

**South Carolina Part B 2008 Verification Visit Letter
Enclosure**

I. General Supervision System

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

When OSEP conducted its first verification visit to South Carolina in 2003, the State was implementing a cyclical monitoring process in which it conducted an on-site visit, including folder reviews, to each district/agency, State Operated Programs (SOPs), and Head Start Programs once every four years. During the 2008 verification visit, the State informed OSEP that the 2003-2004 school year was the last year in which it conducted cyclical monitoring visits, visiting 22 of the State's 85 districts.¹

During the 2004-2005 school year, the State, with the assistance of the National Center for Special Education Accountability and Monitoring (NCSEAM) and a diverse group of stakeholders, developed a focused monitoring system to improve the performance of students with disabilities, and identified issues of noncompliance within school districts. The State's priority areas were reading achievement at the fourth and eighth grade levels and graduation with a regular State high school diploma. The State monitored ten school districts during the 2004-2005 school year, selecting the four lowest performing districts for each of the two priority areas, and an additional two districts at random. In these visits, the State primarily focused on improving outcomes for students with disabilities with respect to reading achievement and graduation. While on-site, the State also collected data to determine whether the district was in compliance with a number of IDEA requirements listed in the State's monitoring manual checklist. The focused monitoring procedures provided that, following the on-site focused monitoring visit, the State would continue to work with each district for three years. Such follow-up was to include on-site visits focused, as appropriate, on improving student results and/or ensuring the correction of noncompliance within one year from identification. The State conducted follow-up visits to the ten districts during the 2005-2006 school year. The State reported that it also followed up with those ten districts during the 2006-2007 school year, and conducted on-site visits to some of them. The State has continued to follow up with the ten districts that received focused reviews during the 2004-2005 school year, but has not conducted any focused reviews since then for any other districts.

The State required all districts to submit FFY 2005 data through a web application survey in November and December 2006 for Indicators 11 and 13, respectively. The State collected FFY 2005 data reports from all districts for Indicator 12 through spreadsheets due in November 2006. The State informed OSEP that it provided each district with a copy of its compliance

¹ With the opening of the new statewide charter school local educational agency (LEA) during the fall of 2008, South Carolina now has 86 school districts.

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data during its Spring Administrators Training in 2006 and informed the administrators orally that each district needed to correct any noncompliance for Indicators 11, 12 and/or 13. The State confirmed that it did not make any written findings of noncompliance based on the FFY 2005 data that districts submitted for Indicators 11, 12, or 13, regardless of the extent of noncompliance. OSEP confirmed this in its review of the monitoring files and FFY 2005 compliance data for eight districts that OSEP selected. During FFY 2005, the State also identified noncompliance through State complaints, its review of district profiles, and as part of its focused monitoring follow-up visits.

The State required all districts to submit FFY 2006 compliance data for Indicators 11, 12, and 13 through a web application survey in January 2008. Based on its December 1, 2006 child count, the State identified districts with disproportionate representation and required them to complete a folder review, focusing on referral, evaluation, and identification of students with disabilities, to determine if the disproportionality was the result of inappropriate identification. The State informed OSEP that it issued letters to all districts on June 27, 2008, citing their FFY 2006 compliance data for Indicators 9–13. In those letters, the State made a finding of noncompliance for any indicator in which the district's data were lower than 95%, and required correction within one year from the date of the letter. The State further required the district to complete sections of the self-assessment that relate to the indicators in which the State made a finding of noncompliance, and submit that information to the State's regional representative. If a district was at 95% compliance or greater on these indicators, the State indicated in the letter that the district was in compliance and that no correction was required. Subsequent to the verification visit, the State reported to OSEP that it notified districts on September 25, 2008 (one week after OSEP's verification visit), during the annual Fall Administrators Conference, that districts with 95% or above (but not 100%) on the compliance indicators were at a substantial degree of compliance, but were still considered to be out of compliance. The State then sent letters of notification to those districts in October 2008, in which it made formal findings of noncompliance and informed the districts that they must correct the noncompliance within one year from the date of the letters.

The State reported that it would use the Online database to conduct the first data pull for compliance Indicators 9-13 for FFY 2007 in November 2008 to identify noncompliance for all districts. After the November 2008 data pull, the State would begin to conduct quarterly data pulls in January 2009. The State explained that it would not only be able to collect the data through the Online system, but would also be able to monitor progress for those indicators through quarterly reviews of the data.

The State informed OSEP that it conducts bi-monthly meetings with the general supervision team, coordinators for the Office of Exceptional Children, and the dispute resolution team to discuss issues across the State, and to identify districts in need of an on-site visit and/or other methods of follow-up or verification such as desk-audits, data review, follow-up calls with the district, etc. After the OSEP verification visit, the State informed OSEP that in October 2008 it identified four districts that would receive on-site visits before the end of the calendar year.

The Office of Finance annually conducts external audits on each district. The State reported that, if the Office of Finance identifies concerns related to noncompliance in a district, then the Office of Finance generates a letter to the State. The State reported that the majority of concerns have not led to any findings of noncompliance that required correction. If the

independent auditor makes a finding of noncompliance, which has occurred in at least one district based on documentation that the State submitted to OSEP during the verification visit, the State requires the district to submit a corrective action plan to the State. For this particular district, the State scheduled an on-site verification review to determine whether the financial audit resulted in any procedural violations of IDEA.

