

Enclosure A

Office of Special Education Programs (OSEP) Fiscal Monitoring Instrument (FMI): FFY 2016

Massachusetts Department of Elementary and Secondary Education (ESE)

Please note the following abbreviations are used in the Fiscal Monitoring Instrument (FMI):

FFY – Federal fiscal year

IDEA – Individuals with Disabilities Education Act

LEA – local educational agency

OMB – Office of Management and Budget

OIG – Office of the Inspector General

SEA – State education agency

Uniform Guidance – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards codified in 2 CFR Part 200

Note: Under Part B of the IDEA, funds are awarded to ESE under two separate funding authorities: IDEA section 611 (Grants to States Program) and IDEA section 619 (Preschool Grants Program). At the time of the FFY 2016 monitoring, in Massachusetts the IDEA section 611 grant was administered by the ESE, while the section 619 grant was administered by the Department of Early Education and Care (EEC) with support from the ESE. Under Massachusetts law, the EEC “shall be the state education agency for the purposes of early education and care services under federal law.”¹ Both ESE and EEC are separate departments overseen by the Office of Executive Education, and each operates under its own governing Board. A memorandum of understanding between the ESE and the EEC establishes how the two departments administer IDEA section 619 subgrants to LEAs.

¹ Massachusetts General Law Chapter 15D Section 2.

**IDEA Part B
Summary of Monitoring Criterion**

Monitoring Area 1, IDEA Part B: LEA ALLOCATIONS

The IDEA Part B 611 and 619 funds are to assist States, and through them, LEAs, in providing special education and related services to children with disabilities. States are required to distribute any section 611 and section 619 funds that the State does not reserve for State-level activities to eligible LEAs for use in accordance with the IDEA. States' correct allocation of IDEA funds to LEAs, consistent with statutory and regulatory formulas, is critical in helping to ensure that IDEA Part B funds are used appropriately for the purposes for which they were intended.

Criterion Number	Description	Noncompliance identified?	Applicable Requirements
Criterion 1.1	The SEA distributes IDEA section 611 and section 619 allocations to eligible LEAs based upon the correct formula for calculating base payments.	No	34 CFR §§300.705(a)-(b)(1), 300.815-300.816(a)
Criterion 1.2	The SEA calculates LEA base payment adjustments consistent with IDEA requirements.	No	34 CFR §§300.705(b)(2), 300.815, 300.816(b); 34 CFR Part 76 Subpart H
Criterion 1.3	The SEA allocates remaining section 611 and/or section 619 funds to LEAs, including charter school LEAs, based on population and poverty consistent with IDEA requirements.	No	34 CFR §§300.705(b)(3), 300.816(c) and (d)
Criterion 1.4	The SEA ensures that IDEA funds are properly allocated to IDEA through subgrants to eligible charter school LEAs that open or significantly expand their enrollment.	No	34 CFR §§76.792–76.793
Criterion 1.5	The SEA reallocates section 611 and/or section 619 funds to eligible LEAs, including charter school LEAs, consistent with IDEA requirements.	No	34 CFR §§300.705(c) and 300.817
Criterion 1.6	The SEA ensures that FFY 2015 section 619 allocations were made consistent with IDEA requirements although the FFY 2015 allocations to States for section 619 grants were below the 1997 appropriation level.	No	34 CFR §300.816

Finding: None.

Monitoring Area 2, IDEA Part B: SUBRECIPIENT MONITORING

Under the IDEA and Uniform Guidance, SEAs are responsible for oversight of the operations of IDEA supported activities. Each SEA must monitor its own activities, and those of its LEAs, to ensure compliance with applicable Federal requirements and that performance expectations are being achieved. Monitoring must cover each program, function, or activity. Subrecipient monitoring is at the core of the SEA's general supervisory responsibilities, and can help the SEA ensure that its LEAs are in compliance with IDEA and related requirements, as well as aligned with SEA priorities designed to improve results for children with disabilities. The focus of this activity was to review the State's fiscal subrecipient monitoring.

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 2.1	The SEA ensures that every subaward is clearly identified to the subrecipient as a subaward and includes required information at the time of the subaward. If any of the data elements change, the SEA includes the changes in subsequent subaward modification.	Yes	2 CFR §200.331(a)
Criterion 2.2	The SEA evaluates each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.	Yes	2 CFR §200.331(b)
Criterion 2.3	The SEA monitors the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.	Yes	2 CFR §200.331(d), CFR §§300.149 and 300.600
Criterion 2.4	Depending upon the assessment of risk posed by the subrecipient, the SEA has policies and procedures that consider monitoring activities of LEAs ranging from technical assistance to on-site monitoring or conducting agreed-upon-procedures engagements (audits).	Yes	2 CFR §200.331(e)
Criterion 2.5	The SEA conducts monitoring activities that verify that every subrecipient is audited in accordance with the Uniform Guidance.	Yes	2 CFR §200.331(f)

