

**Indiana Part B 2008 Verification Visit Letter
Enclosure**

I. General Supervision

The Center for Exceptional Learners (CEL) is the component of the Indiana Department of Education (IDOE) that is responsible for the administration of special education. At the local level, the State has 347 local educational agencies (LEAs), known as local school corporations, which include three State-operated schools (the Indiana Department for Blind and Visually Handicapped, the Indiana School for the Deaf, and Morton's Memorial School), the Department of Corrections and 51 charter school LEAs. For the purpose of flowing funds, the State is divided into 73 Special Education Planning Districts, which may consist of a single LEA or multiple LEAs. The term "cooperative" is often used to describe the multiple school corporation planning districts in the State.

Critical Element 1: Identification of Noncompliance

Does the State have a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components?

Verification Visit Details and Analysis

In its State Performance Plan (SPP) submitted in December 2005, the State reported in Indicator 15 that it had identified noncompliance in 73 special education planning districts through monitoring and ensured correction in all 73 districts. In its Federal Fiscal Year (FFY) 2005 Annual Performance Report (APR), the State reported in Indicator 15 only that "100% of noncompliance corrected within one year was not achieved." The State failed to provide data on the number of findings made during 2004-2005 or any data on correction of those findings. In its FFY 2006 APR, the State reported, in Indicator 15, 100% timely correction of findings, but acknowledged that the correction was based only on findings of noncompliance from complaint investigations and corrective actions. During OSEP's verification visit, the State reiterated that all of the findings on which it reported in the FFY 2006 APR were from complaints and hearings. Although the data the State collected in both FFY 2005 and FFY 2006 for SPP/APR compliance indicators showed noncompliance, the State did not issue any written letters of noncompliance to LEAs in either FFY 2005 or FFY 2006. During the OSEP visit, the State acknowledged that between July 2003 and May 2008 it made no findings of noncompliance through monitoring. OSEP notes, however, that in its December 2005 SPP, the State reported that it had made monitoring findings in 73 special education planning districts in FFY 2003.¹ The State told OSEP during the verification visit that it could not determine or document when, prior to May 16, 2008, it had last made monitoring findings.

On April 4, 2008, the State sent letters to all of the State's LEAs, requiring them to verify the accuracy of the data they submitted for Indicators 9, 10, 11, 12, and 13 for FFY 2005 and FFY 2006, and to confirm in writing the accuracy of those data or to explain any inaccuracies. In a June 16, 2008 memorandum, and in a telephone conversation on the same day, the State informed OSEP that, based on the FFY 2005 and FFY 2006 data for the compliance indicators,

¹ In the Fall of 2007, IDOE's Center for Exceptional Learners reorganized its monitoring team and hired new staff. The reorganization resulted in the restructuring of the State's Continuous Improvement Focused Monitoring System (CIFMS), including a review of the FFY 2005 and FFY 2006 special education compliance data for SPP/APR Indicators 9, 10, 11, 12 and 13.

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the State issued written findings of noncompliance to 334 LEAs (a total of 700 findings) on May 16, 2008. The letters required the LEAs to demonstrate correction of the identified noncompliance no later than one year from the date of identification (May 16, 2008). On July 23, 2008, the State contacted all of those 334 LEAs to inform them that they must submit a corrective action plan (CAP) by September 5, 2008. The State received all of those CAPs by the September 5, 2008 due date. Although the State required that LEAs correct any level of noncompliance within one year from identification, the State required a CAP for Indicators 11 and 12 only if the LEA had reported less than 95% compliance. (The State required CAPs for any level of noncompliance for Indicator 13.)

During the verification visit, the State informed OSEP that in FFY 2005 and 2006, the State collected compliance data through its database and through the resolution of hearings and complaints. The State also informed OSEP that it intended to follow a similar process to make findings of noncompliance based on the FFY 2007 data that LEAs would submit to the State in November 2008 for compliance Indicators 9, 10, 11, 12, and 13. The State indicated that it planned to notify LEAs of findings of noncompliance, based on their FFY 2007 data, by mid-December 2008.

During the verification visit, the State informed OSEP that it was in the process of developing a new protocol for monitoring, including on-site monitoring. OSEP reviewed a draft protocol which the State was still developing. The State further informed OSEP that, in addition to making findings based on LEA-submitted data for the compliance indicators, it plans to conduct on-site verification visits to ten LEAs by the end of the 2008-2009 school year. The State's intent was to conduct the visits to the LEAs with the highest reported compliance levels, but based on input from OSEP, the State indicated it would reconsider the selection of LEAs for the first verification visits to include LEAs with both high and low levels of compliance. At the time of OSEP's visit, the State was still developing its system for selecting LEAs for future monitoring.

The State reported that it uses the same procedures to monitor the three State Schools, the Department of Corrections, and 51 charter school LEAs as it uses to monitor other LEAs. The State further reported that it monitors programs for students with disabilities in local jails and juvenile detention facilities as part of the LEA in which they are located.

