



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

Superintendent Patricia Hamamoto
Superintendent of Education
Hawaii Department of Education
1390 Miller Street, #307
Honolulu, Hawaii 96813

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Dear Superintendent Hamamoto:

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 Hawaii. As indicated in my letter to you of July 15, 2003, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focus Monitoring System 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 the Hawaii Department of Education (HIDOE), OSEP staff met with Dr. Paul Ban (the State's Director of Special Education), and members of HIDOE'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 documents¹ including: (1) Hawaii's Part B State Improvement Plan; (2) the State's Biennial Performance Report for grant years 1999-2000 and 2000-2001; (3) performance reports required under the *Felix Consent Decree*; (4) Hawaii's Monitoring Manual; (5) Hawaii's State Improvement Grant and General Supervision Enhancement Grant applications; and (6) other pieces of information from the State's website. In addition, OSEP also conducted a conference call on August 11, 2003, with Hawaii's 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, State-wide Assessment. The State's special

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.

education director and other special education services staff members participated in the call and assisted us by recommending and inviting the participants.

OSEP staff also reviewed some additional State documents, including: (1) the State Assessment Manual; (2) selected HIDOE monitoring reports and corrective action documents for school complexes; (3) a memorandum to complex area superintendents and district education specialists regarding the *Federal Annual Performance Data Reports* submission for school year 2002-2003; (4) suspension logs; (5) procedures for validating the implementation of agreements and orders; and (6) HIDOE tracking logs for complaints, mediation, and due process hearings.

The information that Dr. Ban and his staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, enhanced our understanding of HIDOE'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 Hawaii in 2001. As set forth in OSEP's 2002 Hawaii Monitoring Report, OSEP found that HIDOE was not effectively ensuring the identification of all noncompliance and ensuring that all the noncompliance that HIDOE identified was fully corrected. Although OSEP approved Hawaii's Improvement Plan pending minor revisions, as a result of discussions during the verification visit, HIDOE agreed to make additional changes or addenda to the existing Improvement Plan. The proposed changes to the Improvement Plan and a Progress Report were submitted to OSEP in January 2004 and are currently under review. As part of its initial approval, OSEP had asked HIDOE to provide additional documentation, on August 30, 2003, December 30, 2003 and June 30, 2004, regarding its progress in correcting the noncompliance identified in OSEP's 2002 monitoring report.

Monitoring

Without additional review, including review of the documentation that HIDOE will be submitting under the Improvement Plan, OSEP cannot determine whether the State has implemented a monitoring system that is fully effective in identifying and correcting

noncompliance with the requirements of Part B of the IDEA as required by 34 CFR §300.600 and 20 USC §§ 1412(a)(11) and 1232d(b).

As documented in OSEP's 2002 monitoring report and interviews with HIDOE staff, the State has been operating under the *Felix Consent Decree (Felix)* since 1995. In accordance with Felix, a monitoring system was put in place to evaluate Hawaii's progress in meeting the requirements of Felix. This system is called Felix Service Testing.² As reported in OSEP's 2002 monitoring report, OSEP found that Felix Service Testing did not monitor for compliance with certain IDEA requirements. To meet the court requirements of Felix *and* its responsibility to ensure compliance with IDEA Part B requirements, Hawaii developed a new monitoring system in 2001 that combines the Felix Service Testing with a process that examines procedural compliance under IDEA. Thus, *Hawaii's Continuous Integrated Monitoring and Improvement Process (CIMIP)* was developed to ensure program effectiveness, enforce State and IDEA legal requirements, and measure results of corrective actions. Hawaii is entering its second year of implementing the CIMIP system.

As set out in HIDOE's CIMIP manual (monitoring procedures) and interviews with HIDOE staff, Hawaii's CIMIP is comprised of the following components: 1) school-level self-review, 2) complex³ self-review, 3) complex internal review, 4) State-level focus monitoring and 5) technical assistance and training. Special and regular education school personnel conduct the school-level self-review annually. The school-level self-review is not based upon all the IDEA requirements, but rather is focused on issues related to performance goals and indicators. Schools and complexes conduct the review through the use of a self-assessment and develop an improvement plan based on the self-assessment results. The format for the self-assessment review and improvement plan is identified in the CIMIP manual. Copies of the school level self-reviews and improvement plans are submitted to the complex and State.

