

Illinois 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 Individuals with Disabilities Education Act (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

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.

20 U.S.C. 1232d(b)(3)(E), the State must have a general supervision system that identifies noncompliance in a timely manner.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that the State has a general supervision system that is 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 State informed OSEP that, for findings of noncompliance for SPP/APR Indicators 11 (timely initial evaluation), 12 (early childhood transition), and 13 (secondary transition), the State verified correction by verifying that the LEA has corrected all individual cases of noncompliance and has implemented the required corrective actions, but has not, as required by OSEP Memo 09-02, also verified that the LEA is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data. The State described the steps that it is taking to correct this 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, States must verify that noncompliance 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. Based on the review of documents, analysis of data, and interviews with State personnel, as described above, OSEP concludes that the State does not have a general supervision system that is reasonably designed to correct all noncompliance in a timely manner using its different components because, as described above, the State did not meet the requirements of OSEP Memo 09-02 for all findings

of noncompliance. Specifically, the State has not been verifying correction of noncompliance for Indicators 11, 12, and 13 by ensuring that each LEA 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.

Required Actions/Next Steps

Within 90 days of receipt of this letter, the State must provide an assurance that it has revised its procedures for verifying the correction of noncompliance for Indicators 11, 12, and 13 so that it verifies that noncompliance has been corrected only if the LEA is: (1) 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. With its response, during the SPP/APR clarification period, to OSEP's FFY 2009 Illinois Part B SPP/APR Status Table, the State must describe the extent to which it verified correction of findings of noncompliance identified in FFY 2007 (for findings not corrected in FFY 2008) and FFY 2008 under Indicators 11, 12, and 13 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.

Resolution Meetings

The IDEA Part B regulations in 34 CFR §300.600(d)(2) require a State to monitor LEAs located in the State for compliance with the requirements regarding resolution meetings in 34 CFR §300.510. As part of this requirement, and consistent with the State's general supervision obligations in 34 CFR §§300.149 and 300.600(d)(2), the State must ensure that, in accordance with 34 CFR §300.510(a), LEAs hold a resolution meeting within 15 days of receiving notice of the parent's due process complaint. If the State finds that an LEA is not in compliance with this requirement, it must issue a finding of noncompliance and ensure correction of the noncompliance as soon as possible and in no case more than one year after the State's identification of noncompliance, as required in 34 CFR §300.600(e).

During the verification visit, the State informed OSEP that it had no systematic way to monitor whether LEAs meet the 15-day timeline for resolution meetings or to make a finding of noncompliance if an LEA failed to hold a timely resolution meeting. Although hearing officers were directed to enter the date of the resolution meeting into the State's database, this was not occurring consistently and the State was not issuing findings of noncompliance when it received data showing that an LEA had either failed to hold a resolution meeting or had held it beyond the 15-day timeline. Subsequent to the verification visit, the State informed OSEP that it was revising its procedures so that the State educational agency (SEA) would collect the information

directly from LEAs, and that it would begin to issue findings of noncompliance when an LEA did not conduct a timely resolution meeting.

Due Process Hearing Timeline Extensions

The IDEA Part B regulations in 34 CFR §300.515(a) require that not later than 45 days after the expiration of the 30 day resolution period under 34 CFR §300.510(b), or the adjusted time periods described in 34 CFR §300.510(c), a final decision in a due process hearing must be reached, and a copy of the decision mailed to each of the parties. Pursuant to 34 CFR §300.515(c), the hearing officer may grant specific extensions of time beyond the period set out in 34 CFR §300.515(a) at the request of either party. The State acknowledged that, in extending the timeline for due process hearing decisions, hearing officers have not consistently: (1) extended the decision timeline in a timely manner (i.e., within 45 days from the end of the resolution period, or the adjusted time periods described in 34 CFR §300.510(c), or – in the case of additional extensions – before the expiration of the prior extension); and (2) established a new due date for the hearing decision. Subsequent to the verification visit, the State informed OSEP that it was revising its procedures to require hearing officers to: (1) grant only timely extensions of the timeline for due process hearing decisions; and (2) if a hearing officer extends the timeline, the extension is specific (i.e., the new due date for the hearing decision is clearly established).

OSEP Conclusion

To ensure that the State has procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA, as required by the IDEA Part B regulations at 34 CFR §§300.510(a) and 300.515(a) and (c), the State must ensure that: (1) LEAs conduct resolution meetings within 15 days from receipt of a parent’s due process complaint; and (2) hearing officers grant timely, specific extensions of the timeline for due process hearing decisions. Based on the review of documents, analysis of data, and interviews with State personnel, as described above, OSEP concludes that the State does not have procedures and practices that are, in their entirety, reasonably designed to implement the dispute resolution requirements of IDEA.

Required Actions/Next Steps

Within 90 days from the date of this letter, the State must provide an assurance that it has revised its procedures so that: (1) the SEA collects information regarding the timeliness of resolution meetings directly from LEAs, and issues findings of noncompliance when an LEA does not conduct a timely resolution meeting; and (2) the State requires hearing officers: (a) to grant only timely extensions of the timeline for due process hearing decisions; and (b) in granting an extension of the timeline, to grant specific extensions (i.e., the new due date for the hearing decision is clearly established). In addition, see Required Action/Next Steps in Data Systems/Critical Element 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?