OSEP Conclusions

As noted above, between July 2003 and May 2008, the State made findings of noncompliance only through complaints and hearings and did not make any monitoring findings of noncompliance. During the verification visit, however, the State confirmed that in May 2008, it made monitoring findings of noncompliance based on the FFY 2005 and FFY 2006 data that LEAs submitted for the compliance indicators, and that it intends to use the same procedure for making such findings on an annual basis. In addition, the State described the procedures for on-site verification visits that it would be implementing in December 2008. Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that it cannot yet determine whether the State has a general supervision system that is reasonably designed to identify noncompliance in a timely manner. While the State's process for making findings based on data collected through its database on compliance indicators and the use of complaints and hearings are appropriate components of a system, the State was, at the time of the verification visit, still developing its procedures for on-site monitoring. Further,

OSEP cannot, without collecting data at the local level, determine whether the State's procedures are fully effective in identifying noncompliance in a timely manner.

Required Actions/Next Steps

With its FFY 2008 APR, due February 1, 2010, the State must provide updated information regarding its general supervision system, including a description of each of the components (e.g., review of compliance data collected through its database(s), on-site monitoring, self-assessment, dispute resolution, etc.) of its system for identifying noncompliance, the extent to which it has implemented each of those components, and the extent to which it has made findings of noncompliance using those components.

Critical Element 2: Correction of Noncompliance

Does the State have a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner?

In its November 22, 2006 verification visit letter, OSEP found that the State had not met its responsibility to ensure that noncompliance was corrected within one year of its identification, as required by 34 CFR §300.600. OSEP required that, in its FFY 2005 APR, due February 1, 2007, the State submit to OSEP either: (1) documentation that it was ensuring the timely correction of noncompliance; or (2) the State's plan for ensuring timely correction of noncompliance.

In its FFY 2005 APR, the State reported "100% of noncompliance corrected within one year was not achieved." The State did not provide any further data regarding the number of findings it made during FFY 2004, the number or percentage of FFY 2004 findings that it timely corrected, or any other documentation of its effectiveness in correction of noncompliance. Further, the State did not provide a plan for ensuring timely correction. OSEP's June 15, 2007 response required the State to provide, in the FFY 2006 APR, due February 1, 2008: (1) data demonstrating compliance with the requirement for timely correction, including data on the correction of outstanding noncompliance identified in FFY 2004; and (2) the status of timely correction of the State's FFY 2005 findings of noncompliance and the noncompliance identified in OSEP's November 22, 2006 verification visit letter.

The State's FFY 2006 APR, submitted on February 1, 2008, demonstrated that its general supervision system was still not effective at identifying and correcting noncompliance with Part B. OSEP concluded that the data the State submitted were not valid and reliable, because they were only from complaints and hearings and follow-up visits on previously identified noncompliance. The State acknowledged in the FFY 2006 APR that it had no monitoring findings for either FFY 2005 or FFY 2006 because it failed to issue any letters of noncompliance to LEAs based on noncompliance identified in FFY 2005 and FFY 2006.

The State's July 1, 2008 FFY 2008 Part B grant award included Special Conditions to ensure the State's General Supervision system (including monitoring, complaints, hearings, etc.) timely corrected noncompliance, as required by 20 U.S.C. 1232d(b)(3)(E) and 34 CFR §§300.149 and 300.600. As noted in the Special Conditions Enclosure to that letter, the State must provide data demonstrating that it identifies and corrects noncompliance as soon as possible but in no case later than one year from identification.

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As explained above, the State issued 700 findings of noncompliance to 334 LEAs on May 16, 2008 and required the LEAs to correct the identified noncompliance within one year. The State provided up-front guidance and guidelines to help LEAs in developing their CAPs, and worked with them to make needed revisions to their CAPs. So that LEAs could begin implementing needed correction strategies without delay, the State chose not to have a formal approval process for CAPs.

The State has assigned one of 11 CEL employees to each of the State's LEAs. These staff members conduct monthly telephone calls with their assigned LEAs to monitor their progress in ensuring timely correction, provide technical assistance, and direct them to training and available resources that may assist in the correction of the noncompliance.

OSEP Conclusions

As noted above, the State did not make any monitoring findings of noncompliance from July 2003 until May 16, 2008, and correction of those findings is not due until May 16, 2009. Therefore, OSEP cannot yet determine whether the State has a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner.

Required Actions/Next Steps

As required by its FFY 2008 Special Conditions, the State must provide, by June 1, 2009, data demonstrating compliance with the requirements of IDEA that the State timely identifies and corrects noncompliance as soon as possible but in no case later than one year from identification as required by Part B, 20 U.S.C. 1232d(b)(3)(E) and 34 CFR §§300.149 and 300.600. To document its progress in ensuring the identification and timely correction of the noncompliance, the State must submit two Progress Reports, the first with its FFY 2007 APR due on February 2, 2009 and the second by June 1, 2009.

Critical Element 3: Dispute Resolution

Does the State have procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA?

