



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

Superintendent Robert Schiller  
Illinois Board of Education  
100 North First Street  
Springfield, Illinois 62777

**OCT 23 2003**

Dear Superintendent Schiller:

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 Illinois. 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 with, and improving performance under, Parts B and C of the Individuals with Disabilities Education Act (IDEA). We conducted our visit to Illinois during the week of August 18, 2003.

The purpose of our verification reviews of States is to determine how they use their general supervision, State-reported data collection, and State-wide 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 Illinois State Board of Education (ISBE), OSEP staff met with Dr. Christopher Koch (the State's Director of Special Education), and members of ISBE's staff who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); (2) the collection and analysis of State-reported data; and (3) ensuring participation in, and the reporting of student performance on, State-wide assessments. Prior to and during the visit, OSEP staff reviewed a number of documents<sup>1</sup>, including the following: (1) Illinois's Part B State Improvement Plan; (2) the State's Biennial Performance Report for grant years 1999-2000 and 2000-2001; (3) ISBE's 2001 Monitoring Manual; (4) the December 31, 2002 OSEP Monitoring Report; (5) information from the State's website; (6) a draft of ISBE's school data study (a study for which ISBE has contracted, as part of its work to improve the quality and validity of data using funds from its General Supervision Enhancement Grant from OSEP), (7) the instructions for ISBE's data system (the Funding and Child Tracking System (FACTS)); (8) selected ISBE monitoring files for school districts, including monitoring reports and corrective action documents; (9) ISBE tracking logs for complaints and due process hearings; and (10) ISBE's Workforce Analysis of Least Restrictive Environment (LRE) Monitors for Chicago Public Schools (CPS) (draft July 31, 2003), which is a comprehensive report on the status of monitoring

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<sup>1</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.

and implementation efforts, pursuant to the settlement agreement in *Corey H. et al. v. Bd. of Ed. of the City of Chicago and ISBE (Corey H.)*<sup>2</sup>

OSEP also conducted a conference call on August 12, 2003, with a number of members of the Illinois State Advisory Council on Special Education, to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and State-wide Assessment. Dr. Koch participated in the call and assisted us by recommending and inviting the participants.

The information that Dr. Koch 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 ISBE's systems for general supervision, data collection and reporting, and State-wide 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 conducted a targeted monitoring visit to Illinois in April 2002. As set forth in OSEP's December 31, 2002 Illinois Monitoring Report, OSEP made two findings related to general supervision: (1) ISBE's monitoring had not been effective in finding all existing systemic noncompliance in some districts; and (2) ISBE had not been effective in ensuring correction of identified noncompliance. ISBE is in the process of implementing the Improvement Plan that OSEP approved in September 2003, and must provide documentation to OSEP by September 2004 that it has corrected all of the noncompliance identified in OSEP's 2002 report, including the above-described findings regarding general supervision. OSEP believes that the improvements that ISBE has made to its monitoring system are reasonably calculated to correct the noncompliance, and that the system is a reasonable approach to the identification and correction of noncompliance. OSEP cannot, however, before reviewing the documentation that

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<sup>2</sup> In May 1992, named plaintiffs filed the *Corey H.* class action lawsuit in federal court against CPS and ISBE on behalf of students with disabilities receiving special education services from CPS. The suit alleged that such students were not being educated in the LRE. Pursuant to the Settlement Agreement, ISBE developed an Implementation Plan, which specifies several actions that ISBE must take to meet its general supervisory responsibility and ensure compliance with Part B's requirements for placement in the LRE, including: (1) establishing district-wide benchmarks relating to placement in the LRE; (2) revising its procedures for monitoring and enforcing LRE requirements in CPS, and monitoring a specified number of schools each year; (3) establishing procedures for imposing sanctions if a school or CPS fails to implement a corrective action plan or fails to meet a target by the end of the corrective action timeframe; and (4) ensuring that CPS implements effective procedures for personnel development to support compliance with LRE requirements.

ISBE will submit next year regarding the impact of the improvement strategies that it is implementing, determine whether the State has corrected OSEP's findings regarding general supervision and ISBE is fully effective in identifying and correcting noncompliance.

ISBE informed OSEP that the number of full-time staff in ISBE's Division of Special Education has grown dramatically since OSEP's April 2002 monitoring visit, from 27 to 46 (28 staff in the Springfield office and 16 in Chicago), and that the goal of this increase was to strengthen the focus on performance and to better ensure compliance.

