



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

Honorable Peter McWalters
Commissioner of Education
Rhode Island Department of Education
Shepard Building
255 Westminister Street
Providence, Rhode Island 02903

APR -6 2005

Dear Commissioner McWalters:

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 Rhode Island. As indicated in my letter to you of June 8, 2004, 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). We conducted our visit to Rhode Island during the week of September 27, 2004.

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 data collected through verification visits will help OSEP: (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 Rhode Island Department of Education (RIDE), OSEP staff met with Dr. Thomas DiPaola the State's Director of the Office of Special Populations, (OSP), and members of RIDE's staff involved with the Part B system and responsible for: (1) overseeing the general supervision activities, including monitoring, mediation, complaint resolution, impartial due process hearings, and State-wide assessment; (2) collecting and analyzing State-reported data; and (3) ensuring participation in, and the reporting of student performance on, State-wide assessments. Prior to and during the visit, OSEP staff reviewed a number of documents¹, including: (1) Rhode Island's Self-Assessment, December 2000; (2) Rhode Island's Part B State Improvement Plan, June 2002; (3) the State's Federal Fiscal Year (FFY) 2002 Part B Annual Performance Report (APR); (4) RIDE's School Support System Manual; and (5) information from the web sites of RIDE and the Rhode Island Technical Assistance Project (RITAP).

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 June 18, 2004 with members of the Rhode Island State Advisory Council on Special Education to hear members' perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and State-wide assessment. Dr. DiPaola assisted us by recommending and inviting the participants. OSEP also conducted a public input conference call on September 9, 2004, during which parents and other interested parties shared their opinions regarding special education and early intervention services in Rhode Island. The Rhode Island Parent Training and Information Center and the Rhode Island Advocacy Center assisted in the notification of parents and other interested parties concerning those calls.

The information that Dr. DiPaola and his 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 RIDE'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) 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) had systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (3) utilized guidance, technical assistance, follow-up, and, if necessary-sanctions, to ensure timely correction of noncompliance; (4) had dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) had 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.

Monitoring: During the verification visit to Rhode Island, OSEP developed a better understanding of the effectiveness of RIDE's general supervision of the State's special education system.² RIDE reported that it used the School Support System (SSS) to evaluate the quality and effectiveness of special education and the extent to which local educational agencies (LEAs) or other educational entities complied with State laws and Federal regulations for special education. The SSS is a collaborative system of focused monitoring aligned with IDEA and addresses the comprehensive education strategy and the Rhode Island Student Investment Initiative.³ (The monitoring cycle is five years for the 36 LEAs, State operated programs, adult and juvenile correction facilities, and LEA charter schools; and eight years for nonpublic schools).

² OSEP also informed RIDE that it could not determine, without also collecting data at the local level, whether RIDE was fully effective in identifying and correcting noncompliance.

³ The State general education initiative is designed to close gaps in student performance and prepare students for the 21st Century

The State reported that the SSS consisted of three phases: (1) an off-site data collection and review process; (2) a comprehensive on-site review; and (3) the development of a school support plan. The off-site process included a review of qualitative and quantitative data sources having the most direct relationship with student performance and program effectiveness, including: (1) collecting and reviewing a range of performance measures (drop-out, graduation, suspension, and expulsion rates, and the School Accountability for Learning and Teaching (SALT) survey data); (2) reviewing a sample of students' records; and (3) reviewing the results of surveys with administrators, regular education, special education, and related service personnel, and parents.

The State indicated that its on-site visits begin with an overview of specific programs or issues identified through off-site data analysis. RIDE also provides the LEA with the opportunity to present programs and initiatives. Following this, the schools within the LEA are visited by the SSS review team composed of: personnel from other LEAs/educational programs; representatives from the State Special Education Advisory Committee (SEAC); and, representatives from Rhode Island family organizations. The review consists of interviews regarding educational programs of students from each of the disability categories identified in the IDEA. School-based interviews are conducted with selected service providers and students at the secondary school level. Elementary school students are observed as part of the process. At the conclusion of the SSS review, the team writes a report detailing indicators and findings, reviews the draft with the LEA and works collaboratively with the LEA personnel to develop a support plan that addresses performance and compliance issues. The final report describes: (1) the nature and extent of programs and services; (2) the procedures for the correction of noncompliance; and (3) technical assistance and training required to strengthen programs and correct noncompliance.

