



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

Honorable Tom Horne
State Superintendent of Education
Arizona Department of Education
1535 West Jefferson
Phoenix, Arizona 85007-3280

DEC 15 2004

Dear Superintendent Horne:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) verification visit to Arizona. As indicated in my letter to you of October 14, 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).

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 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 Arizona's Department of Education (ADE), OSEP staff met with Ms. Joanne Phillips (Deputy Associate Superintendent of Exceptional Student Services), and members of ADE'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 the participation in and reporting of student performance on State-wide assessments. Prior to and during the visit, OSEP staff reviewed a number of documents including: (1) Arizona's Part B State Improvement Plan; (2) the State's Biennial Performance Report for grant years 1999-2000 and 2000-2001; (3) Arizona's Monitoring Manual; (4) Arizona's General Supervision Enhancement Grant and State Improvement Grant applications; (5) the Arizona's State Assessment Manual; (6) selected ADE monitoring reports for districts, including monitoring reports and corrective action documents; (7) ADE tracking logs for complaints, mediation, and due process hearings; and (8) other pieces of information from the State's web site. In addition, OSEP conducted a conference call on November 18, 2003 with Arizona's State Steering Committee 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. Special education services staff member from ADE's Office of Exceptional Student Services also participated in the call and assisted us by recommending and inviting the participants.

The information that Ms. Phillips 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 ADE'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.

As set forth in OSEP's May 2000 Monitoring Report, OSEP found that: 1) ADE's monitoring system was not effective in identifying noncompliance with Part B requirements related to psychological counseling and child find and in correction for the area of extended school year (ESY) services; 2) ADE did not ensure that for Part B complaints where corrective action was required, the corrective actions were properly implemented; and 3) ADE did not ensure that due process hearing and State review decisions were made and issued within the required timelines. OSEP is responding to the State's Improvement Plan (IP) and Annual Performance Report (APR) submissions on these issues under separate cover.

Monitoring

OSEP believes that ADE has made reasonable progress in modifying its systems for identifying noncompliance to address the concerns raised in OSEP's Monitoring Report, as noted above. However, OSEP cannot, without collecting additional data at the local level, determine whether the State's general supervision systems are fully effective in identifying and correcting noncompliance in accordance with Federal requirements.

During OSEP's verification visit in December 2003, ADE staff informed OSEP that ADE determines local level compliance with IDEA requirements by conducting an ongoing review of each district and public agency. The 23 Exceptional Student Services (ESS) consultants and technical assistance staff monitor districts to determine compliance with Part B of the IDEA.

Staff informed OSEP that ADE monitors on a six-year cycle during which ADE conducts onsite compliance reviews; initiates corrective action plans; verifies the impact of the local education agency's (LEA) corrective action plan and improvement plan; and examines the

effectiveness of staff development. ADE also reviews LEAs' special education policies, procedures, forms, entitlement applications, and performance objectives. Arizona also monitors its 470 charter schools and private schools over the six-year cycle. Each charter school in Arizona is either its own LEA or a school within an LEA. Staff informed OSEP that in addition to monitoring public charter schools, Arizona's charter school board requires that all public charter schools attend ADE's special education policy and procedures training. Also, copies of the public charter schools' monitoring reports are made available for review and enforcement of legal requirements by the charter school board. The charter school board will withhold 10% of the State's funding in cases where a public charter school is out of compliance.

Staff explained that the monitoring cycle includes different monitoring activities for each of the six years. During the first year, ADE conducts a desk review of the LEA's special education policies and procedures, complaints, due process cases, audit reports, prior monitoring and follow-up reports, forms, and technical assistance requests. Data from the desk review is compiled and analyzed to identify potential noncompliance issues and as a source for identifying the areas of training for the State's comprehensive system of personnel development.

In the second and third years, ADE reviews the LEA's forms, procedural safeguard notices, and entitlement application to identify potential noncompliance issues as well as conduct activities to prepare for the onsite-monitoring visit. ADE conducts an onsite compliance review during year four that includes: (1) file reviews; (2) classroom observations; (3) interviews with staff, students and parents; (4) developing a written summary report to the LEA; and (5) the development of a corrective action plan.

