

Minnesota's Part B & Part C 2009 Verification Visit Letter Enclosure

I. General Supervision

The Minnesota Department of Education (MDE) is both the State educational agency (SEA) under Part B of the Individuals with Disabilities Education Act (IDEA), and the Lead Agency for early intervention services under Part C of the IDEA. Because Minnesota is a "birth mandate State," MDE and local educational agencies (LEAs) are responsible for providing free appropriate public education (FAPE) not only to children with disabilities ages three through 21, but also to infants and toddlers with disabilities ages birth through two.

Minnesota has approximately 491 LEAs, including approximately 337 "geographic school districts" (which are also responsible for providing Part C services and FAPE to infants and toddlers who are residents of their districts), care and treatment facilities, the State Academies for the Deaf and Blind, and 154 charter schools. As MDE requested, OSEP will use the term "district" throughout this Enclosure to refer to all of these different kinds of LEA entities.

There are 94 Interagency Early Intervention Committees (IEICs) in Minnesota that are established under State statute. Each IEIC must include representatives of local health, education, and county human service agencies, county boards, early childhood family education programs, Head Start, parents of young children with disabilities, child care resource and referral agencies, school readiness programs, and service providers, and may also include representatives from other private or public agencies and school nurses. The IEICs must meet quarterly and their role is defined by State statute to develop a local public awareness system and a plan for the allocation and expenditure of State and Federal IDEA funds. Although the IEICs have specified responsibilities for child find and intake for children birth through five, MDE holds districts responsible for compliance with all Part C requirements.

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

MDE uses a single system for general supervision under both Part C and Part B, and monitors districts for compliance with both Part B and Part C requirements. During OSEP's September 2009 verification visit, MDE staff informed OSEP that MDE issues findings of noncompliance through its district self-review and its on-site monitoring processes, and through decisions on State complaints and due process hearings.

Since OSEP's 2004 verification visit, MDE revised its general supervision system. MDE began to implement the revised general supervision system, the Minnesota Continuous Improvement and Monitoring Process (MNCIMP), in Federal Fiscal Year (FFY) 2008. MNCIMP includes a new web-based compliance tracking system that MDE staff demonstrated during the verification visit. MDE has established a staggered five-year monitoring cycle, and assigned each district to one of five groups across the five-year cycle. During its first year in the five-year cycle, each district must complete a self-review, with Group A districts conducting their self-assessments in FFY 2008, Group B districts conducting theirs in FFY 2009, etc. The self-review protocol includes many compliance items, and districts are to report, in their self-review submission to MDE, any noncompliance they find. Following a district's submission of its self-review, MDE will send the district a letter in which

MDE makes a formal finding of noncompliance. In its second year of the cycle, a district must correct noncompliance identified as part of the self-review. (See the discussion under the General Supervision Critical Element 2 section of this letter for further detail.) During the third year of the five-year cycle, MDE conducts an on-site monitoring review of the district and issues a monitoring report, including any additional findings of noncompliance that MDE finds in its on-site review. In the fourth year of the cycle, each district must correct any noncompliance that MDE identified through the on-site monitoring review. In the final year of the five year cycle, districts are, according to MDE's monitoring manual, free to implement any corrective action or continuous improvement initiatives. MDE staff informed OSEP that by FFY 2013, all districts will have undergone both self-reviews and MDE on-site reviews.

As noted above, each district must complete a self-review that addresses requirements for both Parts B and C requirements, once during the five-year cycle. Using a stratified random sampling process, MDE identifies for each district the specific child records that the district must review as part of its self-review. Districts complete their record reviews within the web-based system; MDE can track the status of both record review and correction through this system. MDE informed OSEP that it will not make a finding of noncompliance based on noncompliance that a district identifies in its self-review, if the district demonstrates correction within 60 days from the date on which the district submitted its self-review to MDE.

Finding—Part C: Failure to Make Findings of Noncompliance Based on Compliance Data that the State used to Report in its APR

For the past three APR reporting years (FFYs 2005 through 2007), MDE has used data collected through a database to collect the statewide data reported for the Part C compliance indicators in the APR, and to report publicly on the performance of each district against the compliance indicator targets of 100%. OSEP reviewed the data that the State has reported for the past three years in its State Performance Plan/Annual Performance Report (SPP/APR). Specifically, OSEP reviewed the last three years of data for SPP/APR Indicator C-7 (45-day timeline) for the three districts that OSEP visited as part of the Indicator C-7 focused monitoring visit (Minneapolis, St. Paul, and Anoka Hennepin, which are also the three most populous districts in the State). Those data show the following levels of compliance with the 45-day timeline requirements reflected in SPP/APR Indicator C-7:

Year/District	2005-2006	2006-2007	2007-2008
Minneapolis	43%	71.19%	26.20%
St. Paul	50.30%	50.00%	45.70%
Anoka Hennepin	73.5%	60%	88.7%

Notwithstanding these data, at the time of OSEP's verification visit in September 2009, the State had not: (1) made a finding of noncompliance with the 45-day timeline requirement in any of these districts; (2) informed them in writing that they must correct the noncompliance as soon as possible and no later than one year from identification; or (3) reflected this noncompliance in its timely correction data for Part C SPP/APR Indicators 7 and 9. The State reported that it had only made findings of noncompliance during FFY 2007 and 2008 based on data collected through district self-

reviews and MDE on-site monitoring reviews (which occur on a five-year cycle), and that these events had not yet occurred for Minneapolis or St. Paul.¹ In FFY 2008, MDE revised its process of collecting APR data for the Part C compliance Indicators 1, 7, and 8. In FFY 2008, MDE used the Minnesota Automated Reporting Student System (MARSS) to collect compliance data for Indicators 1, 7, and 8, but only for the two-fifths of its districts scheduled to participate during FFY 2008 in either the self-review or MDE on-site review. Beginning in FFY 2009, MDE will no longer use MARSS to collect SPP/APR compliance data but will use MARSS to collect the data reported by the State under IDEA section 618 (child count, service settings, and exit data) and will use data from monitoring, rather than the database, to collect and report data for its SPP/APR Indicators C-1, 7 and 8 using the self-review and MDE on-site monitoring components of the MNCIMP general supervision system, thus providing data on only one-fifth of its districts in each APR.

The State's failure to issue findings of noncompliance based on a review at least once annually of the above-cited data (and in similarly situated districts) is inconsistent with the identification of noncompliance requirements in IDEA Part C section 635(a)(10)(A) and 34 CFR §303.501. If a State collects compliance data through a State database and the data collected show noncompliance in an LEA or EIS program, the State must issue a finding of noncompliance during a fiscal year, unless it determines that the LEA or EIS program had already corrected the noncompliance before the State issues its finding.

Finding—Parts B and C: Failure to Make Findings of Noncompliance Discovered through Fiscal Monitoring

During the verification visit, MDE informed OSEP that it has a fiscal monitoring process, and that: (1) over the past three years MDE has conducted reviews of approximately 100 districts; (2) in each of these reviews, the State found noncompliance with one or more IDEA and/or other related Federal requirements that apply to use of IDEA funds; and (3) the State had, at the time of the OSEP verification visit, issued findings for only two of those reviews. This is inconsistent with the monitoring and timely correction requirements in the General Education Provisions Act (GEPA) (20 U.S.C. 1232d(b)(3)(E)), IDEA sections 612(a)(11), 616, 635(a)(10)(A) and 642, and IDEA regulations in 34 CFR §§300.149 and 300.600, and 34 CFR §303.501, because the State has failed to make written findings of noncompliance and require correction within one year when the State finds noncompliance with the requirements of the IDEA.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with MDE and local personnel, OSEP has determined that the State's monitoring procedures do not meet IDEA requirements in the following ways: (1) notwithstanding data, collected through the MARSS database and used to report on Part C compliance SPP/APR Indicators C-1, C-7, and C-8 that indicate noncompliance, MDE has not made findings of noncompliance based on those data; and (2) the State has failed to notify districts of findings of noncompliance identified through its fiscal monitoring process. Further, because the State just began to implement its new monitoring system in FFY 2008 (self-review) and FFY 2009 (MDE on-site review), OSEP cannot determine the extent to which, beyond the specific problems identified above, the new system is reasonably designed to identify noncompliance.

¹ Anoka Hennepin completed its self-review in FFY 2008, but at the time of OSEP's visit the State had not yet issued findings based on the FFY 2008 self-reviews; Anoka Hennepin is scheduled for MDE on-site monitoring in FFY 2010. Minneapolis and Saint Paul districts are scheduled to complete their self-reviews in FFY 2009 and are scheduled for MDE to conduct on-site monitoring in those districts during FFY 2011.

