

**New Hampshire 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 State uses its general supervision system, including its focused monitoring process, dispute resolution, statewide data system, budget reviews and audit reports to identify noncompliance.

Focused Monitoring

The New Hampshire Department of Education (NHDOE) reported that it selects six school districts (one from each of six enrollment groups) for its two-year Focused Monitoring (FM) process, which is conducted by its contractor, Southeastern Regional Education Service Center, Inc. (SERESC). The State selects the districts for focused monitoring based on key performance indicators (i.e., graduation, dropouts, assessments, suspension/expulsion, and timely evaluations). In the first year, SERESC and the Local Educational Agency (LEA) convene an Achievement Team that is composed of administrators, general and special education teachers, students, parents, school board members and other stakeholders, as relevant. This team is responsible for establishing timelines for monitoring activities, reviewing district policies and procedures to ensure consistency with State and Federal requirements, analyzing personnel rosters to ensure appropriate certification, and participating in a complete compliance review including coordinating and overseeing the Individualized Educational Program (IEP) review process and examining files related to out-of-district placement. The team reviews the results, produces a list of findings of noncompliance with Part B requirements, and assists the LEA in developing the Corrective Action Plan (CAP). In addition to the Achievement Team, a Leadership Team is convened which is composed of the district superintendents, directors of student services, building principals or representatives, teacher representatives, community representatives and a State Educational Agency (SEA) liaison. The role of this team is to set the agenda and expectations, to monitor the progress in meeting timelines, to establish a protocol for communication, and to develop the Action Plan for sustaining recommendations for improvement.

The NHDOE reported that its focused monitoring identifies noncompliance in the LEAs, provides notification to the district within 90 days after the on-site visit, and assists in the development of the CAP. When individual student-level noncompliance is identified, the SEA directs the district to correct the noncompliance immediately (usually within 60 days).

During the verification visit, OSEP reviewed the FM tracking log and verified that all districts monitored in 2007-2008 received a written monitoring report from the Bureau of Special Education within 90 days after the focused monitoring visit. The report included the identification of findings of noncompliance as well as strengths of the program. In addition, SERESC staff provided OSEP with an overview of the procedures for focused monitoring, including the

processes for data collection and analysis, the identification of findings of noncompliance, the verification of correction, and the development of an improvement action plan.

Although the State's Focused Monitoring process produces a comprehensive assessment of an LEA's system; the State was not able to provide evidence that the SEA is ensuring that the contractor correctly identifies and verifies the correction of noncompliance. The SEA acknowledged that, while the State has a system in place for SEA oversight and review of the contractor's activities, the system has not been effective. The State has permitted the contractor to exercise discretion in making decisions about noncompliance and the level of correction needed without sufficient supervision by the SEA. While the State may contract out many processes of its monitoring system, the SEA is responsible for making decisions regarding the identification, and verification of correction, of noncompliance.

Private Schools

NHDOE staff monitors private special education schools, in which children may be placed by LEAs, on a five-year cycle. This monitoring includes a case study, the review of policies and procedures, classroom observations, and the review of student files to determine compliance. When noncompliance is identified, the SEA provides written notification of findings of noncompliance within 90 days from the date of the visit to the private school and the LEA in which the private school is located. During the verification visit, OSEP reviewed documentation and the data tracking system regarding NHDOE monitoring of thirteen private special education schools for 2008-2009. The documentation included the date of the visit, the date of written notification, and the date the CAP was received. Ten of the thirteen private schools received notification within 90 days from the end of the visit and had CAPs approved by the SEA within 30 days of notification.

Other Monitoring

The SEA reports that it annually collects data for Indicator 11, as well as complaints and due process hearings, through the New Hampshire Special Education Information System (NHSEIS). The SEA reviews information in the NHSEIS at the child-specific, LEA and State level. If the data demonstrate noncompliance, the NHDOE makes findings and provides written notification to the LEA. NHDOE requires the LEA to develop a CAP, to review its policies and procedures, to report the results of its review; and to describe the actions taken as a result of the review. The SEA provides noncompliance data from the NHSEIS to the focused monitoring team prior to an on-site visit to the LEAs scheduled for focused monitoring.