South Carolina has a State Memorandum of Agreement (MOA) with the South Carolina Department of Social Services, and Head Start programs work with school districts to develop local MOAs to provide services for children with disabilities in these programs. Children with disabilities are counted by the district in which the program is located and the district is responsible for monitoring these programs

The State reported that the South Carolina Department of Juvenile Justice (SCDJJ) has a special education component with a special education director, and is responsible for ensuring compliance for students with individualized education programs (IEPs) located in those facilities. The Department of Corrections (DOC) also has a special education coordinator and hires special education teachers to ensure that students ages 18–21 entitled to a free appropriate public education (FAPE) receive the necessary special education and related services. While the State monitors SCDJJ and DOC in the same manner as other school districts in the State, it does not count these departments as one of the State's 86 school districts. The State reported that it addressed complaint allegations regarding these agencies through its State complaint process.

OSEP Conclusions

In order to effectively monitor implementation of Part B of the IDEA, as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State must identify noncompliance by issuing findings of noncompliance when the State obtains reliable data reflecting noncompliance with Part B requirements. Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes the State did not, at the time of the verification visit, have a general supervision system that identified noncompliance in a timely manner using its different components. Although the State collected district data during FFY 2005 related to the State performance plan (SPP) compliance Indicators 11, 12, and 13, and those data indicated noncompliance for many districts, the State did not make written findings notifying the districts of noncompliance. Further, the State did not make findings of noncompliance based on FFY 2006 data (data for the period of July 1, 2006 to June 30, 2007) until July 27, 2008.

OSEP also finds that the State's use of a percentage threshold of 95% or less for identifying noncompliance and requiring correction was inconsistent with Part B monitoring and correction requirements in IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E). OSEP notes that following the OSEP verification visit the State changed its procedures to require the identification of noncompliance whenever the State finds a compliance level of less than 100%. In October 2008, the State sent written findings of noncompliance to all districts with FFY 2006 compliance levels for Indicators 11, 12, or 13 of 95% or higher (but less than 100%), and required correction as soon as possible, and in no case later than one year from the date of identification of the noncompliance.

Required Actions/Next Steps

With its FFY 2008 APR, due February 1, 2010, the State must provide a written assurance that it: (1) makes findings of noncompliance without unreasonable delay from the date it has reliable data reflecting noncompliance; and (2) requires correction of all identified noncompliance, without regard to the compliance level of the program.

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

The State reported that it ensures the correction of noncompliance in a timely manner by requiring the affected district to send the State documentation of correction. The State outlines the required corrective action in the notification of finding that it sends to the district. The State then validates that the district has corrected the noncompliance. If the documentation that the district submits to the State meets the State's outline of the corrective action required to resolve the issue(s) of noncompliance, then the State determines that the district has corrected the noncompliance. If the State is not satisfied that the district has corrected the noncompliance, it will request additional information from the district. If more information is needed, the State will send the district another letter that outlines specifically what is required to resolve the issue(s) of noncompliance. Once the information is verified by State staff demonstrating the correction of noncompliance, the district is sent a letter closing out the noncompliance.

During the 2003-2004 school year, the State monitored 22 school districts, 11 of which corrected issues of noncompliance within one year. The State further reported in its 2006 APR, that 91% of the findings of noncompliance from 2003-2004 were corrected by the end of 2004-2005, and the State imposed financial sanctions on the two remaining districts that failed to correct issues of noncompliance in the area of suspension and expulsion. The State reported that one of these districts has corrected the noncompliance and the State is still working with the remaining district to clear the findings of noncompliance.

The Part B regulations in 34 CFR §§300.600 and 300.149 require that the State ensure that districts correct noncompliance in a timely manner. In its FFY 2006 APR, the State reported timely correction of 71% of FFY 2005 findings.

OSEP reviewed the State's complaint log and complaint files for eight selected districts, and found that, as confirmed by State staff, the State did not ensure two districts in FFY 2006 and one in FFY 2005 corrected findings of noncompliance within one year of the date of resolution. Subsequent to the verification visit, the State submitted documentation to OSEP demonstrating closure of the findings of noncompliance in one of the districts from FFY 2006.

OSEP learned that in the State's June 27, 2008 letters to districts notifying them of findings of noncompliance for Indicators 9–13 for FFY 2006, the State required each district to develop and submit for approval (through the regional representative) a Plan for Improving Children's Outcomes (PICO), similar to a corrective action plan. If the district is not in compliance with the requirements of the indicator, the district must develop a PICO in conjunction with technical assistance from their regional representative in order to correct the finding(s) of

noncompliance. The PICO's must describe measurable and sequential activities the district will undertake to correct the finding(s) of noncompliance. The PICO must also include specifics, such as staff responsible for implementation, benchmarks for progress monitoring, and evidence of correction. The State will conduct progress monitoring to determine correction of noncompliance for Indicators 9–13 when the district has two consecutive data pulls indicating that the noncompliance has been corrected. The State then notifies the district in writing that the noncompliance has been corrected.

