

Kentucky Part B 2008 Verification Visit Letter
Enclosure

I. General Supervision

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

The Kentucky Department of Education (KDE), Division of Exceptional Children Services (hereafter referred to as DECS or State), implements its general supervision responsibilities through a variety of mechanisms including State statute and regulations, policies and procedures, management audits, self-assessment, on site monitoring and dispute resolution procedures.

Kentucky Continuous Monitoring Process

The State reported that a key component of DECS' general supervision system is the Kentucky Continuous Monitoring Process (KCMP). As described, the KCMP is an ongoing self-evaluation process used by all 176 local education agencies (LEAs) for data collection, analysis, and improvement of special education programs. The KCMP relies on LEA collection and analysis of the self-assessment data to identify noncompliance. The KCMP is aligned with the State Performance Plan/Annual Performance Report (SPP/APR) and collects the data needed by the State to report annually to the Office of Special Education Programs (OSEP).

The State acknowledged that prior to the 2005-06 school year, no findings of noncompliance were made through the KCMP process: it was used exclusively as a continuous improvement activity. The findings for which DECS reported correction in its FFY 2005 APR were generated through limited on-site monitoring (10 of 176 LEAs in 2004-05), complaints and due process hearings. Beginning in the 2005-06 school year, DECS began requiring LEAs to self-identify noncompliance through the KCMP process.

The State reported that the KCMP is used to collect all APR compliance data except for Indicator 12, which is collected through census data.¹ Annually, each LEA, including the School for the Deaf and the School for the Blind, receives a KCMP template from DECS pre-populated with child count, assessment, and graduation/dropout data specific to that LEA. The LEA then convenes a District Review Team (DRT), comprised of parents of students with disabilities, district and building level administrators and teachers, to collect other data required by the APR. Each DRT must randomly review at least ten percent of the LEA's student records. If there are fewer than ten students whose records are relevant to an indicator, then the LEA must review all relevant records. The data are loaded into the KCMP and analyzed by the DRT to make the initial identification of noncompliance and/or areas of poor performance.

¹ Indicator 12 measures the percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.

DECS staff reported that LEAs are directed to report noncompliance in the KCMP and develop an improvement plan for any requirement where the data demonstrate less than 100% compliance.

As described, each LEA electronically submits the KCMP report with all required quantifiable data to DECS by November 15th of each year. The KCMP report is also provided to the State's eleven education cooperatives that work closely with LEAs to correct data anomalies, analyze the data, identify noncompliance and develop corrective action and/or improvement plans. By January 30 of the following year, the LEA resubmits the KCMP, with data analysis, identification of noncompliance and correction and improvement activities.

Over the next several months, DECS staff reviews each KCMP to ensure collection and analysis of all required self-assessment data and to evaluate corrective actions proposed by the LEA. In May, DECS issues letters to each LEA in which it provides "specific feedback" regarding the LEA's January 30 KCMP submission.

OSEP reviewed 17 of the letters issued in May 2008. Each letter included a one page KCMP Review Document that provided DECS' response to the LEA for each of the KCMP indicators. The Review Document is in a grid format that includes 18 coded columns, each representing a specific KCMP Indicator. The Review Document included three broad categories – "General," "Explanation of Data," and "Plan for Improvement or Maintenance." Under "Plan for Improvement or Maintenance" the State specified the level of noncompliance under each KCMP indicator. If the LEA achieved 100% compliance with an indicator, a rating of "C" was assigned. If the LEA achieved a level of at least 95% but less than 100%, a rating of "S" was assigned to signify "substantial compliance" with that indicator. The letters to the LEAs included a statement that "any rating of less than 100% should have an improvement plan outlined, while LEAs in full compliance should have a maintenance plan." The letters also revealed that LEAs with less than 95% compliance received either a plus or a minus to indicate the acceptability of the improvement plan submitted. If a KCMP indicator received a minus, the LEA was required to "look carefully at the data analysis to make sure that the improvement plan is designed to improve district performance." The letters further directed LEAs to "revise the current KCMP document within 30 days to ensure that adequate data analysis and/or improvement planning occurs." The letters also included the statement that the LEAs were to correct all areas of noncompliance within one calendar year. DECS did not require resubmission of the revised improvement plans but the letters stated that "the LEA may be asked to produce the revised KCMP improvement plan later if the LEA is selected for a desk audit or verification visit."