OSEP interviewed RIDE staff who served as LEA liaisons during recent monitoring reviews. RIDE staff and LEA central office and building administrators meet to finalize the SSS report and to develop the professional development/technical assistance plan (School Support Plan) with timelines for implementation and procedures for verification. This plan outlines activities for a district to correct areas of noncompliance, strengthen promising programs and correct areas of weakness in order to improve services and programs for students with disabilities. RIDE indicated to OSEP that the Providence School District (District) was monitored in January of 2002 and noncompliance was documented. At the time of the OSEP verification visit, RIDE indicated to OSEP that the District had not corrected the noncompliance previously identified during RIDE's January 2002 SSS visit. The District did respond to the support plan within a year of its issuance. However, due to changes in administration and implementation of local programs, the District was slow in implementing many strategies identified in the support plan. RIDE sought to withhold all Federal funds from the District for failure to correct noncompliance issues. District personnel worked closely with RIDE's legal office during a show cause hearing, a Commissioner's level hearing in which the District was required to develop a plan to address the areas of noncompliance and demonstrate why funds should not be withheld. The District was required to provide an item-by-item response to each issue outlined in the School Support Plan by October 1, 2004. As a result, all Federal funds

were released. RIDE reported that a verification visit was scheduled for the District the week of November 15, 2004 to confirm follow-up documentation of progress submitted by the District.

As described above, RIDE used data from several different sources to focus its State-wide general supervision efforts. In addition, OSEP learned through interviews with staff that RIDE uses data from its monitoring findings, 618 data, assessment data, and data from other sources to refine its improvement planning process and monitoring procedures.

RIDE's monitoring procedures represent a reasonable approach to the identification of noncompliance. However, despite RIDE's efforts to ensure correction of identified noncompliance at the Providence School District, RIDE has not provided evidence demonstrating that the District has corrected previously identified noncompliance. In its letter to RIDE regarding its FFY 2002 APR issued today under separate cover, OSEP is requesting that RIDE submit either documentation demonstrating that the District has corrected all identified deficiencies, or a plan with strategies, proposed evidence of change, targets and timelines to ensure that the District has corrected all identified deficiencies, as soon as possible, but not later than 30 days following one year from the date that OSEP accepts the plan.

Dispute Resolution: The State reported that the Rhode Island Technical Assistance Project (RITAP), a contractor of RIDE, administers the dispute resolution system. RIDE support staff are generally the first responders to calls from parents of children with disabilities regarding special education issues. In many cases, staff suggest alternatives to filing a complaint or requesting a due process hearing, such as mediation, or State staff contact the LEA to resolve an issue. Rhode Island contracted three mediators who are trained by RITAP. Parents and LEAs used the mediation process to resolve issues, which resulted in a decrease in due process hearing requests. In 2001, there were 53 requests for due process hearings, 47 in 2002 and 37 in 2003.

The Part B regulations, at 34 CFR §300.511(a) and (c), require that States ensure that a final decision is reached in each due process hearing and a copy of the decision mailed to each of the parties not later than 45 days after the receipt of a request for a hearing, unless the hearing officer grants specific extensions of time beyond the 45-day timeline at the request of a party. A State educational agency must also ensure that if a hearing exceeds the 45-day timeline, there is documentation that the hearing officer extended the timeline at the request of a party and for a specific period of time. Rhode Island has a one-tier due process hearing system. OSEP reviewed the due process hearing logs and determined that most of the due process hearing requests were settled or withdrawn.

OSEP’s further analysis of the 2002-2004 hearing data is presented below:

Year	Hearings Requested	Decisions	1	2	3	Withdrawn or Settled	1	2	3
2002	47	10	0	3	7	37*	14	13	9
2003	37*	8	2	3	3	28	10	12	6
2004	39 (24 due at time of OSEP visit)	6	1	4	1	18	12	4	2

Due Process Hearing Requests

*No decision date reported on (1) request;

¹ Completed within 45 days; ² completed beyond 45 days with extensions; ³ completed beyond 45 days without extension

The data represented in the table above demonstrate that in 2002, out of 47 due process hearing requests, 10 decisions were reached. In three instances, the timeline was extended; for the remaining seven hearing requests, the 45-day timeline was exceeded, and there was no documentation that the hearing officer granted a specific extension of time at the request of a party. Of the 37 requests that were either settled or withdrawn, 14 were completed within the 45-day timeline. For the 22 hearings settled or withdrawn beyond the 45 day time limit, 13 had extended timelines, and for 9 hearing requests, there was no documentation that the hearing officer had extended the timeline for a specific period of time at the request of a party (no decision was reached for one hearing request).