Required Actions/Next Steps

With respect to the failure to make findings of noncompliance in Part C based on compliance data that the State has used to report in its APR, MDE must submit with its FFY 2010 Part C application: (1) written confirmation that it has issued findings against (or verified correction by) those districts for whom MDE has FFY 2007 data indicating noncompliance with Indicators C-1, C-7, and C-8; and (2) a written assurance that it will review its State database compliance data at least annually and issue findings for any noncompliance reflected by that data.

With respect to the failure to make findings of noncompliance in Part B and Part C discovered through fiscal monitoring, MDE must submit with its FFY 2010 Part B and Part C applications: (1) written confirmation that it has issued findings against (or verified correction by) those districts for whom MDE has found noncompliance through its fiscal monitoring in FFYs 2008 and 2009; and (2) a written assurance that it will make findings of noncompliance based on noncompliance identified through fiscal monitoring.

Finally, in the State's FFY 2009 Part B and Part C APRs, due February 1, 2011, the State must confirm in the appropriate SPP/APR Indicators C-9 and B-15 that it has included any findings of noncompliance it was required to make as a result of the required actions identified in the General Supervision Critical Elements 1 and 2 sections of this letter, and report on the correction of any such findings in its FFY 2010 Part B and Part C APRs, due February 1, 2012.

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

APR Data on Timely Correction

The State's FFY 2007 APR data for the timely correction indicators were 100% for SPP/APR Indicator C-9 (compared to 96.6% for the data reported in the FFY 2006 APR) and 99.7% for SPP/APR Indicator B-15 (compared to 65.1% for the data reported in the FFY 2006 APR). However, as noted above in GS-1, OSEP found that MDE did not issue findings in Part C when State database data for FFYs 2005, 2006 and 2007 demonstrated noncompliance and thus, it does not appear that the State's FFY 2007 timely correction data for Part C are reliable.

Timeline for Correction

During the verification visit, MDE staff informed OSEP, and OSEP confirmed by reviewing the MDE letter that informs the district of the finding, that MDE requires districts to correct noncompliance as soon as possible, but no later than one year from written notification to the district of the noncompliance. For noncompliance identified through State complaints or due process hearings, MDE requires the corrective action to be completed by a date stated in the decision, generally within 30 to 60 days and always within one year from the date of the decision.

Although, as noted above, MDE staff informed OSEP that it requires correction within one year from identification, the State also reported that during its spring 2009 mandatory three-day training for districts scheduled for self-reviews or MDE reviews during the 2009-2010 school year, the State informed districts that they had 14 months from the date of the district's submission of its self-review to demonstrate correction for any identified noncompliance. OSEP staff informed MDE during the visit that the State must, in its notification to districts of noncompliance identified through the self-reviews, clearly state that correction must occur as soon as possible, and no later than one year from the date of notification to the district of the noncompliance, and MDE staff confirmed that it would promptly correct any misinformation.

Tracking of Noncompliance

MDE staff reported that MDE ensures correction of noncompliance in a timely manner by tracking individual student-specific noncompliance through its new web-based compliance tracking system as part of the self-review process for the 2008-2009 school year. This system allows MDE and the district to concurrently view findings of noncompliance and the status of demonstration of correction. There are a number of specific elements built into the compliance tracking system pertaining to student specific noncompliance such as demographic information, area of noncompliance, the status of the noncompliance, and MDE reviewer comments. The web-based system also includes a list of "Documentation of Correction" options that is part of the district response to demonstrate correction. Some of these include access logs, case manager notes, individualized education programs (IEPs) and individualized family service plans (IFSPs), suspensions/expulsion documentation, and progress reports/notes. Districts completing self-reviews must also self-identify systemic areas of noncompliance and develop corrective action plans to address any self-identified areas of systemic noncompliance.

Use of Corrective Action Plans

MDE staff informed OSEP that for findings of noncompliance that the State issues as a result of an MDE on-site review, the State requires the district to develop and submit a corrective action plan (CAP) and then demonstrate completion of the CAP. A CAP must delineate planned remediation activities and internal procedures, person(s) responsible, timelines, and evidence of completion. The State reported that for noncompliance identified through complaints and due process hearings, specific MDE staff follow up with the district to verify that the corrective action has been completed and with parents or complainants to ensure they are in agreement that the corrective action was completed.

State Verification of District Correction of Noncompliance

MDE staff reported that it uses technical assistance, the review of district policies and procedures, and the implementation of both action plans (required for noncompliance identified through self-reviews) and CAPs (required for noncompliance identified through MDE Review) to verify timely correction. The State informed OSEP that an automatic e-mail notification is built into the compliance tracking evidence status section. If the State determines that a district has not submitted adequate documentation of correction, the district receives an e-mail message notifying it that MDE has rejected the evidence. The tracking system also has the capacity to generate a variety of reports, including a full self-review report by district, noncompliance findings by district, MDE user reports and a district correction progress report, which includes elements such as initial citations, final report citations, outstanding citations and the percent of those citations corrected.

If MDE does not agree that a district has complied with its CAP, it will increase oversight, conduct repeated follow-up visits, and order more specific corrective actions. MDE reported that there is a State statute that provides authority for escalating fiscal sanctions to a district that is extremely resistant to other correction remedies. The State staff reported that MDE, to date, had not imposed any fiscal sanctions.

Finding—Part C and Part B: Verification of Correction

The Part B regulations in 34 CFR §300.600(e) require that, in exercising its monitoring responsibilities under §300.600(d), and the Part C provisions in IDEA sections 616, 635(a)(10(A) and 642 and 34 CFR §303.501, the State must ensure that when it identifies noncompliance with IDEA requirements, the State must ensure that 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/EIS program 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/EIS program.

During the verification visit and a subsequent conference call, OSEP staff discussed the guidance in OSEP Memo 09-02 with MDE staff regarding the State's responsibilities to ensure timely correction and to verify correction. Specifically, OSEP staff inquired whether, when verifying correction of noncompliance MDE made based on self-reviews, it required the district to: (1) confirm that it had addressed each individual case of noncompliance (including those involving timeline requirements); and (2) provide updated data confirming current (subsequent to the finding) compliance with the specific regulatory requirements. MDE staff explained that it verified correction of each individual case of noncompliance by requiring the districts to submit documentation of correction for some of the children, and an assurance of correction for all of the other children who had previously been denied the specific benefit.

With respect to confirming that the district is currently in compliance with the specific regulatory requirements, OSEP Memo 09-02 requires States to base verification of correction on "the State's review of updated data such as data from a subsequent on-site monitoring or data collected through a State data system." However, MDE staff indicated that MDE verified correction based on a review of one child file for each case manager in a district for which there was a finding of noncompliance on a particular IDEA requirement. This file was selected by the district which was asked to submit a file meeting the relevant requirement. OSEP is concerned regarding the State's verification of correction based on a single, district-selected child folder for each case manager with previous noncompliance, and how such a limited review of files provides representative updated compliance data that accurately measure the level of compliance with an IDEA requirement in a particular district.

OSEP Conclusions

In order to effectively monitor implementation of Part C, as required by IDEA sections 616(a), 635(a)(10)(A) and 642 and 34 CFR §303.501(b), and Part B, as required by GEPA in 20 U.S.C. 1232d(b)(3)(E), IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, 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 and local personnel, OSEP finds that MDE has not demonstrated that it has a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner, because, as noted above, MDE had not issued findings of noncompliance when State data demonstrated noncompliance with Part C requirements, and it is unclear whether the use of a single self-selected record from a case manager in a district is representative updated data to verify correction of noncompliance with Part B and Part C requirements. Furthermore, because MDE's revised monitoring system was not implemented until FFY 2008, OSEP cannot determine whether MDE's revised general supervision system is reasonably designed to timely correct noncompliance.

Required Actions/Next Steps

Within 60 days from the receipt of this letter, MDE must submit to OSEP written documentation of the specific procedures it uses, including the types and amount of data it examines, to verify that a district is currently in compliance with the specific regulatory requirements that formed the basis of a finding of noncompliance, consistent with OSEP Memo 09-02. The documentation must explain

how the updated data confirming current (subsequent to the finding) compliance with the specific regulatory requirements are representative.

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

MDE's Division of Compliance and Assistance is responsible for administering the State's systems for dispute resolution, for both Part C and Part B. MDE uses a single database, the Compliance Database, to collect and report data regarding these systems. The Database, which is searchable, alerts users to deadlines ("turning red" 15 days before a due date), and assists MDE in tracking correction of complaint and hearing findings.

