

DMS REPORT

DIFFERENTIATED MONITORING AND SUPPORT OFFICE OF SPECIAL EDUCATION PROGRAMS U.S. DEPARTMENT OF EDUCATION

STATE **MICHIGAN**

DATE JUNE 26, 2020

IDEA PART B

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

June 26, 2020

Honorable Michael Rice
State Superintendent of Education
Michigan Department of Education
608 W. Allegan Street
P.O. Box 30008
Lansing, Michigan 48909
RiceM6@michigan.gov

Dear Superintendent Rice:

The purpose of this letter is to provide a summary of the results of the differentiated monitoring and support (DMS) activities conducted by the U.S. Department of Education's (Department) Office of Special Education Programs (OSEP) during an on-site visit to the Michigan Department of Education (MDE) the week of September 16, 2019. In addition to OSEP staff, participants included representation from the Department's Office of Elementary and Secondary Education and technical assistance providers.

As part of the DMS process, OSEP conducts an organizational assessment (OA) of factors to identify States' progress in meeting performance standards and complying with the requirements of Part B of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, the Education Department General Administrative Regulations and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (OMB Uniform Guidance). OSEP uses the information from the OA and an Engagement Decision Tree to make decisions about how it will engage with States over the course of the Federal fiscal year (FFY). The FFY 2018 DMS areas were: 1) Results; 2) Compliance; 3) State Systemic Improvement Plan (SSIP); and 4) Fiscal.

On April 9, 2018, OSEP sent MDE's DMS notice to Superintendent Michael Rice and MDE's Special Education Director, Teri Chapman. That notice provided a level of engagement of universal, targeted, or intensive for each of the four areas OSEP identified for DMS. The levels of engagement in the notice were based on a snapshot of the most recently available data in the corresponding four areas. The notice also identified the monitoring and support activities that would be carried out to address the factors contributing to the elevated need for monitoring and support in each of the areas that were identified for intensive engagement. We have attached a copy of the DMS notice for your convenience.

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The Department of Education's mission is to promote student achievement and preparedness for global competitiveness by fostering educational excellence and ensuring equal access.

The enclosure describes the: 1) Background; 2) Monitoring¹ for each DMS area; 3) Summary; and 4) OSEP's conclusion including Next Steps and Required Actions. If OSEP is issuing findings of noncompliance with the IDEA requirements, you will find specific details pertaining to the finding of noncompliance, along with the respective citation(s); and the corrective action required to address the identified finding of noncompliance.

We appreciate your efforts to improve results for children with disabilities. If you have any questions, please contact Genee Norbert, your OSEP State Lead, at 202-245-7326.

Sincerely,

/s/

Laurie VanderPloeg

Director

Office of Special Education Programs

cc: Teri Chapman, State Director of Special Education

chapmant2@michigan.gov

Enclosures

¹ Monitoring is broadly defined as including activities examining both compliance and performance issues and encompasses traditional monitoring reviews and technical assistance activities. This is consistent with the OMB Uniform Guidance. See 2 C.F.R. § 200.331(d) and (e).

ENCLOSURE

Background

OSEP's Differentiated Monitoring and Support (DMS) system is a component of Results Driven Accountability. DMS is designed to identify potential grantee risk to the U.S. Department of Education (Department) and to assist the Office of Special Education Programs (OSEP) in effectively using its resources to monitor grantees. DMS addresses State-specific and Entity-specific needs in the areas of Results, Compliance, State Systemic Improvement Plan (SSIP), and Fiscal systems by differentiating levels and types of monitoring and support based on each State's and Entity's unique strengths, progress, and challenges in each area.²

During the DMS visit, OSEP reviewed the Michigan Department of Education's (MDE's) Results, SSIP, and Fiscal systems and conducted the following activities:

- Review of MDE's systems for collecting and reporting data MDE submitted for selected indicators in MDE's Federal fiscal year (FFY) 2017 State Performance Plan (SPP)/Annual Performance Report (APR)³ under Part B of the Individuals with Disabilities Education Act (IDEA).
- Review of:
 - MDE's previous SPP/APRs, including its SSIP submissions;
 - MDE's FFY 2019 annual application for funds under Part B of the IDEA;
 - Information on MDE's website related to the IDEA; and
 - Other pertinent information related to MDE's efforts to improve results for children with disabilities
- Gathering of additional information through interviews with:
 - Dr. Michael Rice, State Superintendent;
 - Sheila Alles, Chief Deputy Superintendent;
 - Teri Chapman, Director, Office of Special Education;
 - Janis Weckstein, Assistant Director of Special Education;
 - Kelly Siciliano Carter, Director, Office of Strategic Planning and Implementation (OSPI);
 - Venessa Keesler, Deputy Superintendent of Education Services;
 - Alex Schwarz, Accountability Specialist, Office of Educational Assessment and Accountability;
 - Bill Pearson, Director, Office of Partnership Districts;
 - Liz Newell, State Transformation Assistant Administrator, OSPI;

² For more information on OSEP's monitoring procedures, measurement categories and ratings, see the DMS notice provided Attachment 1.

³ The FFY 2017 SPP/APR was the most recent SPP/APR submission at the time of the monitoring visit.

- Bill Witt, Supervisor, School Improvement Support, Office of Educational Supports;
- Scott Koenigsknecht, Deputy Superintendent of P-20 System and Student Transitions;
- Gloria Chapman, Assistant Director of the Office of Partnership Districts;
- Mindy Westra, MDE Transformation Zone Administrator; and
- Erin Senkowski and Rebekah Hornak, Saginaw Intermediate School District (ISD)

During the visit, OSEP did not examine the DMS area of program compliance in which MDE received a level of engagement of universal. However, OSEP will continue to work with MDE on all the areas identified in the DMS notice during regular phone calls and provide universal technical assistance (TA) through national TA calls, webinars and documents posted on our websites.