NHDOE reported that at the conclusion of a due process hearing, a copy of the written decision is provided to the employee of the SEA in the Bureau of Special Education who is responsible for complaints. The employee has the primary responsibility to track the hearing officer's findings and to verify the timely correction of the findings of noncompliance. In the complaint process, after allegations regarding findings of noncompliance are substantiated, written notification of findings is sent to the LEA and parents within 60 days, or with an extension, as appropriate. The SEA consultant tracks the timelines and verifies the timely correction of the findings of noncompliance.

OSEP Conclusions

Although the State has an extensive monitoring system, based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that the State has not exercised adequate supervision and control over its contractor. Accordingly, OSEP cannot conclude that the State has a general supervision system that is reasonably designed to identify noncompliance using its different components as required in 34 CFR §§300.149 and 300.600.

Required Actions/Next Steps

Within 60 days of the date of this report, New Hampshire must provide a copy of NHDOE's revised Memorandum of Understanding (MOU) with its contractor outlining the processes for ensuring SEA oversight of the contractor's actions with respect to the Focused Monitoring process. The State must highlight the changes made to the MOU that clarify the roles of the SEA and the contractor with regard to the oversight of the contractor's findings of noncompliance and the verification of correction, and the mechanism by which SEA personnel make decisions regarding the identification, and verification of the correction, of noncompliance.

Critical Element 2: Correction of Noncompliance

Does the State have a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner?

Verification Visit Details and Analysis

The 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 the OSEP Memorandum 09-02, dated October 17, 2008, in order to demonstrate that previously identified noncompliance has been corrected, a State must verify that each LEA with noncompliance: 1) has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA; and 2) is correctly implementing the specific regulatory requirements.

The State reported that it verifies the correction of noncompliance identified through its general supervision processes by ensuring that the LEA has corrected the noncompliance related to an individual child (if a child-specific finding had been made), and by ensuring that the LEA is currently implementing the regulation that formed the basis of the finding of noncompliance, consistent with OSEP's 09-02 Memo.

The State determines that broad corrective action is needed when findings are of a systemic concern. The corrective action can be implemented in an LEA, regionally, or statewide. Verification of the correction of findings of noncompliance is through an on-site visit, desk audit or other evidence of correction. OSEP reviewed NHDOE monitoring reports and database to verify that the State is ensuring timely correction for child-specific and systemic noncompliance in a timely manner.

The State reported that, following the issuance of the final focused monitoring report, the State requires LEAs to develop and submit a CAP to the State that addresses the findings of noncompliance. NHDOE and SERESC staff provide extensive training to LEAs regarding the

development and content of quality CAPs. NHDOE reports that follow-up activities by SERESC and the SEA include scheduled and unscheduled on-site visits, file reviews, and district data reviews to ensure the correction of noncompliance. For noncompliance identified through the focused monitoring process, verification of the correction of findings of noncompliance occurs during the second year of the focused monitoring process (but within one year of the date that the State notifies the LEA of the noncompliance). The SERESC team verifies the correction of noncompliance, reviews the implementation of the CAP, examines evidence of the correction of noncompliance, provides technical assistance, and notifies the SEA when correction and verification is completed. The NHDOE then issues a close-out letter to the district. OSEP reviewed NHDOE data that correction was verified within one year of notification.

NHDOE reported in some cases SERESC or SEA staff may make an on-site visit to collect additional data to verify that noncompliant practices have been corrected and the LEA is implementing correction. The State reported that following the verification of correction, the State issues close-out letters notifying the LEAs when noncompliance is corrected. During the verification visit, OSEP reviewed a number of close-out letters as well as letters that required additional action by the LEA and gave a timeline for when the action was to be concluded.

If measures put in place by the SEA are insufficient to correct the noncompliance, NHDOE staff indicated that there are a number of sanctions/enforcement options that can and have been utilized. These include: (1) voluntary and mandatory technical assistance; (2) mandatory, targeted professional development; (3) directives ordering specific corrective or remedial actions; (4) formal referral to the Bureau of Credentialing for review in accordance with NH Rule Ed.511.02; or (5) targeting or redirecting the use of IDEA funds. OSEP reviewed monitoring reports in which enforcements actions were required and updated data that reflected the effectiveness of the enforcement action.

The NHDOE demonstrated improvement in ensuring the correction of noncompliance in a timely manner through data provided in the APR. The State reported in its Federal Fiscal Year (FFY) 2007 APR for Indicator 15 that 91% of the findings of noncompliance were corrected in a timely manner. This data indicates progress from the reported data of 72% for Indicator 15 reported in the State's FFY 2006 APR. During the verification visit, NHDOE reported that it expects to provide data for Indicator 15 for the FFY 2008 APR that will demonstrate substantial compliance.