Except as otherwise noted below, ISBE continues to implement the same monitoring procedures that were in place during the April 2002 Monitoring visit. OSEP staff learned through document review and interviews that ISBE conducts comprehensive on-site monitoring reviews of all districts and entities at least once every six years. In addition, ISBE conducts focused monitoring reviews, which are triggered as a result of major changes in district policies, data analysis, or compliance deficiencies. These focused reviews are not cyclical, but rather occur as needed, and may be conducted in response to specific information such as a complaint investigation or due process outcomes. ISBE reported that it uses four teams to conduct monitoring activities. Each team is comprised of a Team Leader (designated ISBE monitor), selected ISBE staff, parents, and local administrators from other districts. ISBE reported to OSEP that it now provides substantial training to the personnel that conduct monitoring reviews, and works to ensure inter-rater reliability across its four monitoring teams. OSEP learned, through interviews with ISBE staff and review of monitoring files, that ISBE is making findings of noncompliance regarding a broad array of Part B requirements.

During the April 2002 monitoring visit and the August 2003 verification visit, ISBE informed OSEP that it uses data from several different sources to help focus its data collection in each district. Prior to conducting the onsite visit, the Team Leader for the monitoring team creates a profile of several diverse kinds of district data, including data regarding placement, child count, disproportionality, training and personnel, prior monitoring, complaints, and due process findings. ISBE also collects local input through a parent satisfaction survey, and has plans to use parent focus groups in the future. As ISBE staff informed OSEP and confirmed by OSEP's review of ISBE monitoring files, ISBE issues a comprehensive report to the public agency within 60 days after an on-site visit. This report describes the noncompliance that the agency must correct, and directs the public agency to propose specific actions that it will take to correct the noncompliance, and timelines for completing those corrective actions and submitting documentation to ISBE. If a district or joint agreement<sup>3</sup> does not agree with a report and refuses to negotiate a corrective action plan, it may request a hearing. OSEP reviewed ISBE files that confirmed ISBE staff statements that they systematically follow up with districts (through telephone calls, review of data submitted by districts, and onsite visits) to ensure that they have corrected noncompliance. The monitoring files included letters, which set forth ISBE's findings regarding the status of correction and the further actions that the district must take. ISBE reported to OSEP that the recent staffing increases in the Office of Special Education have resulted in improved identification of and follow-up to district noncompliance.

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<sup>3</sup> A joint agreement is a group of school districts that have entered into a cooperative agreement to apply for Part B funds and provide special education and related services.

If ISBE finds that a district is not making sufficient progress toward correction of noncompliance, ISBE may apply sanctions which include: (1) requiring the local superintendent and board members to appear before the State Board of Education; (2) withholding Part B funds; and (3) taking over management of the district. While ISBE has not yet withheld funds, ISBE staff told OSEP that the State has taken over a number of districts 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. Further, ISBE has required the administrators from two districts to appear before the State Board.

During the verification visit, ISBE staff reported that there are a small number of districts where, notwithstanding extensive guidance and technical assistance, noncompliance has persisted for more than one year. ISBE explained that these systems are experiencing excessive turnover in staff and/or a breakdown of the entire educational system (special and regular education). ISBE informed OSEP (and OSEP confirmed through its review of ISBE monitoring files) that ISBE is continuing to work very closely with these few districts with persistent noncompliance, including frequent technical assistance visits and reviews of data. ISBE informed OSEP that it would proceed to withholding Part B funds with one of these districts if full correction is not achieved by a scheduled November visit, and – subsequent to OSEP’s visit – sent a letter to the district that indicated this plan of action. While it appears that ISBE’s procedures for ensuring correction are generally effective, OSEP cannot determine at this time whether ISBE’s procedures will be effective in ensuring correction in these districts with the most persistent noncompliance and management problems. OSEP asks that ISBE keep OSEP informed concerning its progress in ensuring correction in those districts.

The settlement agreement for *Corey H.* specifies the number of CPS schools that ISBE must monitor each school year. (For example, ISBE’s monitoring records showed that it monitored 50 schools in CPS during the 2002-2003 school year.) The settlement agreement in another case filed before *Corey H.* requires that CPS monitor compliance in a specified number of additional schools each year. ISBE issues a written monitoring report to each of the schools that it monitors, and requires the school to take corrective action. ISBE provided OSEP staff with several recent monitoring reports from Chicago schools that identified areas of noncompliance, and directed the schools to develop and implement specific improvement plans to address the noncompliance. ISBE reported that it reviews the monitoring reports for the schools it monitors and CPS’ reports for the schools it monitors, and—when ISBE finds systemic issues that go beyond one school—issues a report to CPS requiring the district to take systemic action to ensure district-wide correction. (OSEP reviewed ISBE letters requiring such district-wide corrective action.) ISBE reported that an increase in the number of its monitoring staff in Chicago was necessary to ensure the timeliness and quality of monitoring reports. In addition to the data analysis, onsite reviews (initial and follow-up), and preparation of reports, monitoring staff are also responsible for reviewing Continuous Improvement Plans, following up on the implementation of plans, and providing technical assistance to the schools.