Improving Educational Results and Functional Outcomes for Children with Disabilities

The vision and intent of IDEA is that children with disabilities will make meaningful progress in our education system. Protecting the rights of children with disabilities and their families is a key responsibility of State educational agencies (SEAs), but it is not sufficient if children are not attaining the knowledge and skills necessary to accomplish the ideals of IDEA: equality of opportunity, full participation, independent living, and economic self-sufficiency. SEAs must also be able to influence changes in practices in its local districts.

Under 34 C.F.R. § 300.600(b), the State's monitoring activities must focus on:

1. Improving educational results and functional outcomes for all children with disabilities; and
2. Ensuring that public agencies meet the program requirements under Part B of the Act, with particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

The focus of OSEP's DMS visit was on MDE's progress supporting improved results for children with disabilities through its SSIP, Partnership Agreements with low performing school districts, and work through its State Personnel Development Grant (SPDG).⁴ In addition, OSEP followed up on a customer complaints and a report from the Michigan Protection and Advocacy Service concerning how complaint investigators determine appropriate compensatory services when there is a finding in a State complaint that a child or group of children have been denied a free appropriate public education. For each area reviewed, OSEP has identified the major issues and concerns that are supported by the information gathered at the State, ISD, and district levels.

⁴ The SPDG supports professional development for districts and schools to help implement effective practices. MIBLSI uses SPDG funds to provide capacity-building tools and resources for districts that support implementation of Multi-tiered Systems of Support.

Results

In order to effectively ensure improved educational results and functional outcomes for all children with disabilities, the primary focus of the State's monitoring activities must be on:

1. Improving educational results and functional outcomes for all children with disabilities; and
2. Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities. 34 C.F.R. § 300.600(b).

Overview of Results

Based on data Michigan reported in its FFY 2017 Part B SPP/APR, OSEP determined that Michigan needed intensive support in the area of results due to low percentages of:

- 4th grade children with disabilities scoring at basic or above in reading on the NAEP (22%),
- 8th grade children with disabilities scoring at basic or above in math on the NAEP (19%),
- Children with disabilities who graduated with a regular high school diploma (68%),⁵ and
- The high percentage of children with disabilities who dropped out (28%).

While graduation rates remained low and drop-out rates remained high, Michigan's data indicate progress over a four-year period.

- Graduation rates showed an increase from 55.7% in the FFY 2014 APR, to 65.32% in the FFY 2017 APR.
- Drop-out rates showed a decrease from 8.63% in the FFY 2014 APR to 6.76% in the FFY 2017 APR.

To explore the potential causes for low performance, OSEP met with key members of MDE's State staff including the Deputy Superintendent of P-20 System and Student Transitions; the Director of MDE's Office of Special Education; the Assistant Director of Special Education; and several of MDE's technical assistance providers. MDE staff informed OSEP of the strategies currently being implemented to improve outcomes for children with disabilities, as well as the specific initiatives underway in the State to address low performance on assessments, improve graduation rates and implement drop-out prevention strategies.

The State also reported that much of the State's systemic improvement work, is guided by its ambitious strategic plan to become a top 10 education State in 10 years ("10 in 10"), and is focused on building its capacity to support local efforts to implement, with fidelity, evidence-

⁵ Data reported in Michigan's FFY 2017 APR.

based practices within a Multi-tiered System of Support (MTSS) framework to improve student reading and behavior, utilizing implementation science principles with support from the State Implementation and Scaling-up of Evidence-based Practices (SISEP) Center. According to MDE, their systemic improvement efforts have been hampered by turnover in leadership in MDE, and this may be a factor explaining why the math and reading scores for children with individualized education programs (IEPs) in elementary school grades three through five have not improved. For example, the reading proficiency rate for children with IEPs against grade level and alternate academic achievement standards remains low with a steady decrease in reading proficiency rates over a four-year period, e.g., from 27.4% in 2014, to a 26% rate in 2017 as illustrated below.⁶

Reading

FFY	2014	2015	2016	2017
% Proficient	27.4%	28.8%	27.8%	26%
Target	72	74	76	77

Math

FFY	2014	2015	2016	2017
% Proficient	25.98%	25.38%	24.81%	22.34%
Target	53	58	62	67

During interviews with MDE staff representing the Office of Partnership Districts; Office of Educational Supports; and other key members of MDE’s Leadership, OSEP learned that most of the interventions used by ISDs and member districts were universal approaches to improving educational outcomes for all students but not specifically designed to support the learning needs of students with disabilities or directly impact the State Identified Measurable Result (SIMR). MDE staff reported that there were four main ways MDE works with ISDs and member districts to support the use of these foundational practices:

1. Partnership Agreements with low performing schools.
2. The SSIP (described in the following section).
3. Michigan’s Integrated Behavior and Learning Support Initiative (MIBLSI). MIBLSI is a SPDG/IDEA and State-level funded activity. MIBLSI provides intensive technical assistance to districts to implement an integrated reading and behavior multi-tier system of support.⁷
4. Meeting with financially distressed districts (e.g., Detroit, Flint, and Benton Harbor) to examine fiscal practices and examine ways of improving educational outcomes.⁸

⁶ Data sources: Michigan’s FFY 2014, 2015, 2016 and 2017 APRs.

⁷ MIBLSI has recently been renamed Michigan’s MTSS Technical Assistance Center.

⁸ For an example, see “Improving Special Education Services in the Detroit Public Schools Community District.” <https://files.eric.ed.gov/fulltext/ED593570.pdf>

MDE began implementing a Partnership District Model in 2017 in order to improve educational outcomes through an agreement with low performing schools to make significant changes to the instructional and noninstructional programming based on needs identified through a comprehensive review of data. OSEP visited two districts with schools that have Partnership Agreements with the State: Saginaw Public Schools and Bridgeport-Spaulling Community School District. OSEP conducted interviews with leadership from the Saginaw Public Schools leadership and Saginaw High School Partnership Team, and the Bridgeport-Spaulling Central Office Partnership Team and Elementary/Middle Partnership Team to understand how children with disabilities are included in the programming. Personnel interviewed explained that the focus of improvement efforts is on all students, with no specific focus on students with disabilities. All district and school personnel mentioned MTSS as their implementation framework but varied in their definition of MTSS and instructional practices. Further, in reviewing partnership agreements, OSEP saw instructional practices that were inconsistent with the MTSS recommendations and learned from staff that MDE and its partners did not have a process in place for addressing them. Additionally, although MTSS is a top 10 in 10 priority, as of OSEP's visit, the practice profile was still in draft form and its last update was in May 2018⁹.