OSEP Conclusions

Although the State has an extensive monitoring system, based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that the State has not exercised adequate supervision and control over its contractor. Accordingly, OSEP cannot conclude that the State has a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner as required in 34 CFR §§300.149 and 300.600.

Required Actions/Next Steps

No action is required beyond what is required in Critical Element 1.

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 reported that its complaint system handles an array of complaints regarding State and Federal requirements. These include complaints alleging that a public agency has violated a requirement of Part B of the IDEA or the Part B regulations, in accordance with 34 CFR §§300.151-300.153. During the verification visit, New Hampshire reported that it has an SEA employee on call each day to answer questions from the public including questions regarding complaints. This individual typically receives from 3-15 calls per day and may try to resolve the issue informally; the employee is well versed in the complaint process and a support person is available to assist the public in completing the complaint form. A model form is available on the State website and a question and answer guide regarding the process for filing a complaint is posted. Once a complaint is received, the SEA employee responsible for complaints reviews the information and develops an “Allegation Information” form, which lists the applicable State and/or Federal requirements that have been allegedly violated. The form is sent to the parent and district outlining the allegations and giving both parties an opportunity to amend the allegation form. The complaint is then assigned to an investigator who is contracted and trained by the SEA. The investigator reviews the file, interviews all relevant parties and writes a compliance report that is submitted to the SEA employee. The employee reviews the report and drafts a decision letter, which is signed by the Commissioner. If the State determines that the allegation has merit and makes a finding of noncompliance, the letter outlines what the LEA must do to correct the noncompliance.

The Part B regulations in 34 CFR §300.152(a) require each State to include in its State complaint procedures, a time limit of 60 days to perform the functions detailed in 34 CFR §300.152(a)(1) through (5), after the complaint is filed, unless, in accordance with 34 CFR §300.152(b)(1)(i)-(ii), the time limit is extended because exceptional circumstances exist with respect to a particular complaint; or the parties agree to extend the time to engage in mediation or other dispute resolution, if available in the State. During the verification visit, OSEP interviewed SEA staff, reviewed the complaint log for the 2007-2008 school year, and examined complaint files from that time period. OSEP found that of the thirty-five complaints filed, twenty-one, or approximately 60 percent, had extended timelines. Although NHDOE reported in its FFY 2007 APR that 100% of the complaints were completed within the timeline, or a timeline that had been properly extended, NHDOE did not have documentation to support that the time limit was extended according to the requirements in 34 CFR §300.152(b)(1). NHDOE reported that in 2007-2008, it contracted with six complaint investigators; however, only three were routinely available to carry out the scope of work. NHDOE believes this may have impacted the SEA’s ability to meet the 60-day timeline. During the verification visit, the State informed OSEP that NHDOE has recently contracted with six additional investigators to assist with the timely resolution of complaints.

Due Process Hearings

The New Hampshire State Department’s Office of Legislation and Hearings (OLH) is responsible for managing and conducting due process hearings. The State provides training for hearing

officers through continuing legal education programs sponsored by the New Hampshire Bar Association, contracts with consultants to provide in-house training, and through the Attorney General's office regarding procedures. Hearing officers can request subsidized attendance at the education law conference when the central theme is special education. Regional training is facilitated by the Northeast Regional Resource Center (NERRC) to the New England States annually.

New Hampshire is a single-tier state for due process. Once a request for a due process hearing is received, a hearing officer is assigned to the case. The OLH has a *Due Process Hearing Schedule* that tracks the dates by activity, including the date by which the hearing decision must be mailed to the parties. The OLH has, for many years, automatically scheduled mediation as part of the special education due process hearing and advises parties that the State encourages mediation. Either party may opt out of the mediation process. With the reauthorization of IDEA, which requires resolution meetings, the office of OLH altered its scheduling procedures. The OLH has adjusted its timelines to account for resolution meetings under 34 CFR §300.510. It schedules mediation on or after day sixteen from the date of the hearing request to allow for the resolution session. A pre-hearing conference is scheduled on day thirty-one or later and sets the date for the hearing officer's decision on day forty-three, so that all parties receive the decision on the forty-fifth day. OSEP verified with NHDOE staff, and through a review of the NHDOE's *Hearing Officer's Guide to the Administrative Process*, that the State begins the 45-day timeline for the resolution of a due process hearing consistent with 34 CFR §300.510(c). NHDOE reports that a significant number of due process hearing requests are resolved either through resolution sessions and/or mediation. In FFY 2007, of the 84 due process hearing requests received, only twelve were fully adjudicated. Seventeen were withdrawn or settled, and the remainder were resolved through mediation or resolution sessions.