On-Site Verification Visits

OSEP reviewed eight on-site visit verification reports that identified LEA strengths, concerns, conclusions and "questions still to be answered". Although some reports described noncompliance under an indicator and included improvement plans and cited State regulations, none of the reports reviewed by OSEP specifically stated that the LEA was in noncompliance. This raises concerns about the sufficiency of notice to the LEAs regarding the timely correction of noncompliance.

The State also reported that it employs on-site management audits to identify noncompliance. A management audit is a comprehensive review of multiple LEA programs, including special education. Occasionally, personnel from DECS are included on the KDE management audit team. When DECS staff participates in the audit, they review 618 data, submitted KCMP data and student files. A copy of the final audit report is sent to the special education coordinator for the LEA, to the DECS staff, and to the special education cooperative if there is a finding of noncompliance relative to special education in the audit. As with the KCMP, DECS staff must approve the corrective actions submitted by the LEA in response to a management audit. Approval of the corrective action plan by DECS formally begins the one year timeline for correction of noncompliance. KDE may initiate five to six audits each year. DECS staff reported that one management audit in FFY 2006 resulted in findings of noncompliance related to special education. DECS staff reported that all findings, except for one, were corrected within one year and that all findings identified through the management audit are reported in the APR. DECS staff also reported that technical assistance was provided to ensure subsequent correction of that finding.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State has a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components. OSEP is concerned about the sufficiency of the notice that the LEA is in noncompliance with specific requirements. OSEP cannot, however, 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

OSEP is available for technical assistance regarding best practices with regard to notices to LEAs. No further action is required.

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?

Verification Visit Details and Analysis

In its FFY 2006 APR, the State's reported performance on Indicator 15, the timely correction of noncompliance identified in FFY 2005, was 64.92%. These data represented slippage from the FFY 2005 data of 84.7%. The State did not report on any program-specific follow-up activities related to the uncorrected noncompliance in the FFY 2006 APR.

As discussed above in Critical Element 1, KDE uses the KCMP to collect data for each of its 176 LEAs annually. Each LEA self-identifies noncompliance and develops improvement plans to address this noncompliance. The KCMP protocol states that where there is less than 100% compliance with the requirements for an indicator, the LEA should have an improvement plan outlined. LEAs with less than 95% compliance receive either a plus or minus to indicate the acceptability of the improvement plan submitted for DECS review. Each LEA submits its KCMP,

including data analysis and improvement plans, on January 30 of each year. In the following May, KDE responds, with written notification and specific feedback regarding each KCMP indicator.

OSEP reviewed a sample of 17 letters, dated May 9, 2008, that are intended to provide specific feedback from KDE to the LEA on the KCMP. Each letter included language that described the KCMP process, provided interpretation of the attached “KCMP Review Document” and indicated that all noncompliance must be corrected within “one calendar year.” In addition, under each compliance indicator in the KCMP monitoring tool, the language stated that “since this is a compliance indicator, the LEA must maintain or attain 100% compliance. Plans for improvement must be designed to correct any noncompliance within one year.” DECS staff reported that the LEA must demonstrate correction of any noncompliance in its subsequent KCMP submission, the following January.

Of the 17 LEAs reviewed by OSEP, seven had noncompliance that had not been corrected for two years, and two had noncompliance that had persisted for three years. Although letters to these LEAs with longstanding noncompliance stated that failure to correct noncompliance within one year “may result in sanctions,” there was no documentation in the letters that indicated that sanctions or other actions had been taken to ensure that these LEAs had corrected the longstanding noncompliance.