State Complaint System

As noted above, MDE's Division of Compliance and Assistance is responsible for the resolution of Part C State complaints under 34 CFR §§303.510 - 303.512, and of Part B State complaints under 34 CFR §§300.151 - 300.153.

The State reported, in its FFYs 2005, 2006, and 2007 APRs, that, with the exception of one (of 66) FFY 2006 Part B complaints, it issued decisions on all State complaints for both Part C and Part B either within the 60-day timeline or later with a properly documented extension of that timeline. OSEP confirmed the accuracy of the FFY 2007 data by comparing them to MDE's tracking database. OSEP also reviewed a sample of files for complaints with extended timelines, and confirmed that those files included clear documentation of appropriate extensions of the timeline.

Due Process Hearings

As noted above, MDE is both the SEA and the Lead Agency for the State. The State has elected, pursuant to 34 CFR §303.420(a), to adopt the Part B mediation and due process procedures for Part C. The State has a "single-tier" system for due process hearings, in which MDE is responsible for conducting impartial due process hearings, and a party to the hearing may appeal the decision, pursuant to 34 CFR §300.516(a), by bringing a civil action in Federal district court or a State court of competent jurisdiction.

In 34 CFR §300.514(c)(1), the Part B regulations require that, after deleting any personally identifiable information, the State must "transmit the findings and decisions referred to in [§300.514(b)] to the State Advisory Panel ..." During the verification visit, the State informed OSEP that it had posted due process hearing decisions on MDE's website but had not transmitted the findings and decisions to the SEAP. After OSEP clarified that this failure to transmit the findings and decisions to the SEAP constituted noncompliance with the requirements of 34 CFR §300.514(c)(1), the State took immediate action to correct the noncompliance, providing copies of due process hearing decisions to the SEAP at its regularly scheduled meeting on the last day of OSEP's visit (September 17, 2009).

Finding—Part B and Part C: Incorrect Calculation of the Timeline for Due Process Hearing Decisions

The State reported during the verification visit, and OSEP confirmed through its review of MDE's database, that it was applying a timeline for the issuance of due process hearing decisions of 75 days from the date of receipt of the parent's due process complaint, rather than, as required by 34 CFR §300.515(a), not later than 45 days after the expiration of the 30-day resolution period under 34 CFR §300.510(b), or the adjusted time periods described in 34 CFR §300.510(c). In an e-mail message

dated November 10, 2009, MDE informed OSEP of the actions that it had taken to correct this noncompliance, including that MDE: (1) met with the State's Chief Administrative Law Judge, who heads the Office of Administrative Hearings, which conducts special education due process hearings and is responsible for implementing the timeline requirements of 34 CFR §300.515(a); (2) with the input of the Chief Judge, redesigned the tracking form on which hearing officers report deadlines for hearing decisions and extensions (a copy of which the State submitted with the November 10, 2009 e-mail message), to make it consistent with the requirements of §300.515(a); (3) discussed, with MDE's Information Technology Division, the need to change its online data collection to reflect the change in the way the deadline is determined; (4) communicated this change to interested stakeholders by sending a message via MDE's listserv, which includes local Directors of Special Education and other interested parties such as members of various parent advocacy organizations and attorneys practicing education law; and (5) planned to convey information regarding the change at the next Special Education Directors Forum in December 2009.

Finding—Part B: No Process to Ensure Compliance with the Timeline for Resolution Meetings

The Part B regulations require, in 34 CFR §300.510(a), 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 34 CFR §300.511, the LEA must convene a resolution meeting.² In its review of due process hearing files during the verification visit, OSEP found instances where the due process hearing decision showed that the district had held the resolution meeting more than 15 days after receipt of the due process complaint. OSEP staff asked MDE how it ensured compliance with the 15-day timeline for resolution meetings, and whether/how it made a finding of noncompliance when a district exceeded that 15-day timeline. MDE informed OSEP that it did not monitor for compliance with that timeline, and that it did not have a process for making a finding of noncompliance if a district failed to comply with the timeline. With its November 10, 2009 e-mail message to OSEP, MDE informed OSEP that MDE had revised the hearing appointment letter that is sent to districts and parents involved in due process hearings to highlight the district's responsibility to convene a resolution session within 15 days and to inform MDE of the date and result of the resolution session. MDE attached to that e-mail message a copy of that letter, a form for districts to document when the resolution session took place, and a model letter for districts to send to parents to schedule the resolution session.

OSEP Conclusions

As noted above, OSEP found that the State: (1) was not correctly calculating the timeline for due process hearing decisions; and (2) had no process for ensuring compliance with Part B's 15-day timeline for resolution meetings. On November 10, 2009, the State provided documentation that it had corrected the finding that it was not calculating the 45-day timeline for hearing decisions in a manner consistent with the requirements of 34 CFR §300.515(a), and had instituted a process to ensure compliance with Part B's 15-day timeline for resolution meetings. OSEP also found during the visit that MDE was not meeting the requirement to transmit hearing findings and decisions to the SEAP, but corrected that noncompliance during the verification visit.

² The regulations further provide, in 34 CFR §300.510(a)(3), that the resolution meeting need not be held if: (i) the parent and the LEA agree in writing to waive the meeting; or (ii) the parent and the LEA agree to use the mediation process described in 34 CFR §300.506.

Required Actions/Next Steps

No further action is required.

Critical Element 4: Improving Educational Results - Part B³

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

MDE described multiple initiatives and practices, among 92 discretionary projects, that it has employed to improve educational results and functional outcomes for students with disabilities. The State also uses funds from its State Personnel Development Grant (SPDG) and the General Supervision Enhancement Grant (GSEG) to address more than 20 initiatives. MDE reported that the most successful of these initiatives are focused on increasing graduation rates, decreasing dropout rates, and ensuring that students with disabilities are educated in the least restrictive environment (LRE). MDE requires that all of these IDEA-funded projects be directly connected to SPP/APR indicators or other IDEA requirements.

Graduation

The State provides targeted grants to districts based on district profile data to improve graduation rates of students with disabilities. MDE reported that it provides incentives for schools to participate in the integrated School-Wide Positive Behavioral Interventions and Supports (PBIS) Initiative, which includes statewide oversight committees, district training, parent information, data management, evaluation activities and dissemination. There are several PBIS four-year cohorts across the State that have expanded capacity for PBIS coordinators, principals, and other local level school personnel to serve as trainers. The State also supports Regional Low Incidence Disabilities Projects to ensure adequate evaluation, identification and program planning leading to graduation for children and youth with low incidence disabilities. In addition, the State is continuing its partnership with State agencies through the Minnesota System of Interagency Coordination (MnSIC) initiative to enhance graduation rates. Interagency work continues to focus on issues related to communication to school boards and county boards on services for students ages 16-21, with particular attention on students 18-21.

Dropout

To help reduce dropout rates, the State has implemented PBIS and the U.S. Department of Education Dropout Prevention Grant (DOPG) dropout prevention strategies for all students in districts with the highest dropout rates. Districts and non-profit partnership projects will use the National Dropout Prevention Center effective strategies to focus on increasing parent engagement. MDE is continuing to implement the revised *Reintegration Framework* for students reentering school. Implementation sites will address the reintegration needs of their students with IEPs. The State reported that four sites (care and treatment education programs) have implemented the reintegration strategy and three new implementation sites that include nonpublic schools and alternative learning programs were added. The State revised the *Strategies Planning Toolkit* and created a formative evaluation report and disseminated it at State and regional conferences. MDE also provides Alternatives to Suspension grants to districts to address improving high suspension rates for students in those districts.

³ Because the State's initiatives for improving performance under Part B and Part C are so different from each other, OSEP has separated the discussion of Critical Element 4 into two separate sections.

LRE

Minnesota reported that it is a State with high rates of inclusion for students with disabilities included in general education settings for a significant proportion of the school day. MDE participates in the LRE Community of Practice and provides technical assistance and guidance on a variety of topics related to: accessible instructional materials to educators, parents, and others, specific learning disabilities and Response to Intervention (RTI). There are 60 RTI pilot sites with different cohorts across the State, which include representatives from the MDE executive team; the focus includes reading, math, and behavior in some sites. The State provides professional development on instructional strategies to support the development of literacy and numeracy for students with the most significant cognitive disabilities. MDE is in the process of preparing and disseminating guidance to districts on strategies for assistive technology through DVD and Parent Training Grants. The State is continuing to work with the Regional Low Incidence Projects to ensure accurate data are reported to maintain a continuum of services for students with disabilities. MDE is also developing and implementing district staff training on assistive technology and Universal Design for Learning (UDL) in conjunction with the Center for Applied Special Technology (CAST). The State believes that the collaborative work with CAST is one of the most effective initiatives in the State. Last, the State also provides targeted district grants based on district profiles to improve local outcomes for LRE.

