

Alabama Part B Verification Visit Letter

Enclosure

Scope of Review

During the verification visit, the Office of Special Education Programs (OSEP) reviewed critical elements of the State's general supervision, data and fiscal systems, and the State's systems for improving child and family outcomes and protecting child and family rights.

Methods

In reviewing the State's systems for general supervision, collection of State-reported data,¹ and fiscal management, and the State's systems for improving child and family outcomes and protecting child and family rights, OSEP:

- Analyzed the components of the State's general supervision, data and fiscal systems to ensure that the systems are reasonably calculated to demonstrate compliance and improved performance
- Reviewed the State's systems for collecting and reporting data the State submitted for selected indicators in the State's Federal fiscal year (FFY) 2008 Annual Performance Report (APR)/SPP
- Reviewed the following—
 - Previous APRs
 - The State's application for funds under Part B of the IDEA
 - Previous OSEP monitoring reports
 - The State's Web site
 - Other pertinent information related to the State's systems²
- Gathered additional information through surveys, focus groups or interviews with—
 - The State Director of Special Education
 - State personnel responsible for implementing the general supervision, data and fiscal systems
 - State Advisory Panel
 - Parents and advocates

I. General Supervision Systems

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?

To effectively monitor the implementation of Part B of the IDEA by local educational agencies (LEAs), as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State must have a general supervision system that identifies noncompliance in a timely manner.

¹ For a description of the State's general supervision and data systems, see the State Performance Plan (SPP) on the State's Web site.

² Documents reviewed as part of the verification process were not reviewed for legal sufficiency, but rather to inform OSEP's understanding of your State's systems.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes that the State's systems for general supervision are reasonably designed to identify noncompliance in a timely manner. However, without also collecting data at the local level, OSEP cannot determine whether the State's systems are fully effective in identifying noncompliance in a timely manner.

Required Actions/Next Steps

No action is required.

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?

To effectively monitor the implementation of Part B of the IDEA by LEAs, as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State must have a general supervision system that corrects noncompliance in a timely manner. In addition, as noted in OSEP Memorandum 09-02, Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the Individuals with Disabilities Education Act, dated October 17, 2008 (OSEP Memo 09-02), in order to verify that previously identified noncompliance has been corrected, the State must verify that the LEA: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the LEA.

The Alabama State Department of Education (ALSDE) reported that the State utilizes four components of its general supervision system to identify noncompliance, one of which is its Focused Monitoring process. Focused Monitoring includes both an on-line component for all LEAs on a three-year cycle, and on-site visits to selected LEAs. The State further reported that it requires that LEAs correct noncompliance identified through any component of its general supervision system, including Focused Monitoring, as soon as possible, but no later than one year from written notification to the LEA of the noncompliance. The State further reported that, through its Focused Monitoring process, it made both "individual" findings (findings the State found in individual student records) and other findings that were not designated as "individual findings."

The State explained that for findings other than the "individual" findings, it verified, before concluding that the LEA had corrected a finding, both that the LEA: (1) had corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the LEA; and (2) was correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data. The State further reported, however, that prior to the OSEP Leadership Mega Conference in August 2010, it verified correction of "individual" monitoring findings made through Focused Monitoring only by verifying that the LEA had corrected noncompliance for each child, unless the child was no longer within the jurisdiction of the LEA, but that it did not also verify, as required by OSEP Memo 09-02, that the LEA was correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data. The State further reported that immediately following the

August 2010 Leadership Mega Conference, the State revised its procedures to require, for all monitoring and database findings, verification that included both individual child correction and updated data showing 100% compliance.

In an e-mail message dated October 18, 2010, the State confirmed that it had revised its verification procedures, to make them consistent with the guidance in OSEP Memo 09-02, as explained at the OSEP Leadership Mega Conference, and that – for those FFY 2008 individual findings for which the State had not previously used updated data to verify correction (approximately 20 findings) – the State had, subsequent to the Leadership Mega Conference, reviewed updated data, and concluded, based on those data, that the LEA had achieved 100% compliance and corrected the noncompliance. The State noted, however, that in some cases this verification occurred beyond the one-year timeline for correction of noncompliance.