DECS staff told OSEP that it had conducted on-site monitoring visits during 2006 and 2007. OSEP reviewed eight on-site monitoring reports submitted by the State. For five of the eight LEAs – Covington Independent, Pulaski County, Madison County, Laurel County and Simpson County -- OSEP verified that the LEAs submitted corrective action plans and that the State issued letters to these LEAs notifying them that noncompliance had been timely corrected. However, documentation submitted to OSEP for three of the eight on-site monitoring reports (Carter County, Clark County and Cloverport Independent) did not include final close out letters to indicate that the noncompliance was corrected in a timely manner.²

The Kentucky Administrative Regulations at 707 KAR 1.002 (Section 4) state that KDE’s corrective activities to correct noncompliance shall include consultation, training, technical assistance and assignment of a mentor to correct noncompliance and that sanctions are not lifted until correction is verified by KDE. State staff reported that sanctions may be imposed if an LEA has not achieved compliance within one year of identification. The first level of sanctions includes targeted technical assistance provided through both the DECS staff and special education cooperative personnel that collaboratively review and track the LEA’s implementation of a corrective action plan before further sanctions are applied. The State reported that if an LEA does not achieve compliance by the deadline that the State specifies, the State may direct the LEA to use a portion of its Part B funds for activities designed to correct the noncompliance.

² In an email to OSEP dated February 23, 2009, DECS staff reported that the Clark, Carter and Cloverport districts were verbally notified by DECS staff that all noncompliance identified during the 2006-2007 monitoring visit had been corrected within the one year time frame.

State staff reported that the State assigns each LEA to one of 11 special education cooperatives. Each cooperative includes a special education specialist who meets with the LEA monthly to review progress on areas targeted in the KCMP, including the CAP. State staff reported that a range of activities is currently used to help LEA's correct noncompliance within one year of identification including assisting the LEA to collect, analyze and submit documentation required by the CAP, training, and monthly consultation with the LEA staff and the regional special education co-op representative. State staff reported that these methods have resulted in improved correction data for targeted LEAs that will be reported in the FFY 2008 APR, due February 1, 2010.

OSEP Conclusions

In order to effectively monitor the implementation of Part B of the IDEA by LEAs in the State, the State must ensure that all identified noncompliance is corrected in a timely manner. Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that the State does not have a system that ensures timely correction of all identified noncompliance. Although the State's oversight of the KCMP corrective action plans has resulted in the reporting of some timely correction, in several of the May 2008 KCMP analysis reports reviewed by OSEP, the State reported that an LEA had noncompliance that was not timely corrected and in several instances the noncompliance dated back two or three years. See, 34 CFR §300.600. In addition, OSEP is concerned that in three of eight on-site monitoring reports submitted by the State for review, there was no written notice to the LEA to indicate that identified noncompliance had been timely corrected or the basis for that conclusion. See, 20 U.S.C. 1232f. OSEP believes that the State has not demonstrated that it has a system that is reasonably designed to ensure correction of all identified noncompliance in a timely manner. OSEP did not collect data at the local level to determine whether the State's procedures for verifying timely correction of noncompliance are fully effective.

Required Actions/Next Steps

With its FFY 2008 APR, due February 1, 2010, the State must:

Describe the State's policies, procedures and practices to ensure that LEAs correct identified noncompliance in a timely manner and for documenting the conclusion by DECS that noncompliance was timely corrected. If the LEA does not correct identified noncompliance in a timely manner, the State must describe the steps used by the State to ensure subsequent correction including a description of the specific enforcement activities taken against any LEA program with longstanding noncompliance.

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 Complaint System

In its FFY 2006 APR, KDE reported that 100 percent (26 of 26) signed written complaints filed with the State were resolved within the 60-day timeline or a properly extended timeline. The State reported twenty-one reports were resolved within the 60-day timelines and five within properly extended timelines. OSEP's on-site review of the State complaint log and files verified the accuracy of these data.

The State posts its complaint request form on the KDE website. The website directs the complainant to mail the completed form to the DECS office. State staff reported that written State complaint requests are date stamped, catalogued and forwarded to the LEA when the complaint is received in the DECS office. The LEA has the opportunity to conduct a self-investigation. The LEA investigation must be completed within 20 calendar days. The written findings and supporting documentation are sent to DECS. Typically, the LEA writes the letter of findings but the report must be approved by DECS. If the LEA fails to complete the investigation within 20 days, DECS completes the investigation. Where there are findings of noncompliance, DECS staff monitors the corrective actions to ensure that they are implemented.

