

## **Louisiana Part B 2009 Verification Visit Letter Enclosure**

### **General Supervision System**

The Office of Special Populations, Office of Educator Support, is the component within the Louisiana Department of Education (LDE) that is responsible for the administration of special education. The State has 116 local educational agencies (LEAs), which OSEP will refer to as “districts” in this letter. These include geographical districts (called parishes), the Special School District (SSD) Instructional Programs, charter LEAs, and Approved Special Schools (which include the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired). There are also 380 private schools.

### ***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 State informed OSEP that it uses its general supervision system, including its dispute resolution processes, focused and random monitoring, and the Special Education Report (SER) database, to identify noncompliance.

For State Performance Plan (SPP)/Annual Performance Report (APR) Indicator 11 (timely initial evaluation), the State requires districts to collect census data and report them to the State through the SER system. Each year, the State reports Indicator 11 data for all districts. If the State identifies noncompliance through its review of these data, it contacts the district by telephone, and requires the district to: (1) confirm that there was indeed noncompliance for each child where it appears that the district exceeded the evaluation timeline; (2) indicate the reason(s) for the delay; and (3) indicate the actions the district will take to prevent future noncompliance. Unless the district provides documentation that there was, in fact, no noncompliance, the State then issues a written finding of noncompliance.

The State also requires all districts to collect and report census data for Indicator 12 (early childhood transition) each year through the SER system. If the data that a district submits through SER indicate noncompliance, the State issues a written finding, and requires the district to investigate contributing factors (e.g., policies and procedures, infrastructure, data, training, technical assistance, and supervision) and to correct the noncompliance within one year. The district must identify these factors in its corrective action plan (CAP), and include strategies, timelines, and persons responsible for reaching compliance.

Related to Indicators 9 and 10 (disproportionate representation that is the result of inappropriate identification), the State requires districts to complete an annual self-assessment, using a State-developed monitoring tool. Districts must complete this self assessment on fifteen percent of their schools and submit a summary of their findings through the e-Grant system each year.

In addition, the State selects eight districts each school year for its on-site focused monitoring process. First, the State divides all districts into four population groups, based on overall student count. From each of these four size groups, the State selects the lowest performing districts on each of two priority indicators (currently, 8<sup>th</sup> grade performance on statewide assessments (Indicator 3) and discipline (Indicator 4) for a total of eight districts. The State then selects eight additional districts on a “random” basis. Although State Bulletin 1922 indicates that the State will select these districts “randomly,” the State explained that the State selects these eight additional districts based on data

collected by the State under the No Child Left Behind Act (NCLB). Only if the State has already selected one of the eight districts based on special education data might the State select an alternative district in a truly random manner. Districts that are not included in these 16 are “Continuous Improvement Districts” which do not receive an on-site review that year. If a district is still in corrective action relating to one or both of the special education priority indicators, the State excludes it from the pool from which it selects districts for focused or random monitoring that year.

The State collects data for Indicator 13 (secondary transition) as part of the above-described on-site focused and random monitoring reviews it conducts in selected districts. As a part of each of these on-site reviews, the State selects and review student records, using a modified version of the National Secondary Transition Technical Assistance Center (NSTTAC) Indicator 13 checklist. If the State finds noncompliance in a district for Indicator 13, it includes a finding of noncompliance in the report for the review. The State confirmed that, in light of the data-based process that it uses to select districts for focused and random reviews, there is no specified number of years in which it will visit all districts; some districts may be selected multiple times and some never. Thus, given the limited number of districts monitored each year and the fact that some districts may receive multiple reviews before other districts are ever selected for a review, not all districts will be monitored during the six-year term of the SPP. The State informed OSEP that for the districts for which it does not conduct an on-site review during the life of the SPP, it will use a desk audit to collect Indicator 13 data and determine compliance.

The State informed OSEP that it requires each district to conduct an annual self-review that addresses both specified compliance and results areas. After completing its self-review, each district must include, as a part of its “e-Grant” Part B application, a summary of any findings of noncompliance identified through the self-review and corrective actions to address the noncompliance. The State further informed OSEP that the State does not: (1) issue any findings of noncompliance to districts based on the self-reviews; (2) except during focused and random monitoring visits to districts selected as described above, conduct any activities to determine whether the district’s findings of noncompliance are valid; (3) follow up to determine whether the district corrects the noncompliance; or (4) include a district’s finding of noncompliance identified through its self-review in the State’s Indicator 15 data. The State acknowledged that, unless and until the State identifies a finding through an on-site visit, a district may continue to report the same noncompliance in its self-review for a number of years with no requirement by the State that the district provide documentation of correction.