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 4: Improving Educational Results - Part C

Does the State have procedures and practices that are reasonably designed to improve early intervention results and functional outcomes for all infants and toddlers with disabilities?

Verification Visit Details and Analysis

MDE staff described a comprehensive approach to improving early intervention results and functional outcomes for infants and toddlers with disabilities throughout the State. MDE reported that it uses the SPDG for Part C initiatives, and is using funds under the American Recovery and Reinvestment Act of 2009 (ARRA) for regional personnel development. Within the past year, MDE has provided regional IEIC planning grants to study potential changes to the IEIC structure to improve performance related to the early identification of eligible children, timely IFSPs and services, and the delivery of personnel training. MDE is also working on a new service coordination initiative.

Statewide Public Awareness

MDE informed OSEP that early identification begins with collaborative interagency child find efforts with the Minnesota Department of Health and the Minnesota Department of Human Services agencies at both the State and local levels. This includes the new Help Me Grow public awareness campaign and the Follow Along Program, which collects screening information on infants and toddlers. Among other strategies, MDE has partnered with public television to develop a DVD in six different languages to reach out to those from other cultures. MDE plans to develop online referral capacity as part of Help Me Grow. IEICs are involved in child find efforts at the regional level but

districts set child find targets and any underperforming district must develop an action plan to address improvement.

Individualized Services

MDE reported that it uses the MDE individual student record review process to ensure consistency among assessment results, individualized services, and service delivery environments. The State reported initiatives to improve staff skills in assessment, writing functional goals, and implementing routines-based intervention, and is in the process of revising the statewide IFSP form to support these initiatives. Minnesota is one of four states that are participating in the National Professional Development Center on Inclusion in Early Childhood. MDE has also been selected as one of five sites to work with the Individualized WIKI Project, which focuses on communication and collaboration across teams.

Child and Family Outcomes

MDE has been selected as a framework state by the Early Childhood Outcomes Center (ECO). MDE selected the Child Outcomes Summary Form (COSF) as the data collection protocol because it converts data from multiple assessment tools and multiple sources. Districts are given discretion to use any criterion-referenced or curriculum-based assessment measure that has been reviewed by ECO as the foundational element for child outcomes progress measurement. In addition, MDE sponsored trainings to support use of tools by IFSP team members. The State has emphasized the importance of valid and reliable data to ensure improvement. Recently the State has focused on building capacity at the local level so local leaders can analyze their data for patterns and use the information for local program planning that will result in improved individualized services.

The State reported that it provides ongoing training and technical assistance both statewide and for individual district administrators and staff on supporting families' needs so that interventions are family-focused and designed to improve family capacity. The State works with PACER (the State's parent training and information center) and other parent advocacy organizations to support training for family members.

OSEP Conclusions

Based on the review of documents, analysis of data and interviews with State and local personnel, OSEP finds MDE has procedures and practices that are reasonably designed to improve early intervention results and functional outcomes for all infants and toddlers with disabilities.

Required Actions/Next Steps

No action is required.

Critical Element 5: Implementation of Grant Assurances - Part B⁴

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 a part of its monitoring and enforcement responsibilities under section 616 of the IDEA and 34 CFR §§300.600 and 300.602, each State must annually report to the public on the performance of

⁴ Because the requirements that comprise Critical Element 5 are so different for Part B and Part C, OSEP has separated the discussion of Critical Element 5 into two separate sections.

each district against the State's SPP/APR targets and must make an annual determination for each district. MDE addresses the public reporting requirement by publishing a district profile for each district on MDE's website, in which it reports the district's performance against targets in the State's SPP. OSEP reviewed district data profiles while on-site and found that the State's public reporting on Indicator B-4A shows the degree of discrepancy in the rate of suspension and expulsion, but not the target (percent of districts with significant discrepancy), or whether the district had a significant discrepancy. The State informed OSEP during the verification visit that it would revise its public reporting on local performance for Part B Indicator 4A to include the State's target and whether the district has a significant discrepancy in its rate of disciplinary actions for students with disabilities.

As required by IDEA section 616(d)(2) and 34 CFR §300.600(a)(2), MDE makes annual determinations about the performance of each district using the categories in 34 CFR §300.603(b)(1). MDE reported that the SEAP provides input into the local determination decision-making process. The State provided OSEP with a copy of its rubric for making determinations. MDE uses compliance data for Part B Indicators 9, 10, 11, 12, and 13, audits, timely and accurate data, and timely correction of identified noncompliance. The State reported that the initial FFY 2007 determination for all but 16 districts was Meets Requirements. The State subsequently provided an appeal process for the 16 districts that did not Meet Requirements, and subsequently revised all those determinations to Meets Requirements.

Significant Disproportionality and Comprehensive Early Intervening Services (CEIS)

The State collects and examines data for each district to determine if significant disproportionality based on race and ethnicity is occurring. The determination is made with respect to the identification of children as children with disabilities, including identification in specific disability categories, the placement of these children in particular educational settings, and the incidence, duration, and type of disciplinary actions, in accordance with 34 CFR §300.646(a). If the State determines that a district has a significant disproportionality in one or more of these areas based on its examination of a district's data, the State requires the district to: (1) conduct a review, and if appropriate, revise policies, procedures, and practices used in identification, placement, or discipline of children with disabilities to ensure compliance with Part B; (2) reserve 15 percent of its Part B 611 and 619 funds for CEIS; and (3) report publicly on the revision of policies, procedures, and practices, consistent with 34 CFR §300.646(b).

MDE currently uses different methodologies across the four analysis categories and identifies a district as having significant disproportionality if it meets one or more of the following criteria in three consecutive years: (1) a weighted risk ratio greater than or equal to 5.0 and a risk ratio greater than or equal to 5.0 for students of any race/ethnicity in special education; (2) a weighted risk ratio greater than or equal to 5.0 and a risk ratio greater than or equal to 5.0 for students of any race/ethnicity within a disability category; (3) a weighted risk ratio greater than or equal to 4.0 in two or more combinations of race/ethnicity and setting of which students are removed from regular class 21% or more of the day; and/or (4) students with disabilities are suspended or removed for more than ten days in the year in any race/ethnicity category with a rate of suspension and expulsion which is significantly discrepant from the State rate for students with disabilities.

The State has not yet determined any districts to have significant disproportionality based on the State's criteria. MDE reported that seven districts (five for discipline of African American students and two for over-identification of White students) have met the data threshold for significant disproportionality for two consecutive years and the State anticipates that these same districts will meet the data threshold for a third year as well. This would meet the State's criteria for determining significant disproportionality and trigger the provisions in 34 CFR §300.646(b). The State notified these districts that they had met the data thresholds for significant disproportionality for two

consecutive years and required the districts to submit a report to MDE containing data analysis for the identified category, a district plan identifying any internal issues related to disproportionality data, and the planned procedures to review policies, procedures, and practices contributing to meeting the data thresholds.

OSEP recognizes that States have discretion in defining significant disproportionality and may consider a risk ratio of 5.0 annually. However, OSEP is concerned that the State's definition, including the requirement that a district LEA must meet the definition for three years in a row, sets the bar too high. In fact, the State has not identified significant disproportionality in any districts for the last two years using this definition. The Data Accountability Center (DAC) has a guidance document entitled "Methods for Assessing Racial/Ethnic Disproportionality in Special Education: A Technical Assistance Guide" (July 2007), on methods for assessing disproportionality, available at <https://www.ideadata.org/Products.asp>. We suggest that MDE review the guidance and/or seek DAC's assistance to determine if it can develop a statistically sound definition of significant disproportionality based on numerical analysis of data that encourages districts to address the racial or ethnic significant disproportionality in special education that they face.

While the State has not yet determined any districts to have significant disproportionality based on the State's criteria, 57 districts applied to reserve up to 15% of their Part B IDEA funds to provide CEIS in FFY 2009. MDE provided evidence that it has a process in place for ensuring that Federal requirements in 34 CFR §300.226 are met if a district uses Part B funds to provide CEIS, regardless of whether it is required to do so. The State uses a combination of MARSS and its Electronic Data Reporting System (EDRS) to track the number of children served in CEIS, and the subsequent number of children found eligible for special education and related services. MDE reported that 20% of students served using CEIS funds have been found eligible for special education and related services since the implementation of the program for CEIS.

