

## Maryland 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. We also reviewed the State's policies and procedures for ensuring the appropriate tracking, reporting and use of IDEA funds made available under The American Recovery and Reinvestment Act of 2009 (ARRA).

#### Methods

In reviewing the State's systems for general supervision, collection of State-reported data<sup>1</sup>, 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 systems<sup>2</sup>
- 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?*

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

<sup>2</sup> 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.

To effectively monitor the implementation of Part B of the IDEA by Local Education 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.

**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 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.

**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 collecting data at the local level, 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 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, analysis of data, 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 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, CEIS, 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 §§300.320(a)(6) and 300.320(a)(6).

**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 requirements, i.e., making local determinations and publicly reporting on LEA performance, 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.

**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.

**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 Conclusions**

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 Conclusions**

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 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**

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.

An LEA may use Part B funds only to pay the excess costs of providing special education and related services to children with disabilities. 34 CFR §300.202(a)(2). Under 34 CFR §300.16, excess costs means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceeding school year for an elementary school or secondary school, as may be appropriate, and that must be computed after deducting amounts received: (1) under Part B of the Act; (2) under Part A of title I of the Elementary and Secondary Education Act (ESEA); and (3) under parts A and B of title III of the ESEA. Under 34 CFR §300.202(b)(2)(i), an LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used.

During the verification visit, the State provided OSEP with policies and procedures for determining how the State is calculating whether LEAs complied with the excess cost requirement in 34 CFR §§300.16 and 300.202. Based on a review of those documents, and subsequently confirmed in interviews with the State personnel, OSEP determined that the State is not computing separately for children with disabilities in elementary schools and secondary schools the minimum average amount for the education of children with disabilities, before funds under Part B of the Act are used. The State, therefore, is not accurately determining whether LEAs have met the excess cost requirement.

### **OSEP Conclusions**

To ensure that the State has procedures that are reasonably designed to ensure appropriate use of IDEA funds, the State must determine whether each LEA meets the local excess cost requirement in 34 CFR §§300.16 and 300.202 in a manner consistent with those regulations, as described above. Based on review of documents, analysis of data, and interviews with State personnel, OSEP concludes that the State's policies and procedures related to determining if LEAs have met the excess cost requirement are not consistent with the requirements in those regulations.

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

Within 90 days of the date of this letter, the State must provide a written assurance that the State has: (1) revised its policies and procedures for calculating excess cost consistent with the requirements in 34 CFR §§300.16 and 300.202 as explained above; and (2) has issued guidance to its LEAs that describe the revised procedures for determining excess costs.