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. OSEP finds that the current practice, described above, of not issuing findings of noncompliance identified through the self-review process, or taking any further action to determine whether those findings are valid, to be inconsistent with Part B requirements to effectively monitor and correct noncompliance in sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E). If a State receives the results of a self-review in which the district acknowledges noncompliance or includes data that show noncompliance, the State must either: (1) issue a finding of noncompliance based on those data; or (2) verify whether those data demonstrate noncompliance, and issue a finding if they do demonstrate noncompliance. While the State requires districts to develop, and submit in their e-Grants, corrective actions to address district self-review findings, the State does not issue findings or require correction within one year.

## **OSEP Conclusions**

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 general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components. Specifically, the State's practice of not issuing findings of noncompliance identified through the self-review process and not requiring the correction of those findings, is inconsistent with Part B monitoring and correction requirements in sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E). Further, OSEP cannot, without collecting data at the local level, determine the extent to which the State's procedures are otherwise effective in identifying noncompliance in a timely manner.

## **Required Actions/Next Steps**

Within 60 days of the date of this letter, the State must provide to OSEP an assurance that it has revised its general supervision procedures so that if the State receives the results of a district's self-review in which the district acknowledges noncompliance or includes data that show noncompliance, the State must either: (1) issue a finding of noncompliance based on those data; or (2) verify whether those data demonstrate noncompliance, and issue a finding if they do demonstrate noncompliance. In Indicator 15 in its FFY 2009 APR due February 1, 2011, the State must report on the timely correction of all FFY 2008 noncompliance, including noncompliance identified through districts' self-reviews.

### ***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 2007 APR, the State reported 71% compliance under Indicator 15 regarding timely correction of noncompliance. Those data represented slippage from the FFY 2006 data of 92.4%.

The State informed OSEP that when it finds noncompliance through a focused review, dispute resolution, or data submitted by a district for the APR compliance indicators, it requires the district to correct the noncompliance as soon as possible, but no later than one year from written notification to the district of the noncompliance. The State requires the district to describe its strategies for correction and set forth timelines for correction in a CAP. The State tracks the district's progress and compliance with the timelines in the CAP and also utilizes regional coordinators to provide technical assistance and assist districts in coming into compliance within one year.

The State reported that if a district does not demonstrate correction within one year, the State requires the district to develop a more detailed document called an Intensive Corrective Action Plan (ICAP). In conjunction with the ICAP, the State may also: (1) advise the district of available sources of technical assistance; (2) direct the district to present the ICAP to the district's school board for approval; (3) direct the district to use IDEA Part B funds to correct the area of remaining noncompliance; (4) identify a special management team to manage the ICAP; and/or (5) identify the district as a high-risk grantee and impose special conditions on the district's Part B grant awards. The State reported that, although it has utilized all of these available sanctions in the past, it has seen tremendous success in bringing districts into compliance through the use of the ICAP and requiring those districts to present the ICAPs to the local school board, so it has not been necessary to use the other sanctions in most cases.

The Part B regulations in 34 CFR §300.600(e) require that, in exercising its monitoring responsibilities under 34 CFR §300.600(d), the State must ensure that when it identifies LEA noncompliance with the

requirements of Part B, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance. As explained in OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02), and previously noted in OSEP's monitoring reports and verification letters, in order to demonstrate that previously identified noncompliance has been corrected, a State must verify that each LEA with noncompliance is: (1) correctly implementing the specific regulatory requirements; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA. The State reported that while it uses different procedures to verify correction depending on the general supervision component through which the State identified the noncompliance, it verifies the correction of noncompliance identified through any of its general supervision processes by ensuring that the district: (1) has corrected the noncompliance related to an individual child (if a child-specific finding had been made); and (2) is currently implementing the regulation that formed the basis of the finding of noncompliance, consistent with OSEP Memo 09-02.

The State reported that its procedures for verifying the correction of noncompliance include on-site observation, on-site interviews, and review of submitted documentation, such as student IEPs, and data submissions. The State also reported that the CAP may be extended beyond one year if the district demonstrates difficulty in coming into compliance. The State clarified that although it requires correction within one year from identification, there are times when a district is not successful in achieving timely correction.

As explained above, the State collects data for Indicators 11 and 12 through the SER database, and uses those data to identify and verify the correction of noncompliance. LDE informed OSEP that for the State to conclude that a finding of noncompliance has been corrected, the State verifies, through the database, that: (1) all of the individual child noncompliance had been corrected (i.e., for Indicator 11, all children have now received an initial evaluation, although late; and for Indicator 12, all children now have an IEP, although late); and (2) the district has demonstrated 100% compliance for a three-month period following the date of the finding.