Private Schools

The State reported that it monitors, through its grant application process, data reporting, and on-site monitoring reviews, the provision of special education and related services for students who are parentally-placed in private schools. Each district must provide an annual assurance to MDE in its application for Part B IDEA funds that it will ensure that it meets the private school requirements in 34 CFR §§300.130 through 300.144. The State also reported that it interviews special education directors during its MDE on-site reviews regarding child find for all students in nontraditional settings, including private schools.

Under 34 CFR §300.133(a), each district must, in calculating the proportionate share of its Part B funds that it must expend on special education and related services for students with disabilities who have been placed by their parents in private schools, divide the number of children with disabilities placed by their parents in private schools located in the district (whether or not they are actually receiving special education and/or related services from the district), by the total number of children with disabilities, aged three through 21, in the district's jurisdiction.

Finding—Part B: Incorrect Formula for Calculating Proportionate Share to be Expended on Services for Children Placed by their Parents in Private Schools

The State informed OSEP that it calculates the proportionate share for each district. OSEP found, however, that the formula that the State uses to calculate the proportionate share that each district must expend on services to children with disabilities placed by their parents in private schools is inconsistent with the requirements in 34 CFR §300.133(a). The State acknowledged that it uses as the numerator for that calculation only children with disabilities placed by their parents in private schools if they are actually receiving services from the district, rather than all children with

disabilities placed by their parents in private schools within the district (whether or not those children are actually receiving any special education and/or related services from the districts), as required by 34 CFR §300.133(a).

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 the requirements in 34 CFR §300.172. MDE requires districts to sign an assurance in their annual applications to ensure that students who are blind or other students with print disabilities are provided instructional materials in a timely manner. MDE has two authorized users of the accessible files available from NIMAC. These two users participate in the Center for Applied Special Technology (CAST) listserv and MDE is one of fifteen members of the Access to Instructional Materials (AIM) consortium. Minnesota is an Open Territory State, in that every district chooses its curricular materials that must meet State standards. MDE reported that it encourages districts to select new curricular materials that may also be available from the publisher. The State also reported that it conducts training for special education directors at regular forums held four times annually, offers workshops at State-wide conferences for teachers and administrators related to assistive technology for students who are blind or other persons with print disabilities, and provides technical assistance documents on the State's website.

Assessments

The State monitors districts as part of its MDE review to ensure that they comply with the Part B requirements for statewide and districtwide assessments in 34 CFR §§300.160 and 300.320(a)(6). The State reported that the nature and type of districtwide assessments vary widely. Minnesota provides a variety of technical assistance options for schools and districts regarding participation of students with disabilities in the statewide assessment system. The MDE has partnered with the National Center on Educational Outcomes (NCEO) at the University of Minnesota to develop the Minnesota Manual of Accommodations for Students with Disabilities in Instruction and Assessment along with a training guide. The documents outline five key steps in making decisions about accommodations and identify Minnesota's policies for the use of accommodations on State assessments. Other key documents and resources include participation guidelines, assessment policies and procedures manual (updated annually), the IEP team guide to statewide assessments, and district analysis and goal setting through the MNCIMP self-review.

Part B requires, in 20 U.S.C. 1412(a)(16)(D)(i), that MDE make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the number of children with disabilities participating in regular assessments, the number of those children who were provided accommodations in order to participate in those assessments, and the number of children with disabilities participating in alternate assessments, as well as data on the performance of children with disabilities on regular and alternate assessments, consistent with 20 U.S.C. 1412(a)(16)(D)(iv).

Minnesota reports to the public on the percentage of children with disabilities participating in statewide assessments through the State Report Card on MDE's website; however, OSEP learned that the State does not, as required by 20 U.S.C. 1412(a)(16)(D)(i), report to the public, at the LEA level, the number of those children who were provided accommodations in order to participate in those assessments. The State informed OSEP that it is working to update its District Data Profiles to include these data.

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: (1) children with disabilities enrolled by their parents in private schools, because its calculation of the proportionate share that each district must expend for children with disabilities placed by their parents in private school was not consistent with the requirements in 34 CFR §300.133(a); (2) the State's public reporting on Indicator B-4A because the State did not provide the State target (percent of districts with significant discrepancy) or whether the district had a significant discrepancy; and (3) public reporting of the number of those children who were provided accommodations in order to participate in regular assessments, as required by 20 U.S.C. 1412(a)(16)(D)(i). 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.

Required Actions/Next Steps

With its FFY 2010 Part B application, due May 10, 2010, the State must provide a separate assurance that it is properly calculating the proportionate share that each district must expend on services to children with disabilities placed by their parents in private schools in compliance with the requirements in 34 CFR §300.133(a). In addition, by June 1, 2010, the State must: (1) submit documentation to OSEP that the State is meeting the requirement in 20 U.S.C. 1412(a)(16)(D)(i), and is reporting to the public the number of children with disabilities who were provided accommodations in order to participate in regular assessments with the same frequency and in the same detail as it reports assessment results for children without disabilities; and (2) report to the public on the performance of each district against the State's SPP/APR targets for FFY 2008 by posting the information on MDE's website. OSEP will review the information on MDE's website to confirm that, in reporting to the public on district performance against SPP targets, the State has included all of the required information for Indicator B-4A.

Critical Element 5: Implementation of Grant Assurances - Part C

Does the State have procedures and practices that are reasonably designed to implement selected grant assurances (i.e., monitoring and enforcement, CSPD and interagency agreements, contracts or other arrangements)?

Verification Visit Details and Analysis

Public Reporting and Local Determinations

As a part of its monitoring and enforcement responsibilities under sections 616 and 642 of the IDEA, each State must annually report to the public on the performance of each EIS program (in Minnesota, each district) against the State's Part C SPP/APR targets, and must make an annual determination for each EIS program. MDE addresses the public reporting requirement by publishing a district profile for each district on MDE's website, in which the State reports the district's performance against targets in the State's Part C SPP.

As required by sections 616 and 642, MDE makes annual Part C determinations for each district. MDE reported that the SICC provides input into the process for making determinations. The State provided OSEP with a copy of its rubric for making determinations. MDE uses compliance data for

Part C Indicators C-1, 7, 8A, and 8C⁵, timely and accurate data, timely correction of identified noncompliance, and any fiscal monitoring findings. Using the scoring rubric, the State considers seven items in which the highest possible raw score is 28. The total raw score was then weighted to reflect emphasis on those factors not affected by the change in policy impacting transition requirements. Therefore, the scores for Indicators C-1 and 7 as well as the additional contributing factors were doubled to create the district weighted score. In making future determinations, there will be equal emphasis on all indicators.

Interagency Coordination

Under IDEA sections 635(a)(10), 637(a)(2), (6) and (9) and 640, each State lead agency must include in its Part C application a certification that its methods to ensure service provision and fiscal responsibility for services are current. Although MDE is the sole State public agency responsible for providing Part C services, MDE has coordinating interagency agreements with the Minnesota Departments of Health and Human Services and with Head Start. MDE staff reported that MDE maintains ongoing collaborative relationships with each of these groups as well as the broader early childhood community. IEICs have local interagency agreements and assurances.

Personnel Development

MDE reported that training priorities are informed by the APR, recent policy changes, research-based practice, SICC priorities, and statewide needs assessments. The State is using ARRA funds to establish a Regional Early Childhood Personnel Development Network. MDE Part C staff provides training and targets technical assistance to districts that are struggling with the correction of longstanding noncompliance.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP determined that MDE has procedures and practices that are reasonably designed to implement selected grant assurances regarding local determinations, public reporting, interagency coordination, and CSPD.

Required Actions/Next Steps

No action is required.

II. Data Systems

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

During the verification visit, the State reported its use of multiple data systems to collect and report Part B and Part C data to OSEP and the public, under both sections 618 and 616 of the IDEA. These data systems include the EDRS, MNCIMP, Staff Automated Reporting System (STARS), Dispute Resolution Database, and the MARSS. The State uses two additional systems to collect Part B discipline data (the Disciplinary Incident Reporting System (DIRS) and assessment data (the Statewide Assessment Database)).

⁵ As noted above, the same entities (districts) are responsible for implementing both Part B and Part C at the local level, and therefore no separate notification is required from Part C to the LEA, and MDE does not include Indicator 8B as part of the determination process.

