



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Dr. Edward R. Richardson
Superintendent of Education
Alabama Department of Education
Gordon Persons Office Building
50 North Ripley Street
Montgomery, Alabama 36104

SEP 30 2003

Dear Superintendent Richardson:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) recent verification visit to Alabama. As indicated in my letter to you of June 18, 2003, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance and improving performance with Parts B and C of the Individuals with Disabilities Education Act. We conducted our visit to Alabama during the week of July 7, 2003.

The purpose of our verification reviews of States is to determine how they use their general supervision, State-reported data collection, and Statewide assessment systems to assess and improve State performance; and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

As part of the verification visit to the Alabama State Department of Education (ALSDE), the OSEP staff met with Dr. Mabrey Whetstone (the State's Director of Special Education), and members of ALSDE's staff who are responsible for the State's general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings), the collection and analysis of State-reported data, and statewide assessment. Prior to the visit, OSEP staff reviewed a number of documents¹, including the following: (1) Alabama's Part B State Improvement Plan; (2) the State's Biennial Performance Report for grant years 1999-2000 and 2000-2001; (3) the consent decree in *Lee v. Macon*; (4) ALSDE's 2002 Focused Monitoring Manual; (5) Alabama's State Improvement Grant (SIG) application; and (6) other information from the State's website. OSEP also conducted a conference call on June 23, 2003, with a number of Alabama's State Advisory Panel members on Special Education, to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and, for Part B, Statewide Assessment. Dr. Whetstone and Ms. Emily Graham also participated in the call and assisted us by recommending and inviting the participants. During the visit, OSEP staff also reviewed a number of State documents, including: (1) a draft of ALSDE's 2003-2004 Focused Monitoring Manual; (2) the State Assessment Manual for Special Populations; (3) selected ALSDE monitoring files for school districts, including monitoring

¹ 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.

reports and corrective action documents; (4) the “Mastering the Maze” manual (which provides information regarding the special education process from referral to Individualized Education Program (IEP) development); (5) Preparing For Life (an ALSDE manual that provides guidance to students, parents and school personnel in meeting transitional goals for students with disabilities); (6) ALSDE tracking logs for complaints, mediation, and due process hearings; and (7) ALSDE’s 2003 Data Collection notebook.

The information that Dr. Whetstone and his staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of ALSDE’s systems for general supervision, data collection and reporting, and statewide assessment.

General Supervision

In reviewing the State’s general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has identified any barriers, (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State’s ability to identify and correct noncompliance; (2) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (3) utilizes guidance, technical assistance, follow-up, and—if necessary—sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

OSEP believes that ALSDE’s systems for general supervision constitute a reasonable approach to the identification and correction of noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether they are fully effective in identifying and correcting noncompliance.

ALSDE informed OSEP that it has designed its general supervision systems with the goal of ensuring both compliance and improved performance for students with disabilities. OSEP learned from interviewing ALSDE staff and reviewing ALSDE’s monitoring manuals and monitoring files that ALSDE has implemented a *Student Services Review (SSR)* process as part of each on-site review, with the goal of increasing the focus on performance and strengthening its review of compliance. ALSDE explained, both in its manuals and in interviews with OSEP, that this is a case-based review method, in which ALSDE conducts a longitudinal review of selected students’ records and interviews the range of individuals involved in developing and implementing the student’s IEP (including the parent and student).

As documented in ALSDE’s monitoring manuals and evidenced in its monitoring files, ALSDE requires local educational agencies (LEAs) to review compliance within their own schools, and follows up by both reviewing the compliance determinations made by the districts and then making its own independent determination of noncompliance. Each LEA must include in the file for each child with a disability a *Compliance Verification Form (CVF)*, in which the IEP team must verify compliance with requirements relating to the pre-referral process, evaluation, Individualized Education Program (IEP) development and content, transition services, and

placement in the least restrictive environment (LRE). Prior to an onsite visit, ALSDE requires the LEA's special education coordinator to review the file for each of a randomly selected group of students, and to determine and document the accuracy of the CVF that the IEP team completed and the level of compliance reflected in the file. As part of its own file review (*Student File Review*), ALSDE then reviews each of these selected files, the CVF, and the coordinator's analysis of the file and CVF, to determine the accuracy of the coordinator's compliance determinations and the level of compliance reflected in the file.

It was evident from ALSDE's monitoring manuals and monitoring files, as well as interviews with ALSDE staff, that ALSDE uses data from several different sources to help focus its data collection in each LEA. Prior to conducting the onsite visit to an LEA, the data analyst for the monitoring team creates a data analysis (*System Profile Review*) of several diverse kinds of data, including data regarding placement, child count, disproportionality, training and personnel, early childhood transition, the Alabama Occupational Diploma, and prior monitoring, complaint, and due process findings. ALSDE also collects input through a parent satisfaction survey for the LEA, and plans to use parent focus groups in the future.