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 2.6	The SEA considers enforcement actions against noncompliant as required under the Uniform Guidance and IDEA.	Yes	2 CFR §§200.338 and 200.331(h); 34 CFR §§300.149, 300.222, 300.600, and 300.604

Finding:

Criterion 2.1: Based on the review of documents, analysis of data, and interviews conducted with ESE staff on May 8 and 9, 2017, OSEP finds that the ESE does not ensure that each subaward is clearly identified to the subrecipient as a subaward and includes the required information at the time of the subaward as specified in 2 CFR §200.331(a). In ESE's grant process, once the LEA's grant application is reviewed and approved by the Special Education Planning and Policy Development Office (SEPP), an initial payment as well as a "Payment/Notice of the Award" is sent to the LEA. While the State included some of the required information in the "Payment/Notice of the Award", it did not have all of the information as required by §200.331(a)(1)(i)-(xiii). Specifically, the State did not include: (1) Subrecipient's Data Universal Numbering System (DUNS) number; (2) Federal Award Identification Number (FAIN); (3) Federal Award Date; (4) Subaward Period of Performance Start and End Date; (5) Total Amount of the Federal Award; (6) Name of Federal awarding agency; and (7) Indirect cost rate for the Federal award. Additionally, OSEP found that while ESE allows LEAs to obligate IDEA funds for the entire 27 month period of availability, on the State's notification of the grant award to LEAs, the "project duration" subaward period of performance start and end date is ten months.

Citation:

As part of its requirements to conduct subrecipient monitoring and management under 2 CFR §§200.330-200.332, the ESE must, under 2 CFR §200.331(a), ensure that every subaward is clearly identified to the subrecipient as a subaward and includes specified information in §200.331(a)(1)(i)-(xiii) at the time of the subaward, and if any of these data elements change, include the changes in subsequent subaward modification. There are 13 required items that must be included in the Federal subaward notification.

Further Action Required:

Within 60 days of the date of this letter, the State must submit to OSEP a revised grant award notification that includes the required information as required by 2 CFR §200.331(a). Further, the "project duration" must be revised to reflect the 27 month period of availability for IDEA subgrants.

Finding:

Criteria 2.2 - 2.6: Based on the review of documents, analysis of data and interviews with State personnel on May 8 and 9, 2017, OSEP finds that the ESE does not have policies and procedures in their overall subrecipient monitoring structure for ensuring that LEAs use IDEA section 619 funds in accordance with the applicable requirements of Part B of the IDEA and the Uniform Guidance, as required by 2 CFR §§200.331(b),(d)-(f) and (h), 200.338, and 34 CFR §§300.149 and 300.600. In Massachusetts the IDEA section 619 grant is administered by the EEC with support from ESE. The EEC receives funding from ESE on an annual basis through an interagency service agreement (ISA) between both parties. Under the ISA, “[t]he ESE authorizes EEC to oversee and implement the Early Childhood Special Education 262 Grant [IDEA section 619 grant]. Under ESE supervision, EEC is responsible for: grant administration, a general work plan to provide guidance and technical assistance to districts, strategic planning and implementation, professional development (PD), technical assistance, and data collection and use.” When asked about the current subrecipient monitoring structure and framework, ESE personnel explained that they do not currently include the IDEA section 619 grant in their subrecipient monitoring structure. Further, OSEP could not find evidence that the EEC conducts subrecipient monitoring of LEAs to ensure that section 619 funds are expended in accordance with the applicable requirements of Part B of the IDEA and the Uniform Guidance.²

Citation:

Under 2 CFR §§200.331(b),(d)-(f) and (h), 200.338, and 34 CFR §§300.149, 300.600, the SEA must: (1) Evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring; (2) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved; (3) Depending upon the assessment of risk posed by the subrecipient, the SEA has policies and procedures that consider monitoring activities of LEAs ranging from technical assistance to on-site monitoring or conducting agreed-upon-procedures engagements (audits); (4) Conduct monitoring activities that verify that every subrecipient is audited in accordance with the Uniform Guidance and IDEA; and (5) Consider enforcement actions against noncompliant subrecipients as required under the Uniform Guidance and IDEA.

² In a February 9, 2018 written response to OSEP, the ESE reported that it will resume the administration of Early Childhood Special Education 262 Grant [IDEA section 619 grant].

Further Action Required:

Within 90 days of the date of this letter, the State must submit to OSEP:

1. Revised policies and procedures for subrecipient monitoring demonstrating that ESE ensures LEAs that receive IDEA section 619 funds expend those funds in accordance with the applicable requirements and are being monitored consistent with the requirements of IDEA and the Uniform Guidance; and
2. With the 2018 SPP/APR due on February 1, 2020, the State must provide evidence that it has implemented the subrecipient monitoring procedures.