According to the monitoring manual and interviews with staff, during year four, one of two approaches may be used by the State to conduct the onsite review: (1) ADE allows the LEAs to participate as active partners with ADE staff in the monitoring process through a Collaborative Compliance Program Review (CCPR); or (2) ADE uses the Exceptional Student Services' (ESS) Team Review process. ADE's monitors provide training to LEAs on the monitoring process. The 23 specialists assigned to the three regional offices (Phoenix, Tucson, and Flagstaff) comprise the monitoring team along with LEA staff.

The CCPR approach allows LEAs to participate in the monitoring process as active partners with the ESS team. The CCPR requires the LEA to conduct a self-assessment and an onsite monitoring of its compliance with the State and Federal IDEA requirements with guidance from the ESS staff. The LEA prepares the monitoring report and the ESS staff verifies the findings and report. In addition, the LEA staff develop and implement the corrective action plan. The ESS staff also assists the LEA in finalizing its corrective action plan.

The ESS Team Review approach requires ADE staff to conduct the onsite monitoring of the LEA's compliance with the IDEA requirements, provide feedback and a report to the LEA on the results of the monitoring, and assist the LEA in developing a corrective action plan. ADE staff review the corrective action plan to verify that it has addressed all the identified areas of noncompliance.

Staff reported that the monitoring management system developed by ESS's technology staff enables the monitoring teams to complete the monitoring report and corrective action plan at the end of the onsite visit. The monitoring management system is accessible at ADE's web site or by disk. The technology staff provided OSEP with a demonstration of how the system works. Staff indicated that the monitoring statistics report within the system enables the State to identify monitoring trends and staff development activities needed to promote systems change.

Staff explained that during the fifth and sixth years, corrective action plans are implemented and the impact of the corrective action plan activities is verified by the State. ADE provides staff development activities where training needs are identified in the corrective action plan. The corrective action plan must be completed within: (1) 45 days from the monitoring visit for noncompliance specific to individual children, or (2) two years from the date of the approved plan for system-wide issues.¹ OSEP's review of the State's 2002-2003 monitoring reports of five districts that included two charter schools showed that in cases where ADE found noncompliance, the LEAs provided documentation verifying that the noncompliance had been corrected. However, the State's two-year timeline does not ensure correction of all identified noncompliance within a reasonable time not to exceed one year. The issue of compliance with requirements for the correction of noncompliance is addressed in greater detail in OSEP's response to ADE's IP and APR submissions.

With regard to tracking corrective actions, staff further explained that the monitoring management system contains triggers that remind ADE staff of the timelines for completing activities identified in the corrective action plan. In both the CCPR and ESS processes, ADE and LEA staff conduct follow-up activities, such as file reviews and interviews with school staff, to ensure that the corrective action plans are implemented, and document that the corrective action plan activities are completed. Staff informed OSEP that after the corrective action plan is closed, ADE staff provides training and technical assistance activities throughout the school year to schools and LEAs to promote ongoing effectiveness of the monitoring process and conducts annual file reviews to ensure continued compliance.

Staff informed OSEP that in cases where districts are unable to obtain compliance, ADE provides technical assistance to the LEA in implementing the corrective action plan. If noncompliance persists, ADE may withhold funds until the corrective actions have been completed.

¹ In the APR, ADE listed as an example, systemic noncompliance with the requirements for evaluating a student suspected of having mental retardation by a small school district, which ADE claimed could not be corrected until another such student was evaluated by that district. OSEP believes that in such instances, States have greater flexibility in methods for determining correction within a reasonable period of time not to exceed one year. For example, a State could utilize interviews to ensure that district staff have the knowledge, resources, and willingness to utilize proper evaluation procedures for such students in the future.

State Complaints

ADE has a computerized system to track timelines for issuing 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), and documenting exceptional circumstances. In OSEP's review of the complaint logs for the period of July 2002 to November 2003, OSEP found that 46 of the 130 complaints filed exceeded the 60-day time line by 20 to 149 days. Of those 46 complaints, 45 included documentation of exceptional circumstances.

Staff further reported that once the letter of findings is completed, the complaint file is updated. Updating the file opens a track to the corrective action process. The corrective action file provides a reminder for the due date of the implementation and completion of the corrective action. ADE staff are assigned to contact the parent to note when the corrective action is implemented. In cases where the corrective action has not been implemented, a letter of concern is sent to the school prior to a letter of enforcement. According to staff interviewed, a typical enforcement action is the suspension of funds.

