



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Dr. David Stewart  
State Superintendent of Schools  
West Virginia Department of Education  
Building 6, 1900 Kanawha Blvd. E.  
Charleston, West Virginia 25305-0330

FEB 13 2003

Dear Superintendent Stewart:

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 West Virginia. 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 (IDEA). We conducted our visit to West Virginia during the week of September 15, 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 West Virginia Department of Education (WVDE), the OSEP staff met with Dr. Dee Braley, Director of the Office of Special Education (OSE), and members of WVDE 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 State-wide assessment. Prior to the visit, OSEP staff reviewed a number of documents<sup>1</sup>, including the following: (1) West Virginia's Part B State Improvement Plan, (2) the State's Biennial Performance Report for grant years 1999-2000 and 2000-2001, (3) West Virginia's combined Self Assessment (2002), (4) Eligibility Documents, (5) West Virginia's Consolidated State Application Accountability Workbook, and (6) other related documents and information from the State's website. OSEP also conducted a conference call, on July 29, 2003, with a number of West Virginia's State Advisory Panel members to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and State-wide Assessment. Dr. Braley also participated in the call and assisted us by recommending and inviting the participants. During the visit, OSEP staff also reviewed a number of State documents, including: (1) Monitoring procedures for students in Out-of-State Placements, (2) Statewide Assessment Manual and procedures, (3) West Virginia Education Information System (WVEIS) Reports for Accountability, and (4) Procedures for Conducting the Continuous Improvement Monitoring Process.

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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.

The information that Dr. Braley 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 WVDE'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 believes that WVDE's systems for general supervision constitute a reasonable approach to the identification and correction of noncompliance. WVDE schedules monitoring visits to all entities including correctional facilities, Local Educational Agencies (LEAs) and State schools on a four-year cycle; the visit is basically a verification of the LEA's Self Assessment. Each year the LEA addresses the goals of the State Improvement Plan and determines the level of compliance with Federal and State regulations. In addition, progress toward student performance indicators is also reported. The LEAs have established local steering committees whose members review the required components of programs for exceptional students. When deficiencies or noncompliance are identified, the steering committee develops a local improvement plan including corrective activities. When IDEA noncompliance is found, correction is required within 30 days. OSE has found that corrective activities are producing systemic changes. Technical assistance resources are made available by the OSE to assist LEAs with corrective activities. In the rare case when an LEA does not correct deficiencies, OSE does have enforcement actions in place to ensure compliance which range from withholding funds to actually taking over the LEA.

OSE conducts on-site monitoring reviews of Out-of-State facilities serving West Virginia's eligible special education students. All agencies serving IDEA eligible students must complete a Facility Self-Assessment report; the information from the report is later verified through an on-site visit. In addition, OSE monitors the instruction programs of each student and requires monthly progress reports on the goals and objectives in the student's IEP. The completion of a facility self assessment and meeting monthly reporting requirements is necessary before any payment from WVDE is rendered. Since April 2002, OSE has visited 12 facilities serving special education students from West Virginia and issued monitoring reports. The remaining facilities will also submit a Self-Assessment and subsequently receive an on-site visit by the end of 2004. OSE presented in detail the process for monitoring these facilities including a review of monitoring protocols, monitoring reports and a comprehensive synopsis of completed visits. OSEP has determined, through its review of the State's monitoring procedures, reports and

pending site review schedule that the process is a reasonable approach to ensuring compliance with Part B requirements.

WVDE's Complaint Management System which tracks formal complaints and due process hearing requests results in decisions that meet the timeline requirements of Part B. OSEP learned, through its review of WVDE's complaint log and interview with the staff that are responsible for resolving complaints, that WVDE 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 WVDE's due process hearing log and interview with the staff that are responsible for tracking hearing timelines, that decisions on due process hearings are issued within 45 calendar days from WVDE'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). WVDE staff informed OSEP that, as part of each on-site monitoring visit, it follows up to ensure that the LEA has effectively implemented any hearing or complaint decisions. The Complaint Management System is a child-focused system and is an integral part of monitoring activities that has often led to site visits to LEAs, as well as helped to focus technical assistance and training activities when systemic concerns are apparent.