For findings made through focused and random on-site reviews (including Indicator 13 related findings), the State requires districts to submit documentation of both child-specific correction and that the district, as demonstrated through a review of more current data, is currently in compliance with the specific regulatory requirement. The State then, within one year from the date of the finding, conducts a follow-up on-site review to confirm whether the district has in fact met both of these tests. The State indicated that if it found that the child-specific noncompliance had been corrected, and that the State's review of current files and data showed that a high percentage (e.g., 90% or 95%, depending on the circumstances, although there is no specific "threshold"), the State would consider the totality of the evidence to determine whether it would consider the finding of noncompliance corrected. In those circumstances in which the State determined that a finding was corrected although the district had not demonstrated 100% compliance, the State would make new child-specific findings and require documentation that the noncompliance has been corrected for those children. The State's standard for verifying correction of noncompliance for findings made through focused and random on-site reviews is not consistent with the guidance in OSEP Memo 09-02, because while the State verifies that the district has corrected each individual case of noncompliance (unless the child is no longer within the jurisdiction of the district), it does not verify that the district is correctly implementing the specific regulatory requirements (i.e., has achieved 100% compliance).

The State informed OSEP that if noncompliance is identified in a State complaint or due process hearing decision, the State verifies both correction for the individual child and also that the district has corrected any systemic noncompliance.

## **OSEP Conclusions**

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 general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner using its different components. Specifically, OSEP finds that the State's use of a standard less than 100% for correction of noncompliance is inconsistent with Part B monitoring and correction requirements in IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600(d)(3), and the guidance in OSEP Memo 09-02. Further, OSEP cannot, without collecting data at the local level, determine whether the State's procedures are fully effective in ensuring the correction of identified noncompliance in a timely manner.

## **Required Actions/Next Steps**

Within 60 days from the date of this letter, the State must provide an assurance that it has revised its procedures for determining timely correction of noncompliance, only when it has verified, for each district with noncompliance, that it both: (1) is correctly (i.e., 100%) implementing the specific regulatory requirements; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the district.

### ***Critical Element 3: Dispute Resolution***

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

## **Verification Visit Details and Analysis**

### **State Complaints**

The State has developed and implemented written complaint resolution procedures. In accordance with these procedures, the State uses a log to monitor complaint decisions and corrective actions, and an additional table to monitor the timely completion of corrective actions. The State notifies districts if they fail to meet any corrective action timeline or to provide required documentation.

The State's revised regulations that became effective on October 1, 2008 provide a process for parties to request reconsideration of complaint decisions. The Part B regulations do not specifically address reconsideration or appeals processes for State complaint decisions. If, however, a State chooses to adopt a reconsideration or appeal process for State complaints, the State must ensure that, consistent with the requirements of 34 CFR §300.152, when a party appeals or requests reconsideration of the State decision on the complaint:

1. The State issues the decision on the appeal or reconsideration within 60 calendar days from receipt of the complaint by the State, unless there is an appropriate extension of time if:
  - a. There are exceptional circumstances with respect to the particular complaint; or
  - b. The parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation or to engage in other alternative means of dispute resolution, if available in the State; or
2. If a decision on the appeal or request for reconsideration is not issued within 60 days and there is no appropriate extension of the timeline, the State requires that the LEA implement any corrective actions without waiting for the decision on the appeal or reconsideration.

The State is currently in the process of revising the regulations to clarify the effect of a reconsideration request with regard to the 60-day timeline. The State reported to OSEP that it will advise all parties that implementation of any corrective action required in the initial decision may not be held in abeyance or delayed pending reconsideration.

### Due Process Hearings

LDE's Office of Legal Counsel is responsible for managing and conducting due process hearings. Bulletin 1706, the State's amended regulations for Part B, now requires that hearing officers be attorneys. In addition, the State requires that hearing officers not have represented a district or parent as an attorney in education litigation within three years prior to being appointed as a hearing officer. The State determines training needs by reviewing decisions for consistency with IDEA, and supports needed training.

At 34 CFR §300.510(a), Part B requires that, "Within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under §300.511, the district must convene a meeting with the parent and the relevant members of the IEP Team who have specific knowledge of the facts identified in the due process complaint. . ." The State reported to OSEP that it tracks in its due process files and database, the timeline from receipt of the due process complaint to the convening of the resolution meeting. The State further reported to OSEP that while it tracks this timeline and in some cases districts have exceeded the 15-day timeline, it has neither made findings of noncompliance based on this failure nor otherwise informed the relevant districts of their failure to meet the timeline. The State further explained that the 15-day timeline is clearly stated in the first letter that the parties receive from the State after the receipt of a due process complaint, and that in the cases in which a resolution session was held late the parties did reach resolution without the need for a hearing.