The State currently has in place a graduated level system of sanctions that the State developed during the focused monitoring process. The first level includes a letter to the superintendent (certified mail with return receipt requested), district chief financial officer, and director of special education, requiring a response within specified timelines identified in the action plan. Level two includes targeted technical assistance at the expense of the district, a letter to the superintendent (certified mail with return receipt requested), with copies to school board members, district chief financial officer, and the district director of special education, and other sanctions as appropriate to the specific situation. If there is no evidence to verify that systemic changes are occurring after the third year, level three sanctions may be employed at the discretion of the State. These sanctions include a letter to the superintendent with copies to school board members, district chief financial officer, and district director of special education, and withholding of Part B funds. OSEP learned that the State has recently proposed a new set of sanctions/incentives that are aligned with the IDEA enforcement requirements in 34 CFR §300.604, and will be replacing the previous sanctions noted above as the State moves forward during the 2008-2009 school year and as the need arises.

The State reported that it has been working closely with three districts that have had long-standing noncompliance to ensure correction. The State informed OSEP that two of these districts recently cleared their findings of noncompliance. The State is still working with the last district by providing technical assistance and follow-up to ensure correction.

OSEP Conclusions

In order to effectively monitor implementation of Part B of the IDEA, as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State must ensure that identified noncompliance is corrected in a timely manner. Based on the review of documents, analysis of data, and interviews with State personnel, the State has not demonstrated that it has a general supervision system that is ensuring correction of identified noncompliance in a timely manner. The State's FFY 2006 APR reported that it corrected only 71% of identified FFY 2005 noncompliance within one year of identification. Additionally, the State failed to ensure that two of the FFY 2005 and FFY 2006 findings of noncompliance from the complaint files reviewed by OSEP were corrected in a timely manner.

Required Actions/Next Steps

As required by OSEP's June 2008 response to the State's FFY 2006 APR, the State must, in its FFY 2007 APR, due February 2, 2009, demonstrate that the State has corrected the remaining noncompliance identified in Indicator 15 from FFY 2004 and FFY 2005. In addition, the measurement table for the FFY 2007 APR, due February 2, 2009, requires that the State report on the timely correction of noncompliance identified in FFY 2006. To the extent that the State's documentation does not demonstrate correction of the FFY 2004 and 2005 findings, or the timely correction of FFY 2006 findings, the State must, with its FFY 2008 APR, due

February 1, 2010, provide documentation that it has corrected any remaining findings from FFY 2004, 2005 and 2006. In addition, the State must include with its FFY 2007 APR, its analysis of the reasons contributing to its failure to ensure: (1) timely correction of identified noncompliance; and (2) subsequent correction for findings not timely corrected, and its plan for addressing those barriers.

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

SCDE's Office of General Counsel (OGC) has the responsibility of tracking timelines and collecting data concerning State complaints, mediation, and due process hearings through Access databases. The State and districts can pull a variety of different reports from the current Access databases, including but not limited to, reports on individual local and state-level due process hearing officers; school districts; periods of time; and individual complaint investigation, mediation, and hearing requests. In an effort to engage in alternate dispute resolution methods, the State employs a full-time ombudsperson to assist parents of children with disabilities to resolve conflicts in a more expeditious manner.

State Complaints

The State reported that the State's complaint process models the requirements set forth in the IDEA. If the State determines, through the State complaint process, that a violation of Federal or State requirements occurred, the written decision includes the corrective actions the school district or agency must take to address how to remediate the denial of any services, including as appropriate, awarding monetary reimbursement, compensatory services, or other corrective actions appropriate to meet the needs of the child and the appropriate future provision of services for all students with disabilities, including any other similarly-situated students. The State's written decision will also include timelines for completing any corrective action(s) set forth in the written decision. When the State issues a written decision that identifies a violation, the State requires the school district or agency to submit documentation verifying the completion of the corrective actions. The State reported that all issues of noncompliance must be corrected as soon as possible, but no later than one year from the date of notification of the noncompliance (i.e., the date of the complaint decision). The State reviews the steps taken and determines if the actions satisfy the requirements. If the action(s) taken by the school district or agency satisfy the corrective action(s), the State will provide written notice to the parties and close the complaint.

The State further reported that if the district's actions do not satisfactorily correct the identified issues of noncompliance, the State works closely with the district to determine why the actions taken did not achieve the required results and determine additional strategies to meet the necessary requirements. If the district does not make a good faith effort to complete the corrective actions and correct the identified issues of noncompliance, the State will review the situation to determine if the State should provide the school district with written notice of enforcement sanctions.

As reported in its FFY 2006 APR, the percentage of complaint decisions that the State issued within 60 days or an appropriately extended timeline was 87.18% for FFY 2006 (the 2006-

2007 school year). OSEP's review of complaint logs for eight selected districts showed that the State did not meet the 60-day timeline for one complaint in one of those districts during FFY 2006. OSEP reviewed the State's complaint log for FFY 2007 and determined that the State was timely resolving complaints, as required by 34 CFR §300.152. The State attributes the improvement in compliance to the addition of personnel within the OGC.

