

Hawaii 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 Hawaii Department of Education's (HIDOE) 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 data¹, 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
 - Personnel in schools and complexes
 - 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, as required by IDEA sections

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.

612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E), the State³ must have a general supervision system that identifies noncompliance in a timely manner.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that the State's systems for general supervision are reasonably designed to identify noncompliance in a timely manner. However, without also reviewing all of the State's monitoring data, 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, 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, consistent with 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 it: (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 State.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that the State's systems for general supervision are reasonably designed to correct noncompliance in a timely manner. However, without also reviewing all of the State's monitoring data, OSEP cannot determine whether the State's systems are fully effective in correcting noncompliance in a timely manner.

Required Actions/Next Steps

No action is required.

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

³ Hawaii is a unitary system, and the State performs the functions of the State educational agency and local educational agencies.

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 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 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?

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, complex, and school 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., 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/requirements: (1) significant disproportionality requirements pursuant to IDEA section 618(d) and 34 CFR §300.646(a) and (b)(1); (2) children in private school requirements pursuant to IDEA section 612(a)(10) and 34 CFR §300.129; (3) CEIS requirements pursuant to IDEA sections 613(f) and 34 CFR §300.226; (4) NIMAS requirements pursuant to IDEA section 612(a)(23) and 34 CFR §300.172; and (5) 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).

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 implement selected grant assurances/requirements, i.e., significant disproportionality, private schools, CEIS, NIMAS and assessment.

Required Actions/Next Steps

No action is required.

II. Data Systems

Critical Element 1: Collecting and Reporting Valid and Reliable Data

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

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.

During the verification visit, the State informed OSEP that the data reported in its FFY 2008 APR submitted to OSEP on February 1, 2010 for Indicators 5 and 20 were not accurate. Indicator 5 requires the State to submit data on three categories of placements, one of which is the percent of children with IEPs aged 6 through 21 served inside the regular class 80% or more of the day. Section 618 data is the data source for Indicator 5. Indicator 20 requires the State to submit timely and accurate State reported data (618 and SPP/APR).

The State reported that the inaccuracies in the State's 2009-2010 school year data on the percent of children with IEPs aged 6 through 21 served inside the regular class 80% or more of the day were due to a data application collection error in Hawaii's electronic Comprehensive Student Support System (eCSSS) database. The eCSSS application was designed to identify children with IEPs who were served in the regular class "more than 80%" of the day instead of for 80% or more of the day as required for Indicator 5 and for data submissions made pursuant to section 618(a)(1)(ii) of the IDEA. In other words, the State had not collected and reported valid and reliable data for Indicator 5 in its February 1, 2010 FFY 2008 APR, had not submitted accurate placement data for its February 1, 2010 submission under section 618(a)(1)(A)(ii) of the IDEA, which is the data source for Indicator 5, and had not submitted valid and reliable data for Indicator 20 because of the inaccuracy in its section 618(a)(1)(A)(ii) data submission.

The State also reported the measures it has taken to address these data inaccuracies subsequent to the verification visit. The State's December 2, 2010 and January 30, 2011 electronic mail messages provided information to OSEP regarding the status of correction of the data on the number of children with disabilities, ages 6 through 21, who were served inside the regular class for 80% or more of the day. The State reported that: (1) the Federal reporting LRE requirements for 80% and above and 40% to 79% categories were corrected and updated in the State's eCSSS database on January 24, 2011, thus ensuring valid and reliable data for Indicator 5 in the FFY 2009 APR; (2) the corrections to the 2008 LRE data were manually completed in December 2010 and included in the FFY 2009 SPP/APR submission due to OSEP on February 1, 2011; and (3) it is submitting the corrected section 618 placement data to the Data Accountability Center (DAC) to be included in DAC's database.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State, complex, and school personnel, as described above, OSEP concludes that prior to the verification visit, OSEP found that the State was not collecting, and did not report, valid and reliable data in its FFY 2008

APR submitted to OSEP on February 1, 2010 regarding: (1) the percent of children with IEPs aged 6 through 21 served inside the regular class 80% or more of the day (Indicator 5); (2) corresponding data contained in Hawaii's February 1, 2010 submission under section 618(a)(1)(A)(ii) of the IDEA; and (3) valid and reliable data for Indicator 20, which requires timely and accurate section 618 data. However, the State provided documentation to OSEP, including updated data subsequent to the verification visit, demonstrating that the State has revised its data collection methods and has corrected the LRE data that it submitted with the FFY 2008 APR.