MDE's Plan to Improve Results for Children with Disabilities

Following the Department's determination in 2018 that Michigan needs intervention in implementing the requirements of Part B of the IDEA, MDE responded by developing The Path Forward Strategic Action Plan (Plan) that includes such actions as:

1. Implement drop-out prevention and proactive strategies
2. Improve instructional practices.
3. Establish, implement, and sustain a positive school climate and culture so students will successfully complete the Michigan Merit Curriculum requirements and graduate from high school.
4. Generate and analyze the data (ISD Level) of technology use to determine alignment between instruction and assessment.
5. Explore innovative ways to deliver the Michigan Student Test of Educational Progress (M-STEP)¹⁰ statewide assessment; example constructive response, reduced multiple choice, questions combining subjects (reading/science).
6. Explore additional diploma options (for all students unless noted) and consider which have the largest positive intended benefits and lowest unintended consequences. (See pp. 9, 15.)

⁹ https://www.michigan.gov/documents/mde/MDE_MTSS_Practice_Profile_v_4.5_May_3_2018_-Complete_622702_7.pdf

¹⁰ M-STEP a summative assessment, is administered to students grades 3 through 8 and measures current student knowledge of Michigan's academic standards in English language arts, mathematics, science, and social studies.

The Plan includes the following implementation timeline: Phase One will be implemented through June 2021; Phase Two will be implemented from July 2021 through June 2022; and Phase Three will be implemented from July 2022 through July 2023. It is critical that the State align these strategies with system-wide improvement strategies, including the SSIP, to create focus and coordination.

Required Actions/Next Steps

OSEP strongly encourages the State to increase oversight of improvement efforts and evaluate the effectiveness of initiatives intended to improve results for children with disabilities. OSEP is looking forward to further discussions with MDE regarding its efforts to improve results for children with disabilities in reading, math, and graduation rates that includes the disaggregation of data specific to children with disabilities from the overall data reported under the Every Student Succeeds Act (ESSA), and the allocation of resources and technical assistance to support results for students with disabilities in LEAs not targeted under ESSA or its improvement strategies. In addition, OSEP will engage with MDE to receive updates on MDE's progress in implementing its Plan according to the following schedule:

1. November 1, 2020
2. May 1, 2021

SSIP

The SSIP is a comprehensive multi-year plan for improving results for students with disabilities, that meets the requirements of OSEP's accountability system set forth under Indicator 17 of the State Performance Plan.

Under 20 U.S.C. § 1416(b)(2)(B)(i) and 34 C.F.R. § 300.601(b)(1), each State (see 34 C.F.R. §§ 300.708(d) and 300.716), must collect valid and reliable information as needed to report annually to the Secretary on the indicators established by the Secretary for the State Performance Plans. As part of Phase III of the SSIP, MDE must, consistent with its evaluation plan described in Phase II, assess and report on its progress implementing the SSIP. As part of the evaluation of its SSIP, MDE must:

- Summarize the infrastructure improvement strategies that were implemented, and the short-term outcomes achieved.
- Describe the next steps for each infrastructure improvement strategy and the anticipated outcomes to be attained during the next fiscal year.
- Summarize the specific evidence-based practices that were implemented and the strategies or activities that supported their selection and ensured their use with fidelity.
- Describe any additional data (e.g., progress monitoring data) that was collected to support the on-going use of the evidence-based practices and inform decision-making for the next year of SSIP implementation.

Overview of MDE's SSIP

MDE was identified as needing intensive support in the area of the SSIP based on OSEP's analysis of the State's progress related to: (1) Infrastructure changes to support SSIP initiatives; (2) Selection and Implementation of Evidence-based practices to support the State Identified Measurable Result (SIMR); and (3) Progress toward achieving the SIMR. MDE's SIMR focus is:

The percent of K-3 students with an individualized education program (IEP) in participating schools who achieve benchmark status in reading as defined by a curriculum-based measurement.

In the FFY 2016 IDEA Part B SPP/APR, MDE reported data for its SIMR at 43.75%, below the FFY 2016 target of 47%. FFY 2017 was the first time MDE submitted data in its IDEA Part B SPP/APR from districts selected for the "transformation zone." As a result, the State established a new baseline, which it described as aligned to the curriculum-based measurement being used by transformation zone districts. The FFY 2017 data that MDE reported for its SIMR was 45.5%, below the target of 46%.

As shown in the chart below, the continued lack of progress in implementing evidence-based practices has been a consistent reason for OSEP's level of engagement with Michigan on its SSIP over the past three years (FFY 2016, FFY 2017, and FFY 2018).

Infrastructure Improvement

Phase I of the SSIP process required States to conduct a root cause analysis to determine the factors contributing to low student performance. As a result, MDE identified "lack of adequate infrastructure at the state, regional, district, and building levels to deliver the technical assistance needed to implement effective instruction" as the deepest driver of poor performance by students with disabilities. To address this issue, MDE proposed to embark on a comprehensive overhaul of its system at the State level. In its Phase II SSIP submission MDE highlighted: (1) leadership, (2) prioritization, (3) workflow processes, and (4) communication as the primary levers for change at the SEA-level. MDE's proposed approach included collaborating with SISEP and implementing a teaming structure at the SEA consisting of a State management team, design team, and transformation specialists. The teams were intended to promote collaboration and build capacity across MDE.

In Phase II, MDE also outlined expected short, medium, and long-term outcomes of its infrastructure efforts. They are as follows:

Short-term outcomes:

- (1) Increased internal MDE capacity to support implementation,
- (2) Established MDE governance / leadership processes around identified priorities, and
- (3) Established MDE and ISD implementation teams.

Mid-term Outcomes:

- (1) Improved MDE intra-agency collaboration,
- (2) Improved culture and climate,
- (3) Increased internal capacity to support ISD implementation, and
- (4) Increased ISD capacity to support local implementation.