Due Process Hearings

In its 2006 APR, the State reported that 25 hearings were requested in FFY 2006. Of the 25 hearings, 15 resolution sessions were held within 15 days of the filing of a due process hearing. Settlement agreements were reached for 12 of the 15 hearings that went to resolution sessions. Ten of the remaining 13 requests were resolved without going to hearing.

The State's FFY 2006 APR reported data for Indicator 17 was 33% based on three due process hearings. OSEP reviewed the State's FFY 2006 APR, Table 7, the State's due process log and each of the due process hearing files to verify the data the State reported in the FFY 2006 APR. Of the three due process hearings reported in the FFY 2006 APR, one was fully adjudicated within a timeline properly extended at the request of the parties, by the hearing officer, and properly documented. The other two due process cases were filed by the same party and involved the same student and LEA. The two hearings were assigned to one hearing officer and were combined into one proceeding. In extending timelines at the request of the parties, staff reported that the hearing officer mistakenly ordered the timeline extended to the hearing date, not the date the hearing decision was to be rendered.

To remedy the noncompliance, DECS sent notices to all hearing officers regarding extensions of timelines that comply with IDEA, along with a sample Pre-hearing Order that will assist hearing officers in complying with the timeline requirement. Further, the hearing officer whose error caused the noncompliance has been notified and advised that the mistake has caused KDE to be in violation of IDEA's provision on the timeliness of hearing decisions.

DECS staff reported that it provides redacted copies of due process hearing decisions to the State Advisory Board as required under 34 CFR §300.513(d)(1). The due process hearing decisions are available to the public only when requested through the mechanism set up under the State's

Freedom of Information Act (FOIA). This policy does not meet the requirement under 34 CFR §300.513(d)(2) to make the findings and decisions available to the public.

OSEP Conclusions

The State reported that it has provided training to all hearing officers to ensure full compliance with 34 CFR §300.511 which requires that continuances are granted by the hearing officer for a specific period of time at the request of a party. The State should review and, if appropriate, revise its improvement activities regarding extension of timelines to ensure full compliance with the due process requirements in the FFY 2008 APR.

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that the State's policy and practice of requiring the public to rely on the State FOIA request mechanism to access due process findings and decisions is inconsistent with the requirement at 34 CFR §300.513(d)(2).

Required Actions/Next Steps

In the FFY 2008 APR, due February 1, 2010, the State must provide documentation that:

The State has established appropriate procedures to make due process findings and decisions available to the public as set forth in 34 CFR §300.513(d), i.e., that do not rely on the State's FOIA process. Appropriate procedures include, but are not limited to, posting of redacted findings and decisions on the state website and distribution of findings and decisions to advocacy groups and other interested stakeholders.

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?

As described, eleven special education cooperatives work collaboratively statewide to ensure that each LEA has access to personnel in order to provide technical assistance for aligning State initiatives and special education mandates into cohesive training and improvement activities. The cooperative personnel are supervised by Larry Taylor, DECS director, and meet monthly to review LEA data and related improvement activities. Cooperative personnel provide specific feedback to assigned DRTs during the development of the KCMP. Throughout the school year, the focus is the SPP/APR and the other statewide initiatives such as literacy, graduation, transition and the improvement of assessment outcomes.

OSEP has awarded KDE a State Personnel Development Grant (SPDG) focused on positive behavioral interventions and supports (PBIS), improved post secondary outcomes, improved outcomes for students with low incidence disabilities, recruitment and retention of teachers and early childhood transition.