The OLH has developed a tracking log for due process complaints, including the requirement to convene a resolution meeting within 15 days of receiving a notice of the parents' due process complaint and prior to the initiation of a due process hearing under 34 CFR §300.511. The tracking log also accounts for resolution meetings not held due to: (1) the parent and LEA agreeing in writing to waive the meeting; or (2) the parent and the LEA agreeing to use the mediation process described in 34 CFR §300.506. During the verification visit, OSEP reviewed the due process hearing log and determined that the NHDOE appears to have procedures that are sufficient to ensure that the LEAs convene timely resolution meetings consistent with 34 CFR §300.510.

The State has assigned one staff member whose primary responsibility is to ensure the implementation of complaint and due process decisions. The SEA reports that it provides redacted copies of due process decisions to the State Advisory Committee and makes them available on the NHDOE website.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP determined that the State has not demonstrated that it has procedures and practices that are reasonably designed to implement all of the dispute resolution requirements of IDEA.

Specifically, OSEP finds that the State has failed to demonstrate compliance with requirements in 34 CFR §300.152(a) and (b)(1)(i) for timely complaint resolutions.

Required Actions/Next Steps

In the FFY 2009 APR, due February 1, 2011, in addition to providing valid and reliable data for Indicator 16, for every complaint that is filed between February 1, 2010 and October 31, 2010, and whose timeline is extended beyond the 60-day timeline, NHDOE must provide documentation of the reason for the extension, including the exceptional circumstances that existed with respect to that complaint to justify the extension, or other reason permitted under 34 CFR §300.152(b)(1).

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

In interviews with OSEP staff during the verification visit and through the examination of documentation available on the State's website, NHDOE reported its multiple initiatives to improve the educational results and functional outcomes for children with disabilities. The State has aligned its goals for the performance of children with disabilities for graduation with a regular diploma, dropouts, and the performance of children with disabilities on the State assessments in the State Performance Plan (SPP) with the performance standards for children in the general education program. The State has several initiatives to improve performance on graduation, dropout and post-school outcomes for children with disabilities. Many of these activities are described, in depth, in the SPP and progress is discussed in the APR.

The State reported in the FFY 2007 APR that its graduation rate for children with disabilities was 71%, which is a decrease from the graduation rate of 75% reported in the FFY 2006 APR. During the verification visit, NHDOE reported that NH Senate Bill 18 (SB18), which raised the compulsory age of public education from 16 to 18, went into effect on July 1, 2009. As a result of the passage of SB 18, students under 18 may not drop out of school. NHDOE reported that the change in the dropout age is expected to increase high school graduation rates while decreasing dropout rates for all children.

The State reported that it is an active member of the New Hampshire Transition Community of Practice Coordinating Group under the IDEA Partnership. This group plans and implements an annual Transition Summit to share secondary transition best practices; facilitates the development of local and regional communities throughout the State; and increases youth involvement at the State and local level.

The State's previous two State Improvement Grants supported literacy for all children. The recent State Professional Development Grant, NH RESPONDS, is focused on the development and implementation of an integrated Response to Intervention (RTI) system of literacy and behavioral supports for preschool through high school including secondary transition supports. The RTI framework focuses on high quality instruction in the general education setting for all students. NH RESPONDS includes training and technical assistance to high schools in 5 School Administrative Units (SAU) demonstration sites in implementing, with fidelity, a school-wide

three-tiered system of Positive Behavioral Intervention and Supports (PBIS) inclusive of data collection and analysis and an individualized school-to-career service model called RENEW (Rehabilitation, Empowerment, Natural supports, Education and Work) to help the most at-risk high school students earn credit towards graduation through alternative means.

The State supports the education of preschool children with disabilities with nondisabled peers, to the maximum extent appropriate. NHDOE reported that it has a full continuum of service options for preschool children with disabilities. This includes the provision of special education and related services in community-based childcare and Head Start programs as well as in LEA-run programs. Each of the NH RESPONDS demonstration sites includes one preschool program in the development of an RTI system. This includes support to preschool program staff in emergent literacy and positive behavior intervention and instructional strategies.