OSEP Conclusion

To ensure the timely correction of noncompliance by LEAs, as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, 20 U.S.C. 1232d(b)(3)(E) and OSEP Memo 09-02, the State must verify that any LEA noncompliance identified through its Focused Monitoring process has been corrected, by ensuring that the LEA: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the LEA. As noted above, however, the State had not, in verifying correction of FFY 2008 Focused Monitoring “individual” findings, met this standard. Therefore, OSEP concludes that, prior to the OSEP Leadership Mega Conference in August 2010, the State did not have a general supervision system that was reasonably designed to correct all noncompliance identified through the Focused Monitoring process. In an October 18, 2010 e-mail, the State informed OSEP that it had revised its verification procedures to correct this noncompliance, and has implemented those revised procedures.

Required Actions/Next Steps

With its response, during the SPP/APR clarification period, to OSEP’s FFY 2009 Alabama Part B SPP/APR Status Table, the State must describe the extent to which it verified correction of findings of noncompliance identified in FFY 2008 under SPP/APR Indicators 11 and 12 in a manner consistent with the guidance in OSEP Memo 09-02.

Critical Element 3: Dispute Resolution

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

The State must have reasonably designed dispute resolution procedures and practices if it is to effectively implement: (1) the State Complaint procedure requirements in IDEA sections 612(a)(11) and 615(a), 34 CFR §§300.151 through 300.153, and 20 U.S.C. 1221e-3; (2) the mediation requirements in IDEA section 615(e) and 34 CFR §300.506; and (3) the due process complaint requirements in IDEA sections 615(b)(6) – (8), 615(c)(2), 615(f) – (i) and (o) and 34 CFR §§300.507, 300.508, and 300.510 through 300.517.

OSEP Conclusion

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

Required Actions

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?

The State must have procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities.

OSEP Conclusions

Based on the review of documents and interviews with State personnel, OSEP concludes 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 effectively implement selected grant assurances, i.e., making local determinations and publicly reporting on LEA performance, significant disproportionality, private schools, coordinated early intervening services (CEIS), the National Instructional Materials Accessibility Standard (NIMAS) and assessment?

The State must have reasonably designed procedures and practices that address grant assurances/requirements if it is to effectively implement the following selected grant assurances: (1) making local determinations and publicly reporting on LEA performance pursuant to IDEA sections 616 and 34 CFR §300.600; (2) significant disproportionality requirements pursuant to IDEA section 618(d) and 34 CFR §300.646; (3) children in private school requirements pursuant to IDEA section 612(a)(10) and 34 CFR §300.129; (4) CEIS requirements pursuant to IDEA sections 613(a)(2)(C) and (g) and 34 CFR §§300.205 and 300.226; (5) NIMAS requirements pursuant to IDEA section 612(a)(23) and 34 CFR §300.172; and (6) assessment requirements pursuant to IDEA sections 614(d)(1)(A)(i)(VI) and 612(a)(16)(D) and 34 CFR §§300.320(a)(6) and 300.160(f).

IDEA section 612(a)(16)(D) and 34 CFR §300.160(f) require that ALSDE make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the number of children with disabilities participating in regular assessments, the number of those children who were provided accommodations in order to participate in those assessments, and the number of children with disabilities participating in alternate assessments, as well as data on the performance of children with disabilities on regular and alternate assessments compared to the performance of all children, consistent with section 612(a)(16)(D) and 34 CFR §300.160(f). Prior to the verification visit, OSEP reviewed the

State's Web site to determine whether the State was complying with the requirements in section 612(a)(16)(D) and 34 CFR §300.160(f).

OSEP found, and ALSDE confirmed, that the State was not publicly reporting on the number of children with disabilities participating in regular assessments that were provided accommodations in order to participate in those assessments. On September 14, 2010, prior to the verification visit, the State provided a Web link with an updated data file. OSEP reviewed the data and determined that it reports on the count of students with disabilities taking regular assessments with accommodations for the 2008-2009 school year for grades three through eleven, at the State and district level, for reading, mathematics, science, and writing.