Complex reviews (self-review and internal review) are conducted annually to examine compliance with *Felix* and other State and IDEA special education requirements. Whereas the complex self-review focuses on compliance with the IDEA requirements not covered by Felix, the internal review is an annual evaluation of system performance in improving student outcomes.

The complex self-review activities include classroom visits, interviews, questionnaires, focus group discussion and the review of special education student files (records review). The complexes conduct the record review through a "focus checklist" process that examines IDEA compliance not addressed under Felix Service Testing. According to interviews with the staff and the CIMIP manual, complexes must develop an improvement

² According to a Felix Monitoring Project document, Felix Service Testing is an outcomes-focused method of monitoring that provides data about how systems are working to sustain and strengthen current successes of students with disabilities and identify limitations so services are improved.

³ HIDOE monitors school complexes which consist of high schools and all of the middle and elementary schools that feed into them.

that lists charter school reviews and any reports of newly conducted monitoring of public charter schools.⁵

In addition, OSEP's review of the State's 2002-2003 monitoring reports of three complexes in three of the seven districts, indicated that in some cases where HIDOE found noncompliance, the State did not consistently require correction. For example, HIDOE provided documentation that it cited a complex for noncompliance regarding students with disabilities requiring extended school year services, but was unable to provide OSEP with documentation of a corrective action plan that included strategies to address this finding. According to HIDOE, the corrective action plan was overdue from the complex. HIDOE reported to OSEP that it is continuing to work to improve this aspect of its monitoring system. It is OSEP's expectation that this issue will also be addressed through the revised Improvement Plan and HIDOE's additional submissions.

Hearings and Complaints

OSEP determined through its review of HIDOE's complaint log and interviews with staff who are responsible for resolving complaints, that HIDOE 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 examined HIDOE's log of special education complaints filed between 2000-2003. Of the 22 complaints filed, 18 received a written decision within 60 days of HIDOE's receipt and four were granted extensions of time due to exceptional circumstances. Written decisions for these four complaints were received within the specified amount of time noted in the extensions.

HIDOE staff told OSEP that five hearing officers from the Office of Administrative Hearings (OAH) of the Department of Commerce and Consumer Affairs conduct due process hearings. As set forth at 34 CFR §300.511, HIDOE must ensure that not later than 45 days after the receipt of a request for a hearing a final decision is reached in the hearing and a copy mailed to each of the parties, unless the impartial hearing officer at the request of either party grants a specific extension of time. OSEP reviewed HIDOE's due process hearing logs for the period of October 2002 through July 2003. Fifty of 128 requests were granted extensions at an average of 90 days beyond the 45-day timeline. One case had not been resolved after a 180-day extension. Staff interviewed reported that due to the impartial hearing officers' inability to consistently meet the 45-day timeline requirement, the State is considering not renewing their contracts. In order to assist the State in making decisions regarding the renewal of contracts for impartial hearing officers, HIDOE has plans to contract with a consultant from an outside agency.

OSEP's interview with HIDOE staff and the review of the October 2002 through July 2003 due process hearing logs also showed that HIDOE does not always ensure that a copy of the due process hearing decision is mailed to each party. The logs documented dates written decisions were mailed to parties for only nine of the 128 requests. An education specialist responsible for the oversight of due process hearing procedures told

⁵ OSEP has some additional concerns regarding public charter schools and students with disabilities that will be addressed under separate cover.