ISBE’s system for complaint resolution generally results in decisions that meet the timeline requirements of Part B. OSEP learned, through its review of ISBE’s complaint log and interviews with staff that are responsible for resolving complaints, that, with a few exceptions, ISBE 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

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 reviewed a log of 124 complaints that were filed between the dates of July 1, 2002 and June 16, 2003. Of those 124 complaints, ISBE issued decisions for 113 within 60 calendar days from ISBE's receipt of the complaint, and ISBE issued decisions for an additional 8 complaints within a timeline that ISBE extended due to exceptional circumstances that existed with regard to the particular complaint. There were three complaints for which ISBE did not issue a decision within 60 calendar days, and for which ISBE had no documentation of an appropriately extended timeline. (ISBE's decisions for these three complaints exceeded the 60-calendar day timeline by 22 days, 6 days, and 49 days, respectively.) While ISBE has, in most cases, ensured compliance with the timeline for complaint decisions, it will be important that ISBE carefully monitor complaint decision timelines to ensure compliance for all complaints.

ISBE's system for due process hearings has not been effective in ensuring compliance with the requirements of 34 CFR §300.511(a) and (c), that ISBE ensure that a final decision is reached in each due process hearing and a copy of the decision mailed to each of the parties not later than 45 days after the receipt of a request for a hearing, unless the hearing officer grants specific extensions of time beyond the 45 day timeline at the request of a party. A State education agency must ensure that if a hearing officer exceeds the 45-day timeline, there is documentation that the hearing officer extended the timeline at the request of a party and for a specific period of time. OSEP reviewed ISBE's hearing log, and reviewed a number of hearing files together with ISBE staff. In most of the files reviewed, OSEP found documentation showing that hearing officers were continuing the date for the proceeding without making clear that the hearing officer had extended the timeline at the request of a party, and the specific period of time by which the hearing officer had extended the timeline. ISBE staff told OSEP that the noncompliance with hearing timelines reflected in this sample of files was representative of the way in which hearing officers were extending timelines regarding many other hearings.

ISBE has provided documentation to OSEP that, immediately following OSEP's verification visit, ISBE: (1) began a comprehensive review of all hearing files to determine the extent of the noncompliance with the timeline requirements and which hearing officers had not complied with the requirements; (2) sent written guidance to all hearing officers informing them of the noncompliance that OSEP identified and clarifying Part B's timeline requirements for hearing decisions; and (3) disseminated to all hearing officers a form that they must complete and submit to ISBE whenever there is an extension of the hearing decision timeline, on which they must document that the extension was granted at the request of a party, and the specific date to which the timeline has been extended. Within 60 days from the date of this letter, ISBE must submit to OSEP either documentation that it has corrected the noncompliance, or its plan for ensuring such correction, as soon as possible but no later than one year from the date of this letter.

ISBE staff informed OSEP that ISBE works closely with the State's advisory panel, the Illinois State Advisory Council on the Education of Children with Disabilities (ISAC). ISBE staff further informed OSEP staff that at least nine vacancies have existed on this council for over a year and that many more members are continuing to serve on expired terms. Part B of IDEA requires under 34 CFR §§300.650 – 300.651, that all States establish and maintain a State advisory panel. Membership must consist of members appointed by the Governor or any other official identified under State law to make these appointments. ISBE provided to OSEP the

current membership list, including vacancies, as well as documentation of their efforts over the last year to get these vacancies filled, including sending forward a list of names and information regarding potential replacements. However, as of the date of this letter, the vacancies, five of which are for parents of children with disabilities and four of which are for individuals with disabilities, remain unfilled. Within 60 days from the date of this letter, ISBE must submit to OSEP either documentation that it has corrected the noncompliance, or its plan for ensuring such correction, as soon as possible but no later than one year from the date of this letter.

### ***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.

ISBE's Funding and Disbursements Division is responsible for student and personnel data, using a system called FACTS (Funding and Child Tracking System) to enable districts to submit their 618 data to the SEA. To better ensure the accuracy of the data, ISBE has built many additional edit checks into the FACTS software program that do not permit districts to submit data that include entry errors, such as missing data, invalid or duplicate codes, and beginning/ending date errors. State Supported/Operated programs submit data using the same electronic system as the districts. All districts, cooperatives, and State Operated Programs have access to training and technical assistance to ensure accurate submission of the data.