Due Process Hearings

South Carolina has a two-tier due process hearing system. The requirements for the first tier, which the State refers to as a local-level due process hearing, are aligned with the requirements set forth in the IDEA, as are the requirements for the qualifications for hearing officers. The State monitors timelines and compliance with all procedural requirements throughout the process. If either party is aggrieved by the decision issued by the local due process hearing officer, the party has the right to appeal and request a State-level administrative review. The State appoints the State-level administrative review officer, who is required to issue a decision within 30 calendar days of the State's receipt of the appeal. Either party has the right to appeal the State-level decision to a court of competent jurisdiction. The State reported that it has a small number of due process hearings per year (four for FFY 2006 and five for FFY 2007).

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP determined that the State has demonstrated that it has procedures and practices that are reasonably designed to implement all of the dispute resolution requirements of IDEA. OSEP cannot, however, without also collecting data at the local level, determine whether the system is fully effective in correcting noncompliance in a timely manner.

Required Actions/Next Steps

No action is required.

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

Graduation is a major focus area for the State and the State Board of Education. In May 2005, the South Carolina General Assembly passed the Economic Education Development Act (EEDA) which requires that individual graduation plans (IGPs) are developed for all students beginning in the 8th grade. The State works collaboratively with the Office of Career and Technology Education staff to ensure that students with disabilities are included. The State informed OSEP that students with disabilities' IGPs are aligned with the students' transition plans. This work is designed to improve the graduation and dropout concerns of the State regarding students with disabilities along with post-school outcomes for students exiting the public school systems in the State. Additionally, in conjunction with the National Dropout Center, the State has developed a comprehensive technical assistance plan for dropout prevention. The State is looking at factors that affect dropout rates and graduation across the State.

South Carolina supports a Youth Initiative Academy, which is sponsored by Vocational Rehabilitation (VR). The Youth Initiative Academy promotes leadership, fosters self-advocacy

and goal setting with students who are in high schools throughout the State. The State also sponsors a Transition Summit on an annual basis in collaboration with VR, the Department of Disabilities and Special Needs (DDSN), the Children's Case Resolution System (CCRS), Continuum of Care (COC), the Division of Career Development and Transition of the South Carolina Council for Exceptional Children (DCDT), and Pro Parents of South Carolina. The State has been awarded a grant to foster these collaborations from the National Association of State Directors of Special Education (NASDSE) partnership.

The State's General Supervision Enhancement Grant (GSEG) is used to collect, review, and analyze data in developing an alternate assessment based on modified academic achievement standards (AA-MAS) for 2% of students with disabilities. More specifically, the GSEG is used to: (a) determine how instruction can be enhanced for students with disabilities; (b) develop assessment prototypes based on modified academic achievement standards based on learner characteristics; (c) develop guidelines for IEP teams to use in determining which students should be assessed based on modified academic achievement standards; and (d) create and implement meaningful and sustained professional development activities to train IEP team members to identify students who will participate in AA-MAS and write standards-based IEPs. The State believes that these factors will assist in improving outcomes for students with disabilities and ensure access to the general curriculum in the least restrictive environment (LRE).

The State also explained that the high stakes of a diploma that requires passing all areas of the High School Assessment Program (HSAP) and earning 24 Carnegie units is a significant challenge for all students including students with disabilities. The identification of the "2%" students and including appropriate assessment options for this population should increase the number of students with disabilities meeting the graduation requirements as well as reduce the dropout rate for students with disabilities.

Positive Behavioral Interventions and Supports (PBIS) are a major initiative throughout the State, which is entering its sixth year of implementation focused on improving outcomes for all students. There are approximately 250 schools participating in PBIS and the State is planning to expand the initiative to add up to 50 more schools this year. The Office of Exceptional Children (OEC) is planning to relocate the PBIS work in the State into the Office of Promising Practices and Innovations, which is a part of the general education program.

The State developed a preschool task force in collaboration with the University of South Carolina, the Office of Early Childhood Education, and local district representatives. The State reported that there are limited general educational environment programs for most three and four year olds in South Carolina public schools. The Preschool Task Force is planning to start two to three pilot programs with a preschool inclusive program and PBIS approach. These strategies have been implemented to address improving outcomes for preschool students with disabilities. The State developed, in collaboration with the Early Childhood Outcomes (ECHO) Center in North Carolina, an Instructional Television module for the purpose of training IEP teams in the use of the Child Outcome Summary Form (COSF) in planning for instruction as well as evaluating the results of instruction for preschool children with disabilities. Additionally, in collaboration with the University of South Carolina and the developers of the Assessment Evaluation Programming System (AEPS) assessment tool, the State has provided training in the administration of this tool (although this is not the only information used by IEP

teams and is not mandated to be used). Participation in the training continues to expand as districts work to improve functional as well as academic outcomes for preschool students. This training has been provided in DVD format to each district across the State to assist with on-going training and technical assistance for IEP teams. South Carolina is also working with a team of State stakeholders that participated in a preschool inclusion conference in North Carolina for the purpose of exploring additional ways to provide inclusive opportunities for three through five year old children in the State.