Long-term Outcomes:

- (1) Increased capacity to deliver instructional practices at schools and classroom level,
- (2) Improved student outcomes (SIMR) and other student-level outcomes specific to evidence-based practices such as behavior or an integrated model), and
- (3) Development of an innovative and cohesive state education agency that supports an aligned, coherent education system at all levels, i.e., State, ISD, district and school.

MDE provided information in each Phase III SSIP submission on activities conducted to improve the State's infrastructure; however, the information does not specify progress that has been made and how these activities have impacted MDE's ability to support ISDs, districts, and schools in implementing practices aimed at improving literacy for students with disabilities. Furthermore, MDE's benchmarks for capacity, collaboration, and communication that will enable it to adequately support districts and schools are unspecified.

MDE has maintained that the SSIP work is a critical component of the "10 in 10" strategic plan. During the visit, MDE communicated that building capacity at the SEA-level is a primary goal of its statewide infrastructure initiative. The State selected three focus areas aimed at achieving infrastructure goals: (1) learner centered supports, (2) effective educators, and (3) strategic partnerships. On-site, OSEP learned from interviews with the Chief Deputy Superintendent, the Deputy Superintendent of Education Services, and other members of MDE staff that it has engaged in book studies, collaborative efforts to change its culture, and has shifted to a customer service focus to make its State infrastructure more cohesive, coordinated, and aligned. OSEP notes that in its 2019 SSIP submission, MDE articulated some barriers to making progress on its infrastructure, such as lack of consensus among leadership regarding the development of the system's infrastructure and challenges with the validity of the State Capacity Assessment results. Furthermore, the data reported on MDE's organizational culture survey demonstrated gains of 1% to 6% but remains in the very unfavorable category.

Theory of Action

MDE's theory of action for the SSIP work consists of eleven SEA-focused action items:

- (1) Articulate a vision;
- (2) Communicate effectively;
- (3) Identify issues;
- (4) Determine priorities;
- (5) Provide guidance in a timely and responsive manner;
- (6) Leverage and allocate resources to support local improvement;
- (7) Engage strategically with P-20 partners;
- (8) Utilize data-informed decision-making processes;
- (9) Implement a differentiated framework of support to improve local district outcomes;
- (10) Support the development of effective personnel; and
- (11) Hold local districts accountable for clearly defined, measurable results.

Many of the strands in the theory of action align with the work to build capacity and improve infrastructure that MDE described on-site. For example, MDE walked through identified priorities, and actions it has taken to enhance communication and collaboration across the

agency. However, little information was provided on how some strands are being operationalized through the SSIP work, e.g., provide guidance in a timely and responsive manner, engage strategically with P-20 partners, and hold local districts accountable for clearly identified, measurable results.

Evidence Based Practices

As shown in the chart below, the continuing lack of progress in implementing evidence-based practices was a consistent reason for OSEP’s level of engagement with Michigan on its SSIP over the past three years (see table below). Through the DMS process OSEP identified that MDE did not select or implement evidence-based practices as required by the measurement table for reporting on Phase III implementation.¹¹

SSIP DMS Levels of Engagement

Year	Level of Engagement	Reason
2018-2019	Intensive	<ul style="list-style-type: none"> ▪ Not implementing evidence-based practices ▪ Lack of progress toward the SIMR
2017-2018	Targeted	<ul style="list-style-type: none"> ▪ Not having selected or implemented evidence-based practices ▪ Lack of details around its data sources for key measures and process for analyzing data ▪ Lack of activities and outputs as related to the SIMR ▪ Lack of progress toward the SIMR.
2016-2017	Targeted	<ul style="list-style-type: none"> ▪ Implementation of the coherent improvement strategies (State infrastructure work); ▪ Implementation of evidence-based practices and stakeholder engagement

On-site, the State informed OSEP that MDE’s ISDs are currently building their capacity to implement evidence-based practices. Specifically, they are conducting usability tests of the MTSS practice profiles and periodically conducting district capacity assessments. MDE did not specify when districts and schools would begin implementing practices intended to positively impact the SIMR for children with disabilities.

MDE selected two ISDs to implement MTSS for the SSIP and put in place transformation zone specialists to support the work and ensure multi-level communication to promote problem-solving and alignment, and to develop the SEA’s capacity to create and sustain regional implementation teams. While each ISD selected an area of focus for implementing MTSS, i.e., literacy, math, or behavior supports, none have begun implementing evidence-based practices aimed at improving literacy for students with disabilities per the SIMR.

¹¹ The State must summarize the specific evidence-based practices that were implemented and the strategies or activities that supported their selection and ensured their use with fidelity.

To explore the potential barriers that have impacted the State's progress toward achieving its SSIP targets, OSEP met with MDE leadership and staff members responsible for implementing the SSIP, including staff from two ISDs (one of which is in the transformation zone), local educational agency staff, teachers, and representatives from OSEP-funded technical assistance centers. In addition to hearing that schools in the transformation zone were not yet implementing evidence-based practices, OSEP also learned from these meetings that ISD, district, and school staff had not collected data to show the impact of their current efforts on improving results for children with disabilities and staff were unaware that the purpose of the transformation zone work was to improve outcomes specifically for students with disabilities. District leaders stated that had they known children with disabilities were the focus in the area of literacy, they would not have spent time exploring a focus area for the MTSS framework, (i.e. literacy, math, or behavior supports) and they would have had different staff involved in the transformation zone work.

OSEP Analysis

The State is partnering with two ISDs (Lenawee and Saginaw) and a handful of districts within each ISD to implement its SSIP. As of the Phase III, Year 3 submission, the State did not provide specific data in relation to its SIMR, instead using the SSIP to address systemic issues within the State of Michigan. MDE's approach to statewide systemic change using the SSIP as the vehicle to accomplish improved outcomes for all children, while ambitious, has been ineffective in producing positive change toward achieving the SIMR for children with disabilities over the past six years, demonstrating a tenuous connection between MDE's SIMR and the SSIP. MDE's focus has been on making systemic improvements at the SEA-level to build local capacity to improve general education. The lack of qualitative information or quantitative data to support a connection between improvement efforts for SPP/APR Indicator 17 raises a question as to whether the SIMR data is valid and reliable given that it is intended to be a student-level measurement reflecting improvements in the State's system.

