

**Missouri Part B 2009 Verification Visit Letter**  
**Enclosure**

**I. General Supervision**

***Critical Element 1: Identification of Noncompliance***

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

**Verification Visit Details and Analysis**

The Missouri State Department of Elementary and Secondary Education (DESE) uses multiple methods to ensure implementation of the Individuals with Disabilities Education Act (IDEA), identify and correct noncompliance, facilitate improvement, and support practices that improve the results and functional outcomes for children and families. Noncompliance is identified through components of the general supervision system.

DESE is responsible for monitoring all public agencies that provide special education and related services. All local educational agencies (LEAs), including 523 local school districts, three State Board operated programs (SBOPs), Missouri School for the Blind (MSB), Missouri School for the Deaf (MSD), Missouri Schools for the Severely Disabled (MSSD), the Division of Youth Services (DYS), and two special school districts (SSD) are monitored as part of the five-year Missouri School Improvement Program (MSIP)<sup>1</sup> general school accreditation review cycle. Agencies that are not included in the State's MSIP review include Department of Corrections (DOC), Department of Mental Health (DMH), and Charter Schools; the Division of Special Education (DSE) has its own five-year MSIP cycle for special education monitoring purposes and includes these agencies in its monitoring.

*Integrated Monitoring:* The State's integrated monitoring activities include self-assessments (SAs), on-site reviews for selected agencies, and dispute resolution monitoring. These monitoring activities are conducted by each responsible public agency and validated by DESE staff. LEAs submit SAs that incorporate data collections for the State Performance Plan (SPP) and Annual Performance Report (APR). The State conducts focused on-site reviews for selected agencies and other reviews for items such as disproportionality, discipline, and Coordinated Early Intervening Services (CEIS). Dispute resolution monitoring includes State complaint investigations, due process

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<sup>1</sup> Section §162.825 of the Missouri Revised Statute permits any county in the State to petition the State Board of Education for permission to establish a special school district to provide special education services to identified students with disabilities. Currently two counties have established a special school district: St. Louis County and Pemiscot County; both provide special education services including related services, career training programs, and early childhood special education (ECSE). The Missouri Revised Statute allows several districts in the geographical area to draw off the services of the special school district; these other districts are referred to as "component districts" of a special school district. The special school districts are responsible for implementing all State and Federal requirements related to the IDEA. All of the component districts, as well as the special school district, are subject to MSIP reviews and both component and the special districts complete the same monitoring process, including self-assessments, improvement plans, corrective actions, and focused monitoring. The special school district is responsible for correcting any identified noncompliance.

hearings (DPHs), resolution sessions, and mediations. Additionally, there are data reviews by SPP/APR indicator teams.

The State described a monitoring process which occurs on a five-year cycle during which one-fifth of the State's LEAs are monitored each year. The State is in its fourth round of five-year cycles. Training for the LEAs takes place during the months of October and November of the fall before the LEAs' designated monitoring year. LEAs submit their Improvement Plans (IPs) and SAs to DESE during the months of November through March. DESE verifies IPs and SAs after the March submission. DESE may contact the LEAs to clarify the data that were submitted. Initial Evaluation and Part C to B Transition Timeline Data are submitted by the LEAs to DESE by May 15<sup>th</sup> of the monitoring year. After this May submission, the State verifies the timelines and in September of the monitoring year, issues reports to all LEAs that include findings of noncompliance and a timeline for correction. If noncompliance is found, the LEA is required to submit a Corrective Action Plan (CAP) within 30 days of the notification of noncompliance. The submission of evidence of correction must take place within 12 months from the date of the receipt of the notification of noncompliance.

*Focused Monitoring:* DESE reported that two monitoring priority areas -- achievement and secondary transition -- were selected by the Special Education Advisory Panel (SEAP) based on the State's SA process and review of performance data from all systems. These priorities have been used for several years; however, they are reviewed annually for appropriateness. Data such as graduation rates; dropout rates; elementary achievement; dispute resolution systems; local determinations; Improvement Monitoring Accountability and Compliance System (IMACS) SA; district performance profiles; and anecdotal data are used to select districts for on-site focused monitoring reviews.

*State Databases:* DESE uses multiple State databases to identify noncompliance. The IMACS is used to identify noncompliance for requirements related to specific SPP indicators as well as other related requirements and State-specific requirements. This database gathers specific information at the student level in conjunction with the SA process, which is then used to identify noncompliance. Student-level data include monitoring checklist results, which includes a review of individual student files for compliance on related requirements for each SPP indicator, timeline data for Part C to B transition, and timeline data for initial evaluations. The IMACS system includes the results of both the agencies' SA and DESE validation reviews.

The dispute resolution database is used to store child complaint, due process complaint appeal, mediation, and resolution session data. This database includes findings of noncompliance, with the exception of findings included in Hearing Officer Decisions (HODs). Information from all of the database systems is used to identify trends in noncompliance at the State, regional, and LEA levels and to identify differences between districts.