The State is also utilizing the Strategic Instructional Models (SIMS) from the University of Kansas Training Module, which is prescriptive training for special education teachers. General education teachers can also adopt these strategies. The State reported that this strategy is widely employed in the State by general educators in the areas of content enhancement for reading and writing. The State acknowledged that the Preschool Task Force has been instrumental in facilitating coordination with general education and parents. The State's efforts with scaling up the use of SIMS are designed to improve access to the general curriculum for students with disabilities and prepare teachers to provide appropriate supports and services for students with disabilities in the LRE.

OSEP learned that the State has been heavily involved in collaboration with parent organizations. The State continues to collaborate with the Parent Training Information (PTI) Center. The PTI trainers were involved in conducting training as well as participating in the State's monitoring system. Six districts are participating in Facilitated IEP pilots this year and the State provides these districts with funding to conduct the training. The State also has a partnership with Family Connections along with the South Carolina Teacher Cadets Program that provides disability awareness training in elementary schools. The State reported that between 40 and 45 schools have participated each year over the last three years.

OSEP Conclusions

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

As part of its responsibilities under Section 616 of the IDEA, each State must annually report to the public on the performance of each district against the State's SPP/APR targets and must make an annual determination for each district. The State has made its determinations for districts under section 616 for FFY 2006 using a four-level process, and is planning its process for making determinations for FFY 2007. OSEP noted in South Carolina's FFY 2006 SPP/APR Response Table, that the State reported performance data for each district against the

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State's FFY 2005 performance, rather than against State targets. At the time of the visit, the State had not yet reported publicly on district performance for FFY 2006, as required by 20 U.S.C. 1416(b)(2)(C)(ii)(I) and 34 CFR §300.602(b)(1)(i)(A). The State has contracted with *Market Search* and is in the process of making revisions to the format of the report to include reporting district performance data against State targets. The State informed OSEP that it will publicly report its district performance data for FFY 2007 via the State's website.

Private Schools

The State has 383 private schools. The State informed OSEP that, during the first year of implementation of the requirements of IDEA Part B, as amended in 2004, regarding parentally-placed private school children, the State required each district to send the State documentation of all the information related to the timely and meaningful consultation process. The State now requires districts to document that meaningful consultation occurred and monitors this process through reviewing individual service plans, the assurance process and on-site during verification visits. The State also requires districts to submit the numbers of parentally-placed private school children in their annual December 1 child count submission. The State is now calculating the required proportionate share for private schools for each district and including this information when it sends Part B grant applications to districts. The State has also included codes that are specific to these expenditures so that the use of these dollars can be tracked through its expenditure reports.

Significant Disproportionality and Coordinated Early Intervening Services (CEIS)

The State is in the process of drafting its policies and procedures for determining significant disproportionality and CEIS. The State reported that it uses three years of data for making determinations of significant disproportionality for identification and educational environments and will use two years of discipline data in November 2008. As noted below in the data section, the State reported having some challenges with the collection and reporting of discipline data and does not have a method to reliably compare special education suspension with general education data. The State reported that 31 districts were required to reserve 15% of their Part B budgets for CEIS, but this was based on a determination of disproportionate representation as a result of inappropriate identification. The State continued working with these same districts during FFY 2006. During FFY 2007, the State did not provide for the collection and examination of data in any districts to make a determination of significant disproportionality because the State was in the process of reviewing and revising its policies and procedures for significant disproportionality and CEIS based on OSEP's guidance memoranda. The State failed to demonstrate compliance with the requirements for determining significant disproportionality (34 CFR §300.646) and CEIS (34 CFR §300.226) during FFY 2006 and FFY 2007. The State is in the process of calculating the data for FFY 2008 and will require districts that are identified as having significant disproportionality to reserve 15% of their FFY 2009 Part B IDEA budgets to provide CEIS to serve children in those districts.

NIMAS

The State has adopted the National Instructional Materials Accessibility Standard (NIMAS) and coordinates with the National Instructional Materials Access Center (NIMAC). South Carolina is a textbook adoption State, but allows flexibility to districts to choose textbooks that are not on the State adoption list. The NIMAS requirement is part of the district's assurances submitted to the State annually. The State reported it has a collaborative agreement with the School for the Deaf and Blind, which has a materials distribution center and that virtually all blind and visually impaired students in all districts have received textbooks on the first day of the school year for the past five years. The State has two authorized users of the accessible files available from NIMAC. These two users, along with some technical staff, participate in the listserv that the Center for Applied Special Technology (CAST) maintains, attend any meetings related to the NIMAC during the American Printing House (APH) annual meeting held in October each year and solicit and receive technical assistance as needed from NIMAC. The State reported that it has begun downloading and using NIMAS files to prepare Braille materials. State reported that it conducts short presentations to special education directors twice a year and three times per year for teachers that have students who are visually impaired.