OSEP's feedback to MDE regarding the SSIP has been clear and consistent for the past four years. OSEP has communicated serious concerns about MDE's delay in selecting and implementing evidence-based practices in schools, and the State's failure to sufficiently connect the SEA restructuring work to its SIMR. On a February 2016 site visit to Michigan, OSEP staff communicated to MDE in a SSIP meeting the importance of implementing practices that impact students with disabilities in schools and connecting the State infrastructure work to outcomes for students with disabilities. In 2017, members of MDE's SSIP team visited the Department and met with OSEP staff, who again communicated the SSIP requirements and concerns about MDE's delayed implementation of evidence-based practices in schools.¹² During the 2017

¹² The Measurement Table in the SPP/APR for Indicator 17, State Systemic Improvement Plan states, "In Phase III, the State must, consistent with its evaluation plan described in Phase II, assess and report on its progress implementing the SSIP. This includes: (A) data and analysis on the extent to which the State has made progress toward and/or met the State-established short-term and long-term outcomes or objectives for implementation of the SSIP and its progress toward achieving the State-identified Measurable Result(s) for Children with Disabilities (SIMR);" and "the State must summarize the specific evidence-based practices that were implemented and the strategies or activities that supported their selection and ensured their use with fidelity. [The State must also] [d]escribe how the evidence-based practices, and activities or strategies that support their use, are intended to impact the SIMR."

meeting, OSEP staff walked MDE staff through the steps the State would have to take and report in the next SSIP submission, in order to demonstrate adequate progress towards the SIMR.

In addition to in-person meetings, OSEP had communicated concerns about MDE's SSIP work during annual SSIP feedback calls and conversations related to OSEP's DMS process, of which the SSIP is a major component. In each SSIP report of Phase III implementation, OSEP identified that MDE had not implemented evidence-based practices or demonstrated adequate progress toward the SIMR, as required by the SPP/APR. As illustrated below, MDE was designated an intensive level of engagement for the 2018-2019 DMS cycle due to: (1) not implementing evidence-based practices; and (2) lack of progress toward the SIMR. For the 2017-2018 DMS cycle, MDE was designated as needing targeted support for the SSIP due to evidence-based practices, data quality and the evaluation plan, SSIP activities and output, and progress towards the SIMR. MDE was also designated a targeted level of engagement for the SSIP during the 2016-2017 DMS cycle for implementation of the coherent improvement strategies (State infrastructure work), evidence-based practices, and stakeholder engagement.

Required Actions/Next Steps

OSEP strongly encourages the State to increase oversight of its improvement efforts and evaluate the effectiveness of initiatives intended to improve educational results and functional outcomes for all children with disabilities as required in 34 C.F.R. § 300.600(b), including developing clear processes for effective communication among those implementing and evaluating the SSIP activities at the State, ISD, district, and building levels.

In its FFY 2019 submission, as required by the measurement for IDEA Part B SPP/APR Indicator 17, consistent with 20 U.S.C. § 1416(b)(2)(B)(i) and 34 C.F.R. §§ 300.601(b)(1), 300.708(d), and 300.716, MDE must:

1. Describe outcomes achieved for infrastructure improvements including:
 - a. How they were evaluated;
 - b. How they related to the theory of action;
 - c. The positive impact on the State's system; and
 - d. How they are necessary for achieving the SIMR.
2. Identify specific evidence-based practice(s) and explain how they are necessary to achieve the SIMR.
3. Describe the professional development activities implemented to support the knowledge and use of selected evidence-based practices that occurred since the last SSIP submission and any data collected to inform decisions about additional professional development and/or coaching.
4. Describe the State's efforts to evaluate practice change and any data collected to assess practice change.
5. Describe the State's efforts to evaluate fidelity of implementation for selected evidence-based practices including fidelity data and decision-points.

6. Clearly and strategically connect evidence-based practices and coherent improvement strategies and any reported progress to the activities conducted.
7. Report SIMR data that are aligned with the State's SSIP.

MDE and OSEP will discuss the State's progress towards completing these required actions during monthly TA calls.

Fiscal

Overview

Under the IDEA and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (OMB 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, and activity. Subrecipient monitoring is at the core of the SEA's general supervisory responsibilities and can support the SEA in ensuring 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 OSEP's fiscal monitoring was to review MDE's fiscal subrecipient monitoring system. For IDEA Part B, MDE's subrecipients consist of 56 ISDs and three State agencies.¹³ These entities, along with the member districts that may receive IDEA funds from their ISD, are the focus of MDE's subrecipient monitoring activities.

OSEP's monitoring included an examination of information related to each of the following components of MDE's fiscal subrecipient monitoring system: (1) MDE's Risk Assessment and tiered fiscal monitoring approach; (2) Program Fiscal Reviews (PFRs); (3) TA Targeted Training; (4) Universal supports; (5) Data and application review processes; and (6) Single audit review process. OSEP's analysis is based on interviews with MDE fiscal staff, OSEP's review of supporting documentation submitted by MDE and other publicly available information, and audits conducted under the OMB Uniform Guidance. Details related to OSEP's review, are provided below.

Risk Assessment: OSEP notes that MDE's fiscal year (FY) 2017 single audit included a finding in which the auditor established that MDE did not evaluate each subrecipient's risk of noncompliance with program requirements to determine appropriate monitoring for all subrecipients.¹⁴ Through OSEP's audit resolution process, and again in the documentation collection process for OSEP's monitoring, MDE provided OSEP with the spreadsheet that it used to determine each subrecipient's level of risk for its FFY 2018 IDEA Part B subgrants. The factors contained within MDE's risk assessment included, but were not limited to, considerations such as the size of the subgrant, single audit findings, date of last monitoring activity, and the

¹³ Michigan's Department of Health and Human Services, Department of Corrections, and Department of Community Health. Note, while not related to MDE's subrecipient monitoring, these subgrants are the source of a finding and associated required actions related to MDE's allocation process on pages 16 and 17 of this report.