In addition, the State is represented on the State Project Team of the NH Department of Health and Human Services; Medicaid Infrastructure Grant called Granite State Employment Project. The purpose of this project is to build a comprehensive employment system for NH citizens with disabilities.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP believes 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 a part of its monitoring 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 each LEA against the State's SPP/APR targets and must make an annual determination for each LEA. NHDOE meets this public reporting requirement by publishing a district profile for each LEA on the SEA's website, in which the State reports the LEA performance against the State's SPP/APR targets. NHDOE reported to OSEP that District Data Profiles are posted on the State's website no later than 120 days following the submission of the APR to OSEP.

The State's annual determination process, must, at a minimum, consider: (1) an LEA's performance on all SPP/APR compliance indicators; (2) whether an LEA submitted valid, reliable, and timely data for each indicator; (3) LEA audit findings; and (4) any uncorrected noncompliance for other sources. NHDOE staff reported to OSEP that it makes annual determinations for each LEA based on a variety of factors, including but not limited to: performance on SPP/APR

compliance indicators, submission of timely and accurate data, timely correction of financial audit exceptions and any other source of uncorrected noncompliance. NHDOE reported that it makes the determinations and notifies LEAs in writing as soon as possible following the publishing of the district data profiles, generally within days of public reporting. While on-site, OSEP reviewed the determination letters (which included the criteria for making LEA determinations) and the list of LEA determinations made by the SEA. The NHDOE has chosen not to publically report the district determinations.

Significant Disproportionality and CEIS

The State collects and examines data for each LEA to determine if significant disproportionality based on race and ethnicity is occurring in the State and in the LEAs of the State. 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 makes a determination of significant disproportionality based on the examination of an LEA's data, the State requires the LEA to: (1) conduct a review, and if appropriate, revision of policies, procedures and practices used in the identification, placement, or discipline of children with disabilities to ensure compliance with Part B; (2) reserve 15 percent of Part B funds for CEIS; and (3) report publically on the revision of policies, procedures, and practices, consistent with 34 CFR §300.646(b).

NHDOE currently determines significant disproportionality as a ratio of 3.5 and higher using a weighted risk ratio method on an annual basis. The State reported that the definition was developed with technical assistance from the Data Accountability Center (DAC). NHDOE determines significant disproportionality by analyzing data from the NHDOE's Bureau of Data Management and the Bureau of Special Education. On October 1 of each year, data is generated from the Bureau of Data Management in the report, Race/Ethnic Enrollment in New Hampshire Public Schools. On December 1 of each year, the State generates student data from the Bureau of Special Education, New Hampshire Special Education Information System (NHSEIS).

NHDOE provided evidence that it has a process in place for ensuring that Federal requirements in 34 CFR §300.226 are met if a district provides CEIS, regardless of whether the district is required to do so by 34 CFR §300.646. If a district is using Part B funds for CEIS, the district, as part of the budget process, is required to report how the funds are spent, the number of children served, and the subsequent number of children found eligible for special education and related services. While on site, OSEP reviewed this documentation which was in the form of an excel spreadsheet and is part of the LEA grant application. In addition to the spreadsheet, State staff is assigned to work with each district to ensure program requirements are being met.

NHDOE reported that during FFY 2007 and FFY 2008, no districts were required to allocate 15% for CEIS; however, eleven LEAs voluntarily opted to implement CEIS. OSEP reviewed the documentation including the number of children who received CEIS services and subsequently received special education and related services in the eleven districts who reserved funds.

Private Schools

The State monitors the provision of special education and related services for students who are parentally-placed in private schools, through its data reporting, grant assurance process, and program monitoring reviews. Each LEA must provide an annual assurance that it will adhere to

requirements of Part B of the IDEA regarding parentally-placed private school children with disabilities in 34 CFR §§300.130 through 300.144. The SEA requires all LEAs to complete and submit an “Affirmation of Consultation” for each private school in the district prior to the final approval of the LEA’s annual request for IDEA funds. OSEP verified this document is consistent with the Written Affirmation requirements in 34 CFR §300.135 of the IDEA. OSEP further reviewed documentation that clarifies that the LEA calculation for proportionate share of the LEA’s Part B entitlement is based on the number of private school children with disabilities who are enrolled by their parents in private schools located in the district and the total number of children with disabilities in its jurisdiction aged 3 through 21. The SEA also requires LEAs to file an annual Child Find report for parentally-placed private school children. The Superintendent or authorized individual signs an assurance that the information submitted is accurate and complete.