Assessment

The State reported that the Office of Assessment is responsible for monitoring districts to ensure compliance with Part B requirements for statewide and districtwide assessments. The Office of Assessment conducts on-site visits during the administration of exams to document the number of students with disabilities participating in the assessments and pulls IEPs at random to verify that students with disabilities are receiving the appropriate modifications and accommodations in their IEP. The State reported that when the Office of Assessment determines that a student's IEP is not properly implemented, this is a test security violation and the Office of Assessment generates a letter of notification of noncompliance. The State has now added to its general supervision process, collaboration with the Office of Assessment to review the results of these visits, determine if there was identified noncompliance and provide letters of notification of findings on any issue of noncompliance identified through the Office of Assessment visits.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that the State was not complying with its assurances related to significant disproportionality and CEIS, and the requirements of Part B regarding annually reporting to the public on the performance of each district against the State's SPP/APR targets. The State failed to demonstrate compliance with the requirements regarding significant disproportionality in 34 CFR §300.646 and CEIS in 34 CFR §300.226 during FFY 2006 and FFY 2007. Further, while the State reported to the public on district performance for FFY 2005, it did so against the State's FFY 2005 performance, rather than against State targets, which was inconsistent with its obligation under 34 CFR §300.602(b)(1)(i)(A). OSEP did not identify problems with the State's implementation of the other selected grant assurances; however, without also collecting data at the local levels, OSEP cannot determine whether the State's procedures and practices are sufficient to ensure that LEAs in the State effectively implement other selected grant assurances (i.e., private schools, NIMAS and assessment).

Required Actions/Next Steps

With its FFY 2009 Part B application, due May 11, 2009, the State must provide documentation that it has corrected the noncompliance with the requirements in 34 CFR §§300.646 (regarding significant disproportionality), 300.226 (regarding CEIS), and 300.602(b)(1)(i)(A) (regarding public reporting).

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?

Verification Visit Details and Analysis

The State has two linked data systems. Every district and school uses the School Administrative Student Information (SASI) to report demographic data. The State's Online system is the primary special education data collection system, and has a built-in feature, which captures student level individualized education program (IEP) information. The Online data system enables the State to collect and report data for all districts. The State also reported that the newly-established statewide charter school LEA would report its December 1 child count data through the Online system.

The State reported that it collected data for the 2006-2007 school year for all districts for Tables 1 (Child Count), 3 (Settings), and Table 4 (Exiting), through the Online system or spreadsheets and web applications. The State collected these data for the 2007-2008 school year through the Online system and will continue to collect these data through the Online system extraction for the 2008-2009 school year. The State collected Table 2 data (Personnel) for the 2007-2008 school year using a web application from districts but will collect this data through the Online system for the 2008-2009 school year. For school years 2007-2008 and 2008-2009, the State modified Table 5 (Discipline) to use with districts rather than using a web-application. The State collects Table 6 (Assessment) data through the Office of Research. The Office of Research does not collect the reasons students with disabilities are not tested. The State's data manager directly contacts each district by telephone to get the missing data for those students. The State collects Table 7 (Dispute Resolution) data from the OGC but the State reported that it is looking at ways to have these data reported through the Online system.

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.

Indicator 4 – The State is in the process of revising the State's definition of significant discrepancy and acknowledged that there are some challenges with the collection of discipline data across districts because different districts have different definitions and policies for suspension and expulsion. The State is still working to provide clear transparent operational definitions for suspension, in-school suspension, and expulsion.

Indicator 8 – The State reported that the majority of parents of children in public school programs between the ages of three through 21 are mailed a copy of the parent survey for Indicator 8. However, a limited number of parents of three and four year olds that are receiving services in day care or home settings did not receive a copy of the parent survey. Subsequent

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to the verification visit, the State reported that it has asked the districts in the parent survey sample for a list of all preschoolers receiving services external to school settings that are not in SASI (some districts did have them in SASI). The State is gathering the contact information for these children from the Online system to provide to its contractor for processing and also informed OSEP that it is working with the technology office to address the inclusion of these students in the Student Information System (SIS).

Indicators 9, 10, 11, 12, 13, and 14

The State reported that, beginning in November 2008, it would collect data for Indicators 9, 10, 11, 12, and 13 through the Online system. During FFY 2006 and FFY 2007, the State collected data for Indicators 9 and 10 from Table 1, and used mostly surveys and web applications for Indicators 11, 12, and 13. The State will continue to collect data for Indicator 14 using a census of school exiters each year.

The State reported that the Online method of data collection and reporting has built-in error checking to ensure that each district/agency accurately reports the data. Each spreadsheet has logic built in to create flags or red cells when errors occur and districts are required to correct the errors before submitting the data to the Department. Validity reports within the Online data system, are designed to pull up any invalid fields. The State runs through several screenings, imports data into an Access database for valid responses, sends data back to the LEA for confirmation in regards to total numbers to verify data totals are accurate, and program regional representative's contact to ensure that all information is correct. There are specific dates set as to when simultaneous data pulls occur between the State's data manager and districts to ensure reporting accuracy. In addition, the State uses a method called *Go-To-Meeting* on a regular basis to review the data with districts.

The State provides opportunities for training and technical assistance through a variety of formats. Some of these include face-to-face meetings, webinars, telephone conferences, *Go-To-Meetings*, Question and Answer documents, annual trainings, and monthly updates are disseminated through the educational television public broadcasting network for new district directors. The State reported that each district has a contact person for data collection that receives regular communication from the State's data manager.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes that, with the exception of the issues related to Indicators 4 and 8 discussed above, 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 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

Districts' use of the Online system software has assisted with the collection, validation, and reporting of data across the State. The ability to collect student-level data has provided more accurate data and enabled the State staff to assist in the verification of data. Individual student-level data helps to inform practice and districts are required to do something about data. For example, for Indicators 11 and 12, the State requires that districts not only acknowledge they are not meeting timelines, but also report why the problem is occurring and what must be done to correct the problem.