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

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 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., 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 section 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 section 614(d)(1)(A)(i)(VI) and 34 CFR §§300.160 and 300.320(a)(6).

LEA Reporting on Children Receiving CEIS

The IDEA Part B regulations in 34 CFR §300.226(d) require that each LEA that developed and maintained CEIS annually report to the SEA on: (1) the number of children served under 34 CFR §300.226 who received early intervening services; and (2) the number of children served with CEIS funds who received early intervening services and subsequently received special education and related services during the preceding two-year period. The State reported that it has not required LEAs to report annually to the SEA, as required by 34 CFR §300.226(d), but that it was in the process of developing such procedures.

Reporting on the Number of Children with Disabilities Participating in Regular Assessments with Accommodations

IDEA section 612(a)(16)(D) and 34 CFR §300.160(f) require that the State 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). During 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 the State 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

December 9, 2010, after the verification visit, the State provided a Web link with an updated data file. OSEP reviewed the data and determined that the State has now reported, by school and at the State level, on the number of students with disabilities taking regular assessments with accommodations for the 2009-2010 school year for reading and mathematics.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State personnel, as described above, OSEP concludes that the State has not met the Part B requirements to: (1) require that each LEA annually report to the State on: (a) the number of children served under 34 CFR §300.226 who received early intervening services; and (b) the number of children served with CEIS funds who received early intervening services and subsequently received special education and related services during the preceding two-year period; and (2) report the number of children with disabilities participating in regular assessments that were provided accommodations in order to participate in those assessments. Although the State was not, at the time of the verification visit, publicly reporting on the number of children with disabilities participating in regular assessments that were provided accommodations in order to participate in those assessments, the State provided documentation on December 9, 2010 that it had corrected that noncompliance.

Required Actions/Next Steps

Within 90 days of receipt of this letter, the State must provide an assurance that it has required that each LEA annually report to the SEA on: (1) the number of children served under 34 CFR §300.226 who received early intervening services; and (2) the number of children served with CEIS funds who received early intervening services and subsequently received special education and related services during the preceding two-year period. No further action is required regarding the finding that, at the time of the verification visit, 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.

II. Data Collection 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.

OSEP Conclusion

Based on the review of documents and interviews with State personnel, OSEP concludes that, with the exception of data related to the timeliness of State due process hearing decisions, Illinois has a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner.

Required Actions/Next Steps

As noted above in the General Supervision, Critical Element 3 section of this Enclosure, OSEP found that the State was extending the timeline for due process hearing decisions in a manner

that was inconsistent with the requirements of 34 CFR §300.515(c). With its response, during the SPP/APR clarification period, to OSEP's FFY 2009 Illinois Part B SPP/APR Status Table, the State must provide to OSEP a description of the extent to which the data that the State reported in the State's FFY 2009 APR, due February 1, 2011, for Indicator 17 are consistent with the timeline requirements in 34 CFR §300.515(c) (i.e., the State counts a due process hearing decision as reached within an extended timeline only if there is documentation that the hearing officer: (1) extended the decision timeline in a timely manner (i.e., within 45 days from the end of the resolution period, or the adjusted time periods described in 34 CFR §300.510(c), or – in the case of additional extensions – before the expiration of the prior extension); and (2) specified either the length of the extension or the new date by which the decision must be reached and mailed to the parties).

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 complies 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 the timely obligation and liquidation of IDEA funds?

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 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 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) 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 for special education and related services provided by the SEA. See Memorandum 10-05, dated December 2, 2009, entitled Maintenance of State Financial Support under the Individuals with Disabilities Education Act (OSEP Memo 10-05) for detailed guidance on how to calculate State financial support under Part B of the IDEA. <http://www2.ed.gov/policy/speced/guid/idea/letters/2009-4/directors120209finsupport4q2009.pdf>. This memorandum outlines the sources of State

financial support that must be included when calculating State-level financial support, and 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.

SEA staff reported that, in addition to the SEA, other State agencies, including the Department of Juvenile Justice and the Department of Human Services, provide financial support for special education and related services. However, the SEA reported that it does not include financial support for special education and related services from these other State agencies, and did not have the required information from those agencies to include those funds in its calculation.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with SEA staff, as described above, OSEP concludes that the State, with the exception of the State maintenance of financial support requirement in section 612(a)(18)(A) of the IDEA and 34 CFR §300.163(a), has procedures and practices that are reasonably designed to ensure appropriate use of IDEA funds. However, the State does not have procedures that are reasonably designed to calculate properly the State’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.

Required Actions/Next Steps

Within 90 days from the date of this letter, the State must submit to OSEP:

1. A written assurance that the State has met the IDEA MOE requirements in IDEA section 612(a)(18) and 34 CFR §300.163 and has included in its calculations funds other agencies provide to the SEA for special education and related services, funds other agencies provide directly to LEAs for special education and related services, and funds other agencies directly pay to staff or contractors for the delivery of special education and related services pursuant to an IEP; and
2. A copy of the correspondence in which the SEA has informed its State audit office of the need to review under the State’s Single Audit, conducted under the Single Audit Act, the State’s procedures to comply with the tracking of the amount of State financial support

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provided (made available) to meet the IDEA MOE requirements in section 612(a)(18) and 34 CFR §300.163.