NIMAS

The State has adopted the National Instructional Accessibility Standard (NIMAS) pursuant to Section 612(a)(23)(A). The State requires that each LEA sign a NIMAS Assurance as part of the Annual Request for Special Education Funds. By signing the assurance, each LEA commits to implementing NIMAS. Because textbook purchases are made at the local level, NHDOE provides information and resources to assist in providing accessible materials to children with print disabilities. NHDOE has registered three authorized users: Bookshare, Recording for the Blind & Dyslexic; and New Hampshire Instructional Materials Center Accessible Media Coordinator. The LEA must inform the State whether they choose to coordinate with the National Instructional Materials Center (NIMAC) or will provide instructional materials to blind persons with print disabilities.

NHDOE has designated one staff person as the NIMAC State Coordinator. The staff person ensures that blind persons and others with print disabilities receive instructional materials in a timely manner.

Assessments

The State monitors LEAs to ensure that they comply with Part B requirements for statewide and districtwide assessments in accordance with 34 CFR §§300.160 and 300.320(a)(6). Each LEA submits a Participation in Statewide & District Wide Assessments Assurance as part of the New Hampshire Request for Special Education Funds. Focused Monitoring staff review all policies and procedures to ensure that districts comply with Part B requirements for assessment. The State requires IEP teams to make detailed determinations as to how each student with a disability will participate in the Statewide assessment, including the use of test accommodations. SEA consultants work with LEAs regarding the requirement for students with IEPs who participate in the alternate assessment. During the verification visit, OSEP reviewed the State’s data and website and confirmed that the State’s public reporting on the participation of children with disabilities in statewide assessment occurs consistent with 34 CFR §300.160(f).

OSEP Conclusions

Based on the review of documents, analysis of data and interviews with State personnel, OSEP believes that the State has 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). OSEP cannot, however, without also collecting data at the State and local levels, determine whether these procedures and practices are sufficient to ensure that LEAs in the State effectively implement these selected grant assurances.

Required Actions/Next Steps

No action is required.

II. Data

Critical Element 1: Collecting and Reporting Valid and Reliable Data

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

Verification Visit Details and Analysis

The State reported that the principal method the NHDOE uses for collecting and reporting data to OSEP is the New Hampshire Special Education Information System (NHSEIS) data system. This is a web-based system which includes data from IEP development to data analysis and reporting. The “Easy IEP”, an online application, is used by 85% of the LEAs in the State. An IEP cannot be finalized unless certain fields are completed. Based on the business rules established in the system, there is a series of symbols that indicate the status of a student’s records, e.g., a symbol to identify that a student’s IEP is pending, a student’s three-year evaluation is due, etc. The 15% of the districts that do not use the online IEP use an optional system that requires the district to enter data points. NHSEIS contains unique student identifier assigned by the State and another one assigned to special education.

The State reported that the NHSEIS system generates 618 data for child count, educational environments, preschool environments, exiting, and discipline data. Personnel data is collected through the Educator Information System (EIS), managed by the Bureau of Credentialing, and assessment data is collected through the state assessment data system managed by the Office of Accountability. The NHDOE has posted a professional data calendar on the NH Department website that indicates every data submission report and the corresponding due date. In addition, the SEA issues memoranda and reminders to the LEAs regarding pending data submission.

The State has a system of edit checks that identifies anomalies. There are edit checks within the NHSEIS and staff is responsible to review for any anomalies. If there are data anomalies, the State first works with data managers and system development specialists. If additional technical assistance is required, the State consults with the vendor, Public Accounting Group (PCG). In addition to edit checks, the State follows a consistent set of data procedures, data definition and business rules.

To ensure the validity and reliability of data collected, the NHDOE provides guidance and training to LEAs on data collection and management. The State offers regular training on the NHSEIS for both administrators and special education staff either at the State office or on-site at the LEA. There are also by-weekly telephone conferences to offer assistance to LEA staff and a message board on the NHSEIS where the State has daily postings regarding the system. NHDOE provided OSEP staff with a walk-through of NHSEIS data collection and management system which included guidance, scheduled training session, and the message boards used by LEAs.

