



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

OCT - 8 2003

Dr. Jack McLaughlin
Superintendent of Public Instruction
Nevada Department of Education
700 East 5th Street
Carson City, Nevada 89701-5096

Dear Superintendent McLaughlin:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) recent verification visit to Nevada. 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 Nevada July 23-25, 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 Nevada Department of Education (NDE), QSEP staff met with Ms. Gloria Dopf (the State's Director of Special Education), and members of NDE'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) Nevada's Part B State Improvement Plan; (2) the State's Biennial Performance Report for grant years 1999-2000 and 2000-2001; (3) Nevada's Monitoring Manual; (4) Nevada's State Improvement Grant (SIG) application; and (5) other information from the State's website. In addition, OSEP conducted a conference call on July 15, 2003, with a number of Nevada's Special Education Steering Committee members, to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and Statewide assessment. Ms. Gloria Dopf, Assistant Deputy Superintendent,

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.

recommended participants for the call and Ms. Rorie Lackey, Assistant Director for Special Education, convened and participated in the call.

During the visit, OSEP staff also reviewed a number of State documents, including: (1) a draft of NDE's 2003-2004 Special Education Focused Monitoring and Program Improvement; (2) the Nevada Comprehensive Program Review-Monitoring Protocols; (3) Guidelines for Participation in Skills and Competencies Alternate Assessment of Nevada (SCANN); (4) selected NDE monitoring files for school districts, including monitoring reports and corrective action documents; (5) *The Nevada Study of the Hearing Officer Selection and Training*, an independent evaluation of the hearing officer selection and training components in the due process system; and (6) NDE tracking logs for complaints, mediations, and due process hearings and selected complaint, mediation and due process hearing results.

The information that Ms. Dopf and her 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 NDE's systems for general supervision, data collection and reporting, and Statewide assessment.

General Supervision

In looking at 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 NDE'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.

NDE informed OSEP that it designed its general supervision systems to ensure both compliance and improved results for students with disabilities. OSEP learned from interviewing NDE staff and consultants, including members of the Steering Committee, and reviewing NDE's monitoring materials and monitoring files, that NDE implements a triennial monitoring protocol for each LEA. As documented in NDE's monitoring materials and evidenced in its monitoring files (including monitoring reports of NDE local educational agencies (LEAs)), NDE requires LEAs to conduct a self-assessment triennially to identify noncompliance within their own schools. NDE follows up by reviewing both the self-assessment and the individual LEA's compliance determinations. After reviewing the LEA's determinations, NDE makes its own independent determination of noncompliance. The NDE on-site review of randomly selected

student records and interviews with the range of individuals involved in developing and implementing the selected students' IEPs provide information for the NDE to determine compliance, noncompliance, and promising practices. At the conclusion of the review, NDE presents its findings of compliance and noncompliance to the local director of special education. The LEA has 60 days to prepare a corrective action plan to address any findings of noncompliance. If NDE finds evidence of noncompliance involving a specific student, NDE requires the LEA to convene a meeting of the student's IEP team and correct the noncompliance immediately.

It was evident from NDE's monitoring materials and monitoring files, as well as interviews with NDE staff, that NDE uses data from several different sources to help focus its on-site data collection in each LEA. Prior to conducting the onsite visit to an LEA, NDE reviews its annual data analysis for the LEA (placement, child count, disproportionality, training and personnel, early childhood and secondary transition processes, and prior monitoring, complaint, and due process findings.) Additionally, NDE works with the Nevada Parent Training and Information Center to secure input from parents in the LEA and convenes a focus group comprised of parents in the LEA.

As documented by the NDE schedule of monitoring visits and monitoring files, NDE conducts an on-site monitoring review of each of the 17 LEAs and the Division of Corrections at least once every three years, 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 NDE provides substantial training to the personnel that conduct monitoring reviews, and works to ensure inter-rater reliability across all NDE monitoring teams. It was clear from NDE's monitoring files and its summary of its findings that NDE is making findings of noncompliance regarding a broad array of Part B requirements. Parents (who were also members of the State's Steering Committee) were invited by NDE to participate in interviews with OSEP. Parents stated that NDE's monitoring process was comprehensive and had improved during the past five years in the identification and correction of noncompliance.

As explained by NDE staff and confirmed by OSEP's review of monitoring files, NDE's monitoring reports direct the LEA to submit documentation of correction of child-specific (non-systemic) non-compliance as soon as possible and no later than 30 days from the date of the report, and require documentation of correction of systemic noncompliance within one year. As part of the correction process, NDE requires LEAs to make any changes to the procedures in their *Local Application for Special Education* as are necessary to achieve systemic correction. If correction is not demonstrated within the timeline, NDE requires the LEA Superintendent to attend a meeting at which the Assistant Deputy Superintendent explains the continuing noncompliance and informs the district that continuing noncompliance may result in a withholding of Part B funds. While NDE has not yet withheld funds from any LEAs, the State has found that the threat of withholding has been sufficient to secure compliance. NDE provided documentation of the substantial technical assistance that it provides to LEAs to ensure effective correction of noncompliance. NDE's monitoring files showed that it is successful in ensuring correction of noncompliance within one year or less.