Compliance with the requirements for timely resolution and implementation of State complaints is addressed in more detail in OSEP's response to ADE's APR and IP submissions.

Due Process Hearing Decisions

OSEP finds that Arizona's current system is ineffective at ensuring and documenting that decisions for due process hearings (including local-level and State-level review hearings) are reached and a copy of the decision is mailed to each party within Federal timelines (45 and 30 days, respectively) unless extended at the request of either party and as set forth at 34 CFR §300.511.

Staff reported that ADE is focusing on ensuring that local-level impartial due process hearings are concluded within the 45-day timeline. Through OSEP's review of ADE's due process hearing logs from June 2002 through November 2003, and interviews with ADE staff, OSEP found that the State did not consistently track the Federal timelines for due process hearing requests. For the 48 due process hearings filed during the above dates, 12 exceeded the 45-day timeline by 12 to 113 days with no documentation of extensions granted by the hearing officer at the request of either party.

Staff informed OSEP that the State has difficulty meeting the 45-day timeline because hearing officers do not always tell the State when the case has been settled and/or a copy of the decision has been mailed to each party. ADE's due process hearing database provided fields for documenting the Federal timelines for due process hearings. ADE has added a feature to its due process hearing database that provides a trigger highlighting when the due process hearing case is close to the due date. ADE will use this to contact hearing officers to remind them of an approaching due date and follow-up to document the date that a copy

of the decision is mailed to each party. Hearing officers have been informed of this process and offered training on the procedures. ADE indicated that it would be sending hearing officers and LEA staff a policy letter based on OSEP's findings that outlines the process for ensuring that the requirements of 34 CFR §300.511 are met.

In June 2004, OSEP requested information from the State regarding the impact ADE's efforts toward ensuring that due process hearing timelines were met. ADE provided OSEP with copies of due process logs for the period of December 2003 to May 2004. OSEP's review showed that of the 18 due process hearings filed during this period, 10 resulted in decisions being mailed to the parties within the 45-day timeline; five were granted extensions of the timeline; two had not reached the 45-day timeline; and one exceeded the 45-day timeline by eight days with no documentation of an extension.

During the verification visit, OSEP also reviewed ADE's hearing logs for State-level reviews. The three appeals filed over the period from June 2002 through November 2003 exceeded the 30-day timeline and decisions were issued 17 to 72 days after the date of filing. The logs did not indicate whether the hearing officer granted extensions. Staff informed OSEP that these appeals were over the 30-day timeline because there was a delay in sending the records of the original decision to the appeals officer. ADE added a feature to the due process hearing appeal data that provides a trigger highlighting when records of the original decision are due to the appeals officer and when the case is close to the due date. By noting the highlights, staff can contact hearing officers to inquire and document whether decision timelines have been met or extensions have been granted.

Redacted versions of due process hearing and State review decisions are published on ADE's website, on a periodic basis, to heighten awareness of the dispute resolution process. Staff further reported that ADE has not developed a system that documents the implementation of due process hearing decisions. To ensure that due process hearing decisions are implemented, ADE has proposed implementing follow-up procedures similar to those established for the complaint corrective action process.

Compliance with the requirements for timely hearing decisions is addressed in greater detail in OSEP's response to ADE's IP and APR submissions.

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; (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) has identified any barriers, (e.g., limitations on authority, sufficient staff or other resources, etc.) that impede the State's ability to accurately, reliably and validly collect and report data under section 618.

OSEP believes that ADE's system for collecting and reporting data appears to be a reasonable approach to ensuring the accuracy of the data that ADE reports to OSEP under section 618. ADE staff informed OSEP that to meet the 618 data-reporting requirements Arizona uses both a pencil/paper and web-based data collection systems. Schools initially collect the 618 data using the pencil/paper system, and then enter the information into the Student Accountability Information System (SAIS) or other web-based systems designed by ESS technology staff. For special education purposes, the SAIS is a web-based system that receives student level data from school and district databases to provide Table 1 (Child Count) and Table 3 (Placement) data for section 618 reporting. Software vendors for school and LEA district databases vary; however, the State requires that all selected software must be compliant with SAIS. The SAIS requirements and edit checks are provided to the vendors to ensure that the fields in Tables 1 and 3 are captured in the database. The vendors are responsible for providing training to school/district staff on the software and database and the four regional training centers provide training on how to upload the information from the school/district database to SAIS.