Verification Visit Details and Analysis

State Complaints: The State has a two-tier complaint process system, in which the complainant or LEA may appeal the State's complaint decision. Unless the State extends the timeline due to exceptional circumstances with respect to a particular complaint, the State's procedures require that it issue a decision within 40 calendar days of receiving the complaint. Within seven calendar days of the issuance of the complaint decision, the complainant or school corporation may request reconsideration by the Assistant Superintendent of Special Education of any part of the decision. The procedures further provide that the Assistant Superintendent of Special Education issue a revised complaint report, or decline to revise the original decision within 60 days of the receipt of the original written complaint.

The State tracks complaint timelines through an electronic database. In its FFY 2006 APR, the State reported 100% compliance for Indicator 16. The State received 118 complaints, with 14 withdrawn or dismissed. For the 104 complaints for which the State issued complaint decisions, the State issued 96 reports within the 60-day timeline, and for the remaining eight, extended the timeline due to exceptional circumstances with respect to those particular complaints. The State's data for FFY 2007 show that the State received 136 complaints, with

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10 withdrawn or dismissed. For the 126 complaints for which the State issued complaint decisions, the State issued 122 reports within the 60-day timeline, with timeline extensions for the other four. During the verification visit, OSEP reviewed a sample of complaint files and confirmed that the State granted extensions under appropriate circumstances. The State staff person assigned to investigate a complaint is also responsible for tracking the timely correction of any noncompliance that the State identifies in the complaint decision.

Due Process Hearings: The State has a two-tier due process hearing system, in which the parties to a hearing may appeal the decision to the Board of Special Education Appeals (BSEA). Upon the receipt of a due process hearing request, the Office of the Superintendent appoints an independent hearing officer (IHO) on a rotational basis from the list of 11 IHOs. If there is an appeal from a hearing decision, the State appoints one of three BSEA review officers. A CEL staff member is responsible for maintaining a due process tracking system and for reading, reviewing, and ensuring implementation of the due process hearing decisions. The State informed OSEP during the verification visit that parents are informed of the final hearing decision, and that LEA superintendents are responsible for documenting and reporting correction to the State. However, the State does not have a systematic mechanism in place to track the correction.

In its FFY 2006 APR, the State reported 100% compliance with Indicator 17. The State provided OSEP with documentation that an IHO issued the decision for each of the 13 fully adjudicated hearings within appropriately extended timelines. The State's data for FFY 2007 show that there were six fully adjudicated hearings, two in which decisions were rendered in a timely manner, and four with decisions within documented extensions. During the verification visit, OSEP confirmed that there was appropriate documentation for these extensions.

The Part B regulations require that the public agency, after deleting any personally identifiable information, transmit due process hearing findings and decisions to the State advisory council (SAC). (See 34 CFR §§300.513(d)(1).) Similarly, the regulations require that the State, after deleting any personally identifiable information, transmit the review findings and decisions from appeals of hearing decisions to the SAC. (See 34 CFR §300.514I(1).) As the State informed OSEP during the verification visit and clarified in subsequent telephone conversations and e-mail messages, rather than transmitting the findings and decisions for hearings to the SAC, the State provided the SAC only with a chart each January in which it reported the number of hearing requests received in each month of the previous calendar year. Further, rather than transmitting review findings and decisions to the SAC, the State posted the review decisions on the BSEA web-site. Thus, the State was not complying with the requirements of 34 CFR §§300.513(d) and 300.514I. Subsequent to the verification visit, the State provided OSEP with a copy of the minutes from the SAC's November 2008 meeting, in which the State informed the SAC that it will begin electronically transmitting the findings and decisions for both hearings and appeals to the SAC's members.

OSEP Conclusions

As noted above, at the time of the verification visit, the State was not complying with: (1) the requirement at 34 CFR §300.513(d)(1) to transmit hearing findings and decisions to the SAC after deleting any personally identifiable information; and (2) the requirement at 34 CFR §300.514I(1) to transmit appeal findings and decisions to the SAC after deleting any personally identifiable information. As noted above, the State subsequently informed the SAC that the State will begin electronically transmitting the findings and decisions for both hearings and

appeals to the SAC's members. With the exception of this area of noncompliance, OSEP believes the State has procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA.

Required Actions/Next Steps

With the FFY 2008 APR, due February 1, 2010, the State must confirm that, after deleting any personally identifiable information, the State transmits hearing and review findings and decisions to the SAC.

Critical Element 4: Improving Educational Results

Does the State have procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities?

Verification Visit Details and Analysis

During the visit, the State reported that it supports innovative programs to improve educational outcomes for all students with disabilities. In collaboration with other divisions at the IDOE, the State looks at areas of needed improvement, such as graduation and dropout rates, assessments, transition and post-school outcomes, and parental involvement in the education of students with disabilities. Examples of the State's innovative programs are explained below.

Indiana's Vision of Response to Intervention (RtI) is a framework for prevention, advancement and early intervention which involves determining whether all students are learning and progressing optimally academically and behaviorally when provided with high quality instruction. The Indiana RtI offers the opportunity to integrate, collaborate, and cooperate across various educational initiatives including, but not limited to, school improvement, Title I, RtI, and family/school partnerships. The Indiana RtI is based on research for implementing systemic change that incorporates six core components: (1) leadership; (2) evidenced-based core curriculum, instruction and interventions/extensions; (3) assessment and progress monitoring system; (4) data-based decision making; (5) cultural responsiveness; and (6) family, community and school partnerships.