OSEP that many hearing officers consider a request resolved once a verbal agreement has been made between the parties even though a written decision has not been completed and a copy mailed to each of the parties. The education specialist further explained that approximately 75% of these 128 requests were resolved within 45 days but no written decisions were mailed. The special education director told OSEP that beginning September 2003, OAH will provide HIDOE with a copy of the written decision, and that HIDOE will take action to ensure that due process hearing decisions are implemented. HIDOE's special education director further stated that HIDOE will review the implementation of hearing decisions in the next scheduled monitoring of the complexes. OSEP noted in HIDOE's January 2004 Improvement Plan Progress Report, that 45% of due process hearing requests filed during this school year were not resolved within the 45-day timeline or the requested extension timeline. It is OSEP's expectation that HIDOE will submit documentation that it has corrected this noncompliance as part of its scheduled submissions under the prior Improvement Plan.

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 HIDOE's system for collecting and reporting data appears to be a reasonable approach to ensuring the accuracy of the data that HIDOE reports to OSEP under section 618.

HIDOE staff informed OSEP that to meet the needs of 618 data reporting requirements Hawaii uses a web-based data collection system: the Student Information System (SIS) and the integrated special education system (ISPED). HIDOE staff reported that the SIS enables them to integrate with other existing systems and generate consolidated statistical information regarding student population, services and other related items (e.g. discipline, personnel, and graduation rates). Staff reported that the SIS connects district and State offices, provides data on Federal, legislative and State requirements, and tracks compliance with timelines.

The ISPED provides stand-alone special education applications, databases, spreadsheets and manual record keeping at the school, complex, district and State levels. For each student with a disability, ISPED stores student identification codes, student profiles, documentation of evaluation, eligibility, disability type and placement, individualized education program (IEP) requirements, and services. The application generates child

count reports, Felix benchmarks and timelines, staffing allocations and type of services, data reported by complexes and schools, and reading assessment data by levels and complexes. Schools may only view student data for students with disabilities enrolled in the school and complexes and districts may view data for all schools within the complex or district. Reports are reviewed at the State level and changes are made at the school level for systems corrections.

According to HIDOE's special education data manager, all ISPED users must receive training in order to access the system and online support is available when needed. HIDOE uses OSEP's data definitions to generate the 618 reports, and personnel in the State's special education section make every effort to follow OSEP's data instructions. These instructions are included with the required 618 data tables to school and district personnel. Some of the reports, such as Tables 1 (Child Count) and 3 (Placement) utilize data generated from specific fields in ISPED. Data for Tables 2 (Personnel), 4 (Exit) and 5 (Discipline) are downloaded from the SIS. District special education coordinators are responsible for collecting and aggregating all tables and transmitting data from the district to the State through paper or electronic-mail transmittal, adhering to the 618 specifications and definitions the State has received from OSEP.

Staff interviewed told OSEP that they think the 618 data are accurate and reliable. A data manager at the State level is responsible for entering the 618 data submitted by the districts into a 618 database created by the State and ensuring that the ISPED and SIS data for the 618 data submission is accurate. The data manager and special education staff explained that to ensure accuracy, the State uses real time data by reviewing data screens with school personnel responsible for entering the data, and requiring them to correct any errors. They report that the current year's data are also compared with those of previous years to identify trends or to flag data that may be inaccurate. The State reports that checks are in place to ensure that there are no duplicates and that data collected are within the parameters of the guidelines.

The State reports that it ensures reliability of data by reviewing ISPED reports, providing training and technical assistance to school and complex staff, and posting changes to the ISPED system on the website. A memorandum from the Superintendent of Education is posted on the website at the beginning and end of the school year outlining "clean up" procedures for ISPED student records. Staff report that support technicians bring frequent questions to the State's attention which provide the basis for the State to provide trainings where needed. The data manager and special education director reported that to promote accurate and timely submission of data, the State provides a \$1000 incentive to schools that have clean 618 data submissions. The system supports and checks to ensure that data are current, accurate and reliable.

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.

Without additional review, including review of the documentation that HIDOE will be submitting under the Improvement Plan and the April 30, 2004 Annual Performance Report (APR), OSEP cannot determine that those 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, as written, are consistent with Part B requirements.