OSEP Conclusions

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

As noted above, the State uses the Online data system to collect, analyze and facilitate its efforts in providing technical assistance to support ongoing improvement in local districts. The system also has additional fields so each district can review its data by district, individual schools, and teachers. These fields further allow each district to disaggregate the data to assess factors that may contribute to problematic data.

One of the mechanisms the State uses to focus its improvement activities with districts is through reviewing district self-assessment and district profile data. Districts are required to submit self-assessment summaries to the State when noncompliance is identified. The self-assessment and data profiles are aligned with the SPP Indicators which are captured through the Online data system. The State provides on-going feedback to districts based on self-assessment data and uses data from district profiles to provide targeted technical assistance. The State requires districts to utilize self-assessment data to inform improvement planning and student performance. Self-assessment data are collected from a variety of sources including district teams and from other offices within the SCDE. The data are verified through different processes depending upon which office has collected the data. Each indicator within the self-assessment contains a set of probe questions that are designed to assist the district team in using data to determine how individual classroom, grade-level, school, and districtwide policies,

procedures, and practices contribute to the data. In addition, the self-assessment contains rigorous targets and improvement activities.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State 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 reported to OSEP during the verification visit (and provided confirming spreadsheets during the visit) that it has ensured that all of its Part B 611 and 619 funds are obligated each year within the allowable 27-month period, and liquidated within 30 months. The State monitors expenditures, both local and State, on a weekly basis to ensure the funds are expended on a first in/first out basis. The U.S. Department of Education's GAPS system shows that the State obligated and liquidated all of its FFY 2003, 2004, and 2005 611 and 619 funds.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes the State has been implementing procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds. OSEP cannot, however, without collecting data at the local level, 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 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 requires all entities that receive funds, including charter and State-operated schools, to give assurances regarding maintenance of effort (MOE), supplement not supplant, and other appropriate accounting procedures. The State provides information to districts each year regarding the distribution process including a description of how Part B funds must be used. State auditors also review State and district financial systems to ensure the appropriate expenditure of Part B funds. The State has not established an LEA Risk Pool.

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South Carolina school districts provide Part B funds to charter schools that are a part of their districts in the same manner as other schools within their district by providing evidence of the existence of these schools as part of their IDEA applications. The State verified the existence of 30 charter schools within 14 school districts. For the 2007-08 school year, the 14 school districts provided assurances that they are serving the charter schools by providing funds, services or a combination of both. The 14 school districts also provided copies of their charter school agreements which either stipulated what will be provided by the district or indicated their commitment to serve students with disabilities. OSEP learned that, charter schools (as other schools within the district) are included in on-site reviews as part of general supervision and monitoring. The State reported that the district must ensure the provision of FAPE. The State conducts fiscal oversight by assigning a funding function code for charter schools. Districts report their expenditures for the charter schools through the Office of Finance, and these dollars can be tracked through project reporting.

During the verification visit, the State explained that, for several years, its practice has been to: (1) send applications for Part B section 611 (for students aged three through 21) and section 619 (for children aged three through five) to districts a number of months after the beginning of the grant award period; (2) receive and review the districts' applications some months later; and (3) permit districts to draw down up to 15% of their Part B allocations before their application has been approved (or, in some cases, before a district has received the application package or submitted its application for the current year's funds). For example, for FFY 2007 Part B funds (which became available on July 1, 2007), the State: (1) sent districts the application package for FFY 2007 funds on November 16, 2007; (2) set a due date of February 1, 2008 for districts to submit their FFY 2007 Part B applications to the State; (3) approved applications in February, March and April of 2008; and (4) permitted districts to begin drawing down up to 15% of their FFY 2007 Part B funds beginning on July 1, 2007. As explained in the conclusion below, the State is not complying with the requirements of Part B of the IDEA and the Education Department General Administrative Regulations (EDGAR) in that it permitted districts to expend Part B funds before they demonstrated that they are eligible to receive those funds.

Following OSEP's verification visit, the State took the following steps to correct this noncompliance by sending districts the IDEA School-Age and IDEA Preschool (611 and 619) applications on Thursday, September 25, 2008, one week from the last day of the verification visit. The applications are dated July 1, 2008 through September 30, 2009 with a due date of November 25, 2008. The State will be able to authorize the districts to charge pre-award costs to the subgrants, once the applications are approved, for the period from July 1, 2008 to the date the applications are approved. The State informed districts that applications were provided at the conference to facilitate receiving substantially approvable applications. The State further indicated that, in the future, applications will be made available in the spring. The State reported that, subsequent to OSEP's visit, it revised its procedures to permit districts to obligate Part B funds only after their applications are approved by the State.

