



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

Dr. Trent Blankenship
Superintendent of Public Instruction
Wyoming Department of Education
The Hathaway Building, 2nd Story
2300 Capitol Avenue
Cheyenne, Wyoming 82002-0050

JAN 20 2004

Dear Superintendent Blankenship:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) recent verification visit to Wyoming. 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 Wyoming during the week of October 27, 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 Wyoming Department of Education (WDE), OSEP staff met with Dr. Nance Shelsta, State Director of Special Education, and Ms. Tammy Cox, Director of Federal Programs, and 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. In order to prepare for our visit to WDE, OSEP reviewed a number of documents¹, including the following: (1) Wyoming House Bill 78 (Enrolled 128), (2) Wyoming House Bill 78 (Enrolled 128) – Interim Report, (3) WDE Monitoring Report for Crook County, (4) WDE Special Education Programs Dispute Resolution Tracking Report for 2002 and 2003, (5) WDE Self-Assessment – 2000, (6) WDE Improvement Plan (Revised) 2002, (7) WyCAS Reports to the Public – (WDE Website, 2003), and (8) SEEDS – WDE Special Education Electronic Data System, Technical Assistance Manual, September 2002.

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.

OSEP also conducted a conference call on October 14, 2003, with a number of the members of Wyoming's Steering Committee 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. Dr. Shelsta also participated in the call and was instrumental in inviting the participants.

During the visit, OSEP staff also reviewed a number of State documents, including: (1) Wyoming Special Education Program Review-June 2003, (2) House Bill 78 Interview Questions for Verification Visit – Administrators and Special Education Staff, October 2003, (3) WDE Policies for the Participation of All Students in District and Statewide Assessment and Accountability Systems, January 2002, (4) Responses to OSEP Desk Audit Questions for IDEA General Supervision, October 2003, (5) WDE Calendar of Events (Including State Improvement Grant activities, WyCAS alternate assessment training), (6) Dispute Resolution Guidelines for Complaint, Mediation, and Due Process, April 2002, (7) WDE Special Complaint Manual for Investigation Procedures, January 2002, (8) Wyoming Supplemental Monitoring Questions (Draft) October 2003, (9) Wyoming 618 Entry and Report Data Fields, 2003, (10) Chapter 7 - Wyoming Rules Governing Children with Disabilities, (11) and Wyoming Special Education, Due Process, Hearing Officer and Mediator Training, February, 2003; and (12) The Mountain Plains Regional Resource Center's Evaluation Report of the Wyoming Special Education Monitoring System.

The information that Dr. Shelsta 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 WDE's systems for general supervision, data collection and reporting, and Statewide assessment.

General Supervision

In looking at the State's general supervision systems, 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 WDE'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.

WDE informed OSEP that it designed its general supervision systems to ensure both compliance and improved results for students with disabilities. WDE acknowledged that given its new structure they will need to focus on developing collaborative training to ensure inter-rater reliability among their monitors. To support this effort WDE has committed to assign two State staff to each site visit.

OSEP learned from interviewing WDE staff, including members of the Steering Committee, and reviewing WDE's monitoring materials and monitoring files, that WDE implements a five-year monitoring cycle. In addition to the 5-year cycle, the legislature adopted Enrolled 128 in 2003. This initiative came about because the Department and the Legislature requested a review of Special Education in Wyoming. While there is a desire in the State to maintain 100% State funding for special education and related services, there is currently a disparity of service and service provision across the State. To implement the study mandated by Enrolled 128, five monitors will collect data and report to both Dr. Shelsta and to the legislature during the four-year study period. The study focuses on evaluating the equalization of service delivery across districts, particularly related services.

As documented in WDE's monitoring materials and evidenced in its monitoring files (including monitoring reports of WDE local educational agencies (LEAs)), WDE requires LEAs to conduct a self-assessment once every five years to identify noncompliance within their own schools. WDE reported that local districts solicit input from parents by administering a survey during the self-assessment phase of the monitoring process. WDE reviews both the self-assessment and the individual LEA's compliance determinations. After reviewing the LEA's determinations, WDE makes its own independent determination of noncompliance. The WDE on-site visit is comprised of a review of randomly selected student records and a series of interviews with individuals involved in developing and implementing the selected students' Individualized Education Programs (IEPs). WDE uses this information to determine compliance, noncompliance, and promising practices. At the conclusion of the review, WDE presents its findings of compliance and noncompliance to the local director of special education. The LEA has 30 days to prepare a corrective action plan to address any findings of noncompliance. If WDE finds evidence of noncompliance involving a specific student, WDE requires the LEA to convene a meeting of the student's IEP team and correct the noncompliance immediately. If there is continued noncompliance the WY Code 21-2-202(c) authorizes the State Superintendent to take appropriate administrative action with the state board as necessary, including but not limited to the changing of accreditation status, against any school district or state institution failing to comply with applicable law. While this provision exists the new WDE administration has not yet completed its review to determine the need to exercise this enforcement mechanism or determine if alternative approaches need to be developed.

It was evident from WDE's monitoring materials and monitoring files, as well as interviews with WDE staff, that WDE 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, WDE 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). As documented by the WDE schedule of monitoring visits, WDE will conduct an on-site monitoring review of 16 of the 48 LEAs between November 1, 2003 and June 30,

2004. WDE staff told OSEP that each of the remaining 32 LEAs and the Division of Corrections will be visited at least once during the next four years, and that WDE will visit 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 WDE provides training to the personnel that conduct monitoring reviews, and works to ensure inter-rater reliability across all regional WDE monitoring teams. It was clear from WDE's monitoring reports that WDE cites areas of improvement (the term used by WDE to indicate noncompliance) and clearly indicates to the LEA the necessary contents for the LEA's corrective action plan for findings of noncompliance regarding a broad array of Part B requirements.