*Methods of Identifying Noncompliance:* The State reported that it does not report findings of noncompliance made through HODs because almost every HOD is appealed. During the visit DESE acknowledged that it does not have a method for reporting the identification of noncompliance via HODs and tracking subsequent correction of that

noncompliance in Indicator 15. Subsequent to the visit, DESE provided to OSEP draft procedures for ensuring correction of noncompliance identified in HODs.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes the State has demonstrated that it has a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components.

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

Within 60 days of the date of this letter, the State must provide an assurance that it has finalized and is implementing its new procedures for ensuring correction of noncompliance identified through HODs and tracking correction of any noncompliance identified in HODs for purposes of Indicator 15 reporting.

### ***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**

#### Standard for Verifying Correction of Noncompliance

The Part B regulations in 34 CFR §300.600(e) require that, in exercising its monitoring responsibilities under 34 CFR §300.600(d), the State must ensure that when it identifies noncompliance with the requirements of Part B by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance. As explained in OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02), and previously noted in OSEP's monitoring reports and verification letters, in order to demonstrate that previously identified noncompliance has been corrected, a State must verify that each LEA with noncompliance is: (1) correctly implementing the specific regulatory requirements; and (2) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA. In determining the type of corrective action that the LEA must take, OSEP recommends that the State consider a variety of factors, including: (1) whether the noncompliance was extensive or found in only a small percentage of files; (2) whether the noncompliance showed a denial of a basic right under the IDEA (e.g., a long delay in initial evaluation beyond applicable timelines with a corresponding delay in the child's receipt of a free appropriate public education (FAPE), or a failure to provide any services in accordance with the IEP); and (3) whether the noncompliance represents an isolated incident in the LEA, or reflects a long-standing failure to meet IDEA requirements. See OSEP Memo 09-02; Frequently Asked Questions Regarding Identification and Correction of Noncompliance and Reporting on Correction in the State Performance Plan (SPP)/Annual Performance Report (APR), September 3, 2008 (OSEP FAQs).

### DESE Method of Verifying Correction of Noncompliance

DESE applies OSEP's definition of timely correction which requires "correction of noncompliance as soon as possible but in no case longer than one year from identification."<sup>2</sup> DESE defines "identification" as written notification to the LEA of the noncompliance, including the specific regulatory requirement in question and the data supporting the finding. The date the LEA receives this written notification begins the one year timeline. DESE reported that it requires the correction of 100% of identified noncompliance within one year.

When an LEA receives the State's written notification of findings of noncompliance, it is required to submit a CAP within 30 days. The State reported that if fewer than 80% of the files reviewed are found to be in compliance, the noncompliance is considered "pervasive" and the district must demonstrate systemic correction within one year, through the development and implementation of a CAP, in addition to the immediate correction for each child specific noncompliance. For noncompliance identified through dispute resolution, correction is required by a specific date stated in the findings, generally within 45 days and never to exceed one year. For all noncompliance, DESE reviews the CAP to determine whether it can be approved. Once approved, the LEA implements the CAP and is required to submit evidence of correction within 12 months of the date of the written notification of noncompliance.

DESE has criteria that it uses to determine that a finding of noncompliance has been corrected, as described below.

#### *Correction of individual instances of noncompliance*

For individual child noncompliance, the State requires LEAs to submit documentation that the child specific noncompliance has been corrected within three months from the date of the letter of finding. The State verifies correction of individual noncompliance through a sampling of student files, and districts are not notified ahead of time which student files will be requested.

If the noncompliance has not been corrected, the Regional Professional Development Center (RPDC) provides technical assistance (TA) to assist in correcting all child noncompliance, and further documentation may be requested from the district. If the student has been denied FAPE because of the noncompliance, the district may be required to reconvene the Individualized Education Program (IEP) team to consider compensatory services for the student. In instances where the individual child noncompliance relates to a timeline requirement or an action that has already occurred, the district is required to submit evidence of the actions taken to: (1) determine how or why the noncompliance occurred; (2) ensure that policies, procedures, and practices are reviewed or revised, if necessary, and implemented in order to address the reasons for the noncompliance; and (3) ensure that staff are informed of the requirements for future implementation. All student specific noncompliance must be corrected as soon as possible within the timelines indicated on the individual CAP, but in no case longer than three months of the date of written notification.

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<sup>2</sup> See OSEP Memo 09-02 and the OSEP FAQs. See also 34 CFR §300.600(e) (December 1, 2008).

*Correction of pervasive noncompliance*

The State reported that the number of student files submitted for review is tailored to the child count in the district and may vary from 10-60 student files. The district completes a self evaluation of those files and makes decisions as to compliance; the State compliance supervisors then review at least 25% of those files for each district and make compliance decisions for each indicator addressed. Supervisors may request more files at any time if they feel they need more documentation.

DESE reported that in order to demonstrate correction of pervasive noncompliance, the LEA submits documentation demonstrating the changes made in policies, procedures, and practices to correct the noncompliance. DESE then conducts a review of five student files selected by the LEA in order to demonstrate correction of the systemic noncompliance. However, it is unclear to OSEP how the State ensures that the files selected by the LEA are representative of all student files with prior noncompliance. DESE considers the pervasive noncompliance corrected if the file review results in a compliance level of at least 80%.