OSEP's review of *Hawaii's Spring 2004, State Assessment: Student Participation Information Handbook* and interviews with HIDOE testing coordinators showed that Hawaii administers two State-wide assessments: the Hawaii Content and Performance Standards II (HCPSII) and Stanford Achievement Test, ninth edition (SAT-9). All children in grades 3, 5, 8, and 10 are required to take the HCPSII and SAT-9 with or without accommodations, or an alternate assessment as documented in the IEP in the areas of reading, writing, and mathematics. The regular and alternate assessment systems are aligned with Hawaii's Content Performance Standards. Staff interviewed also told OSEP that Hawaii policy permits students to be excused from participating in assessments under the following conditions: parent refusal, medical fragility, emotional distress, homebound, hospitalization, and limited English proficiency. Further, HIDOE staff told OSEP that the State will no longer administer out-of-level testing.

Interviews with testing coordinators and a review of Hawaii's staff development plan from 2000-2003 indicated that staff from HIDOE's Test Development section conducts inservice training each year on State-wide assessment for all school, complex and district staff. Staff reported that testing coordinators visit classrooms during the assessment administration to ensure students with disabilities are participating in the State-wide assessment program according to the requirements outlined in the IEP.

Staff interviewed reported that the HCPSII is intended to provide the reporting results to measure adequate yearly progress as required under *NCLB*.⁶ The SAT-9 results are used for reporting student achievement to Hawaii's legislature and board of education as well

⁶ 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 Hawaii's compliance with requirements of Title I.

as to provide a comparison of student performance across States. Hawaii's Improvement Plan shows that 83% of students with disabilities in grades 3, 5, 8, and 10 participated in the 2002 State-wide regular testing.

The testing coordinators informed OSEP that the reporting of assessment results include district and school profiles that identify the percentage of children with disabilities who participate in regular and alternate assessments. HIDOE's website provides information on State-wide regular and alternate assessment results in the form of State and District Summary Accountability Reports. The accountability reports provide aggregated and disaggregated data on the reading and mathematics proficiency levels of students in grades 3, 5, 8, and 10 of Hawaii's public schools as well as students who are publicly placed in private, residential, and other public settings. The reading and mathematics test results show the percentage of students with and without disabilities who performed at the "well below," "approaches," "meets," and "exceeds" proficiency levels. Alternate assessment results are also reported in an evidence binder that addresses IEP goals and objectives and these results are shared with parents.

Part B, at 34 CFR §300.139, requires that States make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the number and performance results of children with disabilities who participate in the regular assessment and the alternate assessment. In addition, 34 CFR §300.137 requires that the State establish performance indicators used to assess progress toward achieving State goals related to the performance of children with disabilities on assessments. OSEP found that HIDOE does not report assessment performance results of students with disabilities who take the alternate assessment in the same detail as it reports on the assessment of nondisabled children. Further, the use of only one performance level for all students with disabilities who take the alternate assessment is not consistent with the requirements of 34 CFR §300.137. Staff told OSEP that students with disabilities who are administered the alternate assessment are automatically included in the "well below proficiency" performance level for reading and mathematics regardless of their performance on the alternate assessment. The special education director explained that HIDOE only reports alternate assessment performance results for students with disabilities in the "well below proficiency" level because student performance on the alternate assessment would not be comparable to a student's performance on the standards of the regular assessment. Currently, HIDOE is examining what other States are doing in this area and will evaluate whether HIDOE will use alternative achievement standards. In its April 30, 2004 APR, HIDOE either must indicate how it is meeting the requirements, at 34 CFR §300.137 and §300.139, or submit a plan for how the State will demonstrate that it is meeting the requirements, at 34 CFR §§300.137 and 300.139, regarding performance indicators and the reporting of performance results for students with disabilities who take the alternate assessment, within one year of approval of the plan by OSEP.

Conclusion

As noted above, HIDOE must address, either through its APR data submission, additional data submissions under the Improvement Plan, or revisions to its Improvement Plan, each