¹⁴ Reference Finding 2017-028 of MDE's FY 2017 single audit, ACN 05-17-810863.

number of deficit districts within the ISD.¹⁵ MDE's risk assessment also included the aggregate risk scores for each subrecipient, and the level of monitoring that MDE proposed in order to ensure proper accountability and compliance with program requirements and achievement based on its assessment of risk. Specifically, as a result of its FY 2019 risk assessment,¹⁶ MDE used a tiered fiscal monitoring approach to identify five ISDs for PFRs, 16 ISDs for TA Targeted Trainings, and 38 ISDs for universal supports during FY 2019.

However, OSEP found that MDE did not perform the tiered monitoring activities determined by its risk assessment during FY 2019. MDE reported that, due to the departure of key staff involved with these processes and resulting limited capacity, MDE's fiscal monitoring efforts were focused on the completion of one PFR and addressing appeals from two additional ISDs. OSEP further found that, due to its limited capacity, MDE has not developed policies and procedures guiding its risk assessment process and coordinated tiered fiscal monitoring activities,¹⁷ and did not perform an assessment of each subrecipient's risk of noncompliance for FY 2020.

MDE provided OSEP with an updated version of its FY 2019 risk assessment that it used to determine tiered fiscal monitoring activities in FY 2020. Those planned monitoring activities continue to include the five ISDs for PFRs, 16 ISDs for TA Targeted Trainings, and 38 ISDs for universal supports included in the previous version of the assessment. While MDE's planned activities appear reasonably designed to monitor the activities of its subrecipients, and ensure compliance with applicable Federal fiscal requirements, OSEP notes that the implementation issues and lack of internal controls noted above create concerns related to MDE's capacity to implement these activities.

Program Fiscal Reviews: MDE's PFR process is designed to provide comprehensive monitoring for subgrantees (ISDs), their member districts, which includes charter schools, identified as being higher risk through MDE's risk assessment process. MDE utilizes PFRs to review subrecipient expenditures, ensure the allowable use of IDEA and State funds, monitor compliance with key Federal and State fiscal and programmatic requirements, and ensure that expenditures involving IDEA funds are adequately documented. MDE's PFR process is guided by MDE's Office of Special Education Program Fiscal Review (PFR) Process. The PFR process provides information regarding the role of MDE monitors, areas and supporting documentation that MDE will review as a part of the PFR, and phases of the PFR process. MDE provided documentation illustrating the components of its PFR process, including MDE's notification to an ISD and member districts, and MDE's report to the ISD on the results of MDE's monitoring. The report included fiscal findings and required actions for the ISD, districts, and charter schools related to a number of Federal fiscal requirements, including but not limited to the documentation of personnel expenses, property management, proportionate share, contractual arrangements, cash management, and accounting procedures.¹⁸ MDE's PFR submissions also included an example of its follow-up activities related to the resolution of findings made by

¹⁵ MDE considers a district to have a deficit fund balance if it has adopted a deficit budget or incurred an operating deficit.

¹⁶ MDE's FY 2019 risk assessment was completed on May 2, 2019.

¹⁷ MDE provided OSEP with policies related to its PFR process, but not comprehensive procedures related to its fiscal oversight.

¹⁸ We note that the MDE's findings under accounting procedures demonstrated MDE's review of a number of specific fiscal requirements (e.g., salaries and fringe benefits, comingling, etc.).

MDE during the monitoring (including enforcement actions such as the recovery of funds),¹⁹ and MDE's notification of the resolution of findings for the ISD and member districts.

TA Targeted Training: MDE also provided documentation illustrating the components of its TA Targeted Training process. MDE utilizes this process to review ISD IDEA budgets, State required Federal expenditure reports, single audit findings, and general ledger summaries. This level of fiscal monitoring also involves ISDs completing a questionnaire²⁰ describing its processes for addressing Federal requirements including cash management, payroll, procurement, equipment/property management, proportionate share, maintenance of effort (MOE), coordinated early intervening services, and charter school allocations. We note that MDE also uses the TA Targeted Training process to review its State Aid Special Education Cost Reports (SE-4096)²¹ and monitor the use of State general funds used for special education program activities. Finally, MDE uses this process to identify TA needs within the ISD and to provide appropriate fiscal supports to meet those needs. The documentation MDE provided to illustrate this process included an example of a notification letter, and State created forms titled, TA Targeted Training Process Questionnaire IDEA Federal Grants and SE-4096 for an ISD receiving this level of monitoring.

Universal supports: MDE provided OSEP with documentation illustrating the types of universal supports made available to its subrecipients. Those supports include Special Education Finance Workshops for ISDs addressing topics including PFRs, LEA MOE, excess cost requirements, and proportionate share for Business Officials and Special Education Directors. MDE provided training on special education fiscal requirements to charter schools. MDE also provided OSEP with a copy of a presentation given to subrecipients that includes information related to each component of its fiscal monitoring system, and contained information about specific Federal fiscal requirements, supporting documentation generally associated with each requirement, and common findings for each requirement.

Data and application review processes: MDE provides fiscal oversight through the collection and review of subrecipient data using its special education data system.²² Information in that system relates to IDEA and Michigan Administrative Rules for Special Education fiscal requirements, including LEA MOE eligibility and compliance requirements, data required for reporting on CEIS, and quarterly cost reports providing expenditure data for ISDs and school districts. Additionally, MDE reported that it is testing enhancements that will allow it to collect data to determine ISD's compliance with IDEA excess cost requirements. The system's data is also used during MDE's application review process for IDEA subgrants in the Michigan Electronic Grants System (MEGS+) system. Specifically, MDE uses budget data from Catamaran in determining whether subrecipients have met the LEA MOE eligibility standard in order to receive a subgrant. MDE's application review process further includes an examination of each subrecipient's budget

¹⁹ MDE's submissions included a tracking chart used to monitor the resolution of findings for the ISD, districts, and charter schools.

