



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Terry Holliday
Commissioner of Education
Kentucky Department of Education
Capitol Plaza Tower -- 500 Mero Street
Frankfort, KY 40601

SEP - 8 2009

Dear Commissioner Holliday:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) verification visit to the Kentucky Department of Education (KDE) during the week of December 1, 2008. As indicated in my letter to you dated August 7, 2008, OSEP conducts verification visits to States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under, Part B and Part C¹ of the Individuals with Disabilities Education Act (IDEA). CIFMS is designed to ensure compliance and improve performance with Parts B and C of the IDEA. Sections 616 and 642 of the IDEA require the Department to monitor States with a focus on: (1) improving early intervention and educational results and functional outcomes for infants, toddlers, children, and youth with disabilities; and (2) ensuring that States meet the program requirements, particularly those most closely related to improving results for infants, toddlers, and children with disabilities.

The purpose of the verification visit is to verify the effectiveness of the State's systems for general supervision, collection of State-reported data, and fiscal management, as well as the State's systems for improving child and family outcomes and protecting child and family rights. During the verification visit, OSEP: (1) analyzed the components of the State's general supervision, data and fiscal systems to determine whether they are reasonably designed to ensure compliance and improve performance; and (2) reviewed the accuracy of the data the State submitted for selected indicators in the State's FFY 2006 Annual Performance Report (APR)/State Performance Plan (SPP).

As part of the verification visit to Kentucky, OSEP staff met with Larry Taylor, State Director of Special Education, and State personnel responsible for implementing the general supervision, data or fiscal systems. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) Kentucky's Federal Fiscal Year (FFY) 2006 APR submitted to OSEP in February 2008; (2) Kentucky's SPP submitted to OSEP in December 2005 and updated in 2007 and 2008; (3) Kentucky's eligibility document submissions under Part B of the IDEA for FFY 2008; (4) OSEP's Verification Visit letter to Kentucky dated May 17, 2004; (5) KDE's website; and (6) other pertinent information.²

¹ During the week of December 1, 2008 OSEP also conducted its Part C verification visit to the Kentucky Department for Public Health, and I issued a letter describing the results of that visit under separate cover.

² 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 developed critical elements that were used to guide its evaluation of Kentucky's general supervision, data, and fiscal systems. OSEP's analysis of each critical element is set out in the enclosure to this letter. If OSEP identifies noncompliance during the verification visit, the enclosure also includes an explanation of the noncompliance with applicable Part B requirements and the required actions that OSEP has determined the State must take to address the noncompliance. As further detailed in the enclosure to this letter, OSEP found noncompliance, and is requiring the State to take corrective action in the following areas: (1) the correction of noncompliance requirements in IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E)³; (2) the requirements regarding making due process findings and decisions available to the public (34 CFR §300.513(d)(2)); and (3) the requirement that the State collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the State and LEAs with respect to the placement of students with disabilities in particular educational settings, and the incidence, duration, and type of disciplinary actions, in accordance with 34 CFR §300.646(a).

We appreciate the cooperation and assistance provided by KDE personnel during our visit. We look forward to collaborating with the State as you continue to work to improve results for children with disabilities and their families. If you have any questions or wish to request technical assistance, please do not hesitate to call your OSEP State Contact, Jill Harris, at 202-245-7372.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosure

cc: Larry Taylor
Director of Special Education

³ 34 CFR §300.600(e), as it appears in the supplemental regulations to 34 CFR Part 300 issued on December 1, 2008, also addresses the timely correction requirements. However, these regulations were not in effect at the time of the verification visit, and are referred to in this letter only for information purposes, not as the regulatory authority for OSEP's finding.