The State reported that it has focused its efforts on improving secondary transition for students with disabilities in the State. The State has held numerous statewide transition conferences and training workshops to provide in-depth training on developing transition IEPs in accordance with the State's Article 7, to meet the Part B requirements of Indicator 13 of the SPP/APR, and to improve post-school results for youth with disabilities. The State has also developed a model for inter-collaborative technical assistance for Indicators 1, 2, 13 and 14. The "290 Committee" is a State-level secondary transition council focused on improving outcomes for transitioning youth in the State. The Committee meets every two to three months and includes representatives from all State agencies that serve children with disabilities in the State. Each LEA conducts an annual Post-School Follow-Up Survey for students who received special education services while in school. This web-based census survey includes an IEP analysis coupled with an exit interview that establishes the basis for analysis with post-school outcomes and longitudinal data collection using a 1-3-5 year follow-up survey methodology.

The State works collaboratively with the First Steps Early Intervention Program to ensure that preschool children with disabilities receive special education and related services in settings with typically developing peers to the maximum extent appropriate. LEAs are required, as a condition of eligibility for Part B funds, to assess all early childhood students with disabilities

with the Indiana Standards Tool for Alternate Reporting (ISTAR). The ISTAR is used as a supplemental assessment to show data and measure outcomes for preschool children with disabilities. Each school year the ISTAR Project provides a procedural handbook to administrators, teachers, speech therapists and related services personnel that use the ISTAR assessment. The State 619 Program Coordinator provides a report on monitoring, data, concerns and issues, and new information at the annual Early Childhood Administrator conferences, as well as maintains a listserv to inform preschool coordinators of new policies and procedures that are in effect.

The State informed OSEP that the Early Childhood Environment Rating Scale-Revised (ECERS-R) has been proven reliable and valid in several studies and is a means of achieving program improvement for public school and preschool classrooms. The ECERS-R is funded through Indiana's State Improvement Grant (SIG) to improve early childhood programs and transitions. Over the last three years, more than 31 school corporations (99 classrooms) have participated in the ECERS-R.

The State anticipated that in January 2009, the ISTAR assessment would reflect improvements resulting from research done through the SIG. New procedures will be shared with the LEAs prior to implementation of the new ISTAR. All preschool students with disabilities, including students receiving speech only services, will be assessed with the improved ISTAR.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with the State and local personnel, OSEP believes the State has procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities.

Required Actions/Next Steps

No action is required.

Critical Element 5: Implementation of Grant Assurances

Does the State have procedures and practices that are reasonably designed to implement selected grant assurances (i.e., monitoring and enforcement, significant disproportionality, private schools, CEIS, NIMAS and assessment)?

Verification Visit Details and Analysis

Public Reporting and Local Determinations: As a part of its monitoring and enforcement responsibilities under section 616 of the IDEA, the State must annually report to the public on the performance of each LEA against the State's SPP/APR targets and must make an annual determination for each LEA. The State met its responsibilities under section 616 of the IDEA for publicly reporting on local performance by posting the data on its website. The State reported on its website, for both FFY 2005 and FFY 2006, the performance of each school corporation for SPP Indicators 1, 2, 3, 4A, 5, 6 (only for FFY 2005), 8, 9, 10, 11, 12 and 13. OSEP accessed IDOE's website and confirmed that the State included all required public reporting information, providing local data in a table and the State targets in a separate "legend" for the table.

The State informed OSEP during the verification visit that, in collaboration with the SAC, it was developing a plan for making local determinations. As noted above, Part B requires the

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State to make annual determinations. In order to make its initial determinations; however, the State averaged data from FFY 2005 and FFY 2006 for SPP Indicators 9, 10, 11, 12, 15, 20 and audit findings and ranked the calculations on a four-point scale similar to that of a grade point average system. LEAs with a ranking of four received a determination of Meets Requirements (MR); three – Needs Assistance (NA); two – Needs Intervention (NI); and one – Needs Substantial Intervention (NSI). Five LEAs received determinations of MR, and the remaining LEAs received determinations of NA or NI. No LEA received a determination of NSI. The State notified all superintendents and special education directors in writing of their determinations on October 20, 2008.

During the verification visit, the State informed OSEP that it did not consider the validity and reliability of the data submitted by each LEA in making its local determinations. A State's annual determination process, under sections 616(a) and (c) of IDEA, must, at a minimum, consider: (1) an LEA's performance on all SPP/APR compliance indicators; (2) whether an LEA submitted valid, reliable and timely data for each indicator; (3) LEA-specific audit findings; and (4) any uncorrected noncompliance from other sources. (See Determinations FAQs dated 10/19/2006 and 12/4/2007 and OSEP Guidance on Determinations of the Status of Local Programs by State Agencies under Parts B and C of IDEA dated March 7, 2007.)

The State indicated to OSEP that it would consider the validity and reliability of LEAs' data in making future determinations, but did not provide a timeline for making this change.