Staff reported that there is State-funded preschool for children at least age four. These programs also serve children with disabilities ages three or four. In addition, the State indicated that it

works closely with Headstart and many of the Headstart programs are located in local schools. LEAs also support 11 parent education and resource centers that provide information and support to parents of exceptional children. The State preschool program was described as working closely with State's Part C program to develop the State continuous assessment system for all preschool children. By 2010, the State intends for all LEAs to participate in the preschool assessment programs.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with 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 further 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 Determinations

As part of its monitoring and enforcement responsibilities under section 616 of the IDEA and 34 CFR §300.600(a), each 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. DECS meets this reporting requirement by posting a PDF document on its website, where the State reports each LEA's performance against targets in the State's SPP. Staff indicated that prior to making the reports available to the public, the State provides each LEA with a copy of its report and affords the LEA an opportunity to correct inaccurate data.

As described, DECS developed criteria for making local determinations with its stakeholders and in conformance with the requirements under section 616 of the IDEA and 34 CFR §§300.603 and 300.604. OSEP reviewed KDE's February 2008 determination letter to an LEA that included the criteria under which determinations were made, the LEA's determination and available technical assistance resources.

Significant Disproportionality and CEIS

During the verification visit, the State reported that it has established a risk ratio of 3.0-3.99 as the threshold for significant disproportionality. State staff reported that four LEAs were identified as having significant disproportionality based on the identification of children with disabilities in racial and ethnic groups in special education and specific disability categories. The State reported

that it will require each of these LEAs to reserve 15 percent of its 2009-2010 funds. However, the State told OSEP that it had not included the placement of these children in particular educational settings, and the incidence, duration, and type of disciplinary actions, in accordance with 34 CFR §300.646(a), in its determination of significant disproportionality.

DECS staff told OSEP that if it makes a determination of significant disproportionality based on its examination of an LEA's data, it requires the LEA to conduct a review, and if appropriate, revision of policies, procedures, and practices used in identification of children with disabilities; to reserve 15% of Part B funds for CEIS; and to report publicly on the revision of policies, procedures, and practices related to the identification of students with disabilities. The State reported that beginning with the FFY 2007 APR, the State will be working with the National Center for Culturally Responsive Educational Systems (NCCRESt), an OSEP funded technical assistance provider, and will require LEAs to use the abbreviated NCCRESt tool to review, and if appropriate, revise policies, practices and procedures used in identification or placement to ensure that the policies, procedures and practices comply with the requirements of Part B of the IDEA as required at 34 CFR §300.646(b)(1).

Equitable Participation of Parentally-Placed Private School Students with Disabilities

The State reported that it requires each LEA to sign an assurance each year certifying that the LEA ensures notice and an opportunity for private schools to participate in a consultation process related to the use of designated Part B funds. The State requires that each LEA maintain a file containing documentation of the consultation held with private schools and the notices regarding the availability of funds for services to eligible special education students who are parentally-placed in private school. The proportionate share is pre-calculated by the State data manager based on each LEA's December 1 child count data from the previous year. Each LEA signs an assurance that the LEA complies with the requirements related to the use of IDEA funds to provide services to parentally-placed private school students with disabilities.

NIMAS

The State reported that it 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. The State has required each LEA to identify a digital rights manager to ensure that children with visual disabilities receive instructional materials in accessible formats in a timely manner. All materials, service requests and related information are maintained through a collaborative relationship with the State Center for Innovation and Instruction for Diverse Learning and the LEA digital rights manager. The State monitors compliance with NIMAS requirements through the Comprehensive District Improvement Plan (CDIP).

Assessments

KDE assessments are based on the Commonwealth Accountability Testing System (CATS). The CATS includes the Kentucky Core Content Test, writing portfolios and prompts, alternate assessments for students with severe to profound disabilities. In the FFY 2006 APR, the State reported that the Kentucky Core Content Test (KCCT) was under revision to meet all No Child

Left Behind (NCLB) testing requirements and to address the noncompliance issues related to IDEA. Consequently, the State was not able to fully report all of the assessment data required under Indicator 3 in the FFY 2006 APR.³

At the time of the verification visit, the State indicated that it will fully report all required assessment data for Indicator 3, in the FFY 2007 APR. To ensure LEA compliance with the Part B requirements for Statewide assessments, the DECS staff works with the State assessment office, special education cooperative personnel and 13 “achievement gap coordinators” to conduct annual on-site monitoring during testing and on-going professional development. As described, State assessment results are reviewed to target schools and LEAs by “tiers of need”. Targeted assistance activities are incorporated into and monitored through the KCMP and all revisions have included stakeholder input.