In 2003, a decision was reached in eight of 37 due process hearings requested. Of the eight decisions, two were reached within the 45-day timeline. Of the six hearings not completed within the 45-day timeline, three were extended while the remaining three exceeded 45 days and there was no documentation that the hearing officer extended the timeline for a specific period of time at the request of a party. In one case, OSEP found that the RIDE hearing log marked it pending, and OSEP could not determine the resolution. Of the 28 requests either withdrawn or settled, 10 were completed within the 45-day timeline. Of the 18 hearings settled or withdrawn that exceeded the 45-day timeline, 12 had extended timelines, while the remaining six exceeded 45 days, and there was no documentation that the hearing officer granted specific extensions at the request of a party.

OSEP analyzed the 2004 data on hearing requests for which the 45-day hearing time limit had been reached by the time of OSEP’s verification visit; of the 39 due process hearings requested, only 24 were due by the time of the visit. Six decisions were made, one within the 45-day timeline. Extensions had been granted for four of the five remaining hearings that were not completed in 45 days. In one case, the 45-day timeline was exceeded and there was no documentation that the hearing officer had granted a specific extension at the request of a party. Eighteen cases had been settled or withdrawn; 12 were within 45 days, four had extended timelines, and two exceeded the 45 days and there was no documentation that the hearing officer had granted a specific extension of the timeline at the request of a party.

For the three years of data reported, RIDE did not document in its hearing log the length of the extensions that were granted; therefore, OSEP is unable to determine if extended timelines were met. The specific steps that RIDE will need to take to address this noncompliance will be included in OSEP's letter to RIDE on its FFY 2002 APR, issued today under separate cover.

Part B requires States to have procedures for ensuring that a written decision on each complaint is issued 60 days from the date that the complaint is filed, unless the timeline is extended because exceptional circumstances exist with respect to a particular complaint (34 CFR §300.661(a) and (b)(1)). OSEP reviewed RIDE's special education complaint log for 2004, and 2 of the 30 complaints filed were not completed within the 60-day timeline. In 2003, 12 complaints out of 71 were not completed within 60 days. There was no documentation provided to determine if appropriate extensions were granted.

The specific steps that RIDE will need to take to address this noncompliance will be addressed in OSEP's letter to RIDE regarding its FFY 2002 APR issued today under separate cover.

Collection of data under section 618 of the IDEA.

In its review of the State's system for data collection and reporting, OSEP collected information regarding a number of elements, including whether the State: (1) provided clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implemented procedures to determine whether the individuals entering and reporting 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) implemented procedures for identifying anomalies in data that are reported, and corrected any inaccuracies; and (4) identified any barriers, (e.g., limitations on authority, sufficient staff or other resources, etc.) that impeded the state's ability to accurately, reliably and validly collect and report data under section 618.

In its Self-Assessment, Rhode Island identified a concern regarding the reporting of educational settings of children with disabilities. The analysis indicated that settings data were collected on the amounts of service that a child was receiving, not the location of the service. For example, if a child with a disability received special education services from a teacher for 22 hours per week, the amount of time in special education would have been recorded as greater than 60 percent (if the school week was 30 hours or less), even though the student may have received fifteen of those twenty hours in the regular education setting, with support. The State acknowledged that it was incorrectly reporting the amount of time where the student was receiving special education services in the Self-Assessment phase of the Continuous Improvement Monitoring Process; the State restructured its data definition to specify that the educational setting was the location of the service rather than the amount of the service. Data collected based on the revised definition of educational settings resulted in more accurate data. The new data

significantly altered Rhode Island's ranking in the States' standing regarding the placement of children with disabilities in educational settings. The 2002 data regarding educational settings indicated that Rhode Island was ranked second in placing children with disabilities in the most restrictive environment. The revised data collected December 2003, using the revised settings definition, significantly improved Rhode Island's ranking.

The State staff reported that training was conducted State-wide for all data managers on the web-based data system, and local training was provided for newly appointed data managers. Most LEAs submitted their data via the web-based system. The data manager at the State level verified data and provided each LEA with a maintenance report, which included a list of errors requiring correction and technical assistance to ensure correction.