At 34 CFR §300.514(c)(2), the Part B regulations require that, after deleting any personally identifiable information, the State must transmit the findings and decisions to the State Advisory Panel and make those findings available to public. Prior to the verification visit, the State informed OSEP that it had not been making findings and decisions available to the public. The State corrected this problem prior to the verification visit. During the verification visit, the State reported, and OSEP confirmed, that the redacted findings and decisions are now posted on the State's website.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds the State has a general supervision system that is not reasonably designed to implement the dispute resolution requirements of IDEA. Specifically, OSEP finds the State's practice of not making a finding of noncompliance in cases where districts have exceeded the 15-day resolution meeting timeline represents noncompliance under the Part B regulations, 34 CFR §300.510(a)(1). Further, while the State has told OSEP that it will revise its regulations concerning reconsideration of complaint decisions, the State needs to ensure that implementation of complaint decisions are not delayed pending reconsideration requests, consistent with 34 CFR §300.152.

### **Required Actions/Next Steps**

Within 60 days from the date of this letter, the State must provide:

1. An assurance that it has revised its procedures to provide that the State will issue a finding of noncompliance when a district does not comply with the 15-day timeline for resolution meetings, and

2. A copy of the notification it uses to advise parties to complaints that implementation of the corrective actions in complaint decisions may not be delayed pending reconsideration requests.

**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**

The State has implemented the LEAP<sup>1</sup> Alternate Assessment Level 2 (LAA-2) which serves as an alternative pathway to a standard high school diploma. The LAA2 is only available to students with disabilities who are eligible for alternative assessment and allows those students to demonstrate mastery of the curriculum.

The State also has also identified a number of programs to improve educational results for students with disabilities that receive services in preschool programs. For example, Louisiana is one of ten States participating in the Special Quest Professional Development program, which is designed to encourage the inclusion of students with disabilities in classes with their typically developing peers.

The State has also seen positive results from the Louisiana State Improvement Grant (LASIG). LASIG staff work directly with school and district improvement teams to develop a five-year improvement plan based on school or district needs. While district plans vary their focus, all plans must address the following concepts: (1) a three-tiered model of intervention; (2) universal design for learning; (3) cultural responsiveness; (4) job-embedded professional development; (5) use of data-based decision making; (6) disproportionality; and (7) family engagement. LASIG staff work closely with People First of Louisiana, a self advocacy group that promotes positive opportunities for individuals with disabilities. The project requires schools and districts to collaborate with both families and individuals with disabilities on school and district improvement efforts.

The State also uses a web-based resource called the Access Guide to assist and facilitate access to the Louisiana comprehensive curriculum for students with disabilities by their teachers and families. The site was designed by Louisiana educators and provides a variety of suggestions, resources and tools to maximize student achievement for all students, including those with significant disabilities.

**OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds 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)?*

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<sup>1</sup> The Louisiana Educational Assessment Program (LEAP) is a part of Louisiana's criterion-referenced testing program, and measures how well a student has mastered the State content standards.

## **Verification Visit Details and Analysis**

### Public Reporting and Determinations

As a 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. The State informed OSEP that it meets the public reporting requirement through media releases and by publishing a district profile for each district on LDE's website, in which the State reports the district's performance against targets in the State's SPP.

The State reported that it developed the criteria it uses to make annual determinations for districts in collaboration with its stakeholder group. The State provided OSEP with a copy of these criteria, which showed that, as part of the determination process, the State considers: (1) performance on compliance Indicators 9, 10, 11, 12, and 13; (2) timeliness and accuracy of the data that the district submits to the State; (3) correction of noncompliance; (4) single audit findings; and (5) performance on results indicators related to performance on statewide assessment and placement in the least restrictive environment (LRE).

The State sends letters to districts no later than July 30, notifying them of the initial determination, and affording them two weeks to appeal their determination. The State then issues final determinations.

### Private Schools

The State reported that it monitors to ensure that districts are spending a proportionate amount of IDEA Part B funds on providing special education and related services for parentally-placed children with disabilities in private schools, in accordance with 34 CFR §300.133(a). The State reported that it calculates the proportionate share for districts using the child count data provided by the districts. The State uses the e-Grants system to automatically calculate this proportionate share and require that districts include a separate educational improvement category (EIC) code in the budget for identifying and spending funds to be expended on services for parentally-placed children. Pursuant to 34 CFR §300.134, the State requires districts to maintain documentation of timely and meaningful consultation between the districts and private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for parentally-placed private school children with disabilities. The State further reported that documentation of the consultation is kept on file at the district for monitoring purposes.