Private (Non-Public) Schools: State law requires all LEAs to provide some level of special education and/or related service to all students with disabilities placed by their parents in private schools through the use of a service plan. The State further reported that LEAs use both a proportionate share of their Part B subgrants and State funds to meet this State requirement.

The State reported that all parties (the LEA, private school representatives, and parents) participate in the consultation process. Although at least one private school representative filed a complaint with the State alleging that a school district did not engage in meaningful consultation with private school representatives, the State told OSEP that the consultation process is meaningful and timely, and that, based on the consultation, the LEA makes the final decision regarding the services to be provided to students with disabilities. The State further reported that, subsequent to the complaint, the State has taken steps to ensure consultation meetings are timely and meaningful. If there are any disagreements with the outcome of the consultation, the LEA must provide a written explanation to all parties involved in the consultation, pursuant to State regulation. The State has developed a consultation checklist that all special education directors use to ensure all phases of the process are followed accordingly. The State maintains a consultation log to track conversations with local special education directors prior to the use of funds and prior to the beginning of the upcoming school year. Leading up to and since the State's August 13, 2008 release of its revised special education rules (Article 7), the State has provided extensive and on-going training to LEAs concerning the provision of services to students with disabilities in non-public schools.

Significant Disproportionality and Coordinated Early Intervening Services (CEIS): As required by both Part B and State regulations, the State collects and examines data annually to determine if LEAs have significant disproportionality of racial and ethnic groups in: (1) special education; (2) specific disability categories; (3) placements; and (4) discipline. The State has adopted a two-tiered system for the annual identification of significant disproportionality in

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each category based on a risk ratio greater than 2.5 and a risk index that is equal to or greater than the State average in special education and related services for two consecutive years. The State informed OSEP during the verification visit that it has a “warning” system in place that identifies schools that are potentially at risk of becoming significantly disproportionate.

The State reported to OSEP that it identified seven LEAs as having significant disproportionality based on FFY 2006 and FFY 2007 data. The State required these seven LEAs to: (1) attend the State’s Disproportionality Summit; (2) reserve the maximum amount of Part B funds (15%) to provide CEIS; (3) review policies, procedures and practices; (4) make modifications to their program; (5) report to the public on the review of policies, procedures and practices; and (6) describe, in a designated section of the Part B grant application, how it would utilize its funds; the State then compares the actual expenses of the prior year against budgeted expenses to ensure appropriate use of funds. The State further reported that, in FFY 2008, three LEAs and four cooperatives (which consist of 21 LEAs) voluntarily used up to 15% of their Part B funds for CEIS, and in FFY 2009, seven LEAs and two cooperatives voluntarily used up to 15% of their Part B funds for CEIS.

During the verification visit interview, the State informed OSEP that it monitors the funds appropriated to each LEA based on the number of students receiving CEIS within the LEA. Each student is tracked by his or her Student Test Number, which is assigned to each student upon entry into the Indiana school system. The LEA is responsible for tracking the recipients of CEIS. Though the State is developing a draft form to track students receiving CEIS, the State informed OSEP, during the verification visit, that local reporting is an area of concern at the SEA and that it wants to develop a uniform electronic student tracking system to track LEAs’ usage of CEIS funds.

NIMAS: The State has adopted the National Instructional Materials Accessibility Standard (NIMAS) and coordinates with the National Instructional Materials Access Center (NIMAC) in accordance with 34 CFR §300.172 to provide instructional materials to blind persons or other persons with print disabilities in a timely manner through the Indiana Center for Accessible Materials. As of two years ago, LEAs must submit an assurance regarding compliance with NIMAS in their Part B application. Each student receiving accessible instructional materials is registered by the LEA’s Digital Rights Manager, and the LEA’s superintendent is required to sign-off on each registration. The State indicated that this is a very popular project in Indiana. Digital books are downloaded by an information technology person at the LEA. Also, Purdue University provides tactical diagrams in Braille for students in chemistry and biology classes.

The Braille materials the State uses for its children with disabilities are produced in the State’s local adult prisons. This collaboration between the State and the prison system enables inmates to build their own Braille business through a savings plan, thus providing them with a skill and employment when reentering the community, while also providing students with disabilities with the necessary instructional material in a timely manner.

Assessments: The Indiana Standards Tool for Alternate Reporting (ISTAR) is a standards-based software system provided by the IDOE through a grant to the Individualized Classroom Accountability Network (ICAN) Project. The web-based system is available to all educational systems in the State free of charge. It connects functions, manages data, and integrates processes related to not only individual standards-based assessment of student progress from

birth to employment, but also Case Conference Committee (CCC)² decision making processes including the production of compliant CCC records. Unless otherwise determined by the CCC, every student with a disability participates in the Indiana Statewide Testing for Educational Performance (ISTEP+) with or without accommodations. The CCC determines, based on the criteria provided and the student's individual and unique needs, whether a student with a disability will be assessed on academic achievement standards, on modified academic achievement standards, on alternate academic achievement standards for academic competence or on alternate achievement standards for independent functioning. If the CCC determines that a student will be assessed on alternate achievement standards, the CCC must describe the reasons it is not appropriate for the student to participate in the general assessment or the modified assessment and include information in support of each of the criteria -- presence of a disability, intensity of instruction, and curricular outcomes.