In conversations with DESE during and subsequent to the verification visit, OSEP informed DESE that its use of an 80% compliance level threshold to verify correction of systemic noncompliance did not appear consistent with OSEP Memo 09-02. In an effort to determine if, in fact, the DESE monitoring staff was accepting less than 100% when verifying correction, the State went back and sampled 25 of the 83 LEAs identified with corrective actions monitored in Federal fiscal year (FFY) 2007 (83 LEAs were identified with corrective actions out of the 122 monitored that year), and discovered that the follow-up files involved 100% compliance within 12 months except in two cases. Thus, the State determined that, with the exception of two LEAs' files, files for the remaining LEAs demonstrated 100% compliance within 12 months, and it had not closed out any of the CAPs until the district evidenced 100% correction of noncompliance. After OSEP's verification visit, the State sampled additional files for the two LEAs for which it had previously accepted verified correction using an 80% compliance level threshold. For each these two LEAs, the State determined that 5 of 5 files reviewed demonstrated 100% compliance.

In an email dated October 29, 2009, the State explained to OSEP that, in order to ensure that all staff are clear about the requirement that follow-up submissions show 100% correction of noncompliance, and to ensure that the State's policies and procedures reinforce this practice, the State revised the language in the two form cover letters it sends to LEAs with the "Special Education Program Review Report," which includes the State's findings of the initial program review of the LEA's self-assessment and desk review. The revised cover letter that is used when the desk review and self-assessment file review shows that an LEA is "in compliance" whether or not there are students files with noncompliance, now has the following statement:

DESE requires the correction of 100% of identified noncompliance as soon as possible but in no case later than one year from identification... According to this review, there was no pervasive noncompliance identified for your agency. As a result, your agency is considered to be in compliance with all state and federal regulations, and no corrective actions are required.

The second cover letter is used when the desk review and self-assessment file review show that an LEA is “out-of-compliance” and now has the following statement:

DESE requires the correction of 100% of identified noncompliance as soon as possible but in no case longer than one year from identification... Attached you will find a Corrective Action Plan (CAP) which lists the specific findings of noncompliance from this review. For each indicator shown on the CAP, refer to the Standards and Indicators Manual for an explanation of the documentation and/or evidence that will be required in order to document correction of the noncompliance. All CAP information will be submitted through the IMACS no later than thirty (30) days from the date of this letter. Once your CAP is approved, you can begin submitting documentation to verify correction of the noncompliance.

The letter goes on to explain that the RPDC Compliance Consultant and DESE personnel are available to provide assistance to the LEA throughout this process. In an email dated January 25, 2010 to OSEP, the State confirmed that these letters are now final, but because the State is currently conducting monitoring, the letters have not yet been used.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes the State has demonstrated that it has a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner.

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

Within 60 days of the date of this letter, the State must provide OSEP with information clarifying how it ensures that the files selected by the LEA to demonstrate correction are representative of all student files with prior noncompliance.

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

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

### **Verification Visit Details and Analysis**

*State Complaints:* The State refers to State complaints as “Child Complaints” but also investigates State complaints that are systemic in nature. OSEP found that the complaint reports thoroughly addressed each of the allegations raised by the complainant and included findings of fact and conclusions, as well as the reasons for the State’s final decision.

The State reported that all of its FFY 2007 and FFY 2008 complaints were completed within the 60-day or an extended timeline. In FFY 2007, the State permitted a timeline extension for six of 77 complaints; during FFY 2008 the timelines for four of 90 complaints were extended. However, the State did not indicate the reasons for these extensions in the State complaint log. During the verification visit, OSEP reviewed several of the complaint files for which the 60-day timeline had been extended. The files contained information noting the following reasons for the extensions: the need to review documentation, the need to conduct additional interviews, and a pending mediation request. In its review of these files, OSEP noted that these cases included

complex circumstances and unusually large volumes of documentation. After the visit, OSEP discussed with the State Director the regulatory requirement on extensions of the 60-day timeline, and, while timeline extensions are a rare occurrence, the State agreed to provide additional training on this issue. OSEP will provide TA to the State around this issue, as necessary.

DESE uses many venues to disseminate information to provide parents and guardians with guidance on how to file a Child Complaint. Missouri Parents Act (MPACT) is Missouri's Parent Training and Information Center (PTI) which collaborates with parents to assist them with the procedures in filing a Child Complaint. Compliance staff members assist parents by offering TA via web replies or phone calls and provide training to special education teachers, administrators, parent groups, and educational surrogates on the procedures for filing a Child Complaint. The State's Procedural Safeguards document provides the process for filing a Child Complaint and the contact information for a Child Complaint investigation.

*Due Process Hearings:* The State has a model due process hearing form and many venues are used to disseminate the information regarding the process for requesting a due process hearing: (1) MPACT collaborates with parents to assist them with the procedures to request a due process hearing; (2) compliance staff members assist parents by offering TA via web replies or phone calls; (3) compliance staff members provide training to special education teachers, administrators, parent groups, and educational surrogates on the procedures for requesting a due process hearing; and (4) information regarding DPHs is shared with stakeholders. The Procedural Safeguards Notice outlines the due process complaint process and provides contact information. The *Parents' Guide to Special Education in Missouri* is mailed to parents upon their request, posted on the State's website, and provided to public agencies free of charge for dissemination to parents. The Guide outlines the complaint system and instructions for filing a request for a due process hearing.