ISBE's written monitoring procedures specify (and ISBE staff reported), that as part of the onsite record review component of the comprehensive monitoring process, ISBE staff verify that the information on a sample of students' individualized education programs (IEPs) match the data on the FACTS forms on which data submissions are based. ISBE addresses any discrepancies that monitors find between IEPs and FACTS forms in its monitoring report. In addition, special education monitors submit a report of all data discrepancies and data system problems to ISBE's Funding and Disbursement Division for any needed further follow-up.

ISBE informed OSEP that accurate data entry efforts are hampered at the district level by persistent turnover in the personnel who enter data at the local level. To address this, ISBE has provided more detailed instructions and guidance to the districts. OSEP encourages ISBE to determine whether data collection procedures and the accuracy of the data have been significantly affected by the turnover in local personnel, and, if so, to develop and implement strategies to ensure the accuracy of its data. In addition, through a General Supervision Enhancement Grant from OSEP, ISBE has contracted with a provider to develop recommendations for collecting and using district data, based on identified critical indicators. The expected outcome of this project will be improved quality and reliability of special education data in Illinois.

ISBE staff reported that they are confident about the accuracy of the data that districts report regarding child count, exit, and services. They expressed concern regarding the State's placement data. As part of its implementation of the *Corey H.* settlement agreement, ISBE conducted a study of the accuracy of CPS' placement data and found an 11% error rate. ISBE staff indicated that they believe there are similar errors in the placement data State-wide. In order to ensure that ISBE can meet its responsibility to submit accurate data under section 618 of IDEA, ISBE must submit to OSEP its plan for ensuring that the district level placement data provided as part of the next required submission of section 618 data are accurate. Please submit that plan to OSEP within 60 days from the date of this letter.

### ***State-wide Assessment***

In looking at the State's system for State-wide assessment, OSEP collected information regarding a number of elements, including whether the State: (1) establishes procedures for State-wide 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 your system for State-wide 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 State-wide 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.

ISBE has provided extensive training and guidance regarding the participation in State-wide assessments, clearly requiring that all children with disabilities participate in each of the general assessments in which non-disabled children participate, unless the IEP team determines that participation in the general assessment is not appropriate for a specific student and determines that the student will participate in the alternate assessment.

As documented in the State's monitoring manuals, ISBE monitors for compliance with requirements regarding State-wide assessment, and requires each district to account specifically for each child with a disability to ensure that he or she has participated in either the regular or alternate assessment. The monitoring teams review student participation in assessment data as part of the monitoring process and provide specific improvement strategies when necessary. Districts with students who did not participate in the assessment program are and will continue to be required to provide an amendment to their local plans that outlines a procedure to ensure compliance.

ISBE reports to the public on the performance of children with disabilities on the general and alternate assessments with the same frequency and in the same detail as it reports on the

performance of nondisabled children. Assessment scores of children with disabilities that are publicly placed in private, residential, and “other than home school” public settings are included in the home or sending school scores.

The Illinois Alternate Assessment (IAA) uses a portfolio of student work collected over the course of the school year. The portfolio items are linked to the Illinois Learning Standards and materials, and include samples of student work, photos of the student doing work in school or at home, and teachers’ summaries of what students have learned.<sup>4</sup> During the 2002-2003 school year, less than 1% of all students participating in the state assessment system took the IAA. Scores for students taking the IAA are reported in four levels of academic achievement, as are the scores for the general assessment. All scores for special education students who take the IAA are included in the accountability system. There is extensive information regarding the IAA posted on the ISBE website.

As noted, the State must submit to OSEP, no later than 60 days from the date of this letter, either: (1) documentation that it has already corrected the noncompliance noted in this letter relating to the timeliness of due process hearing decisions and membership on the State advisory panel; or (2) its plan for correcting that noncompliance as soon as possible but no later than one year from the date of this letter; and (3) its plan for ensuring that the district level placement data provided as part of the next required submission of section 618 data is accurate. We also request that you keep us informed concerning your progress in ensuring correction in those districts with persistent noncompliance.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to collaborating with Illinois as you continue to work to improve results for children with disabilities and their families.

Sincerely,



Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: Dr. Christopher Koch

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<sup>4</sup> 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)(4), that all State assessments must, “(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 Illinois’ compliance with requirements of Title I.