The FFY 2003 through FFY 2008 grant awards under Part B of the IDEA were issued to Kentucky with Special Conditions that addressed requirements related to reporting on participation and performance of students with disabilities on State assessments. The FFY 2008 Special Conditions were based on OSEP’s conclusions that the State’s website did not contain information demonstrating that the State publicly reports, in its district and school level reports, on the number of students with disabilities participating in the alternate assessment and that the State had not disaggregated the numbers of students with disabilities participating on the regular assessment with and without accommodations. The Special Conditions required that by May 15, 2009, the State publicly report with the same frequency and in the same detail (i.e., in its Statewide, LEA and school reports) the disaggregated numbers of students with disabilities, if any, who participated in the: 1) regular assessment and the number of those who were provided accommodations that did not result in an invalid score; 2) alternate assessment based on grade-level academic achievement standards; 3) alternate assessment based on modified academic achievement standards; and 4) alternate assessment based on alternate academic achievement standards as required 20 U.S.C. 1412(a)(16), 34 CFR §300.160 and §300.139(a)(2).

Based on a review of the information posted on the State’s Web site, OSEP has concluded that KDE has met the requirements of the FFY 2008 Special Conditions. This determination is based on OSEP’s review of the following:

1. The State website at <http://applications.kde.state.ky.us/oet/CATSReportsArchive/> provides data demonstrating that the State is reporting to the public on the participation and performance of children on alternate assessment based on alternate academic achievement standards with the same frequency and in the same detail (State, district and school level) as it reports on the assessment of nondisabled children, and;
2. Written confirmation from the State that the State does not use alternate assessments based on grade-level academic standards or alternate assessments based on modified academic standards.

³ Indicator 3 measures the participation and performance of children with disabilities on statewide assessments.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that at the time of OSEP's visit, the State did not have procedures and practices reasonably designed to determine significant disproportionality based on race and ethnicity in the placement of students with disabilities in particular educational settings, and the incidence, duration, and type of disciplinary actions, in accordance with 34 CFR §300.646(a). With regard to assessments, the State was able to demonstrate that it had publicly reported on the number of special education students participating in the regular assessment with and without accommodations and on the number of children participating in the alternate assessment based on alternate academic standards. OSEP determined that the other procedures and practices were reasonably designed to implement the selected grant assurances (i.e., public reporting, private schools, CEIS, NIMAS)

Required Actions/Next Steps

With its FFY 2008 APR, due February 1, 2010, the State must demonstrate that it collects and examines data to determine if significant disproportionality based on race and ethnicity is occurring in the State and LEAs with respect to the placement of students with disabilities in particular educational settings, and the incidence, duration, and type of disciplinary actions, in accordance with 34 CFR §300.646(a).

II. Data

Verification Visit Details and Analysis

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?

As described, State data are collected by LEAs and submitted in both the KCMP and through the Infinite Campus student information system. Each LEA director of special education is assigned a password that must be used to upload a data file. The special education director is required to review the data for accuracy before submission. The file sender receives a confirmation via e-mail when a data file is uploaded. The e-mail verifies timely and accurate submission of data to the State.

The State reported that KCMP data are electronically submitted as part of the LEA self-assessment. The KCMP is pre-populated with LEA level student demographic information, exiting, child count, graduation and other relevant data by the State data manager. For selected LEAs, DECS staff verifies KCMP data during on-site monitoring visits. The State data manager also verifies LEA data submissions by comparing it to the previous year data submission. Fluctuation in reported data of more than ten percent triggers an inquiry by the data manager. This rule applies across all data categories and to any subgroups within data categories (e.g. race or disability). Any errors in the child count data result in removal of the child's name from the overall child count. This provides an incentive for the LEA to work closely with the State data

manager to ensure data accuracy. Kentucky reported all required 618 data through the Department of Education's Education Data Exchange Network (EDEN) system during the 2007-08 and 2008-09 years.