MDE informed OSEP that the MARSS is the State's core data system and is an individual record file format system. MDE explained that each child is assigned a 13-digit unique identifier that remains with the child throughout his or her participation in the Part C and Part B system. The State reported that there are over 40 data elements reported on each child, including, but not limited to, child-specific special education and early intervention evaluation status, early intervention setting and educational environment data, Part C and Part B exiting data, and primary disability classification.

MDE informed OSEP that each district is responsible for the accuracy and completeness of its data. The MARSS system has the capacity to identify over 300 errors with its edit check components. To help ensure accuracy of the data, MARSS data are passed through edit checks at both the local and State levels. Each district has a MARSS coordinator, who runs reports and edit checks using the MARSS Web Edit System (WES), and MDE follows a similar process through the MARSS Statewide Edit Programs. Finally, the State reported that MDE student accounting auditors audit MARSS data to verify child count. MDE has built relationships with program and business office staff in the districts to ensure communication of data problems and correction of these problems is completed. Turnaround reports are sent to districts after every MARSS submission to verify that what the district reported is correct. If there are problems, the district is instructed to correct the problems on their source system (student management software) and resubmit the MARSS files. MDE explained that MDE staff create specialized reports to review for any unusual reporting, and provides follow-up so any inconsistencies are corrected. MDE also uses these reports to identify training needs for districts.

MDE provides opportunities for training and technical assistance in a variety of formats, including workshops, e-mails, telephone calls, and guidance documents, to ensure that all districts understand the requirements for the submission of valid, reliable and timely data. MDE and Regional Management Information Center (RMIC) staff conduct annual MARSS training on all aspects of data reporting, including the reporting of data related to child count. MDE disseminates memoranda and newsletters to MARSS Coordinators, Directors of Special Education, Business Managers and other district staff involved in reporting data to MDE. These documents inform districts of reporting procedures and changes, timelines and other items related to ensuring that all districts/charter schools report data consistently.

MDE reported that the divisions of Special Education Policy, Compliance and Assistance, Early Learning Services, and Information Technology work together to develop specifications of business rules and technical procedures that will guide the development of data collection and reporting. Data generated for the APR, as well as other State and Federal reporting requirements, are reviewed by a Quality Assurance team as well as by data analysts in the responsible MDE divisions prior to submission. Specifications are reviewed annually and updated as necessary. The enhancements to reports, applications and procedures are driven by changes to applications, data sources, Federal reporting requirements and an underlying goal to integrate systems. As reflected in the data sections for Part C and Part B of OSEP's June 1, 2009 SPP/APR Response Table, the State reported valid and accurate data and information to the Department and the public in a timely manner; however, OSEP identified in the discussion of General Supervision Critical Element 1 above, an issue with the State's FFY 2007 timely correction data in SPP/APR Indicators C-9 and B-15. OSEP also identified in General Supervision Critical Element 5 two issues related to the public reporting of data – one with respect to Part B Indicator 4A and one with respect to reporting the number of children with disabilities who were provided accommodations in order to participate in regular assessments.

Collection of Data for Part C SPP/APR Compliance Indicators

As a part of the verification visit, OSEP specifically inquired into the State's guidance and data collection methodology for SPP/APR Part C Indicators 1, 7, 8A, 8B, and 8C. MDE informed OSEP

that it has collected the data for these indicators, with the exception of Indicator 8B, using the MARSS system. As noted above, MDE does not collect additional data for Indicator 8B, because districts are both the public agency that provides Part C services and the district that provides preschool special education services under Part B.

As explained above, for FFY 2008, the State will continue to use MARSS to collect data for Indicators 1, 3, 7, 8A, and 8C, but only for those districts scheduled to participate in either the self-review or MDE on-site review as part of the MNCIMP general supervision system. Beginning in FFY 2009, the State will report data for Indicators 1, 7, 8A, and 8C strictly from self-reviews and MDE on-site reviews.

Collection of Data for Part B SPP/APR Compliance Indicators

As a part of the verification visit, OSEP specifically inquired into the State's guidance and data collection methodology for SPP/APR Part B Indicators 4A, 8, 9, 10, 11, 12, 13, and 14. The State provided information to demonstrate that these methodologies were reasonably designed to provide valid and reliable data for these indicators.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that MDE has procedures that are reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner. Without conducting a review of data collection and reporting policies at that local level, OSEP cannot 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 C and 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

MDE reported that it ensures that the data it collects and reports reflect actual practice by using a system of checks and balances at the local, regional and State levels, as described above. MDE has three major data collections systems that have distinct purposes to carry out these functions of the department. These data systems are the Uniform Accounting and Reporting Standards (UFARS), EDRS, and MARSS noted above.

UFARS is the financial reporting system for districts, cooperatives and charter schools to report their financial data to MDE. The system has numerous edit checks that highlight areas where reported data do not meet the State's standards. Independent auditors review UFARS data that is final for the fiscal year and an audit report is generated to indicate fiscal findings. MDE issues business bulletins to update business managers and other interested district personnel of the changes to the UFARS programs, coding and accounting procedures. A manual is developed at least annually that specifies the codes, conditions and grids of acceptable accounting code combinations.

MDE uses the online EDRS to collect special education expenditure data from school districts; districts gain access to the EDRS through the internet and the State has expanded this database to include other Federally-funded programs. The EDRS system collects data by individual service

provider, or classes of expenditures such as equipment, supplies and materials. EDRS has more than 100 edit checks that are built-in to check each line of data for probability.

MDE integrates the data from UFARS, EDRS, and MARSS by posting reports to the MDE website. MDE provides the reports to the districts to assist them in verifying the reporting of expenditures, students, and other pertinent data by cross checking with other reporting systems. MDE reported that there are multiple data edit checks to these systems and comparison reports are also run from these systems. The data reported on MARSS and EDRS remain in error until the data pass the edit checks. Records in error are not counted for financial and special education purposes. MDE staff follows up with any data that a district reports as corrected, but appear unreasonable to MDE. MDE may also request a student audit or fiscal monitoring of the district.

MDE reported that the State Part C staff is instituting a system of data verification for compliance data submitted to their program. Part C MDE staff has developed plausibility checks to ensure the accuracy of the data reported on MARSS. Districts have established data intake processes and identified lines of accountability to ensure data are collected consistently and validated. Desk audits are used for verification of correction of individual student noncompliance, verification of a percentage of the district-reviewed records, and to review demonstration of corrective action requirements. Each year, MDE reported that they provide a three-day training focused on elements of a record review to representatives of 40% of the districts. As a component of the training, each participant is required to bring three individual student records for review and these are reviewed with MDE monitoring staff.

OSEP Conclusions

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

MDE reported that data are compiled and integrated across systems for the purpose of reporting 618, EDEN and APR data at the State and district levels. The State uses its data systems for continuous improvement, monitoring, technical assistance, and providing ongoing support for districts. MDE uses data to develop local improvement plans and to direct professional development activities. The State's data system allows 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. Districts are required to respond to district level APR data, in the form of District Data Profiles, as part of the Program Evaluation portion of the MNCIMP process. This process requires each district to analyze its performance with respect to statewide performance targets. If a district does not meet a target it must develop an action plan that will result in an improvement in the district's performance. These action plans are reviewed and approved by MDE

staff to ensure that the improvement steps are appropriate and effective. Action plans are also reviewed from year-to-year to assess district progress.

MDE reported that it uses its data system to generate statewide priorities to improve programs and system operation. As described above in the General Supervision Critical Element 4 (Part B) section of this Enclosure, MDE has over 92 discretionary initiatives in Minnesota that focus on APR indicators for improvement. MDE participates in a weekly cross divisional data meeting that is responsible for developing the business rules for all data submissions, as well as for improvements and enhancements of the web-based MNCIMP system. Advocacy groups, special education administrators and MDE staff are involved in providing input to final initiatives and system improvements.

Minnesota reported a long history of providing training to district staff regarding the analysis and use of local data for program improvement. MDE assists districts in understanding how to use the data for decision making. Each year, MDE provides each district with the performance and compliance reports. Targeted technical assistance and training is provided on the use of data for those districts that do not currently participate in the full MNCIMP process.

OSEP Conclusions

Based on the review of documents, analysis of data and interviews with MDE and local personnel, OSEP finds, as noted above in General Supervision Critical Element 1, that MDE has not integrated data across systems to identify noncompliance or issue findings where State data indicate noncompliance and that although the State staff report the use of data to inform and focus its improvement activities, OSEP finds that the lack of integration negatively affects the timely identification and correction of noncompliance.

Required Actions/Next Steps

See required actions under General Supervision Critical Elements 1 and 2, above.