²⁰ MDE's *TA Targeted Training Process Questionnaire IDEA Federal Grants*.

²¹ All ISDs and member local school districts complete the SE 4096 to report on Michigan State School Aid Act funds used to support students with disabilities. These reports are submitted in MDE's Financial Information Database.

²² Catamaran is MDE OSE's special education data system

in MEGS+, allowing MDE to identify potential use of funds issues and prevent unallowable expenditures.

Single audit review process: MDE's Office of Special Education (OSE) Program Finance division, and Office of Audits work collaboratively to resolve single audit findings for the IDEA Part B programs.²³ In that process, OSE's Program Finance division contacts ISDs or school districts for additional information, develops management decisions related to findings for the program, and provides the Office of Audits with the supporting documentation gathered and a copy of its management decision. MDE tracks audit resolution through its Grants Electronic Management System and provided OSEP with screenshots from the system demonstrating its capacity to filter audits by Federal program, retain supporting documentation, and the ability to track levels of review and approval within MDE.

OSEP Analysis

In fulfilling its general supervisory responsibilities, MDE is required to 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 activities under 2 C.F.R. § 200.331(b). MDE must also monitor the activities its subrecipients as necessary to ensure that IDEA subawards are 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 as required under both the Uniform Guidance in 2 C.F.R. § 200.331(d), and IDEA in 34 C.F.R. §§ 300.149 and 300.600; and consider enforcement actions against noncompliant subrecipients as required under 2 C.F.R. §§ 200.338 and 200.331(h); 34 C.F.R. §§ 300.149, 300.222, 300.600, and 300.604.

Further, MDE must establish and maintain effective internal controls that provide reasonable assurance that MDE is managing the IDEA grant awards in compliance with Federal statutes, regulations, and the terms and conditions of those awards pursuant to 2 C.F.R. § 200.303. These requirements specify that MDE must evaluate and monitor its compliance with statutes, regulations, and the terms and conditions of Federal awards, and must take prompt action when instances of noncompliance are identified, including noncompliance identified in audit findings. 2 C.F.R. §§ 200.303(c) and 200.303(d).

Based on review of the documents submitted, and interviews with the MDE staff, OSEP has concluded that, when utilized, the MDE's PFR on-site monitoring process appears to be reasonably designed to provide fiscal oversight and ensure that IDEA subawards are used for authorized purposes, in compliance with Federal statutes, regulations, and the terms of and conditions of the subaward. However, as reported above, the MDE did not carry out the tiered monitoring activities directed by MDE's risk assessment, in FY 2019. Further, MDE does not have internal controls, including comprehensive policies and procedures guiding its risk assessment and related tiered fiscal monitoring. Without policies and procedures, and associated internal controls, MDE does not have an established methodology for determining risk factors and thresholds, or have timelines for data collection and review, notification of subrecipients, and

²³ Those single audit findings made specifically related to Catalog of Federal Domestic Assistance 84.027 and 84.173.

performance of tiered monitoring activities. The absence of written procedures also hinders OSE Program Finance staff's ability to establish roles and responsibilities which can prevent disruptions in fiscal monitoring in the event of future staff turnover. Because of these conditions, OSEP has determined that MDE is in noncompliance with the requirements in 2 C.F.R. §§ 200.303(c) and 200.303(d). Related required actions are included in the required actions section below.

During its review of MDE's fiscal subrecipient monitoring and oversight, OSEP additionally identified issues related to MDE's subgrants to LEAs. As noted above, MDE's subrecipients include three other State agencies that receive IDEA Part B subawards. During discussions related to fiscal monitoring of its subrecipients MDE disclosed that, since initially providing those subrecipients with IDEA subgrants using the formula described in 34 C.F.R. § 300.705 for base, population, and poverty, MDE has not consistently allocated remaining funds in accordance with the requirements in 34 C.F.R. § 300.705(b)(3). MDE reported that the cause of this condition is that it did not have reliable population and poverty data for the State agencies. As a result, MDE stated that the State agencies have consistently received the base portion of their allocations, but not necessarily appropriate amounts for remaining funds based on their population and poverty. MDE reported that it is working with an OSEP-funded technical assistance provider to improve its data collection related to population and poverty to allow MDE to allocate accurate amounts to all its subrecipients. OSEP has determined that MDE is in noncompliance with the requirements above and has included findings and related required actions in the section below. Because of these conditions, OSEP has determined that MDE is in noncompliance with the requirements in 34 C.F.R. § 300.705(b)(3).

Required Actions/Next Steps

Within 120 days of the date of the letter accompanying this enclosure, MDE must submit:

1. Documentation supporting the implementation of MDE's FFY 2020 tiered monitoring activities, as determined by the risk assessment MDE utilized for its FFY 2019 subgrants. MDE's monitoring activities should ensure that IDEA subawards are 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 as required by 2 C.F.R. § 200.331(d), and 34 C.F.R. §§ 300.149 and 300.600.
2. Policies and procedures directing MDE's risk assessment and related tiered approach to fiscal monitoring (including annual process). Those policies and procedures should contain sufficient detail to address the requirements for internal controls in 2 C.F.R. § 200.303.
3. Documentation demonstrating that any subrecipient that received less than the amount of IDEA Section 611 funds to which it was entitled in FFY 2018 and/or FFY 2019 was made whole, or a plan outlining how MDE will make these subrecipients whole during FFY 2020, in accordance with 34 C.F.R. § 300.705. MDE may use any remaining FFY 2018 and/or FFY 2019 Section 611 State set-aside funds for this purpose.

4. Revised policies and procedures ensuring that, prospectively MDE will allocate IDEA Part B Section 611 subgrants to all eligible subrecipients in accordance with 34 C.F.R. § 300.705.

State Complaint Procedures

Overview

OSEP received a complaint from a constituent alleging that MDE's complaint investigators were ordering too much or too little time for compensatory services. In addition, the Michigan Protection and Advocacy Service submitted a report that corroborated the allegation.