Staff also described the Infinite Campus system, a new student information system currently being phased in throughout the State to maintain student and staff data for all State reporting requirements. It enables schools to maintain student information for all State reporting requirements. Student data, such as IEPs, will be managed through a centralized data base providing real time information to users authorized to view the data. Any changes to data in the system can be immediately viewed by all authorized users. For security purposes, each director of special education must use a password to transfer a data file. The file sender receives a confirmation e-mail when a file is uploaded. The confirmation e-mail is used to track the timely submission of data.

As reported, the DECS data manager conducts training and on-site visits throughout the year to improve data accuracy and validity. Training information is available on the State's Web site and includes both past and upcoming training documents related to data collection. Participants may view training catalogs and register for sessions on-line.

In the FFY 2006 APR, the State reported that it was not confident that the data related to Indicator 4a -- suspensions and expulsions of children with disabilities for greater than 10 days in a school year -- were valid and reliable due to fluctuations in the suspension data reported in the State's APR. OSEP directed the State to review, and if appropriate, revise its policies, procedures and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure compliance with the IDEA for: (1) the LEAs identified as having significant discrepancies in the FFY 2005 APR; and (2) the LEAs identified as having significant discrepancies in the FFY 2006 APR in the FFY 2007 APR.

In the State's February 2, 2009 Annual Performance Report (APR), Kentucky reported that all Kentucky school districts revised their policies and procedures in FFY 2007 to align with IDEA 2004 and Kentucky's new special education regulations. The State revised its definition of significant discrepancy for this indicator and recalculated FFY 2005 and FFY 2006 data using the revised definition. In OSEP's June 1, 2009 APR response letter to the State, OSEP accepted the revisions.

The data for Indicator 4a are collected by the LEAs as part of their 618 data submissions. The State data manager indicated that until recently, State law prohibited students from being suspended for over 10 days. Subsequent to this law's repeal, LEAs have been permitted to suspend students for more than ten days and the State has collected data for students with disabilities that have been suspended for over 10 days. The State will now use the number of LEAs exceeding the State average to calculate compliance for this indicator. The State provided all required data for APR Indicator 4a, suspensions and expulsions of children with disabilities for greater than 10 days in a school year, in the FFY 2007 APR.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds 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 in a manner that is consistent with Part B.

Required Actions/Next Steps

No further action is required.

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 that data it collects and reports reflect actual practice and performance by using a system of checks and balances and training personnel at all levels. Data collectors at the school level receive training throughout the year. At the local level, data are reviewed by data input personnel and approved by local superintendents before submission to the State data system. Internal edits control for errors. In addition, the data manager compares submitted data files to the previous year's data files and flags changes of ten percent or more and requires an explanation from the LEA. In addition, the State selects a sample of records to compare with data submitted in the KCMP during on-site monitoring visits.

The State also reported that it sponsors a special education advisory group for Infinite Campus. The group ensures that the student information system addresses the special education needs of LEAs and DECS. The group makes sure that the required data are timely corrected and accurately reported. The group also works with the vendor to design enhancements to the system as they are needed.

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 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 in a manner that is consistent with Part B.

Required Actions/Next Steps

No further 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?

As described, the State uses its data system for continuous improvement, monitoring, technical assistance, and ongoing support for LEAs. LEAs use the data reported in the KCMP to develop district-wide and local school improvement activities. All authorized users of the data system can immediately see any changes made regarding a student file allowing the user to make an accurate, real-time analysis of student files. The State uses its data systems to make decisions about focused monitoring goals and compliance with other Statewide initiatives. KDE's Web site contains the public reporting data and information required by 34 CFR §300.602.

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 further action is required.