DESE's State-level due process hearing system employs hearing panels comprised of three individuals (a chairperson who is a licensed attorney and two non-attorneys) to render due process hearing decisions. One member of the panel is designated by the school, one is designated by the parents or guardian, and the chairperson is selected by DESE. If either party has not chosen a willing and available panel member within ten days after DESE receives the request for a hearing, the panel member(s) will be chosen by DESE.

DESE maintains a list of the persons who serve as hearing officers. The list includes a statement of the qualifications of each of those persons. Hearing panel members are placed on a list if they meet training and assessment requirements of DESE, agree to be compensated at a rate set by DESE, and provide DESE with a resume or biographical statement reflecting their qualifications. The names of attorneys on contract to serve as chairpersons are maintained on a separate list. Attorneys submit bids to be placed on the list and must establish that they are knowledgeable about IDEA and conducting hearings. These contracts are reviewed through the State's contract bidding process, which includes a rigorous evaluation step.

When a request for a due process hearing is made to DESE, a letter is sent to the involved school district informing it that a due process hearing has been requested, providing instructions to proceed with a resolution meeting, and requiring the school district to notify the assigned hearing panel of the outcome of the resolution meeting. The hearing panel chairperson in turn reports these results to DESE's Director of Compliance.

Consistent with the IDEA, the contract with the hearing chairpersons requires the written hearing decisions be issued within 45 days of the completion of the resolution process (or where both parties waive the resolution meeting, within 45 days of the date the parties waive the resolution session), and the responsibility for that timely resolution lies solely with the chairperson of the hearing panel. If due process decisions are not timely or not extended properly, the hearing chairpersons are assessed monetary damages and face possible termination of their contracts. Previously, the State used only the Child Complaint system to ensure the implementation of HODs. In any case in which the district is failing to implement an HOD, the parent may file a Child Complaint, which will be investigated by DESE staff. As referenced previously, subsequent to the visit, the State now has drafted a method for reporting the identification of noncompliance via HODs and tracking subsequent correction of that noncompliance.

#### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP determined the State has demonstrated that it has procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA.

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

No action is required.

#### ***Critical Element 4: Improving Educational Results***

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

#### **Verification Visit Details and Analysis**

The State described multiple procedures and practices designed to improve educational results and functional outcomes for students with disabilities in the State. The State organized the SPP indicators into clusters and assigned teams of staff to assume responsibility for each cluster. The Post-Secondary Transition Team has developed a statewide plan for implementation of activities to improve the post-secondary outcomes for students with disabilities in the State and to assist the State in meeting its targets on Indicators 1, 2, 13 and 14. One activity included in that plan is to collaborate with the University of Kansas (KU) Transition Coalition to form the Missouri Interagency Transition Team (MITT). The purpose of the MITT is to identify critical needs in the area of post-secondary transition at the State level, to share data across agencies for post-secondary transition, and to create positive post-secondary outcomes.

During FFY 2007, the KU Transition Coalition and the DESE compliance section trained RPDC Consultants on the use of the National Secondary Transition TA Center's (NSTTAC) Indicator 13 checklist as well as the compliance review process for post-

secondary transition indicators to ensure that training provided and the compliance review process are accurate and consistent.

DESE supports a statewide system of Professional Development (PD) and TA through positions maintained at the RPDC. The PD and TA are provided on a variety of topics which facilitate the education of students with disabilities in the general education environment, including: Co-Teaching, Standards-based IEPs, Differentiated Instruction, Assessment Accommodations/Modifications, and Data Analysis. The PD and TA are provided through a variety of methods including webcasts, face-to-face training, on-line coursework, and presentations at meetings and conferences. Targeted TA is provided by RPDC consultants to any districts identified, through data analysis and other means, as at risk for not meeting State targets for Least Restrictive Environments (LRE). Information on effective, research-based practices is also posted on the DESE website, disseminated through a searchable database called MO Resources (MORE), and by messages to the field through a special education listserv (SELS/SELS2).

DESE funds a variety of discretionary grant projects that enable districts to implement research-based, effective instructional practices which facilitate the education of students with disabilities in the general education environment. The projects include: (1) individual improvement grants to districts based on IPs submitted to DESE with an emphasis on the implementation of tiered models of instructional support; and (2) Project ACCESS (for students with autism).

In addition, DESE funds grant projects that enable districts to implement research-based, effective instructional practices which have been shown to be effective in improving the performance of students with disabilities. The State makes individual grants to districts to provide for the implementation of tiered models of instructional support such as Project ACCESS and Missouri's Instructional Networked Teaching Strategies (eMints).

DESE supports, through consultant positions at each RPDC as well as discretionary grants to districts, numerous systems change initiatives based upon research-based effective practices, which encourage and facilitate the education of students with disabilities in the general education environment. These include School-wide Positive Behavior Supports, Professional Learning Communities, Response to Intervention, and High Schools/Middle Schools That Work.