34 C.F.R. § 300.151(b) requires remedies for denial of appropriate services, as follows.

In resolving a complaint in which the SEA has found a failure to provide appropriate services, a SEA, pursuant to its general supervisory authority under Part B of the Act, must address—

- (1) The failure to provide appropriate services, including corrective action appropriate to address the needs of the child (such as compensatory services or monetary reimbursement); and
- (2) Appropriate future provision of services for all children with disabilities.

To determine if MDE's implementation of its State complaint procedures resulted in a failure to provide appropriate services, OSEP reviewed five complaint files where MDE ordered compensatory services, and interviewed MDE complaint management staff about the process used to determine the type, amount, and frequency of compensatory services. OSEP also reviewed MDE's Guidance for determining the need and amount of compensatory education.

Through interviews with MDE's complaint management staff, OSEP learned that in determining compensatory services for each case, the staff talk through the details of what the student received and what the student should receive, and considered additional factors such as a student's tolerance to make up a certain number of hours due to medical issues, behavioral resistance, etc. The staff walked through the five complaints and explained the decisions in each one. In one case there was a 1:1 correspondence to the social work sessions missed and the number of compensatory sessions offered. In another case, compensatory services were calculated based on when a student should have been found eligible for special education and related services, and which services should have been provided. Further, MDE's Guidance for determining the need and amount of compensatory education details the decision-making process which appeared consistent with the decisions reached in the five complaint files that OSEP reviewed.

OSEP Analysis

The State implements complaint procedures that address districts' failure to provide appropriate services, including reasonable guidelines for corrective actions appropriate to address the needs of the child such as compensatory education services, consistent with 34 C.F.R. § 300.151.

Required Actions/Next Steps

No further action is required.

DMS NOTICE

Differentiated Monitoring and Support Engagement Decisions:

Michigan 2019–2020

OSEP's Differentiated Monitoring and Support (DMS) system is a component of Results Driven Accountability. DMS is designed to identify potential grantee risk to the Department and to assist OSEP in effectively using its resources to monitor grantees. DMS addresses State-specific needs in the areas of results, compliance, State Systemic Improvement Plan (SSIP), and fiscal by differentiating levels and types of monitoring and support based on each State's unique strengths, progress, and challenges in each area.

DMS is a multi-tiered model for monitoring and providing support based on the principle that supports are first provided at a core or universal level to effectively address the needs of all States. Targeted monitoring and support is generally based on OSEP's identification of common needs among multiple States. Intensive monitoring and support is reserved for those States with the most intense or complex challenges to implementation.

OSEP has assessed States' and Entities' progress in meeting performance standards and compliance with the legal requirements of the Individuals with Disabilities Education Act, the Education Department General Administrative Regulations and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. This information was used to help OSEP make decisions about a State's or Entities' levels of engagement for monitoring and support.

The charts below specify your State's level of engagement in each area — results, compliance, fiscal and SSIP.

Results | Level of Engagement: *Intensive*

Factors	Existing/Current Engagement
<p>Reading</p> <ul style="list-style-type: none"> Percentage of 4th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress – 22%. <p>Math</p> <ul style="list-style-type: none"> Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress – 19%. 	<p>OSEP continues to make information and technical assistance (TA) resources available and provide universal support to all States.</p>

New Engagement

OSEP will offer to provide the State, in collaboration with OSEP’s technical assistance providers, intensive technical assistance and support in its work to improve the State’s data quality and child performance outcomes related to positive social relationships, skills, and knowledge. OSEP’s support may include establishing a schedule of regular contact, engaging in conversations to explore improvement activities, and discussing the progress and effectiveness of activities currently underway in the State to improve outcomes for students with disabilities. OSEP may also work with the State to conduct a root cause analysis of the factors that contribute to low results outcomes for infants, toddlers, and their families.

Fiscal | Level of Engagement: *Intensive*

Factors	Existing/Current Engagement
<ul style="list-style-type: none"> The State has required actions from a single or OIG audit that are within timelines. State has submitted, or still has time to submit, information. The State's IDEA 611 award exceeds \$200,000,000. The State has overdue corrective actions related to fiscal monitoring findings (no submission, past due date). 32% or more of State’s LEAs are charter school LEAs. 	<p>OSEP continues to make information and TA resources available and provide universal support to all States.</p>

New Engagement

OSEP will contact the State and discuss the level of engagement. OSEP may also request additional documentation from the State and collect additional publicly available information. Based upon discussions with the State, technical assistance or additional data collection may be conducted on-site or virtually.

Compliance | Level of Engagement: *Targeted*

Factors	Existing/Current Engagement
<ul style="list-style-type: none"> • Indicator 12: IEP developed and implemented by third birthday – 93.52%. • Indicator 13: Secondary transition- 81%. 	<p>OSEP continues to make information and TA resources available and provide universal support to all States.</p>

New Engagement

OSEP will gather additional information to determine the scope of engagement necessary to assist the State in improving IDEA compliance. This may include discussions with the State to determine the factors impacting the State’s specific area of low compliance and collaboratively working with the State to develop a plan to bring the State into IDEA compliance as soon as possible.

SSIP | Level of Engagement: *Intensive*

Factors	Existing/Current Engagement
<ul style="list-style-type: none"> • Coherent improvement strategies are not clearly defined, the state has not reported on progress, or the activities reported on are not aligned with the Theory of Action / SIMR. • Evidence-based practices are not yet identified or activities are limited to professional development to build teacher/provider knowledge and use of practices. • The State did not meet its FFY 2017 SIMR target, nor is it collecting progress monitoring data/interim measures of progress that suggest progress toward the SIMR throughout the year. 	<p>OSEP continues to make information and TA resources available and provide universal support to all States.</p>

New Engagement

OSEP will offer to provide the State intensive technical assistance and support in its work to improve the SSIP in areas such as evidence-based practices, evaluation planning, or stakeholder engagement. OSEP will offer to establish a schedule of regular contact with the State, explore improvement activities, and discuss the progress and effectiveness of the activities currently underway in the State. OSEP will also work collaboratively with OSEP-funded TA providers and may, if necessary, explore opportunities for on-site technical assistance in the State.