### Significant Disproportionality and Coordinated Early Intervening Services (CEIS)

The State reported to OSEP that it has defined significant disproportionality and disproportionate representation using the same risk ratio of 2.0 with a cell size of 10 or greater. The State has developed a tiered system related to significant disproportionality in special education and related services and/or a specific disability category. The State reported that the State designated: (1) as "Tier One," districts with "disproportionate representation in at least one exceptionality;" (2) as "Tier Two," districts with "disproportionate representation in at least two exceptionalities and disproportionate representation during initial evaluations in those same exceptionalities;" and (3) as "Tier Three," districts with "overall disproportionate representation, disproportionate representation in an exceptionality, and disproportionate representation during initial evaluation; or districts that had disproportionate representation within an exceptionality during initial evaluation had disproportionate representation in at least two of those same exceptionalities." The State clarified that the State considered districts in any of the three tiers to have significant disproportionality within the meaning of 34 CFR §300.646.

The February 2009 letters informed Tier Two and Tier Three districts that they must, among other required actions, conduct a self-assessment (which the State developed for districts to use in determining whether disproportionate representation is the result of inappropriate identification). For Tier 1, the State only “strongly recommended [that they] review their data and more closely monitor their pre-referral, referral and assessment policies, procedures and practices and consider completing the enclosed self-review.” The Part B regulations require, in 34 CFR §300.646(b)(1), that the State must, for all districts with significant disproportionality, “provide for the review and, if appropriate revision of the policies, procedures, and practices used in the identification or placement to ensure that the policies, procedures, and practices comply with the requirements of the [IDEA].” The State’s February 2009 letters did not meet this requirement, because they did not require Tier 1 districts to complete the required review, and the State did not have in place another process for meeting this requirement for Tier 1 districts. During the verification visit, and in a subsequent conference call, the State informed OSEP that, notwithstanding the above-noted language in the letters, the State did require districts in all three tiers to complete the self-review. On January 22, 2010, the State provided to OSEP a revised letter that it would use in the future which makes clear that districts with significant disproportionality in all three tiers must conduct the self-review.

As noted above, the State explained that it considers districts in any one of the three tiers to have significant disproportionality, and, in the e-Grant system, specifies that they must reserve 15% of their Part B funds for CEIS. The State further informed OSEP that it requires the district to publicly report on the revision of policies, practices, and procedures.

The Part B regulations require, in 34 CFR §300.646(a)(2) and (3), that the State must, in addition to addressing significant disproportionality in special education and related services and in specific disability categories as described above, also determine whether districts have significant disproportionality based on race and ethnicity with respect to: (1) the placement of children with disabilities in particular educational settings; and (2) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. In an e-mail dated January 26, 2010, the State acknowledged that, while it has collected data related to placement and discipline, it has not required districts to take the steps required by 34 CFR §300.646(b).

### NIMAS

The State has adopted the National Instructional Materials Accessibility Standard (NIMAS) and coordinates with the National Instructional Materials Access Center (NIMAC) in accordance with 34 CFR §300.172. The State contracts with all K-12 publishers offering core and core-related instructional materials used by public schools in the State. These State contracts cover all district purchases, and initiate automated requests to publishers for NIMAS file sets to be deposited at the NIMAC when purchased for an eligible student. Notifications regarding NIMAS coordination (i.e., Opt-In, Opt-Out options) allow districts an opportunity to participate when contracting locally with K-12 publishing companies for additional core/core-related print instructional materials, or to assure the State that appropriate formats are provided in a timely manner through alternate means for students with print disabilities. These notifications provide sample contract language that districts can use. Districts that have Opt-Out policies must assure the State that appropriate formats will be provided in a timely manner for eligible students.

### Assessment

The State reported that it monitors to ensure that districts comply with Part B requirements for statewide and districtwide assessments, in accordance with 34 CFR §§300.160 and 300.320(a)(6). Participation in statewide assessment is one the indicators considered in making LEA determinations.

The State uses results from the assessment process to select districts for focused monitoring for the purpose of improving performance within selected districts. Further, the State requires districts to use assessment data to develop their annual improvement plans, which focus on improved performance. The State's public reporting on the participation of children with disabilities in statewide assessments occurs consistent with 34 CFR §300.160(f). The State reported to OSEP that there are no district-wide assessments.

### **OSEP Conclusions**

Based on the review of documents, analysis of data and interviews with State personnel, OSEP finds the State has procedures and practices that are reasonably designed to implement selected grant assurances (i.e., public reporting as part of monitoring and enforcement, private schools, NIMAS, and assessment). OSEP cannot, however, without also collecting data at the State and local levels, determine whether these procedures and practices are sufficient to ensure that LEAs in the State effectively implement these selected grant assurances.