Staff reported that for each student, SAIS stores disability type, ethnicity, type and description of placement, performance indicator data, district codes, dates related to eligibility and referral data, and residential status. The software application generates local special education reports, including duplicated and unduplicated pupil counts, placement settings, and summaries by age group, ethnicity, and disability category. ADE's security requirements stipulate that schools may only access student data for students with disabilities enrolled in the school and LEAs may view data for all schools within the LEA. Reports are reviewed at the State level and changes are made at the school level for system-wide corrections. Each school assigns a staff member to enter data and correct errors.

Staff reported that in order to ensure that the child count and placement data are accurate, the ADE's data manager reviews each submission for discrepancies. The integrity checks built into SAIS note errors that need correcting in the reporting of data that is submitted to the State. In addition, each school must submit a signed verification letter to ADE verifying the accuracy of the child count data.

Staff further reported that the web-based system developed by the ESS technology staff provides stand-alone special education applications, databases, and record keeping at the school, district and State levels for Tables 2 (Personnel), 4 (Exit) and 5 (Discipline). The same security requirements in SAIS apply to ADE's web-based system. Because the edits and checks in the web-based system are not the same as those for child count and placement, the State does not have the same level of confidence in the accuracy of this data as it does for the data from SAIS. However, there are some built-in features so that mistakes produced in Tables 2, 4 and 5 result in a "red" message that indicates errors. The LEA's verification letter cannot be processed until the errors have been corrected. In order to increase confidence in the accuracy of the data for Tables 2, 4 and 5, the State is planning to include them in SAIS. LEA special education coordinators are responsible for collecting and aggregating all tables and transmitting data from the LEA to the State through an electronic-mail transmittal.

Staff informed OSEP that to ensure the 618 data is accurate, ADE's regional training centers provide annual data collection training. The training provides an understanding of the data collection system, changes to the system, a review of the users' manual, and a review of OSEP's IDEA data dictionary. Staff explained that the review of the data dictionary provides information on the crosswalk between the Federal and State data definitions. The training also includes a review of the data quality checklist. The data quality checklist provides strategies that schools and districts may use to ensure the data submissions to the State are accurate, reliable and valid. In addition to training, ADE provides a "frequently asked questions" document to the LEAs that addresses section 618 data reporting and provides online support. According to ADE's special education data manager, all SAIS and web-based users must receive training in order to access the systems.

Staff indicated that a data manager at the State level is responsible for entering the 618 data submitted by the LEAs into a 618 database created by the State and ensuring that the SAIS and the designed web-based application for the 618 data submission are accurate. The data manager and special education staff explained that to ensure accuracy, the State uses real time data by reviewing data screens with LEA personnel responsible for entering the data, and requiring them to correct any errors or to give the State permission to correct the error. Year-to-year change reports allow the State to compare the current data with that of previous years to identify trends or to identify data that may be inaccurate. OSEP requests that the State report on its activities and efforts in continuing to ensure the accuracy of its Section 618 data in the next APR submission due March 21, 2005.

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 students with disabilities and the provision of appropriate accommodations; (2) provides 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 State's reports to the public and the Secretary on the participation and performance of children with disabilities on such assessments, that on their face, the State's procedures and 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 are implementing the State's procedures in a manner that is consistent with Part B.

As documented in Arizona's *2003 Assessment Manual* and confirmed in interviews with ADE staff, students with and without disabilities must participate in Arizona's Academic Standards assessment program. Arizona administers the Stanford Achievement Test-9th

Edition (SAT-9) and Arizona Instrument to Measure Standards (AIMS) to evaluate student performance toward meeting curriculum standards. All students in grades 3, 5, 8 & 10 must take the AIMS and all students in grades 2-9 must take the SAT-9. The AIMS is a standards-based assessment that is criterion referenced and measures student performance in the areas of reading, writing expression, and math. The SAT-9 is a norm-referenced test that measures student performance in the areas of reading and math.