As of the 2008-2009 school-year, students are tested in the fall and spring each year. For students with disabilities who have been served by early childhood programs for at least six months, an ISTAR assessment is expected at least once a year.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with the State and local personnel, OSEP believes that, with the exception of the issues related to the State's determinations for LEAs under section 616 of the IDEA, the State has procedures and practices that are reasonably designed to implement selected grant assurances (i.e., monitoring and enforcement, significant disproportionality, private schools, CEIS, NIMAS and assessment). OSEP cannot, however, without also collecting data at the State and local levels, determine whether these procedures and practices are sufficient to ensure that LEAs in the State effectively implement these selected grant assurances. As noted above, the State averaged the LEA data from FFY 2005 and FFY 2006 to make its initial local determinations. Additionally, the State did not consider the validity and reliability of the data that each LEA submitted in making determinations for LEAs; the State indicated that it would change its procedures to correct this problem but did not provide a timeframe for the correction.

Required Actions/Next Steps

Within 60 days of the date of this letter, the State must provide documentation that, in making its FFY 2007 local determinations, it considered all of the required factors, as described above, including the consideration of the validity and reliability of the data that each LEA submits. Additionally, within 60 days of the date of this letter, the State must demonstrate that it has established and implemented procedures for making annual local determinations based on data for one year and not an average of data from more than one year.

II. Data System

Critical Element 1: Collecting and Reporting Valid and Reliable Data

Does the State have a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner?

² Under Indiana State law, the Case Conference Committee (CCC) fulfills the same responsibilities as the individualized education program (IEP) team under Federal law. See 34 CFR §§300.23, 300.321 and 34 CFR §300.320(a)(6)(ii).

Verification Visit Details and Analysis

The CODA Project is an individual student record system that collects the data that are submitted to OSEP under section 618. This system has been in existence for over 20 years. Each student is assigned a unique identifier (Student Test Number) that remains with the student throughout his or her enrollment in school. While the State uses CODA to collect State level data, its primary function is as a local information management system.

In a certification that each LEA submits with its data to the State, LEAs must confirm that the data are accurate, valid and reliable. There are reports in the system designed for edit purposes. Complex edit checks are conducted at the local and State levels in cooperation with CODA staff to identify and correct any data anomalies. In addition to April and December data submission periods, the State also requires LEAs to submit data in October to identify and resolve any potential accuracy problems in the data and ensure all students are accounted for in the system.

The CODA system is organized by two quadrants: (1) "Q1" is an individual student record system with over 100 data fields on each student; and (2) "Q2" is a teacher-centered system with approximately 50 fields for teachers, including licensure. The State cross-checks data from the two quadrants to ensure data accuracy, and teachers are asked to verify the accuracy of data for students on their class lists. Special education directors are responsible for ensuring valid and reliable data are transmitted to the State.

As a part of the verification visit, OSEP specifically inquired into the State's guidance and data collection methodology for SPP/APR Indicators 4, 8, 9, 10, 11, 12, 13, and 14. The State provided information demonstrating that the data collected for these indicators were consistent with the required measurements. The State reported in its FFY 2006 APR that its then-current data collection system for Indicator 12 did not collect data on the date for which services begin for children with disabilities transitioning from Part C to Part B, thereby ensuring that children have an IEP or individualized family service plan (IFSP) developed and implemented by their third birthday. (See 34 CFR §300.124(b)). The State further reported in the FFY 2006 APR that its data system changes would be completed for the December 1, 2008 Child Count report, thus resulting in valid and reliable data for the FFY 2008 APR, due February 1, 2010. In its response table, OSEP required the State to provide valid and reliable data for Indicator 12 in its FFY 2007 APR and to review its improvement activities and revise them, if appropriate, to enable the State to demonstrate compliance with 34 CFR §300.124(b), including reporting on correction of noncompliance identified in the FFY 2006 APR. The State reported to OSEP during the verification visit that, beginning with the 2008-2009 school year data collection (for the FFY 2008 APR due February 1, 2010), a new data field had been added to the CODA system to capture the date services begin for children with disabilities transitioning from Part C to Part B. The State indicated, however, that, as stated in its FFY 2006 APR, the new system change was not implemented in time for it to report valid and reliable data for Indicator 12 in the FFY 2007 APR, due February 2, 2009. The State intends to provide valid and reliable data for Indicator 12 in the FFY 2008 APR.

OSEP Conclusions

As noted above, in its June 2008 response to the State's FFY 2006 APR, OSEP concluded that the State's FFY 2006 data for Indicator 12 were not valid and reliable. As the State confirmed in a conversation following the verification visit, the State was not able to revise its data collection system in time to collect valid and reliable FFY 2007 data for Indicator 12, but that it

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has made revisions that will enable the State to report valid and reliable data for FFY 2008. Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes that, with the exception of these issues related to Indicator 12, the State has a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner. OSEP cannot, however, without also conducting a review of data collection and reporting practices at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures.