As described above, although the State informed OSEP that it considered districts in any of the three tiers to have significant disproportionality and required them to conduct the review required in 34 CFR §300.646(b)(1), the State's February 2009 letters to districts did not require that review for districts with significant disproportionality placed in Tier 1. OSEP finds that the State's failure to require all districts with significant disproportionality to do the following is inconsistent with 34 CFR §300.646(b): (1) conduct a review, and if appropriate, revision of policies, procedures, and practices used in identification, placement, or discipline of children with disabilities to ensure compliance with Part B; and (2) report publicly on the revision of policies, procedures, and practices. On January 22, 2010, the State sent to OSEP a draft letter that it would use in the future to clearly require districts with significant disproportionality in all three tiers to meet the requirements of 34 CFR §300.646(b)(1).

Additionally, OSEP finds the State has not complied with the requirements of 34 CFR §300.646, as they relate to significant disproportionality in placement and discipline.

### **Required Actions/Next Steps**

Within 60 days of the date of this letter, the State must provide a written assurance that it has revised its policies and procedures regarding the identification of significant disproportionality in accordance with:

1. 34 CFR §300.646(a)(2) and (3) providing for the collection and examination of data with respect to: (a) the placement in particular educational settings of these children and; (b) the incidence, duration and type of disciplinary actions including suspensions and expulsions; and
2. 34 CFR §300.646(b) requiring LEAs determined to have significant disproportionality to: (a) conduct a review, and if appropriate, revision of policies, procedures, and practices used in identification, placement, or discipline of children with disabilities to ensure compliance with Part B; and (b) report publicly on the revision of policies, procedures, and practices.

## **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 reported that it uses multiple data systems to collect and report data to OSEP and the public. Districts submit student data to the State via the following web-based applications: (1) the Student Information System (SIS); (2) the SER System; and (3) the Louisiana Education Accountability Data (LEAD) System. The State uses SIS to collect demographic data regarding students, such as their enrollment in particular schools, demographic characteristics, disciplinary and attendance history. The State uses SER to collect 616 and 618 data, and LEAD to report 618 personnel data. The State reported that each of these data collection systems has business and validation rules and edit checks that are based on State and Federal requirements. In addition to validation and business rules, the State relies on the local superintendent's signature, affirming that the data are timely and accurate. The State has provided, to all data system users, definitions, standards, layouts and links to rules. The State provides new users, including local directors, with training and other ongoing mechanisms, such as workshops, monthly conference calls, and webinars, to ensure that all districts are receiving required information and assistance.

As part of the verification visit, OSEP specifically inquired into the State's guidance and data collection methodology for SPP/APR Indicators 4, 7, 8, 9, 10, 11, 12, and 13. The State provided information demonstrating that the State's measurements and procedures for collecting data for Indicators 4, 7, 8, 9, 10, 11, and 13 were consistent with the required measurements. OSEP found, however, that the State's measurement for Indicator 12 was not consistent with the measurement required by OSEP's Indicator Measurement Table, and that the State's data for this indicator were not, therefore, valid and reliable. The required measurement for Indicator 12 is 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." The State acknowledged that, in its calculation of the State's compliance level for this indicator, the State considered only whether the LEA had developed an IEP by the third birthday, and not also whether the district had also implemented the IEP by the child's third birthday. In its FFY 2008 APR, submitted on February 1, 2010, the State informed OSEP of steps that it had taken since the verification visit to enable the State to report valid and reliable data for Indicator 12. OSEP will respond to the State's FFY 2008 submission for Indicator 12 in its response to the APR.

### **OSEP Conclusions**

As noted above, the State's measurement for SPP/APR Indicator 12 has been inconsistent with the measurement that OSEP has mandated in the Indicator Measurement Table. With the exception of this problem, OSEP believes, based on the review of documents, analysis of data, and interviews with State and local personnel, 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**

In its response to the State's FFY 2008 APR, OSEP will respond to the information provided in the FFY 2008 APR and inform the State of any additional action required to ensure that, in collecting data for Indicator 12 and determining compliance with the requirements of 34 CFR §300.124(b), the State is now calculating 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."

### ***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 the data it collects and reports reflect actual practice by using a system of checks and balances and training personnel at all levels. Data entry personnel at the school level receive training throughout the year. At the local level, local personnel review data on a quarterly basis. As part of its on-site focused monitoring visits, the State compares the data in the data systems with information in students' records to determine the accuracy of the information in the data systems.