The State's SPP Indicator 6 addresses the issue of preschool children receiving special education and related services in settings with typically developing peers to the maximum extent possible. The State reported that activities include: posting materials on a DESE website for training in determining early childhood outcomes; ensuring consistency and validity of data between IDEA Part B and Part C through the use of a common identification number in the Missouri Student Information System (MOSIS); Part B and Part C staff meetings to discuss quality Early Childhood Outcomes (ECO) training and data collection; and making TA available through the RPDC Improvement Consultants for Early Childhood Special Education (ECSE).

## **OSEP Conclusions**

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

## **Required Actions/Next Steps**

No action is required.

## ***Critical Element 5: Implementation of Grant Assurances***

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

## **Verification Visit Details and Analysis**

*Public Reporting and Determinations:* As required by section 616(b)(2)(C) of Part B of the IDEA and 34 CFR §§300.600(a)(4) and 300.602, States must annually report to the public on the performance of each LEA on the State's SPP/APR targets and make annual determinations for each LEA. The State reported all the required information on the performance of each LEA on the SPP/APR targets on its website.

The State described to OSEP enforcement actions to address each determination level. No enforcement action is needed for a "meets requirements" determination. A "needs assistance 1" (NA 1) determination triggers a notification to the LEA of available resources. The LEA is informed that a continued "needs assistance" determination or lower will result in the LEA being subjected to one or more of the enforcement options outlined in the State Regulations implementing Part B of IDEA.

A determination of "needs assistance 2" (NA 2) requires the LEA to review the area(s) in which the LEA received a rating of "4" on the State's rating scale and identify the appropriate entities that will provide TA that is likely to enable them to receive a determination of "meets requirements" of the IDEA in the future. The State then requires the districts to submit a written report indicating the plan for sources of TA. The districts have been given four months for submission of a report identifying the TA accessed. Districts have been given a date in April to report the impact of the TA. The State reported that it had not had any districts with "needs intervention" or "needs substantial intervention" determination levels to date. If this occurs, those districts will be required to address the indicators not met through their District Accountability Plan and progressive sanctions, as specified in the State Regulations, may be initiated.

DESE posts its local performance reports on [http://dese.mo.gov/schooldata/school\\_data.html](http://dese.mo.gov/schooldata/school_data.html). FFY 2007 reports were posted on December 9, 2008. LEAs were notified of these postings via a listserv message on SELS/SELS2. DESE reported that it made its determinations based on a combination of compliance indicators, performance indicators, and additional State requirements. Indicators used were 3B-C, 4A, 5 A-C, 8, 9, 10, 11, 12, 13, and 14. However, for FFY 2008 DESE chose to use only the compliance indicators for this most recent local determination because the State wanted the LEAs to have the flexibility to reduce their maintenance of effort (MOE) which requires a "meets requirement" determination. For

the FFY 2007 data, all districts were determined to “meet requirements.” DESE plans to return to using all of the indicators for the next reporting period when making determinations. The districts most likely to fall below “meets requirements” are receiving TA on how to improve before all of the indicators are, again, used in making local determinations.

*Significant Disproportionality and CEIS:* DESE collects data, pursuant to 34 CFR §300.646, on significant disproportionality based on race and ethnicity with respect to: (1) the identification of children as children with disabilities; (2) the identification of children as children with specific disabilities; (3) the placement of children with disabilities in particular educational settings; and (4) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. The State has established a definition for the identification of significant disproportionality as an LEA whose data exceeds a risk ratio of 3.5 with a cell size of at least 30 for the racial/ethnic/disability group being examined and the comparison group for three consecutive years.

OSEP recognizes that States have discretion in defining significant disproportionality and may annually consider a risk ratio of 3.5 for three consecutive years. 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 DESE 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.

Because the State has found no significant disproportionality, the State has not required any LEAs to reserve funds for comprehensive Coordinated Early Intervening Services (CEIS) as required by 34 CFR §300.646(b)(2). The State reported that the few districts that voluntarily set aside money for CEIS pursuant to 34 CFR §300.226 report to DESE on the use of funds to ensure they are meeting the requirements and provide the required documentation. Pursuant to 34 CFR §300.226 (d)(1) and (2), each LEA that voluntarily sets aside funds to develop and maintain CEIS must report annually to the SEA on the: (1) number of children served under this section who received early intervening services; and (2) the number of children served under this section who received CEIS and subsequently receive special education and related services under Part B of the Act during the preceding two year period. LEAs report the required data through the Electronic Planning and Electronic Grants Systems (ePeGS) Part B Final Expenditure Report (FER). DSE’s CEIS Monitoring Team then reviews the district-provided data.

*Private Schools:* DESE reported that districts are required to sign assurances regarding equitable services to parentally-placed private school students (PPPSS) with disabilities in their annual applications for IDEA funds and are required to report past year proportionate share expenditures and coming year calculations in their annual FER. Equitable services are addressed in State regulations and in the State’s Compliance

Standards and Indicators Manual which can be found at <http://dese.mo.gov/divspeced/Compliance/StandardsManual/>.