NDE'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 NDE's complaint log and interview with the staff that are responsible for resolving complaints, that NDE 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 NDE's due process hearing log and interview with the staff who track complaint, mediation and due process hearing timelines, that all timelines are met and that, specifically, decisions on due process hearings are issued within 45 calendar days from NDE'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). Additionally, NDE provides training and technical assistance at least biannually for all hearing officers. OSEP interviewed an external consultant who reviews each hearing decision. After reviewing the decision, she meets with each hearing officer to further develop the hearing officer's ability to write higher quality clear, concise, and consistent decisions. The Director of the Parent Training and Information Center and NDE staff conduct joint training for parents to assist parents in understanding mediation, complaint and due process hearing procedures. NDE shared documentation that showed the use of mediation increased 50% while the use of due process hearings decreased. NDE attributed this change, in part, to the State's decision to make mediation available to parties at any time.

OSEP learned through interviews with NDE staff and its review of NDE documents such as monitoring reports, due process hearing decisions, the NDE Improvement Plan, and 618 and Statewide assessment data about the State's use of multiple sources of data to revise the improvement planning process and the monitoring process. For example, using data from these sources, NDE creates an analysis of monitoring findings across the State and a longitudinal analysis within each LEA. The State uses these analyses to target improvement strategies for the State and respective LEAs.

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.

NDE staff explained that Nevada uses a separate data system for students with disabilities. The Assistant Deputy Superintendent manages the system. In addition, Ms. Lackey who serves as the data manager in special education and works in close collaboration with the Assistant Deputy Superintendent demonstrated a thorough understanding of the 618 data collection system. Most LEAs submit child count data to NDE electronically. NDE conducts a verification of child count data as part of its monitoring reviews. NDE analyzes exit data by LEA to assist LEAs in

improving student retention and post-school outcomes such as employment and postsecondary education. In addition, NDE monitoring teams review the accuracy of placement information in the IEPs for students whose files they review. OSEP found that the Assistant Director of Special Education and other staff members (including an external consultant for data analysis and data personnel in the LEAs) perform complex edit checks. The staff also perform a manual check of LEA data across multiple years to detect anomalies. The Division of Corrections submits data using the State Child Count Data Verification Form. In addition, NDE staff provide technical assistance for data entry staff at the Division of Corrections and in each LEA to ensure accurate submission of the data. NDE is in the process of developing a new web-based, real-time electronic student data system for all students in Nevada public schools. The new system will enable NDE to conduct longitudinal studies of the performance of students with disabilities, including studies analyzing exit data such as graduation rates, diploma acquisition, and dropout rates among the 17 LEAs. OSEP encourages NDE to carefully consider the design of the new data system to ensure continued compliance with IDEA data reporting requirements.

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 your 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 State's 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.

NDE staff informed OSEP that when NDE reviewed assessment results in 2002, NDE found that schools in some of the State's local educational agencies had failed to code all students with disabilities as participants in the Statewide assessment program. In most cases this occurred when a student received only speech as a related service. Based on this finding, NDE informed OSEP that it has provided extensive training and guidance to LEAs regarding how to correctly code the participation of students with disabilities in the Statewide assessment program, clearly requiring that all children with disabilities participate in each of the regular assessments in which non-disabled children participate, except participation in the alternate assessment is required when the IEP team determines that participation in the regular assessment is not appropriate for a specific student. Further, NDE staff reported that in 2002 NDE changed the Statewide assessment program when the State found that the previous assessment instrument would not

yield valid scores for a large number of students with disabilities due to the type of testing accommodations or modifications deemed appropriate by the IEP team. NDE staff, including the assistant director of assessment, stated that the use of the new assessment instruments would yield valid results even when a wide range of modifications and accommodations are used in the assessment environment. NDE monitoring files show that NDE monitors LEAs for compliance with requirements regarding Statewide assessment, and provides improvement strategies for LEAs when necessary. NDE 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 that failed to correctly code the participation of students with disabilities or failed to include students with disabilities in the regular or alternate assessment program must amend their LEA applications to ensure compliance with Statewide assessment requirements.

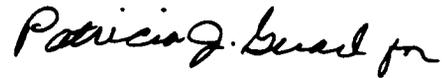
NDE informed OSEP about the State's efforts to reduce the achievement gap between students with disabilities and nondisabled students on districtwide and Statewide assessments. Project SAGE (School Improvement for Student Achievement Gap Elimination) provides extensive technical assistance and training materials to schools and local administrators. NDE customizes the technical assistance and materials, based on student performance results, in order to increase the achievement of students with disabilities. The process includes for each school a comprehensive needs assessment (including the prioritization of needs), an inquiry process to select solutions, a program design to implement solutions, and an evaluation to monitor progress and measure success. NDE provided OSEP with NDE guidance and training materials designed to increase the performance of students with disabilities on Statewide regular and alternate assessments.

As evidenced by reporting documents that NDE submitted in July 2002 and during the verification visit, NDE 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.

NDE informed OSEP that the State is revising the Skills and Competencies Alternate Assessment of Nevada (SCANN.) The IEP team is responsible for decision-making regarding participation in the alternate assessment. Scores for students taking the alternate assessment are reported in four levels of achievement, as are the scores for students taking the regular assessments (two levels for the Nevada High School Proficiency Exam). The scores for special education students who take the alternate assessment are included in the accountability system. During the SCANN revision period, OSEP encourages NDE to continue to ensure that the alternate assessment is designed and implemented in a manner that provides objective, valid measurement of student performance.

We appreciate the support and assistance provided by your staff during our visit. We look forward to our continued collaboration with Nevada to support your work to improve results for children with disabilities and their families.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephanie Smith Lee".

Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Ms. Gloria Dopf