III. Fiscal

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

Each LEA applies for Federal funds through the Comprehensive District Improvement Plan. The CDIP submission includes assurances that the LEA will comply with all requirements related to the use of Federal funds. Funding allocations for each Federal program are calculated by the State. All assurances must be signed by the LEA superintendent and are due to the State by June 30, and award notices are electronically released to the LEA by the second week in July. The LEA posts budget requests, by code, by late July. The State checks the budget to make sure it corresponds to allocations and allowable costs. The funding system disallows any inaccurate or ineligible code submitted in the budget. An LEA must submit justification to the finance office for the use of IDEA funds to make any purchase over five thousand dollars. The State finance data system monitors LEA use of funds and will "red flag" an LEA when funds are not drawn down in a timely manner or if there is an excessive draw down of funds. LEAs can draw down

funds on a monthly basis and must submit a monthly expenditure report. Notices are sent to LEAs in June of each year if the LEA fails to obligate all budgeted funds. The State provides a system of “finance field offices” to provide appropriate oversight and technical assistance to LEAs regarding Federal fund expenditures.

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 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 implements 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

As described, each CDIP application for funds submitted by the District includes assurances regarding maintenance of effort, supplement and nonsupplant requirements and excess cost. The Non-supplanting and Excess Cost Report section of the CDIP is completed with data entered by both the KDE staff and data added by the district. The form is self-calculating and is used by KDE to monitor compliance with state and federal financial requirements across various programs. If dollar amounts entered in the district’s proposed budget violate rules regarding supplement/nonsupplanting or maintenance of effort requirements, the cells turn red on the submission form. The district finance officer works with the district director of special education to correct flagged errors. Any LEA adjustment to maintenance of effort must be sent with an explanation to the State data manager. The State data manager compares the justification to allowed exceptions in 34 CFR §300.204 to determine whether the LEA is meeting the maintenance of effort requirements. The State finance staff reported that all distributions of IDEA funds are timely.

The KDE also reported that it provides information and trains district personnel regarding the CDIP application process each year. These activities include a description of how Part B funds must be used consistent with the Part B regulations. DECS staff reported that state auditors also review State and district financial systems to ensure appropriate use of Part B funds.

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 implements fiscal procedures that ensures appropriate distribution of IDEA funds.

Required Actions/Next Steps

No further action is required.

Critical Element 3: Appropriate Use of IDEA Funds

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

Verification Visit Details and Analysis

As noted above, the State reported that it ensures that LEAs use Part B funds to supplement and not supplant State, local and other Federal funds through the CDIP application assurances and State audits. The State calculates the IDEA Part B fund allocations for each LEA. An LEA seeking to adjust its MOE must submit a written request, with reasons and documentation that demonstrate exceptions as outlined in 34 CFR §300.204, for approval by the State. KDE staff provides technical assistance to districts regarding the Part B financial requirements.

The DECS staff reported that it works closely with the State finance office. That office has the responsibility for ensuring the appropriate use of IDEA funds and closely monitors Part B expenditures by every LEA. All funds flowing into the State receive a separate funding code which the State uses to track both Part B and other funds. The State finance office ensures, through monthly review, that each LEA's expenditures are consistent with the LEA's approved budget. If the finance office finds a pattern of inconsistencies in reporting by a particular LEA, that LEA may be selected for a management audit which includes a review of the LEAs overall governance and operational performance. DECS staff reported that any findings made during a management audit specific to IDEA funds require a corrective action plan and correction of the identified noncompliance within one year of the finding(s).

Staff reported that before LEAs are required to submit their Part B applications, the State notifies LEAs identified with significant disproportionality under 34 CFR §300.646 and precalculates the 15% of their total Part B subgrant that the district must set aside for CEIS. LEA accounts are monitored by KDE staff to ensure appropriate expenditure of the 15% set-aside.

All funds within the State receive a separate funding code that the State uses to track both Part B and other Federal funds. Part B funds are designated by specific codes that are used in the LEA's budget request. Codes that are not appropriately applied for payment are disallowed by the finance office. Any LEA expenditure of over five thousand dollars requires review and approval from the finance office. DECS staff reported that State and district level audits are sent to DECS if there are issues identified related to Part B funds. LEA audits are also posted on the KDE website. Fiscal staff has not identified any barriers impeding the ability to exercise fiscal control.

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 the 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 the timely obligation and liquidation of IDEA funds.

Required Actions/Next Steps

No further action is required.