***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.

WVDE staff informed OSEP that West Virginia has a single data system (WVEIS), which is used for all students (i.e., regular and special education). WVDE's Office of Technology and Information Systems manages the WVEIS, and LEAs submit child count data to WVDE electronically. The Executive Director of the Technology and Information Office, Nancy Walker, presented the WVEIS system. WVDE has a full-time Data Manager/Coordinator in OSE, Dr. Sandra McQuain, who works in close collaboration with Nancy Walker's staff, and demonstrated a thorough understanding of the 618 data collection system. WVDE staff explained that the onsite team conducts a verification of child count data as part of monitoring reviews. The monitoring teams review the accuracy of placement information in the Individualized Education Programs (IEPs) for students whose files they review. They further described how the special education data manager performs complex verification of data submitted as well as a manual check of LEA data across multiple years to detect anomalies. Data from WV Schools for the Deaf and the Blind are submitted to WVEIS electronically through the same process as the LEAs. The Office of Institutional Education Programs (OIEP)

in WVDE, which operates all the State Operated Programs except for WV Schools for the Deaf and the Blind, has almost all of their facilities on WVEIS as well. Data from a few detention centers are submitted on paper and is verified by the Assistant Director of OIEP and incorporated in the WVEIS data submitted to OSE.

WVDE informed OSEP that accurate data entry efforts are made possible by providing extensive and regular training opportunities. In addition, WVDE has provided detailed instructions and guidance to LEAs via technical assistance memos, assistance from State staff, and manuals and guidance posted on the Department's website. Before LEAs create a WVEIS report and forward it to the SEA, they are able to run "audit programs". Audit programs look for local level data errors such as invalid codes, incorrect birthdates, caseload assignments as well as Least Restrictive Environment (LRE) placements of students. These checks are first performed during the State's October child count, which decreases the probability of discrepancies and errors in the December 1 child count provided to OSEP.

As described above, WVDE uses data from several different sources to help focus its data collection in each LEA. In addition, OSEP learned from its review of WVDE's improvement planning documents and its interview with WVDE staff, that WVDE uses data from State-wide monitoring findings, local self-assessments and improvement plans, West Virginia Education Information System (WVEIS) and 618 data, assessment data, and other similar data to inform their improvement planning process and to refine their monitoring procedures.

### ***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 West Virginia's 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 those procedures, as written, and those reports are consistent with Part B requirements.

WVDE informed OSEP that it has provided extensive training and guidance to LEAs regarding the participation of children with disabilities on State-wide assessments, clearly requiring that all children with disabilities participate in each of the regular assessments in which non-disabled children participate, unless the IEP team determines that participation in the regular assessment is not appropriate for a specific student and administers the alternate assessment. In addition, annual training specific to the participation of children with disabilities on State-wide

assessments is given as well as periodic guidance and technical assistance is provided through both OSE and the Assessment office. In their presentation, OSE staff described in their Continuous Improvement Monitoring Process (CIMP) mechanisms for monitoring for compliance with requirements regarding State-wide assessment each time a LEA is monitored. OSE also provides improvement strategies for LEAs when noncompliance is identified. WVDE also 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.

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

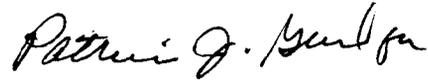
The West Virginia Alternate Assessment was developed in order to include students with significant disabilities in State-wide assessments. The IEP team is responsible for decision-making regarding participation in the West Virginia Alternate Assessment.<sup>2</sup> It was developed by West Virginia educators to measure students' performance on selected content standards from the Content Standards and Objectives for West Virginia Schools. The Alternate Assessment is based on mandated Content Standards for Reading and English Language Arts, Mathematics, Science, and Social Studies. For each mandated Content Standard, the student's teacher will select a grade level objective. Progress on these targeted objectives will be assessed throughout the school year. Student results are to be used in instructional planning, including IEP development. It is intended that the Alternate Assessment process will provide students increased access to the general curriculum. This process provides an opportunity to learn targeted objectives from mandated Content Standards, thus expanding the range of skills considered for inclusion in the student's IEP. Data for each targeted objective is collected throughout the school year (three collection periods) and compiled into a Datafolio. Each student's performance, as documented in the Datafolio, will be rated at one of the following levels, Awareness, Progressing, Competent, or Generalized. The scores for special education students who take the Alternate Assessment will be included in the accountability system as required by the IDEA. WVDE has provided detailed information regarding implementation of the alternate assessment.

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<sup>2</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)(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 West Virginia's compliance with requirements of Title I.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to our continued collaboration with West Virginia 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". The signature is written in a cursive style with a large initial 'S'.

Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: Dr. Dee Braley