Further, the State reported that districts are reminded annually of their responsibilities for equitable services to PPPSS through SELS/SELS2 messages and DSE webinars and conference presentations. As part of its general supervision activities, DESE staff conducts periodic informal reviews of dispute resolution data submitted to DESE from parents or districts. The State reported no identification of patterns or concerns related to equitable services to PPPSS.

*NIMAS:* The State has adopted the National Instructional Materials Accessibility Standard (NIMAS) and coordinates with the National Instructional Materials Access Center (NIMAC). The State reported that districts must indicate through their Local Compliance Plan whether they agree to comply with the NIMAC requirements or seek print materials from another source. If districts obtain materials from another source, they must assure they will obtain those materials in a timely manner. Information regarding the requirements for provision of accessible materials is disseminated by the DESE, Authorized Users (AUs), and PTIs to districts and parents through a variety of methods such as webcasts, TA documents, procedural safeguards documents, the *Parent's Guide to Special Education in Missouri*, regional and State conferences, meetings, and workshops. The State has designated the following as Missouri's AUs: Missouri Assistive Technology (MoAT), Bookshare, and Recording for the Blind and Dyslexic (RFB&D). Procedures have been developed for procuring NIMAS source materials and may be found at: <http://at.mo.gov/aim/nimasfilesets.html>.

*Assessments:* The State monitors for compliance with the statewide assessment requirements and uses the Missouri Assessment Program (MAP) and the Missouri Assessment Program –Alternate (MAP-Alternate). The assessment monitoring is done through: (1) special education monitoring in conjunction with the MSIP review, and (2) data reviews of participation and performance by the DSE and the Assessment Section in collaboration with the Assessment Resource Center at the University of Missouri. The State monitors to ensure districts comply with Part B requirements for districtwide assessments by reviewing IEPs during self-assessment file reviews. Districts are required to indicate in IEPs any district assessments given to students with disabilities, including accommodations and modifications, and any alternate assessments that are provided.

The State reports to the public on student performance on assessments by accumulating data from LEAs and then publishing the annual State Profile and the Missouri Public School Accountability Report. The SPP and APR are published annually and address progress toward Missouri's goals for the performance and participation of children with disabilities in the State. The State publishes Table 6 of the 618 data collection. All of these reports are accessible to the public via the DESE website.

*Revocation of Parent Consent for Services:* The State's policies and procedures are consistent with the requirements of 34 CFR §300.300(b), as revised by the supplemental regulations published on December 1, 2008.<sup>3</sup> Two SELs messages were sent to all

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<sup>3</sup> See 73 Fed. Reg. 73005-73029. The following sections were amended in the final rule published on December 1, 2008: §300.9 on consent, §300.177 on States' sovereign immunity and positive efforts to employ and advance qualified individuals with disabilities, §300.300 on parental consent, §300.512 on

recipients of SELs informing them of these changes. The State's December 4, 2008 message explained the changes in the regulations, gave the website location for the final regulations, and advised districts they would be required to implement the changes as of December 31, 2008. The State sent an April 16, 2009 message to school districts which further explained that revocation of consent must be in writing and that districts must provide a Notice of Action to the parent upon receipt of the revocation. It also referenced a model Notice of Action on the State's website that LEAs may use as a guide when providing a Notice. The State has revised its Special Education Compliance Program Review Standards and Indicators Manual to reflect the revised regulations concerning parent revocation of consent. The State informed OSEP that it will monitor these requirements for compliance.

### **OSEP Conclusions**

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

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

No action is required.

## **II. Data System**

### ***Critical Element 1: Collecting and Reporting Valid and Reliable Data***

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

### **Verification Visit Details and Analysis**

The State reported to OSEP that its data systems collect and report valid and reliable data in a timely manner. The Missouri Student Information System (MOSIS) is the primary data collection for DESE. MOSIS collects data at the student level, and the data are utilized to aggregate enrollment, attendance, discipline, and exit data, among others, in addition to the special education data for child count and educational environments. Data are collected approximately every two months and each submission is used to aggregate the data pertinent to the five-year monitoring cycle. The State reported that the special education data are collected as a part of this system. These data are pulled from districts' student information systems which are also used for payment purposes and are subject to audits. DESE reported that these factors enhance the validity and reliability of the special education data. The MOSIS data submission system also ensures that the data are available to DSE staff and the staff filing the *EDFacts* submissions, thereby allowing the data to be reported in a timely manner.

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hearing rights, §300.600 on State monitoring and enforcement, §300.602 on State use of targets and reporting, §300.606 on public attention, §300.705 on subgrants to LEAs, §300.815 on subgrants to LEAs, §300.816 on allocations to LEAs, and §300.817 on reallocation of LEA funds.

The State reported that the MOSIS includes several features that ensure districts report valid and reliable data in a timely manner. The student-level reporting utilizes a statewide unique student identification number which is verified against each student's date of birth. MOSIS has extensive documentation of element definitions, collection timelines, and coding. Extensive edits are run at the district and State levels. The State reported ongoing training for schools in the LEAs. There are TA documents specific to special education data reporting. The MOSIS system can generate data summary reports and requires that all errors be corrected prior to the data trial being "certified," which completes the submission. In addition, Data Coordination staff runs data checks as the data are submitted to identify anomalies such as large year to year changes, missing data, or coding errors that were not addressed by edits within MOSIS. For any anomalies discovered after submission, districts are contacted and told to correct within a specific timeframe. The correction timeframe is based on the timelines for Federal data submissions and for publicly reporting data. Corrections are verified by staff. DESE also utilizes IMACS to collect special education monitoring data, including compliance file reviews and timeline data for Indicators 11, 12, 13, and 15.