In addition to on-site visits, the WDE uses financial audits and time and attendance logs to verify the appropriate use of funds. However, as explained by WDE staff, while WDE's monitoring reports direct the LEA to submit documentation of correction of non-compliance, the WDE did not have written documentation to verify that the LEA had implemented a corrective action plan and corrected previous noncompliance because the State office was moving from Cheyenne to Riverton and all documentation had been shipped and was unavailable. OSEP staff was unable to verify whether or not the WDE has an effective system to ensure the correction of non-compliance. The WDE staff also identified inadequate resources as a barrier to effective monitoring, provision of the needed follow-up, and correction of non-compliance. To address the issues of correcting noncompliance, WDE will identify the sources for the State's authority to enforce the requirements of Part B and report to OSEP no later than January 30, 2004; WDE will send OSEP at least one Quality Improvement Plan (the term used by WDE for corrective action plan) resulting from the WDE on-site monitoring visits during the remainder of 2003 by June 30, 2004; WDE will send OSEP evidence to document correction of noncompliance by June 30, 2004 and; WDE will forward a copy of at least one self-assessment conducted by an LEA during the 2003-2004 school year by June 30, 2004.

WDE'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 WDE's complaint log and interviews with the staff that are responsible for resolving complaints, that WDE 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 WDE'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 WDE'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, WDE provides training and technical assistance annually for all hearing officers. If an individual desires to become a hearing officer and does not participate in the State's annual training for hearing officers, the individual is not permitted to serve as a hearing officer in the subsequent year. WDE explained that the State is revising its manual for hearing officer training.

In summary, OSEP learned through both interviews with WDE staff and an its on-site review of WDE documents such as monitoring reports, due process hearing decisions, WDE Improvement

Plan, and WDE 618 and Statewide assessment data that the WDE uses multiple sources of data to revise the State's improvement planning process and the monitoring process. The State uses these analyses to conduct on-site monitoring visits and to target improvement strategies for the State and respective LEAs. For example, WDE analyzes exit data by LEA to assist LEAs in improving student retention and post-school outcomes such as employment and postsecondary education.

WDE explained that due to their recent appointments to state positions, the staff recognized the need to further analyze what mechanisms are in place and how these can be integrated to improve the identification of systemic issues and problems.

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.

WDE staff explained that Wyoming uses the WDE Special Education Electronic Data System (SEEDS), a separate data system for students with disabilities that includes the definitions at Section 618 of IDEA. The data manager in special education works closely with other program area data managers within WDE and demonstrated a thorough understanding of the 618 data collection system. Child count data is submitted to WDE electronically. Special Education Directors are responsible for ensuring the validity of the data provided to the WDE on excel spread sheets; the local superintendent certifies this data prior to its submission to WDE. WDE conducts a verification of child count data as part of its monitoring reviews. Using the 618 data definitions, the WDE uses information collected by the Safe and Drug Free Schools Unit as the basis for its discipline data. In addition, WDE monitoring teams review the accuracy of placement information in the IEPs for students whose files they review. Additional safeguards include the ability of SEEDS to trace "suspicious" data (as defined by the system) back to the entry source at the local level and a manual review and edit by the WDE staff data manager of LEA data across multiple years to detect anomalies.

WDE staff provides continuous technical assistance, via email and telephone contact, to data entry staff at the Division of Corrections and in each LEA to ensure accurate and timely submission of the data. The State disseminates, both in hard copy and on their website, a technical assistance manual for the SEEDS data system. WDE supports this manual with the provision of training for principals, secretaries, and special education directors two times a year.

WDE has identified that the SEEDS system is not fully integrated because, while it can track individual student data and outcomes within LEAs, it cannot track student data or outcomes across LEAs. The WDE data manager participated in a special education cost study with OSEP's Center For Education Finance (Enrolled 128 was the catalyst for this improvement). As a result of this work the WDE is in the process of developing a new web-based, real-time electronic student data system for all students in Wyoming public schools. OSEP encourages WDE 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.

WDE staff informed OSEP that WDE reviews assessment results of students with disabilities annually. WDE 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. WDE monitoring files show that WDE monitors LEAs for compliance with requirements regarding Statewide assessment, and provides improvement strategies for LEAs when necessary. WDE 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 WDE submitted in July 2002 and during the verification visit, WDE 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 scores for special education students who take the alternate assessment are included in the accountability system and reported on the State's website. The IEP team is responsible for decision-making regarding participation in the alternate assessment. Scores for students taking

the alternate assessment are reported in three levels of achievement and the scores for students taking the regular assessments are reported in four levels. The WDE is working with the National Center on Educational Outcomes and informed OSEP that the State is revising the alternate assessment. The revisions are to be completed by Spring 2005 and will include the State's expanded standards. During the alternate assessment revision period the WDE will continue to meet the IDEA requirements regarding reporting and assessing procedures.

We appreciate the support and assistance provided by your staff during our visit. As a follow-up to OSEP's visit, WDE will identify the sources for the State's authority to enforce the requirements of Part B and report to OSEP no later than January 30, 2004. As identified in this letter, WDE will also provide to OSEP no later than June 30, 2004: (a) a copy of at least one self-assessment conducted by an LEA during the 2003-2004 school year, (b) a copy of at least one quality improvement plan prepared by an LEA in response to the State's monitoring visit during the 2003-2004 school year, and (c) evidence of the State's actions to follow-up and correct noncompliance identified by the State's monitoring system during the State's on-site visits to LEAS during the 2003-2004 school year. We look forward to our continued collaboration with Wyoming 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: Dr. Nance Shelsta
Ms. Tammy Cox