While on-site, OSEP reviewed data collected for selected APR indicators through the NHSEIS system including data related specifically to timely evaluations (Indicator 11) and timeline

requirements and processes for complaints, resolution sessions and due process (Indicators 16, 17 and 18). In addition to the NHSEIS system, OSEP reviewed the complaint and due process logs and respective tracking systems for the New Hampshire dispute resolution system. Based on OSEP's review, OSEP believes that New Hampshire has a system that is reasonably designed to accurately report APR data for these indicators.

OSEP Conclusions

With one exception, based on the review of documents, analysis of data, and interviews with State staff, OSEP believes that the State has a 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. In Critical Element 3: Dispute Resolution, OSEP found that the State has failed to demonstrate compliance with requirements in 34 CFR §300.152(a) and (b)(1)(i) for timely complaint resolutions. Accordingly, it is unclear whether the State's data for Part B Indicator 16 has been valid and reliable. OSEP cannot, however, without conducting a review of data collection and reporting practices at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures in a manner that is consistent with Part B.

Required Actions/Next Steps

No further action is required beyond what is required in Critical Element 3.

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

NHDOE ensures that data it collects and reports reflect actual practice through a series of checks and balances and training of personnel at the State and local level. At the local level, data managers review data to ensure accuracy and follow-up at the school level when anomalies occur. Data managers are trained and use a variety of tools to ensure that the data they submit are complete and accurate. Local Superintendents are required to certify the accuracy of the data reports submitted to the State. State personnel review the data reports and look for unusual or inconsistent data. They cross-reference data points from the previous year and verify the data through visual examination of the data, the use of consistent definitions, inter-rater reliability checks, cross-reference of 616 and 618 data, utilization of electronic edit checks, and comparison of practice and source data. SEA staff also review data submitted by LEAs and use the data as part of the monitoring review to determine accuracy.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes that 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 system for continuous improvement, monitoring, technical assistance, and support for LEAs. NHDOE also uses its data system to improve programs by issuing guidance memos, developing professional development opportunities, making legislative changes and distributing discretionary funds. An example is the *Follow the Child* initiative, which focuses on three domains of personalized learning and assessment for the success of each child: personally, physically and academically. During the 2007-2008 school year, NHDOE continued to implement this initiative, providing opportunities to help teachers and administrators develop the tools and techniques necessary to create classrooms and schools focused on success. This initiative is intended to encourage more students to be successful in the classroom and to ensure that more students graduate from high school better prepared for post-school pursuits.

NHDOE also utilizes the data to make determinations regarding LEA performance for its accountability system. Each LEA has a district profile that is accessible on the NHDOE website. NHDOE reported that LEAs use data to inform decision making, develop improvement plans and to direct professional development activities. The State reported that it also uses data to apply for Improvement Grants through the U.S. Department of Education to improve statewide performance, professional development and student literacy.

OSEP Conclusions

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

Required Actions/Next Steps

No action is required.

III. Fiscal

Critical Element 1: Timely Obligation and Liquidation of Funds

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

Verification Visit Details and Analysis

The State reported, through interviews and written documentation, that it awards funds to its LEAs for a 12-month grant period that runs July 1 to June 30 of the following year, provided the LEA has an approvable application. OSEP confirmed through the U.S. Department of Education's Grants Administrative and Payment System that New Hampshire expended all of its FFY 2004 funds and all but \$3,505 of 619 and \$817 of its 611 FFY 2005 funds.

Tydings Amendment

Under 34 CFR §76.709(a), which implements section 421(b) of the General Education Provisions Act (GEPA), 20 U.S.C. 1225(b), also known as the Tydings Amendment, “[i]f a State or subgrantee does not obligate all of its grant or subgrant funds by the end of the fiscal year for which Congress appropriated the funds, it may obligate the funds during a carryover period of one additional fiscal year.” Section 76.709(b) requires the State to return any carryover funds not obligated by the State or its subgrantees to the Federal government at the conclusion of the carryover period.

Under a State-administered program such as Part B of IDEA, where States are required to distribute subgrant funds to LEAs, the Tydings Amendment allows States and subgrantees to obligate grant funds not only during the fiscal year for which those funds are appropriated, but also during the succeeding fiscal year. For a program such as Part B of the IDEA, which is forward-funded, funds must remain available to the State and its subgrantees -- in this case, LEAs -- for obligation from July 1 through September 30 of the second fiscal year (27 months) if the funds become available on July 1; or from October 1 through September 30 of the second fiscal year (24 months) if the funds become available on October 1.