During the verification visit, SCDE informed OSEP that it has provided Part B subgrants under section 619 of the IDEA to Head Start programs in order to provide preschool special education services to children with disabilities. The Part B regulations require, at 34 CFR §300.815, that a State may make subgrants under section 619 of the IDEA only to LEAs, as that term is defined at 34 CFR §300.28. In a telephone conversation following the verification visit, the

State informed OSEP that the Head Start programs that have received Part B subgrants were not entities that met the definition of LEA under 34 CFR §300.28 and were not, therefore, entitled to receive subgrants under section 619 of the IDEA.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State, at the time of the verification visit, did not have procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State. In some cases, the State has permitted districts to obligate Part B funds although they did not yet have an approved application (and, in some cases, had not yet received or submitted their Part B application to the State), in violation of 34 CFR §300.705(a) and §76.708. In addition, under 34 CFR §76.793, the State must ensure that any opening or significantly expanding charter school district, such as the statewide charter school district that opened in the fall of 2008, receives its allocation within five months of the date the charter school district opens or significantly expands its enrollment. As explained above, the State informed OSEP following the verification visit of the steps that it took to correct this noncompliance.

Further, as explained above, the State made Part B subgrants to Head Start programs, which is inconsistent with the requirements of 34 CFR §300.815, because those programs did not meet the definition of an LEA under 34 CFR §300.28.

Required Actions/Next Steps

No further action is required with regard to the finding of noncompliance related to the State's provision of Part B funds to LEAs prior to their submission of a substantially approvable application.

To address the noncompliance with regard to the provision of Part B subgrants to Head Start programs that were not LEAs, as defined at 34 CFR §300.28, the State must, with its FFY 2008 APR, due February 1, 2010, provide documentation that:

1. The State has revised its policies and procedures to ensure that, for FFY 2009 and subsequent years, the State makes subgrants under section 619 of the IDEA only to entities that meet the definition of "LEA" under §300.28;
2. The State has recalculated the FFY 2008 allocations for each LEA under section 619 of the IDEA and ensured that each LEA has received the full allocation to which it was entitled; in doing so, the State must:
 - a. for each Head Start program that received a section 619 subgrant although it was not eligible to do so, determine the amount of the FFY 2008 619 subgrant that the Head Start program received, including the amount of base payment, population payment and poverty payment;
 - b. provide to the LEAs in which the children with disabilities in the Head Start program reside, an amount equal to the per child amount of the base payment that the Head Start program improperly was provided; and

- c. recalculate the population and poverty payments to each eligible LEA (as defined in 34 CFR §300.28), and provide the resulting additional amounts to those LEAs that were underpaid.
3. The State has recovered from the Head Start programs any unexpended FFY 2008 section 619 funds. (These funds must be used as part of the amounts that must be provided to LEAs under 2.b and c. The State may also use FFY 2008 and FFY 2009 section 611 and section 619 funds reserved for State-level activities as part of the amounts that must be provided to LEAs under 2.b. and c.)
4. The State has made FFY 2009 subgrants under section 619 only to entities that meet the definition of LEA under 34 CFR §300.28, has adjusted the base payment to each affected LEA in light of the base payment distribution reflected in 2.b, above, and has distributed FFY 2009 section 619 funds consistent with the formula in 34 CFR §300.815.

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

The State reported that it has regular meetings and is involved in on-going dialogue with the Office of Finance regarding fiscal matters. The Office of Finance is responsible for reviewing all fiscal awards before they are sent out to districts. All funds within the State receive a separate organizational and tracking code which the State uses to track both Part B and other funds. The State's coding mechanism allows the State to track expenditures based on the funding allocation.

The State ensures that districts use Part B funds to supplement and not supplant State, local, and other Federal funds through review of the required district application assurances, on-site monitoring, independent State audits and MOE reports. The State requires a dollar-to-dollar show of expenses and requires the LEAs to document any reasons for reduction of expenses. The State further reported that if there are any concerns with districts maintaining effort, the State works closely with the district to meet the requirements set forth in 34 CFR §300.203.

During the verification visit OSEP expressed concern that the State did not have a fiscal tracking mechanism to capture districts' expenditure of 611 and 619 dollars for parentally-placed private school children and CEIS. Subsequent to the verification visit, the State reported that it will calculate the dollar amount the district must spend for its parentally-placed private school children from its 611 and 619 dollars within the revised allocation letter. South Carolina has established codes for parentally-placed private school children and CEIS on its budget narrative and expenditure reports.

Under 34 CFR §300.203(b), an LEA can meet its MOE requirement by any one of four ways – by showing that it budgets for the education of children with disabilities on either a per capita basis or total basis at least as much either local funds only, or a combination of State and local funds, as it spent on the education of children with disabilities from the same source in the most recent prior year for which the data is available. The State informed OSEP at the time of the

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verification visit that the State was determining whether LEAs met their MOE obligation 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, however, the State revised the local application process to allow LEAs to use one of four methods for determining MOE. The State also included the requirement in 34 CFR §300.203 in its IDEA application, on page 10.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes that at the time of the verification visit, the State did not have procedures that are reasonably designed to ensure appropriate use of IDEA funds, specifically with regard to assessing whether LEAs were meeting their MOE requirement. However, subsequent to the visit, the State revised its procedures to correct the problem.

Required Actions/Next Steps

No action is required.