As documented by ALSDE's schedule of monitoring visits and monitoring files, ALSDE conducts an on-site monitoring review of each of the 129 LEAs and the other public agencies that provide special education at least once every two years,² and visits agencies with persistent noncompliance more often to provide technical assistance and to collect data to determine the status of correction. It was evident from OSEP's interviews with several monitoring staff that ALSDE provides substantial training to the personnel who conduct monitoring reviews, and works to ensure inter-rater reliability across its four monitoring teams. It was clear from ALSDE's monitoring files and its summary of its findings that ALSDE is making findings of noncompliance regarding a broad array of Part B requirements.

As explained by ALSDE staff and confirmed by OSEP's review of monitoring files, ALSDE's monitoring reports direct the LEA to submit documentation of correction of child-specific (non-systemic) non-compliance within thirty days from the date of the report, and require documentation of correction of systemic noncompliance within six months. If an LEA exceeds the correction timeline, it will be given an additional thirty days to demonstrate compliance. As part of the correction process, ALSDE requires LEAs to make any changes to the procedures in their *Local Special Education Plans* as are necessary to achieve systemic correction. If correction is not demonstrated within this extended timeline, ALSDE will require the LEA's Superintendent to attend a meeting at which the State Director of Special Education explains the continuing noncompliance and informs the district that continuing noncompliance may result in a withholding of Part B funds. While ALSDE has not yet withheld funds from any LEAs, the State has taken over a number of LEAs for reasons not limited to, but including special education noncompliance, and has found that generally the threat of withholding has been sufficient to secure compliance. ALSDE provided documentation of the substantial technical assistance that it provides to LEAs to ensure effective correction of noncompliance. ALSDE's monitoring files showed that, in most cases, it is successful in ensuring correction of noncompliance within one

² ALSDE will continue its two-year monitoring cycle during the 2003-2004 school year, but will begin to implement a three level Focused Monitoring System, under which it conducts much more intensive compliance reviews in those LEAs with the greatest compliance and performance problems.

year or less. ALSDE reported that there is a small number of LEAs where, notwithstanding extensive guidance and technical assistance, noncompliance has persisted for more than one year. These systems are plagued with excessive turnover in staff and/or are suffering from a breakdown of the entire educational system (special and regular education). ALSDE is continuing to work very closely with these few LEAs with persistent noncompliance, including very frequent technical assistance visits and reviews of data. ALSDE informed OSEP that it will go to withholding with one of these LEAs if full correction is not achieved by a scheduled November visit. While it appears that ALSDE's procedures for ensuring correction are generally effective, OSEP cannot determine at this time whether ALSDE's procedures will be effective in ensuring correction in these LEAs with the most persistent noncompliance and persistent management problems. OSEP asks that ALSDE keep OSEP informed concerning its progress in ensuring correction in those LEAs.

ALSDE's systems for complaint resolution and due process hearings result in decisions that meet the timeline requirements of Part B. OSEP learned, through its review of ALSDE's complaint log and interview with the staff that are responsible for resolving complaints, that ALSDE issues written decisions on Part B complaints within 60 calendar days from its receipt of the complaint, unless the timeline is extended due to exceptional circumstances that exist with regard to a particular complaint, consistent with 34 CFR §300.661(a) and (b)(1). OSEP learned, through its review of ALSDE's due process hearing log and interview with the staff that are responsible for tracking hearing timelines, that decisions on due process hearings are issued within 45 calendar days from ALSDE's receipt of the hearing request, unless the hearing officer grants a specific extension of the timeline at the request of a party, consistent with 34 CFR §300.511(a) and (c). ALSDE staff informed OSEP that, as part of each on-site monitoring visit, it follows up to ensure that the LEA has effectively implemented any hearing or complaint decisions.

As described above, ALSDE uses data from several different sources to help focus its data collection in each LEA. In addition, OSEP learned from its review of ALSDE's improvement planning documents and its interview with ALSDE staff, that ALSDE uses data from its monitoring findings statewide, its 618 data, its assessment data, and other similar data to inform their improvement planning process and to refine their monitoring procedures.

Collection of data under section 618 of the IDEA.

In looking at the State's system for data collection and reporting, OSEP collected information regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local and/or regional level do so accurately and in a manner that is consistent with the State's procedures, OSEP guidance, and section 618; and (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies.