As described above, RIDE uses data from several different sources to help focus its data collection in each LEA. In addition, OSEP learned from its review of RIDE's improvement planning documents and its interview with RIDE staff, that RIDE uses data from State-wide monitoring findings, local self-assessments and improvement plans, special education census data, 618 data, assessment data, and other similar data to inform its improvement planning process and to refine its monitoring procedures.

State-Wide Assessment

In its review of the State's system for State-wide assessment, OSEP collected information regarding a number of elements, including whether the State: (1) established procedures for State-wide assessment that met 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) provided clear guidance and training to public agencies regarding those procedures and requirements; (3) monitored local implementation of those procedures and requirements; and (4) reported on the performance of children with disabilities on those assessments, in a manner consistent with those requirements. In order to better understand Rhode Island's system for State-wide assessment, OSEP also discussed with your staff how the alternate assessment is aligned with grade-appropriate content standards.

Rhode Island's State Assessment Program (RISAP) requires all school Districts to administer reading, writing and math assessments in grades, four, eight, and eleven. In addition, Rhode Island administers a State-wide writing test at grades three and seven. RIDE staff reported that an alternate assessment is offered to students who meet Rhode Island's criteria for participation through the IEP process for each of the above State-wide assessments.

RIDE informed OSEP that it provided extensive training and guidance to LEAs regarding the participation of children with disabilities in State-wide assessments, and requires that all children with disabilities participate in each of the regular assessments in which children without disabilities participate, unless the IEP team determined that participation in the regular assessment is not appropriate for a specific child. If the IEP team determines that the regular assessment is not appropriate, it makes a determination of the

accommodations needed to participate in the regular assessment, or recommends participation in the alternate assessment. There are no waivers granted for non-participation in State-wide assessments, and there is no out-of-level testing. The non-participation rate is tracked by assigning a zero to children not participating in State-wide assessment. The State staff indicated that almost all of the schools in Rhode Island complied with the 95 percent participation rate required by NCLB. RIDE's monitoring manual and monitoring files demonstrated that RIDE monitored LEAs for compliance with requirements regarding State-wide assessment, and provided improvement strategies for LEAs when necessary. RIDE informed OSEP that it requires each LEA to account specifically for each child with a disability to ensure participation in either the regular or alternate assessment.

The State reports accountability information in several ways: (1) each school conducts a report night for parents; (2) the State's report card, *Infoworks*, is disseminated State-wide; and (3) report cards on assessment and accountability are made available on the State's web-site.

Rhode Island has used alternate assessments for students with disabilities since 1999. A small number of children (600-625) participate in alternate assessments, because of a rigorous participation criterion. Schools and LEAs failing to perform (Low Performing/non-improving) are designated as "Progressive support and intervention" (PS and I) status schools/LEAs. These schools/LEAs are required to meet with the commissioner or his designee to enter into agreements that address the remediation of the barriers. Thereafter, the school/LEA must report to RIDE on the status of the strategies in the agreement.

The State monitored to ensure LEAs comply with Part B State-wide assessment requirements under 34 CFR §300.138, §300.139 and §300.347(a)(5). All data sources were reviewed and integrated into the State's monitoring process. The State's monitoring process examines demographic components, which include IEP status, LEP status, and free and reduced lunch status. The unique student identifiers in the data system allow RIDE to track longitudinal assessment data.

Test coordinators are trained annually regarding accommodations that will not invalidate the test scores. Information is also reinforced through the IEP training. Accommodations are available to all children with or without disabilities in accordance with the accommodations guidance issued by the RIDE Office of Assessment and Accountability.

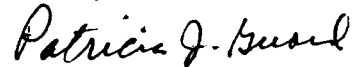
OSEP determined, through its review of the State's written procedures for State-wide assessments, the State's reports to the public, and to the Secretary on the participation and performance of children with disabilities on such assessments, that those procedures, as written, and those reports, are consistent 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 the requirements of IDEA.

Conclusion

In its response to RIDE's FFY 2002 Annual Performance Report (APR), OSEP has outlined the specific steps that RIDE would need to take to address the noncompliance discussed in the general supervision section of this letter concerning timely correction of identified noncompliance, timely complaint resolutions, and timely completion of due process hearings, including those settled or withdrawn within the 45-day timeline or within extended timelines.

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

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

cc: Dr. Thomas DiPaola