III. Fiscal Systems

Critical Element 1: Timely Obligation and Liquidation of Funds - Part B

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

Verification Visit Details and Analysis

MDE reported that it notifies districts of an estimated amount of their allocations in the fall and the final actual amount of the current year allocations after the completion of the December 1 child count. The State monitors obligation and liquidation of Part B funds throughout the year by tracking current year funds, carryover funds, and second year prior year funds separately at the State level. The State reported that districts receive monthly Federal payment notifications to track funds by year. Once the year has closed, carryover funds are loaded to the system and districts view the carryover amounts via a payment notification system. Districts also receive monthly reminders of the carryover. As the final obligation months approach, districts are instructed to notify MDE if funds have been obligated. If they are obligated, those funds are moved to second prior year for disbursement (liquidation) prior to the 30 month deadline. Funds that are not obligated are, with the consent of the district, redistributed to other districts prior to the twenty-seven month expiration.

OSEP confirmed through the U.S. Department of Education's Grants Administration and Payment System (GAPS) that the State expended all of its FFY 2004, 2006, and 2007 funds for Part B, and for FFY 2005, it expended all of its 619 funds and all but \$892 of its 611 funds.

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 ensure the timely obligation and liquidation of IDEA funds. OSEP cannot, however, without collecting data at the State and local levels, determine whether all public agencies in the State implement fiscal procedures that ensure the timely obligation and liquidation of IDEA funds.

Required Actions/Next Steps

No action is required.

Critical Element 2: Appropriate Distribution of IDEA Funds - Part B

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 provide assurances regarding maintenance of effort (MOE), supplement not supplant, and other appropriate accounting procedures. More specifically, each district is required by MN Statute 125A.75 to submit to MDE an annual application to receive special education funding. The application includes an "enumeration of costs" paid from each district's allocated IDEA Section 611 and 619 funds. Districts are required to provide assurances that all application funds budgeted are consistent with IDEA's Use of Funds provisions. MDE's review and approval process contains numerous automated "checks" to ensure funds are budgeted for only eligible expenses that are necessary and essential for the provision of special education services. The State has not established an LEA Risk Pool.

The State verified the existence of approximately 154 charter schools, all of which are LEAs, and are monitored and receive funds in the same manner as school districts. MDE reported that five new charter schools opened during school year 2009-2010 and three have closed this year. The State described a detailed process that it uses to calculate the allocation of funds to charter schools including significantly expanded and newly established charter schools. MDE explained that the count of students with disabilities who are attending new or expanded charter schools is not available until after the December 1 child count is completed and edited, so an initial estimated allocation of funds is calculated using prior year counts of students for the base amount and poverty and enrollment distributions. The State holds back one percent of Section 611 and Section 619 initial allocations to allow for appropriate allocation of funds to new charter schools. To initially allocate funds to new charters, MDE uses the estimated count of students on a roster submitted by the new charter and reviewed by MDE's student accounting staff. The actual allocations are determined using the latest student and poverty counts for all districts and charters following the editing of the December 1 child count. Base amounts for districts affected by a new or significantly expanded charter school are adjusted based on the year the charter school opened or was determined to be expanded, which is termed the "Effective Year." The State defines expanded as an increase in a charter school's total fall enrollment of 10% or more over the previous fiscal year.

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 ensure appropriate distribution of IDEA funds within the State. OSEP cannot, however, without collecting data at the State and local

levels, determine whether all public agencies in the State implement fiscal procedures that ensure appropriate distribution of IDEA funds.

Required Actions/Next Steps

No action is required.

Critical Element 3: Appropriate Use of IDEA Funds - Part B

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

Verification Visit Details and Analysis

MDE reported that the Division of Program Finance, Special Education Policy, and Compliance and Assistance are involved in on-going dialogue regarding fiscal matters. In addition, the State conducts special education fiscal monitoring to one-sixth of its districts every year. The State informed OSEP that the Fiscal Monitoring activities have been moved to Program Accountability and Improvement. The State currently codes and tracks all Federal and State funds using the EDRS and UFARS, but beginning in FFY 2010, tracking will be done through UFARS and the Minnesota Accounting and Procurement System (MAPS).

MDE's Special Education Funding and Data Team calculate MOE for each district through the comparison of expenditures reported on the EDRS from the prior year with those expended in the current year. The State explained that MOE calculation pulls data from the EDRS and UFARS used by districts and hosts/cooperatives to report eligible expenditures to MDE. The State notifies districts of the calculation by memoranda and reports. An interactive spreadsheet is developed at MDE and posted to MDE's website that allows districts to calculate the 50 percent MOE reduction, CEIS or a combination of both for those districts that have proposed to reduce effort pursuant to 34 CFR §300.205. Districts that seek to reduce their MOE by not more than 50% of the increase in their allocation received under 34 CFR §300.705 received in the prior fiscal year are required to send in a certification that the requested 50 percent MOE reduction amount was expended for activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) and MDE reported that it would follow up to verify this information through the monitoring process. If a district has been found to have not maintained effort, the district is given an opportunity to explain why. The justification sent by the district to MDE is reviewed by a MOE committee against the reported expenditures on EDRS/UFARS and child count data to determine if the reduction is approvable.

The Director of Program Finance calculates the State's MOE annually. Minnesota has a State statute which stipulates if the State falls below the MOE threshold, the legislature is directed to add an amount to the State special education appropriation to meet the MOE requirement.

MDE informed OSEP that MN Statute 132B.77 requires every district to have an annual audit. Districts that expend \$500,000 or more of Federal funds are also required to have a supplemental audit that they submit to MDE in compliance with the Office of Management and Budgeting (OMB) Circular A-133. The State informed OSEP that single audits are conducted by independent auditors. MDE staff review audits to ensure that the required components were submitted in a complete format. As part of this review, MDE ensures that audit findings and corrective action plans (CAPs) reported were in compliance with the Office of Management and Budgeting (OMB) Circular A-133. If the State determines that a district is not making progress towards compliance, the State generates a list of these districts and the findings, designates them as high-risk, and provides the information to Federal auditors.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes the State has procedures that are, with the exception of the fiscal monitoring issue discussed above in General Supervision Critical Element 1 and the issue related to the calculation of the proportionate share that each district must expend on parentally-placed children in private schools, discussed above in General Supervision Critical Element 5, reasonably designed to ensure appropriate use of IDEA funds. OSEP cannot, however, without collecting data at the State and local levels, determine whether all public agencies in the State implement fiscal procedures that ensure appropriate use of IDEA funds.

Required Actions/Next Steps

See the required actions set forth above in General Supervision Critical Elements 1 and 5 (Part B) regarding the State's failure to issue findings for noncompliance identified through fiscal monitoring, and with regard to the calculation of the proportionate share that each district must expend on parentally-placed children in private schools. Beyond those actions, no further action is required.

Critical Element 1: Timely Obligation and Liquidation of Funds - Part C

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

Verification Visit Details and Analysis

MDE staff reported that Part C funds are obligated within the 27 months in FFY and coded per State fiscal year (SFY) to track funds to ensure funds are spent within the timeframe. Funds are spent according to approved IEIC annual plans. Current year allocations to IEICs are "loaded" into EDRS. IEICs are allowed to carry over 20% of their prior year allocations. The funds are loaded into the current year and designated as carryover. Current year and carryover become total funds available. A spreadsheet is created by program finance to track payments by IEIC. Appropriations from one year to the next are tracked via alpha numeric assignments in MAPS. Staff regularly reviews accounting reports to ensure the timely and appropriate liquidation of funds. OSEP confirmed through GAPS that the State expended all of its FFY 2004, 2005, 2006 and 2007 Part C funds.

OSEP Conclusions

Based on the review of documents, analysis of data, feedback from stakeholders and interviews with State personnel, OSEP finds MDE has demonstrated that it has a fiscal system that is reasonably designed to ensure timely obligation and liquidation of IDEA Part C funds at the State level.

Required Actions/Next Steps

No action is required

Critical Element 2: Appropriate Distribution of IDEA Funds - Part C

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

Verification Visit Details and Analysis

Procedures for Appropriate Use of IDEA Part C Funds at the State Level

MDE reported that IEIC funds to local fiscal hosts are allocated annually according to the approved IEIC Part C plans. IEICs submit annual applications and assurances. MDE issues contracts to IEICs upon approval of IEIC plans.