As documented in Arizona's *2003 Assessment Manual* and confirmed in interviews with ADE staff, IEP teams determine how students with disabilities will participate in the State-wide assessment. An IEP team can consider the use of standard or nonstandard accommodations for students with disabilities. Test accommodations must be consistent with those used in the regular classroom. Standard accommodations are changes in the routine conditions under which the student takes the AIMS (e.g., timing and setting). Staff further reported that ADE provides a list of 32 standard accommodations an IEP may consider, if appropriate, for the child with a disability when administering the AIMS and 19 standard accommodations when administering the SAT-9. IEP teams may also provide accommodations outside of the approved list. Non-standard accommodations involve changes in the test administration that affect standardization (e.g., dictating to a scribe or having someone read the test aloud). There are 17 non-standard accommodations an IEP team may consider for the administration of the AIMS and SAT-9.

ADE staff informed OSEP that ADE's alternate assessments are aligned with the State standards and measure performance in the same grade levels and the same academic areas as those measured in the AIMS and SAT-9. Further, staff reported that the State no longer administers out-of-level testing. The AIMS-Alternate (AIMS-A) and the Alternate State Achievement Test (ASAT) are portfolio-based assessments that provide evidence of student performance relative to progress within the content areas of the Arizona curriculum standards. Staff reported that 0.4% of students with disabilities take an alternate assessment. The AIMS-Alt performance level test results are reported in the same manner as the AIMS and the ASAT-Alt achievement levels are reported in the same manner as the SAT-9.

Staff reported that results of the regular and alternate assessments for the AIMS and the SAT-9 are reported on ADE's web site. The AIMS assessment results include district and school profiles that identify the percentage of children with disabilities who participate in regular and alternate assessments. The AIMS test results are reported in terms of the percentage of student who "fall far below," "approach," "meet," or "exceed" the standards as measured in the areas of reading, math, and written expression. The AIMS results are reported in the following format: (1) number of students who took the test under standard conditions; (2) number of students without disabilities who took the test under standard conditions; (3) number of students with disabilities who took the test under standard conditions; and (4) number of students with disabilities who took the test under nonstandard conditions. The SAT-9 results are reported in percentiles for the number of students in LEAs.

Staff reported that the results of the AIMS are used for reporting adequate yearly progress under the *No Child Left Behind Act (NCLB)*.² The results of the SAT-9 are used to provide a comparison of student performance across States. Staff further explained that results of the AIMS and SAT-9 are also used as tools in reviewing the State's self-assessment and developing improvement plan activities.

Currently, there are no high stakes for any student taking the AIMS or SAT-9. ADE will require students who graduate in 2006 to "meet the standards" on the AIMS as part of the graduation requirements. In 2006, IEPs for students with disabilities will specify which performance level of the AIMS is appropriate for graduation. A student with a disability will receive a diploma once testing requirements appropriate for the student are completed and the student meets other graduation requirements.

Based on the published results on ADE's web site, ADE is reporting the performance of students with disabilities on the regular and alternate assessment, to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children consistent with Federal requirements at 34 CFR §300.139.

ADE staff also informed OSEP that throughout the school year, the State distributes the AIMS newsletter that provides updates to school and LEA personnel regarding the administration of the regular and alternate assessments. Staff further reported that ADE conducts regular and alternate assessment training for school and district staff during the first quarter or first semester of the school year. Also, each school year, ADE sends a memorandum to schools and districts regarding changes in the State's assessment program. The testing coordinators at the district level participate in State meetings to provide input on assessment committees and provide data analysis of assessment results.

During the monitoring process, monitoring teams conduct interviews and review student files to identify LEA compliance with the IDEA assessment requirements. ADE staff also review the parent report of the AIMS and the SAT-9 results to ensure students with disabilities participate in Arizona's assessment program.

Conclusion

As noted above, the issues relating to noncompliance under ADE's general supervisory systems relating to correction, and timelines for complaints and hearings are addressed in

² 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 Arizona's compliance with requirements of Title I.

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greater detail in OSEP's response to ADE's APR and IP and submissions. In addition, OSEP looks forward to the State's report on its progress in improving the accuracy of student placement data through its next APR submission, due March 31, 2005.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to our continued collaboration with Arizona 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: Ms. Joanne Phillips