In general, for all 618 or 616 collections, the identification of data anomalies includes edit checks built into the data collection systems such as: a review of data conducted by data coordination staff to ensure all districts have submitted the required data, a review by data coordination staff of data for year-to-year changes, a report from data coordination staff summarizing the special education data submissions, and a year-end data summary sent to districts outlining all data submissions for the school year. After providing TA to districts, data staff review corrected data for anomaly flags. If no flags are raised, the data are accepted as valid and reliable.

To satisfy the 618 child count data requirements, the State collects the data at the student level through the MOSIS December Student Count, which contains a flag to indicate which students had an IEP in place and were receiving services on December 1st. The IEP disability category is coded by districts using a State-defined code set. Data on educational environments are also collected using this method. Exiting data are collected at the student level through the MOSIS June Student Count and Student Enrollment and Attendance files. The exit codes are coded by districts using State-defined code sets. Discipline data are collected at the student and incident level through the MOSIS June Discipline Incidents file. There are State-defined code sets for offense type, removal type, and length. Personnel data are collected at the assignment level through the MOSIS October Educator and Assignment files using State-defined code sets.

Special education teachers are reported in the State's system by assignment, position, class, and delivery system. The State reported that based on United States Department of Education (USDOE), Office of Elementary and Secondary Education (OESE) audits, Missouri has a shortage of highly qualified teachers among general and special educators. The State reported that it is developing a CAP for OESE to address this issue.

Assessment data are obtained from the assessment database tables maintained in DESE's data warehouse. These data are submitted through *EDFacts*. The State ensures that 618 data are collected in a consistent manner among LEAs by requiring that all LEAs use the MOSIS for reporting student and educator data. Most LEAs upload their data submissions using extracts from their student level data systems. Extensive definitions

and code sets, along with regular communications with student information system vendors, assure that the data are consistent among LEAs.

The State provides a number of opportunities for training and TA. DESE staff reported that training and TA are provided to LEAs in the collection and reporting of data through a variety of means such as: webcasts, webinars, New Directors' Institute, Special Education Administrators' Conference, TA documents, SELs messages, and other workshops, conferences and meetings.

As part of the verification preparation and visit, OSEP specifically inquired into the State's guidance and data collection methodology for SPP/APR Indicators 4A, 7, 8, 9, 10, 11, 12, 13, and 14. The State provided information demonstrating that the data it collected for these indicators were consistent with the required measurements.

### **OSEP Conclusions**

With the exception of the lack of a method to collect data and report noncompliance identified via HODs as addressed in GS-1, based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes the State has a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner. OSEP cannot, however, without also conducting a review of data collection and reporting practices at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures in a manner that is consistent with Part B.

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

No action is required.

### ***Critical Element 2: Data Reflect Actual Practice and Performance***

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

### **Verification Visit Details and Analysis**

The State reported that its data collection processes used to collect valid and reliable data are reflected in actual practice through the various components of the State's data collection systems. These components are: (1) statewide student identifiers; (2) extensive definitions for code sets; (3) extensive documentation of timelines and requirements and TA documents; (4) extensive edits run at student, district and State levels; (4) ongoing training and TA to districts; (5) summary reports sent to districts for verification purposes; and (6) a certification or verification process by which districts indicate that all data are complete and accurate.

The State has various methods for corroborating data. Finance data are subject to audits at the district level, and the audits ensure that the underlying data are correct. Also, within MOSIS, there are edit checks that look across multiple files and reporting cycles.

### **OSEP Conclusions**

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

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

No action is required.

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

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

### **Verification Visit Details and Analysis**

The State uses its data systems (e.g., monitoring, SA, database, due process, and State complaints) to improve program and systems operations and to ensure improved and sustained compliance and performance. The State uses data to: evaluate and revise SPP improvement activities and monitoring practices and procedures; develop and monitor district IPs; trigger improvement planning in conjunction with special education monitoring reviews; develop and fund IPs that include three-tiered models and/or evidence-based strategies with the goal of increasing elementary achievement and/or post-secondary outcomes; develop and evaluate targeted TA; guide the work of the RPDC Compliance Consultants; set criteria for State to local determinations; and evaluate contracts with vendors to determine if the contract activities are resulting in better outcomes for students with disabilities.

The State also uses its data to inform TA and new initiatives through: (1) evaluation and revision of SPP Improvement Activities; (2) development and evaluation of systemic PD and TA and improvement initiatives (e.g., extensive training developed and delivered on secondary transition planning due to poor graduation and dropout rates and poor district compliance with requirements); and (3) evaluation of contracts with vendors to determine if the contract activities are resulting in better outcomes for students with disabilities.