Required Actions/Next Steps

The State must provide valid and reliable data for Indicator 12 in the FFY 2008 APR, due February 1, 2010.

Critical Element 2: Data Reflect Actual Practice and Performance

Does the State have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance?

Verification Visit Details and Analysis

The State reported that it ensures the data it collects and reports reflect actual practice and performance. All special education planning districts are connected electronically to CODA, and planning districts submit data to CODA for their LEAs. In addition to the seven types of data that the State submits to OSEP under section 618 of the IDEA (child count, educational environment, exiting, discipline, dispute resolution, assessment and personnel), CODA also tracks other information, including transition from Part C to Part B and evaluation timelines.

The CODA Project is managed by the Integrated Electronic Management (IEM) team. An IEM staff member is assigned to each planning district in the State and is the primary contact on all data collection matters. The IEM staff member visits each of the assigned planning districts at least three times per year to provide technical assistance and training. Planning districts are encouraged to call the assigned IEM staff member for additional assistance, and they may request additional visits if necessary. The IEM staff member also provides a number of data workshops each year as well as one-to-one training to new data personnel.

OSEP Conclusions

Based on the review of documents; analysis of data, and interviews with State and local personnel, OSEP believes the State has procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance. OSEP cannot, however, without conducting a review of data collection and reporting policies at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures in a manner that reflects actual practice and performance.

Required Actions/Next Steps

No action is required.

Critical Element 3: Integrating Data Across Systems to Improve Compliance and Results

Does the State compile and integrate data across systems and use the data to inform and focus its improvement activities?

Verification Visit Details and Analysis

The State reviews LEA data to identify State and local trends. The State uses data to report on the performance of an LEA on the SPP/APR indicators and to determine which LEAs may be in need of improvement and an on-site verification visit. LEAs examine data across clusters to determine improvement among interrelated indicators, e.g. graduation and dropout rate, secondary transition and post-school outcomes. In analyzing its data, the State utilizes a five-step data-based decision making model to: (1) define the problem; (2) analyze the problem; (3) develop a plan; (4) implement the plan with fidelity; and (5) evaluate the plan in addressing areas of poor performance and noncompliance.

The examination and analysis of data also guides technical assistance and professional development. An important element of the State's general supervision system is a commitment to provide targeted technical assistance and professional development in assisting LEAs with systemic improvement of educational programs, practices and policies that impact students with disabilities. The State reported that the inclusion of parents and family members is an important aspect of its technical assistance and professional development initiative. The State uses annual data collections to inform the two processes and focus its efforts on improving performance related to the indicators of the SPP/APR.

Through its ISTAR and ISTAR7 assessment systems, the State has the capability to monitor student progress and outcomes, transition plans, student case conferences, and IEPs for improvement in process, data management and instruction. Technical assistance efforts, including stakeholder partnerships and grant initiatives, are reviewed annually to determine effectiveness and efficacy in improving the State's educational system.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State compiles and integrates data across systems and uses the data to inform and focus its improvement activities.

Required Actions/Next Steps

No action is required.

III. Fiscal System

Critical Element 1: Timely Obligation and Liquidation of Funds

Does the State have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds?

Verification Visit Details and Analysis

The State informed OSEP that it sends the Part B application package to each special education planning district no later than May 1 of each year. Each special education planning district submits a consolidated application to the State by August 15. As stated in the State's FFY 2008 application for LEAs and confirmed by the State in interviews with OSEP: (1) planning districts that submitted applications to the State by August 15, which the State subsequently approved, could use their Part B funds to pay for expenditures beginning on July 1; (2) planning districts that submitted applications between August 16 and November 15, which the State subsequently approved, could use their Part B funds to pay for expenditures beginning on the date the State received the applications; and (3) planning districts that did not submit an

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application by November 15 could not receive any of their FFY 2008 allocation until FFY 2009. As explained during the visit, the State's procedure of prohibiting a planning district that submitted its Part B application after November 15, 2008 from having access to its Part B (611 and 619) allocations until FFY 2009 was inconsistent with the requirements of the Education Department General Administrative Regulations (EDGAR), 34 CFR §76.708, which requires that subgrantees receive Part B funds effective the date the State is in receipt of a substantially approvable grant application. The State informed OSEP that it had never actually received an application after November 15, so it has not needed to implement this provision. During the verification visit, the State removed the language requiring grantees to submit their grant applications no later than November 15. Since the verification visit, the State provided OSEP with a copy of its revised application cover sheet showing that the November 15 date was removed.

The State informed OSEP that it monitors the use of funds by local entities through a report form that is submitted with the LEA's application each year and approved by the superintendent of the cooperative governing board. The State reported that all planning districts obligate their funds within the required 27 months, and any funds not expended within 30 days from that time period (September 30) are returned to the State. Further, the State reported that LEAs very seldom return funds to the State for non-use and there is a carryover of only 8% statewide. OSEP confirmed through the U.S. Department of Education's Grants Administration and Payment System (GAPS) that the State obligated and expended all of its FFY 2004, 2005 and 2006 Part B 611 and 619 funds. The State indicated to OSEP that 88% of its 611 and 90% of its 619 funds are used for salaries and fixed charges and 92% of the total funds are spent within the first year.