OSEP Conclusion

To ensure that the State has procedures and practices that are reasonably designed to implement the assessment requirement consistent with IDEA section 612(a)(16)(D)(i) and 34 CFR §300.160(f)(1), the State must publicly report on the number of children with disabilities participating in regular assessments that were provided accommodations in order to participate in those assessments. Based on the review of documents, analysis of data, and interviews with State and local personnel, as described above, OSEP concludes that prior to September 2010, the State was not reporting on the number of children with disabilities participating in regular assessments that were provided accommodations in order to participate in those assessments. However, the State corrected this issue prior to the verification visit and provided an updated Web site that now complies with section 612(a)(16)(D)(i) and 34 CFR §300.160(f)(1).

Required Actions/Next Steps

No further action is required. The SPP/APR Indicator Measurement Table requires that the State include, with its FFY 2009 APR, due February 1, 2011, a Web link to its FFY 2009 publicly-reported assessment results. OSEP will review the State's publicly-reported data for FFY 2009 to confirm that they include the number of children with disabilities participating in regular assessments that were provided accommodations in order to participate in those assessments.

II. Data Systems

Critical Element 1: Collecting and Reporting Valid and Reliable Data

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

To meet the requirements of IDEA sections 616 and 618, and 34 CFR §§300.601(b) and 300.640 through 300.646, the State must 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 and ensure that the data collected and reported reflects actual practice and performance.

OSEP Conclusions

Based on the review of documents and interviews with State personnel, OSEP concludes that the State has a data system that is reasonably designed to collect valid and reliable data and information, to report the data and information to the Department and the public in a timely manner, and to ensure that the data and information collected and reported reflects actual practice and performance.

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?

To meet the requirements of IDEA sections 616 and 618, and 34 CFR §§300.601(b) and 300.640 through 300.646, the State must have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

OSEP Conclusion

Based on the review of documents and interviews with State personnel, OSEP concludes that the State has procedures that are reasonably designed to verify that the data collected and reported reflect 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?

To meet the requirements of IDEA section 616, 34 CFR §300.601(b) and OSEP Memorandum 10-03, Part B State Performance Plan (Part B – SPP) and Part B Annual Performance Report (Part B – APR), dated December 3, 2009 (OSEP Memo 10-03), the State must compile and integrate data across systems and use the data to inform and focus its improvement activities.

OSEP Conclusion

Based on the review of documents and interviews with State personnel, OSEP concludes that 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 Systems

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?

The State must have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA Part B funds, as required by the General Education Provisions Act (GEPA), its implementing regulations in the Education Department General Administrative Regulations (EDGAR) (including 34 CFR Parts 76 and 80), and the relevant sections of Office of Management and Budget (OMB) Circulars A-87 and A-133.

OSEP Conclusion

Based on the review of documents and interviews with State personnel, OSEP concludes that the State has procedures that are reasonably designed to 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?

The State must have procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State, consistent with IDEA sections 611(f) and 619(g) and 34 CFR §§300.705 and 300.816.

OSEP Conclusions

Based on the review of documents and interviews with State personnel, OSEP concludes that the State 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?

The State must have procedures that are reasonably designed to ensure appropriate use of IDEA Part B funds, as required by GEPA, EDGAR, OMB Circulars A-87 and A-133, and applicable provisions in Part B of the IDEA.

Under section 612(a)(18)(A) and 34 CFR §300.163(a), a State must not reduce the amount of State financial support for special education and related services for children with disabilities, or made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year. As attachments to an e-mail message dated September 30, 2010, OSEP received two undated letters from ALSDE. In one attachment the State requested a waiver of those requirements for State fiscal year (SFY) 2010 and the other requested a waiver for SFY 2009. In its October 15, 2010 letter, the State informed OSEP that Alabama had met the requirement for maintenance of State financial support for SFY 2009, and would not require a waiver for that year. In an e-mail message dated October 27, 2010, OSEP requested further information from the State in support of the State's request for a waiver for SFY 2010 and other information related to SFY 2009. OSEP will respond further to the State on these issues under separate cover.

OSEP Conclusions

Based on the review of documents and interviews with State personnel, OSEP concludes that, aside from the requirements related to State maintenance of financial support, the State has procedures that are reasonably designed to ensure appropriate use of IDEA funds. OSEP will

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respond to the State under separate cover regarding the State's maintenance of State financial support for SFY 2009 and SFY 2010.

Required Actions/Next Steps

No action is required at this time.