**OSEP Conclusions**

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

**Required Actions/Next Steps**

No action is required.

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

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

**Verification Visit Details and Analysis**

The State uses its data systems for continuous improvement, monitoring, technical assistance, and ongoing support for districts. Districts use data to conduct their annual self-reviews, to develop improvement activities and to direct professional development activities. The State's data system provides functions that allow users to disaggregate, compile and compare data to be used to analyze and present data to parents, teachers, principals and other stakeholders to ensure the investment of stakeholders in improvement activities. The State discussed strategies to compile and integrate data across systems to improve programs. The State uses analysis of data to identify trends, define statewide needs, and to develop improvement activities. As discussed above in General Supervision Critical Element 1, the State uses special and general education data to select the districts for which it conducts focused and "random" on-site monitoring reviews.

**OSEP Conclusions**

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

**Required Actions/Next Steps**

No action is required.

**III. Fiscal System**

***Critical Element 1: Timely Obligation and Liquidation of Funds***

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

**Verification Visit Details and Analysis**

The State manages Part B grants for all districts, including charter schools that are their own LEAs, through the Electronic Grants Management System (eGMS). The eGMS generates monthly expenditure reports that allow the State to monitor grant balances for all LEAs. As illustrated in the table below, the State’s procedures for ensuring the timely liquidation of IDEA Part B has, over the past several years, not been effective. The table below shows, for FFY 2003 through FFY 2007, the amount of Part B funds under section 611 and section 619 that the State did not liquidate within the required 30-month liquidation period.

LOUISIANA’S UNEXPENDED PART B FUNDS					
	FFY 2003	FFY 2004	FFY 2005	FFY 2006	FFY 2007
PART B 611	\$2,825,254	\$11,457,439	\$5,343,490	\$3,403,770	\$13,315
PART B 619	\$629,233	\$945,237	\$656,249	\$789,837	\$400,840

During the verification visit, LDE’s finance staff told OSEP that they are aware of this problem, and were developing additional procedures to help ensure that all Part B funds are timely obligated and liquidated.

Each LEA prepares a consolidated grant application (“e-Grant”), which includes Elementary and Secondary Education Act (ESEA) Title I and IDEA Part B funds. The State makes tentative allocations of Part B 611 and 619 funds in March of each year to enable LEAs (including charter schools that are LEAs) to begin preparing budgets for their grant applications. In August, the State adjusts the allocations to reflect the actual amount each LEA will receive and then allocates the reserve amount to the LEAs in December. The State informed OSEP that it does not determine that an application is substantially approvable and allow a district to begin to draw-down its Part B funds until both the IDEA Part B and the ESEA Title 1 portions of the application are substantially approvable. Thus, although a district had submitted an approvable application for IDEA Part B section 611 and section 619 funds, the district would not receive its Part B subgrants until the State also approved the ESEA Title 1 portion of its application. This is inconsistent with the requirements of 34 CFR §§300.200 and 300.804, which require that an LEA be eligible to receive funds under sections 611 and 619 if the LEA has met Part B eligibility requirements.

**OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that the State does not have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds. As noted above, the State reported that its procedures provide that a district would not be eligible to draw-down its Part B section 619 subgrant until ESEA Title I portions of the application are substantially approvable. This procedure is inconsistent with the requirements of 34 CFR §§300.200 and 300.804, which require that an LEA be eligible to receive funds under sections 611 and 619 if the LEA has met Part B eligibility requirements. Further, OSEP is concerned about the State’s continuing pattern of not obligating and liquidating all of its Part B funds in a timely manner.

**Required Actions/Next Steps**

Within 60 days of the date of this letter, the State must provide a written assurance that it has revised its procedure of not allowing LEAs to draw down its Part B funds although the eligibility requirements

for Part B have been met. We also strongly encourage the State to review and revise its procedures to help ensure that all Part B funds are timely obligated and liquidated.

***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 provided documentation to OSEP that all LEAs, including charter schools that are LEAs, receive their Part B 611 and 619 funds through a formula, consistent with the requirements of Part B, using the total sum of three calculations: (1) base amount; (2) population, and (3) poverty. The State calculates each LEA's allocation under ARRA Part B in the same manner.

The State ensures that districts budget and expend the required proportionate share for services for children with disabilities placed by their parents in private schools through eGMS. The system has a built-in formula for calculating each LEA's obligation to spend a proportionate share of their Part B dollars on services to children with disabilities in private schools. Each year, the electronic grant applications are pre-populated with the proportionate share amount for each LEA. LEAs must include in the grant application additional information regarding private schools, including the date of the consultation meeting, and the types of services being provided for parentally placed private school students using Part B funds.