The State reported that if an LEA fails to obligate all funds by the end of the grant period, the State requires its LEAs to return unexpended funds to the SEA, which redistributes the funds the following year. The SEA explained to OSEP that the purpose of this practice is to minimize the amount of funds that the State returns to the Federal government at the conclusion of the Tydings period. However, because the Tydings Amendment applies to these subgrants at the LEA level, it is inconsistent with the Tydings Amendment for NHDOE to impose a requirement that LEAs return unobligated funds at the conclusion of the 12-month period of availability of those funds.

OSEP Conclusions

Based on review of documents, analysis of data, and interviews with NHDOE staff, OSEP concludes that NHDOE has procedures that ensure the timely liquidation of Part B funds at the conclusion of the period of their availability. However, OSEP also concludes that NHDOE’s procedures or practices for timely obligation of Part B funds are inconsistent with 34 CFR §76.709(a), because they do not permit subgrant funds at the LEA level to remain available for LEAs to obligate for one additional fiscal year following the fiscal year in which Congress appropriate those funds.

Required Actions/Next Steps

Within 60 days of the date of this letter, NHDOE must provide documentation that its procedures for obligation of carryover funds under Part B of the IDEA as applied to subgrants of Part B funds at the LEA level are consistent with 34 CFR §76.709(a).

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

NHDOE reported that when calculating LEAs' subgrants, the State uses the base year child count (December 1, 1999 Child Count), enrollment and poverty. The State requires all LEAs¹ that receive Federal funds to provide an assurance annually that they will follow Federal requirements regarding those funds, including maintenance of effort (MOE), supplement not supplant, and other appropriate accounting procedures.

NHDOE reported that LEAs must complete an annual grant application for funds either on paper or through the State online system before receiving their annual Part B grant award. The application process has internal checks so that error messages are generated if incorrect amounts are entered. Business rules will not allow a record to be closed or processed if it fails a variety of data checks. When the grant application is received by the State, it is assigned to an SEA employee who reviews it to ensure that activities and costs are allowable, that codes are appropriate, that private schools have had their participation/consultation, and that there is no supplanting. Currently grant applications and finances are managed through the education bureau. A new statewide financial system called New Hampshire First was initiated on July 1, 2009. It includes payroll, grants, expenditures, and payments. All departments in the State will eventually be included in the new system. The two systems are currently operating concurrently. The goal is to ultimately fold both systems together. The American Recovery and Reinvestment Act grant system (a web based system) was the impetus to join the systems.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State has procedures that are reasonably designed to 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

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

Verification Visit Details and Analysis

The NHDOE has a dedicated financial officer and grants manager who works directly with program staff to ensure that IDEA funds are used appropriately. The State, through its State appropriations system, identifies the Part B funds by accounting codes. The accounting codes have sub codes that identify how the funds are expended. In the State system, a Common Accounting Number (CAN) is used to control the fiscal years. The State uses the accounting data system to establish the expenditures from the previous year and the amount of the appropriation that was passed by the State Legislature. The State then compares the amount appropriated by the

¹ Part B funds are distributed only to LEAs. Charter Schools in New Hampshire do not operate as LEAs for the purpose of IDEA. The LEA where the student resides is responsible for providing a free appropriate public education when the student is enrolled in a Charter School.

Legislature to confirm that it is greater than the previous year's expenditures in order to ensure that the State is meeting its State level MOE requirement in 34 CFR §300.163. NHDOE reported to OSEP that it does not have other sources of funding, such as through either Mental Health or Vocational Rehabilitation, that support special education services in the State.

The State ensures LEAs comply with the fiscal requirements of IDEA (i.e., maintenance of effort (MOE), supplanting, CEIS spending, and private school spending) through its system of assurances, budget approval, amendment process, monitoring of LEAs, and internal and external audits. LEAs are required to maintain control over all property, equipment, and supplies purchased with Part B funds, used for children who are parentally-placed in private schools, through an inventory control system. LEAs are required to report on the inventory annually.

NHDOE reports that LEAs contract annually for single audits. These audits are submitted to the Commissioner's office and are reviewed and verified by internal auditors. The accounting firm, KPMG, LLP from Boston, MA, conducts annual State audits of Federal funds over \$300,000. In addition, KPMG reviews a sample of LEA audits to verify the SEA data. There have been no findings of significance in the past two years. The State has established a Catastrophic Aid fund that is like a Risk Pool, but does not utilize IDEA funds for the program.

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 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.