity and the general student enrollment." Although OSDE did not set a specific numerical or percentage goal in this

target, OSEP reminds OSDE that use of a numerical/percentage goal, based upon race, as a means of addressing disproportionality is inconsistent with Federal civil rights laws and the United States Constitution and would not be an appropriate way to address any potential compliance problems that significant disproportionality may indicate. In addressing evidence of disproportionate representation, the State must look at policies, procedures and practices in the evaluation and identification process to determine if they are educationally appropriate, consistent with the requirements of Part B and race-neutral. Such an examination would generally include a review of policies, procedures and practices at both the State and local levels, with regard to the availability and use of pre-referral intervention services, the selection and use of evaluation instruments and materials, the selection and use of evaluation criteria, and the reasons for referral for special education evaluations. Such reviews would generally examine policies, procedures and practices to determine if they are educationally appropriate and legally consistent with Part B and other civil rights laws.

For example, a State could look at whether recommendations for pre-referral services and for referrals for special education are made consistent with Part B and in a race neutral manner; that is, both the criteria and practices are nondiscriminatory. The State could address these issues in a variety of ways including: (1) ensuring the standardization of its policies and procedures for pre-referral interventions and for referrals for special education evaluations consistent with Part B and other civil rights laws; (2) providing in-service training on any revisions to the policies and procedures and on teacher expectations and effective education for a diverse student population; and (3) conducting follow-up monitoring and review to ensure that any practices that were either discriminatory or inconsistent with Part B have changed.

On pages 28 through 30 of the APR, OSDE presented information about the graduation and dropout rates for youth with disabilities, including the formula for calculating the rates. The State had goals to increase the graduation rate and decrease the dropout rate to rates comparable to those of nondisabled students in Oklahoma. Baseline data, targets, explanation of progress and slippage, and activities were included in the APR.

On pages 31 through 33 of the APR, OSDE discussed the State's efforts to reduce school expulsions and suspensions. The State's performance indicator was to have suspension and expulsion rates comparable among local educational agencies within the State, or to the rates for nondisabled children within the agencies. The rate of out-of-school suspensions for drug or weapon offenses was comparable for students with and without disabilities. It appeared that the State's analysis examined data at the State level rather than a comparing the rates of suspension and expulsion between students with and without disabilities within local education agencies or among local education agencies pursuant to 34 CFR §300.146. The APR contained performance indicators, baseline data, trend date, targets, explanation of slippage or progress, activities, timelines and resources for addressing this topic. In the next APR, OSEP looks forward to reviewing the analysis of suspension and expulsion data to indicate that the State has examined data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions

of children with disabilities among local educational agencies in the State or compared to the rates for nondisabled children within the local education agencies.

On pages 34 through 42 of the APR, OSDE included the State's performance indicator to decrease the performance gap of students with disabilities when compared to nondisabled students as measured by the Oklahoma State-wide assessment program and the Oklahoma Alternate Assessment Program. The APR included a description of baseline and trend data and stated that accommodations have expanded over the years since 1997. In the State's next APR, OSDE should report on the provision of accommodations in the State-wide assessment program to ensure continued compliance with IDEA requirements.

On pages 43 and 44 of the APR, OSDE reported data related to providing a free appropriate public education in the least restrictive environment (LRE). The APR contained indicators, targets, an explanation of progress or slippage, activities, timelines and resources. Targets identified percentage and numerical goals as evidence that students with disabilities were educated in less restrictive environments. A goal of increasing the percentage of children with disabilities appropriately served in less restrictive environments may 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 are served in the least restrictive environment. However, 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 at 34 CFR §§300.550-300.556 and not based upon a numerical goal. Therefore, Oklahoma must describe, in the State's next APR, how Oklahoma 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. Placement decisions must be made by a group of persons, including the parents and other persons knowledgeable about the child, the child's evaluation data, and based on the child's individual needs as identified in his or her IEP. See 34 CFR §300.522.

On page 45 of the APR, OSDE reported that the State had not established baseline data to determine the early language/communication, pre-reading, and social-emotional skills, of preschool children with disabilities receiving special education and related services. OSDE indicated that targets, activities, and timelines and resources for this indicator would be included in the State's next APR. Resources for this endeavor included technical assistance from the National Early Childhood Technical Assistance Center, the Early Childhood Stakeholders, and the Oklahoma Steering Committee. Oklahoma indicated that the State would develop a plan to collect the data.

### ***Secondary Transition***

On pages 46 through 48 of the APR, the State discussed the goal of improving post-school outcomes such as participation in postsecondary education opportunities and post-school employment for youth with disabilities. OSDE's data analysis for achieving this goal stated that the State had no system for collecting post-school outcome data for nondisabled youth or students with disabilities and that, therefore, comparison between the percentage of youth with disabilities participating in post-school activities (employment, education, etc.) and nondisabled youth was not possible. The State used graduation rates of students with and without disabilities as a proxy for preparation for post-school outcomes. The State indicated that during 2004, the State would explore the possibility of including data that captured anticipated post-school outcome activities for all students in the State-wide Student Information System. OSEP looks forward to reviewing the State's progress and any preliminary or initial data resulting from the collection of post-school outcomes information. In addition, while it is designing and implementing a system for collecting performance data, the State must submit data (whether collected through sampling, monitoring, individual IEP review, or other methods), to document compliance with IDEA secondary transition requirements.

### ***Conclusion***

Oklahoma provided the necessary data and information to document OSDE's ability to ensure compliance with IDEA, however, Oklahoma did not provide adequate information to demonstrate the State's capacity to gather performance outcome data in all cluster areas. Despite some progress in identifying measurable outcomes for targets and projected targets, Oklahoma continues to identify nonmeasurable performance outcome data as evidence of the State's progress in achieving its goals. OSEP looks forward to reviewing measurable performance outcome data in the next APR.

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 Oklahoma as you continue to improve results for students with disabilities and their families. If you have questions, please contact Rex Shipp at (202) 245-7523.

Sincerely,



Stephanie Smith Lee

Director

Office of Special Education Programs

cc: Pat Sholar