The State's funding mechanism is based on a weighted formula and is placement neutral. The State does not currently have a Risk Pool fund for high-cost children with disabilities, but reported an interest in establishing such a fund in the future.

**OSEP Conclusions**

Based on the review of documents, analysis of data, feedback from stakeholders and interviews with State personnel, OSEP finds that the State has procedures as described above that appear reasonably designed to ensure appropriate use of IDEA funds at the State level, but has not reviewed source documentation regarding implementation of these procedures.

**Required Actions/Next Steps**

No 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**

The State's program and finance staff reported that they work closely together in both the monitoring of Part B funds and in the provision of support to the LEAs for the appropriate use of those funds. During the electronic grants management review process, a weekly meeting is held with program and finance staff. In addition, staff communicates closely during the joint review of E-Grants.

The eGMS uses separate codes for Part B 611 and 619 funds, and for sub-categories of these funds. As an eligibility requirement, each LEA must signify agreement with several assurances in conjunction with the Part B grant application process. These include assurances related to excess cost, proportionate share, CEIS, and maintenance of effort (MOE).

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 verification visit that the State was determining whether LEAs met their MOE obligation based only on a comparison of State and local funds on either a per capita basis or total basis; the State did not, as required by 34 CFR §300.203(b), also consider whether an LEA met MOE based on a comparison of only local funds before determining that an LEA had not met the test for MOE. This is inconsistent with the requirements of 34 CFR §300.203(b). The State staff indicated that, for FFY 2009, all LEAs did meet the MOE requirement. The State agreed that it would change its local MOE procedures to include all of the options provided by §300.203(b).

If an LEA is eligible, under 34 CFR §300.204, for an exception to the MOE requirements of 34 CFR §300.203, it must provide detailed information regarding the basis for the exception and also the dollar amounts in its e-Grant. In addition, if the LEA is eligible for MOE reduction under 34 CFR §300.205, it must provide a description of the activities allowable under the ESEA it plans to address with the freed-up funds. In such cases, the e-Grant is pre-populated with the maximum reduction. The calculations in the eGMS will not allow a recipient to reduce its MOE by more than 50% of the amount of its increase from the prior year.

The State reported that the validation process for determining excess cost is electronically processed for all LEAs once the collection of reported expenditure data for a particular grant year is final. Data from the Annual Financial Report, the eGMS, the SIS, the SER system, and other sources is used to calculate the excess cost separately for elementary and for secondary education.

The Part B regulations in 34 CFR §300.163(a) require that a State not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year. In calculating compliance with the State-level MOE requirement, all State expenditures that support special education and related services must be considered, including those made by the SEA directly, other State agencies and State funds provided to local educational agencies. The State reported that it uses a foundation formula of 150% of the per-child funding calculation for State-level educational support of children with disabilities. This calculation ensures that the amount of SEA financial support for the education of children with disabilities is equal to or greater than the amount of the prior year. The State further reported that to date, no other State-level agency funds have been used in the calculation of State-level financial support, and that the SEA was unaware of whether there were other State funds that must be included in the State's calculation of MOE.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds the State does not have procedures that are reasonably designed to ensure appropriate use of IDEA funds within the State. Specifically, determining whether LEAs met their MOE obligation based only on a comparison of State and local funds on either a per capita basis or total basis is inconsistent with the requirements of 34 CFR §300.203(b). Additionally OSEP finds the State has not implemented a systematic process to determine whether there are State sources of fiscal support for Part B services beyond special education funds allocated directly to LDE that the State must consider in calculating State level MOE, in accordance with 34 CFR §300.163(a).

### **Required Actions/Next Steps**

Within 60 days of the date of this letter, the State must provide:

1. A written assurance that the State will evaluate local MOE consistent with 34 CFR §300.203, including permitting LEAs to demonstrate that they meet their MOE obligation based on a comparison of local funds (and not just State and local funds), on a total or per capita basis;
2. A separate written assurance that the State has met the IDEA MOE requirements in IDEA section 612(a)(18) and 34 CFR §300.163 and has included, in its calculations, funds other agencies provide to the SEA for special education and related services, funds other agencies provide directly to LEAs for special education and related services, and funds other agencies directly pay to staff or contractors for the delivery of special education and related services pursuant to an IEP; and
3. A copy of the correspondence in which LDE has informed its State audit office of the need to review under the State's Single Audit, conducted under the Single Audit Act, the State's procedures to comply with the tracking of the amount of State financial support provided (made available) to meet the IDEA MOE requirements in IDEA section 612(a)(18) and 34 CFR §300.163.