OSEP Conclusions

As noted above, at the time of OSEP's verification visit, the State had in effect a procedure of not allowing a planning district that submitted its Part B application after November 15 to have access to its Part B (611 and 619) allocations until the beginning of the next FFY. OSEP found that this procedure was inconsistent with the requirements of 34 CFR §76.708, which requires that subgrantees receive Part B funds effective the date of receipt of a substantially approvable grant application. However, as also noted above, during the verification visit, the State removed from its application package, the language requiring grantees to submit their grant applications no later than November 15 in order to have access to its current year Part B allocation. The State provided OSEP with a copy of its revised application instructions and informed OSEP of its intent to inform LEAs of this change in the FFY 2009 submission requirement.

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes, with the change to the submission date for LEA grant applications as noted above, the State has procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds. OSEP cannot, however, without collecting data at the State and local levels, determine whether all public agencies in the State implement fiscal procedures that ensure the timely obligation and liquidation of IDEA funds.

Required Actions/Next Steps

No further action is required.

Critical Element 2: Appropriate Distribution of IDEA Funds

Does the State have procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State?

Verification Visit Details and Analysis

The State complies with Federal requirements in calculating subgrant allocations to planning districts and other State agencies. All systems that receive funds, including charter and State operated schools, must give assurances regarding maintenance of effort (MOE), supplement not supplant, and other appropriate accounting procedures. Each LEA prepares a budget for Part B funds each year, which is submitted with the planning districts' consolidated application for Part B funds directly to the State. Each consolidated application includes the total sum of all LEA budgets within the planning district.

All charter schools in the State operate as an LEA and are treated in the same manner as the other LEAs in the allocation, distribution and monitoring of Part B funds. Newly formed charter schools are funded out of State Part B set-aside money in the first year of operation to avoid reduction of funds to currently established LEAs.

The State funding allocation that each planning district receives is based, in part, on the number of children with disabilities in a given eligibility category. The State's funding formula is placement-neutral and is based on the intensity of the instruction not on the specific setting.

In accordance with 34 CFR §300.133, each LEA must calculate a proportionate share of its Part B funds to spend providing special education and related services to parentally-placed private school children with disabilities. The State informed OSEP that it is the responsibility of the LEAs to identify and provide special education and related services to eligible children with disabilities in non-public (private) schools. The proportionate share calculation is based on the number of eligible children with disabilities in the LEA and the number of children with disabilities placed by their parents in private schools that are located in the LEA. Under State law, LEAs are required to provide every parentally-placed private school child with a disability with some level of special education and related service. To cover the cost of the special education and related services to parentally-placed private school children with disabilities above the amount of the proportionate share funds, the LEA uses State allocated Average Pupil Count (APC) dollars. Although the State provides specific guidance in Article 7 on how LEAs are to calculate the proportionate share amount, the State reported that there is no mechanism for reporting this information to the SEA in either the LEA Part B application or other documentation. Further, the State indicated during the verification visit, that there has not been any monitoring of proportionate share calculation because the State assumes that all students with disabilities receive some level of services. The State informed OSEP (in a post verification visit telephone conversation) that, effective with the FFY 2009 grant application, it will make changes to the LEA application to include a separate section for reporting proportionate share.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State has procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State. OSEP cannot, however, without collecting data at the State and local levels, determine whether all public agencies in the State implement fiscal procedures that ensure appropriate distribution of IDEA funds.

Required Actions/Next Steps

No action is required.

Critical Element 3: Appropriate Use of IDEA Funds

Does the IDOE have procedures that are reasonably designed to ensure appropriate use of IDEA funds?

Verification Visit Details and Analysis

Planning districts are required to calculate and provide two years of MOE on their Part B application. The State's Part B local application only allows for one manner in which to calculate MOE. According to 34 CFR §300.203(b), MOE can be determined by one of four ways – through either a per capita basis or total basis from either local funds only, or from a combination of State and local funds. The State informed OSEP that the local MOE is determined using only the calculation of total expenditures of State and local funds. This is inconsistent with the requirements of 34 CFR §300.203(b). Following OSEP's visit, the State revised its local application to allow districts to use one of the four permissible methods for determining MOE under Part B and provided OSEP with a copy of the revised application demonstrating this change.

The State assures that LEAs use Part B funds to supplement not supplant State, local and other Federal funds through the review of LEA applications and yearly Part B Pass-Through Reports (submitted October 30 of each year). In the Part B grant application, LEAs provide signed statements of assurances, including CEIS, MOE, NIMAS and non-public schools, to indicate compliance with the fiscal requirements of IDEA. The State informed OSEP that there were no single State audit findings related to the use of Part B funds in the State for FFY 2006.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes, as a result of the revisions the State made to its application as noted above, the State has procedures that are reasonably designed to ensure appropriate use of IDEA funds. OSEP cannot, however, without collecting data at the State and local levels, determine whether all public agencies in the State implement fiscal procedures that ensure appropriate use of IDEA funds.

Required Actions/Next Steps

No action is required.