ALSDE staff informed OSEP that Alabama uses a single data system used for all students (i.e., regular and special education), managed by ALSDE's Information Services System (ISS), and that LEAs submit child count data to ALSDE electronically. They further explained that there is a full-time data manager in Special Education Services, who works in close collaboration with

ISS, and who demonstrated a thorough understanding of the 618 data collection system. ALSDE staff explained that the onsite team conducts a verification of child count data as part of monitoring reviews. They also explained that the monitoring teams review the accuracy of placement information in the IEPs for students whose files they review. They further described how ISS staff and the special education data manager perform complex edit checks; the data manager also performs a manual check of LEA data across multiple years to detect anomalies. ALSDE staff reported that State supported/operated programs submit data via a paper copy of the State Child Count Data Verification Form, and that ALSDE provides technical assistance to ensure accurate submission of the data.

ALSDE informed OSEP that accurate data entry efforts are hampered at the LEAs by persistent turnover in the personnel who enter data at the local level. To address this, ALSDE has provided more detailed instructions and guidance to LEAs. OSEP encourages ALSDE to determine whether data collection procedures and the accuracy of the data have been significantly affected by turnover in local personnel, and, if so, to develop and implement strategies to ensure the accuracy of its data.

Statewide Assessment

In looking at the State's system for Statewide assessment, OSEP collected information regarding a number of elements, including whether the State: (1) establishes procedures for Statewide assessment that meet the participation, alternate assessment, and reporting requirements of Part B, including ensuring the participation of all students, including students with disabilities, and the provision of appropriate accommodations; (2) provides clear guidance and training to public agencies regarding those procedures and requirements; (3) monitors local implementation of those procedures and requirements; and (4) reports on the performance of children with disabilities on those assessments, in a manner consistent with those requirements. In order to better understand Alabama's system for Statewide assessment, OSEP also discussed with your staff how the alternate assessment is aligned with grade-appropriate content standards.

OSEP has determined, through its review of the State's written procedures for Statewide assessments and the States reports to the public and the Secretary on the participation and performance of children with disabilities on such assessments, that those procedures, as written, and those reports are consistent with Part B requirements. OSEP cannot, however, without also collecting data at the local level, determine whether all public agencies in the State implement the State's procedures in a manner that is consistent with Part B.

ALSDE informed OSEP that it has provided extensive training and guidance to LEAs regarding the participation on Statewide assessments, clearly requiring that all children with disabilities participate in each of the regular assessments in which non-disabled children participate, unless the IEP team determines that participation in the regular assessment is not appropriate for a specific student and administers the alternate assessment. ALSDE's monitoring manual and monitoring files show that ALSDE monitors LEAs for compliance with requirements regarding Statewide assessment, and provides improvement strategies for LEAs when necessary. ALSDE informed OSEP that it requires each LEA to account specifically for each child with a disability to ensure that he or she has participated in either the regular or alternate assessment. LEAs with

students who did not participate in the assessment program must amend their LEA plans to ensure compliance with Statewide assessment requirements.

As evidenced by reporting documents that ALSDE submitted in September 2002 and during the verification visit, ALSDE reports to the public on the performance of children with disabilities on the regular and alternate assessments with the same frequency and in the same detail as it reports on the performance of nondisabled children.

The Alabama Alternate Assessment (AAA) is based upon evaluation by the IEP team as to the progress made by the student toward the goals and objectives in his or her IEP. The IEP team is responsible for decision-making regarding participation in the AAA.³ Scores for students taking the AAA are reported in four levels of academic achievement, as are the scores for other assessments (three levels for the Alabama High School Graduation Exam). The scores for special education students who take the AAA will be included in the accountability system. Although ALSDE has provided detailed directions regarding implementation of this IEP-based alternate assessment, OSEP could not determine the extent to which the alternate assessment is implemented in a manner that provides objective, valid measurement of student performance.

We appreciate the cooperation and assistance provided by your staff during our visit. As noted above, we request that you keep us informed concerning your progress in ensuring correction in those LEAs with persistent noncompliance findings. We look forward to our continued collaboration with Alabama to support your work to improve results for children with disabilities and their families.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Dr. Mabrey Whetstone

³ Title I of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001, also includes a number of requirements related to including children with disabilities in State assessment programs and reporting on their participation and performance on regular and alternate assessments that in many instances are more specific than requirements in the IDEA. For example, the Title I regulations require, at 34 CFR §200.2(b)(3) and (4), that all State assessments must, “(3)(i) Be aligned with the State’s challenging academic content and student academic achievement standards; and (ii) Provide coherent information about student attainment of those standards. (4)(i) Be valid and reliable for the purposes for which the assessment system is used; and (ii) Be consistent with relevant, nationally recognized professional and technical standards.” This letter does not, and should not be interpreted to, address Alabama’s compliance with requirements of Title I.