Required Actions/Next Steps

No further 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, complex, and school 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 Conclusions

Based on the review of documents and interviews with State, complex, and school 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 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 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

Hawaii is a unitary system and is not required to develop a funding mechanism to distribute 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) of the IDEA and 34 CFR §300.163(a), the State must not “reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.” Accordingly, when calculating the amount of financial support that the State made available for special education and related services, the State must include in its calculation of financial support any financial support for

special education and related services provided by any State agency, and not just financial support provided by the SEA. See OSEP Memorandum 10-05, dated December 2, 2009, entitled Maintenance of State Financial Support under the Individuals with Disabilities Education Act (OSEP Memo 10-05). <http://www2.ed.gov/policy/speced/guid/idea/monitor/mfs-12-2-2009.pdf>.

This memorandum: (1) outlines the sources of State financial support that must be included when calculating State-level financial support; (2) provides that a State must include in its calculation of financial support what must be included when calculating State-level financial support; and (3) provides that a State must include in its calculation of financial support any financial support for special education and related services provided by any State agency. Although States may have different statutory and regulatory processes for making funds available for special education and related services, “made available” generally means appropriated.

There are some limited circumstances when the State may include funds that State agencies other than the SEA directly pay to staff or contractors for the delivery of special education and related services pursuant to an individualized education program (IEP) in its calculation of State financial support that is made available. For example, if a State agency provides mental health services to children with disabilities pursuant to their IEPs, the cost of such services would be included in the SEA’s calculation of the amount of its financial support for special education and related services. Under these circumstances, to account for financial support for special education and related services provided by State agencies other than the SEA, when calculating its level of financial support made available, the State must include amounts that other State agencies directly pay to staff or contractors for the delivery of special education and related services pursuant to an IEP.

During the verification visit, HODOE staff informed OSEP that the State had not included in its calculation of financial support for special education and related services financial support made available by other State agencies. In particular, although the State’s Departments of Health and Vocational Rehabilitation provide services to children with disabilities pursuant to their IEPs, the IEP services provided by these departments, either directly or through contracts, were not included in the State’s calculation of the maintenance of State financial support for special education and related services.

In its December 1, 2010 letter to OSEP, the State provided updated data and information documenting that its calculation of State financial support for special education and related services for children with disabilities pursuant to section 612(a)(18)(A) and 34 CFR §300.163(a) has been revised to include the financial support for special education and related services made available by all State agencies.

OSEP Conclusions

Based on the review of documents, analysis of data and interviews with State personnel, as described above, OSEP concludes that prior to the verification visit, OSEP found that the State did not have procedures that were reasonably designed to calculate properly Hawaii’s financial support for special education and related services. As required in section 612(a)(18)(A) of the IDEA and 34 CFR §300.163(a), the State must include the financial support made available by the SEA and all other State agencies for special education and related services for children with disabilities. However, subsequent to the verification visit, the State revised its calculation of financial support for special education and related services pursuant to section 612(a)(18)(A) and

34 CFR §300.163(a) to include financial support for special education and related services made available by the SEA and other State agencies. Based on the review of documents, updated data, analysis of data, and interviews with State personnel, as described above, and the actions undertaken by the State subsequent to the verification visit, OSEP concludes that the State has procedures and practices that are reasonably designed to ensure appropriate use of IDEA funds.

The State has pending audit findings that OSEP did not review during the verification visit. OSEP will respond separately if concerns are identified with the State's fiscal system in the resolution of those audits.

Required Actions/Next Steps

No further action is required at this time.