Nonsupplanting Requirements

Finding—Part C: State Has Not Ensured Compliance with Nonsupplanting Requirements of Part C

With respect to the IDEA Part C nonsupplanting maintenance-of-effort (MOE) requirements in IDEA section 637 (b)(5)(B) and 34 CFR §303.124(b), MDE reported that because Minnesota is a birth mandate state, local and state expenditures for early intervention services are included in the Part B MOE calculation for local districts, but that the State does not conduct a separate State-level MOE calculation under Part C. This is inconsistent with 34 CFR §303.124(b), which requires all States, including birth mandate States, to implement procedures that enable the State to track the total amount of State and local expenditures on the Part C early intervention services in a given Federal fiscal year and budget in the succeeding fiscal year an amount that is equal to or greater than the total amount expended in the most recent year (i.e., maintenance of effort).

Payor of Last Resort/System of Payments

MDE staff reported that the majority of Part C early intervention services are funded through the use of state and local dollars. Federal Part C dollars are allocated to IEICs to provide services in natural environments when districts cannot provide funding for the provision of Part C services in natural environments. The IEIC is charged with the responsibility to ensure that each of the participating agencies is responsible for their portion of the services identified in their contract with MDE.

OSEP Conclusions

The State has not, as required by 34 CFR §303.124(b), implemented procedures to ensure compliance with the Part C's nonsupplanting/maintenance-of-effort requirement.

Required Actions/Next Steps

With its FFY 2010 Part C Application, the State must provide: (1) a separate written assurance that the State has met the IDEA MOE requirements in Part C for FFY 2009: IDEA section 637(b)(5)(B) and 34 CFR §303.124(b); and (2) a copy of the correspondence in which MDE 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 expenditures to meet the IDEA maintenance-of-effort (MOE) requirements in Part C: IDEA section 637(b)(5)(B) and 34 CFR §303.124(b).

Part C Focused Monitoring: 45-Day Timeline Requirement

Background

Part C SPP/APR Indicator 7 measures the extent to which the State is in compliance with the requirement, at 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a), that, within 45 days from referral, districts complete the initial evaluation and assessment, and convene the initial IFSP meeting, for infants and toddlers with disabilities. In its FFY 2007 Part C APR, the State reported a statewide compliance level of only 83.9% for Indicator 7. The following are the State's Indicator 7 data for the past four FFYs:

Baseline FFY 2004	FFY 2005	FFY 2006	FFY 2007
79.5%	83.4%	86.3%	83.9%

Based on these statewide data, and especially low compliance in three large urban districts, OSEP selected the State for a focused monitoring visit in connection with OSEP's FFY 2007 verification visit to the State.

Focused Monitoring Visit Details and Analysis—Part C

OSEP's September 2009 verification visit included a focused monitoring component to review specifically Minnesota's performance data on SPP/APR Indicator C-7, which measures the 45-day timeline requirement in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a). This timeline requires that, within 45 days of a child's referral, the lead agency conduct the initial evaluation, assessment, and initial IFSP meeting for that child. Minnesota's FFY 2007 APR data for Indicator C-7 were 83.9% with the largest district, Minneapolis, at 26.2%.

The State's FFY 2007 SPP/APR Indicator C-7 data of 83.9% represent slippage from its FFY 2006 of 86.3%. The State attributed this slippage to the change in the State's Part C eligibility definition which occurred in 2007 and resulted in an increase of 801 in the number of referrals. The State reported that districts were not able to increase staff to meet this increased demand in a short amount of time. The State further reported that, for FFY 2007, low performance was concentrated in six districts. The State reported the following as additional systemic reasons for untimeliness: 197 were late due to difficulty coordinating schedules of members of the evaluation team; 90 were referrals received just prior to a break in instruction (holiday breaks); 70 were referrals received outside of the district's academic year; 85 resulted from a communication delay from the interagency central point of intake in the community, and the remainder were due to staffing issues (65 for an unanticipated absence/illness of a member of the evaluation team, 55 for difficulties in securing interpreter services and 17 were due to an inability to hire staff).

In the FFY 2007 APR, the State reported a number of activities designed to increase the State's capacity to ensure timely evaluations, assessments, and IFSP meetings. These activities included: regional training and individual consultations to improve data quality for this indicator; monitoring staff identify and track non-compliance and timely correction; districts develop action plans if not at 100% compliance; technical assistance and training regarding Part C standards and requirements related to IFSP timeline requirements for both district staff and parents; and support to IEICs to improve the local commitment for timely evaluations, assessments and IFSP meetings. In addition, the SICC is specifically discussing issues related to IEICs and their role in improving the referral process.

OSEP selected to visit, as part of its focused monitoring review, three of the six districts that had the largest populations and the lowest levels of noncompliance with the 45-day timeline requirements. These three districts also represent a greater magnitude of racial and ethnic diversity and income. MDE staff reported a large concentration of poverty, homelessness and mobility in these areas of the State, which were challenges for establishing and maintaining contact with families. OSEP selected Minneapolis and St. Paul due to low performance and also district size as they are the most populous districts in the State. OSEP selected Anoka Hennepin as a populous district that has shown improvement, although still not demonstrating 100% compliance.

The following are the Indicator C-7 data for these three districts for FFY 2005, 2006, and 2007 (and as noted in General Supervision Critical Element 1 above, the State did not issue findings to any of these three districts for this noncompliance):

Year/District	2005-2006	2006-2007	2007-2008
Minneapolis	43%	71.19%	26.20%
St. Paul	50.30%	50.00%	45.70%
Anoka Hennepin	73.5%	60%	88.7%

OSEP staff interviewed program administrators, IEIC members, service coordinators, evaluation teams, service providers, and families. MDE staff also attended the interviews as observers. The intent of the focused monitoring visit was to identify the contributing factors related to the low performance and to identify improvement activities to assist MDE and the districts to achieve 100% compliance with the 45-day timeline requirements.

Across all three districts, interviewees confirmed the systemic reasons for delays that the State identified in its FFY 2007 APR. District staff and IEIC representatives described delays related to the practice of utilizing the IEIC as the initial point of contact for referrals. They reported initial contact to families by IEIC intake service coordinators could take as long as two weeks before the referral was sent on to the evaluation team at the district. Evaluation team members described challenges related to the intake process whereby the IEIC intake service coordinator and district evaluation team members could not share information in a timely manner which resulted in delays to the completion of the evaluation and assessment.

Interviewees across all three districts described the challenges in working with families that represent many cultures and languages. It may be difficult to contact families to schedule evaluations and meetings, both due to language barriers and to the fact that many families lack access to telephones and e-mail. Further, there is an increasing number of families who speak languages other than those for which interpreters are readily available.

Evaluation team members in all three districts reported that there were not adequate numbers of staff to complete evaluations and assessments. District administrators reported that some staffing issues are related to district contract provisions that have been challenging to change. The State reported that ARRA funds have been designated for districts to hire additional staff to improve timely evaluations and assessments. Finally, interviewees in all three districts described the lack of clear guidance from MDE regarding documenting delays due to family circumstances as a barrier to completing evaluations, assessments and IFSP meetings in a timely manner, and in reporting accurately on compliance with the 45-day timeline.

Following the visits to the three districts, OSEP met with MDE staff and representatives from the three districts to begin to identify common themes as a foundation to MDE's developing an improvement plan to address the barriers. MDE indicated that it will continue to work with districts statewide to improve performance and compliance.

OSEP Conclusions:

While the State described actions that it has taken to improve compliance with the 45-day timeline, it is evident from statewide and district data that compliance remains a challenge for the State. District staff described a number of system barriers to compliance with the 45-day timeline requirement, most of which were consistent across the three districts that OSEP visited, and which the State must address to assist these large urban districts to reach compliance.

Further, as noted in the discussion for General Supervision Critical Element 1, notwithstanding district-level data in the State's three most populous districts, the State failed to make findings of noncompliance or to take formal action to require correction of noncompliance. The State must determine how it can best use its general supervision system to facilitate and require correction of the noncompliance.

Required Actions:

See General Supervision Critical Element 1. Further, if the State is unable to demonstrate compliance with Indicator C-7 in the FFY 2008 APR, MDE must review its improvement activities and revise them, as necessary and appropriate, to address the following challenges: (1) streamlining the IEIC referral process; (2) increasing availability of qualified personnel to conduct evaluations and assessments; (3) increasing availability of interpreters; and (4) providing clear guidance on the documentation of delays due to exceptional family circumstances. In evaluating and revising its improvement activities, the State should address barriers identified during the focused monitoring visit regarding both statewide and district-specific needs related to the initial evaluation and assessment of, and initial IFSP development for, infants and toddlers with disabilities. Further, MDE should strongly consider whether there is a need to make structural changes in how IEICs and districts work together in the referral, intake, evaluation, assessment, and IFSP development processes.