The State assists LEAs with using data to inform decision making by: providing District Profiles that contain a multi-year summary of special education related data as well as several other summary reports; providing graphing templates that districts can use to display their data compared to State data; providing improvement planning training including a section on developing a data-based needs assessment; and providing data presentations at conferences, meetings, and workshops such as the New Special Education Director's Institute and the Special Education Administrator's Conference.

### **OSEP Conclusions**

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

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

No action is required.

### **III. Fiscal System**

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

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

#### **Verification Visit Details and Analysis**

The State reported that it has a method by which it obligates Part B funds to ensure timely expenditures within the 27-month period of availability, which includes 15 months plus the 12-month Tydings period from the point that the funds are allocated to the State from the USDOE. DESE has a Funds Management Supervisor who monitors each individual Part B Grant through the State Accounting Management System (SAM II) to ensure that grant period and liquidation timelines are met. Historically from FFY 2002 to the present, DESE has expended all IDEA Part B funds within appropriate timelines.

DESE has a policy of first-in-first-out (FIFO) on expenditures, meaning that oldest funds are expended first. The State has established specific due dates for LEA subgrant applications. It approves each application and FER to ensure timely expenditures.

### **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***

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 calculates sub-grant allocations through the automated system, ePeGS. DESE follows the calculation according to IDEA requirements using base amount, population (85% of new money), and poverty (15% of new money). Allocations are calculated using the sum of these three calculations. The State described a method where it ensures that it

expends 611 and 619 funds for other State activities in a manner consistent with IDEA requirements, including its Use of Funds form for Section 611 funds.

The State reported that it does not set aside the allowed administrative amount for 619 funds; all funds are allocated to LEAs. DESE ensures that it expends 611 funds consistent with 34 CFR §300.704. LEAs provide assurances through the ePeGS budget application system that meet the excess cost requirements of 34 CFR §300.202(b) and that meet MOE requirements of 34 CFR §300.203.

The State reported that charter school LEAs are treated in the same manner as other LEAs, in that they all provide assurances and have MOE requirements. Charter schools with LEA status and in existence prior to the current school year receive their Part B 611 funds using the same formulas and calculations used for non-charter LEAs. Furthermore, charter schools must apply for funds by submitting an on-line Part B web application. DESE reported that currently all charter schools in Missouri have LEA status and that charter schools are, by State law, permitted only in Kansas City and Saint Louis.

The State reported that for charter schools that have a significant increase in students DESE is required to recalculate the allocation of the Charter School under the Charter School Expansion Act (34 CFR §76.788), provided that the Charter School notifies DESE of this increase or expansion at least 120 days prior to the school year in which the increase or expansion is expected to occur. Recalculation cannot be done until revised Charter School data is available after February 15. The only two categories that need to be recalculated are population and poverty.

The State uses its ePeGS to ensure that LEAs budget and expend the required proportionate share of Part B funds to provide for the equitable participation of children with disabilities who have been parentally placed in private schools. This system has a built-in formula for calculating each LEA's proportionate share. Due to the State's definition of an elementary school, proportionate share calculations do not include Part B 619 funds. The State's definition is "Elementary school means a nonprofit institutional day or residential school; including a public elementary Charter School that provides elementary education (Kindergarten through eighth grade)."

Beginning in the fall of 2009, the State plans to use the services of a contract auditor to conduct on-site fiscal reviews of LEAs' fiscal processes including expenditure of proportionate share to provide for the equitable participation of parentally-placed private school students with disabilities. The calculation is completed in the ePeGS Part B FER on the supporting data page.

The State uses a High Need Fund (HNF) based on State law. The HNF provides reimbursement for districts serving any student with a disability whose educational costs exceed three times the district's Current Expenditure per average daily attendance (ADA) amount as calculated on the Annual Secretary of the Board Report (ASBR).<sup>4</sup> All funds in the State's HNF are used to reimburse expenditures for high cost children at the school district level.

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<sup>4</sup> Missouri's High Need Fund (HNF) Policy Manual can be viewed on the following link: <http://www.dese.mo.gov/divspeced/Finance/documents/HNFPolicyManual.pdf>

The State acknowledged there was one unresolved audit related to IDEA Part B funds at the time of the verification visit. OSEP notes that DESE promptly provided all documentation requested to resolve this matter. The resolution of the State's audit findings will be addressed under separate cover.

**OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes the State has demonstrated it has procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State.

**Required Actions/Next Steps**

No action is required.

***Critical Element 3: Appropriate Use of IDEA Funds***

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

**Verification Visit Details and Analysis**

The program office staff communicates with the finance office and vice versa through semi-monthly Director's Meetings, Monthly Fiscal Liaison Meetings, Monthly North Central Regional Resource Center Conference Calls, shared electronic folders, and a special education Listserv. The State clearly distinguishes Part B funds from other funds by setting up a unique Federal ID number in the SAM II.

The State determines that Part B funds are used to supplement and not supplant State and local funds through annual monitoring of local/State spending for special education. MOE and other fiscal requirements of IDEA are monitored through the ePeGS system by DESE staff. With respect to State-level financial support, under 34 CFR §300.163(a), DESE reported that no other State agency provides funding for special education and related services for children with disabilities.

**OSEP Conclusions**

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

**Required Actions/Next Steps**

No action is required.