



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Mitchell Chester  
Commissioner of Education  
Massachusetts Department of Elementary  
and Secondary Education  
75 Pleasant Street  
Malden, MA 02148

MAR 5 2009

Dear Commissioner Chester:

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 Massachusetts Department of Education (MASSDE) during the week of October 27, 2008. As indicated in my letter to you dated August 7, 2008, 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 Part B and Part C 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 in accordance with 20 U.S.C. 1416 and 1442. 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, children and youth 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 Federal Fiscal Year (FFY) 2006 Annual Performance Report (APR)/State Performance Plan (SPP).

As part of the verification visit to Massachusetts, OSEP staff met with Ms. Marcia Mittnacht, State Director of Special Education, and State personnel responsible for implementing the general supervision, data or fiscal systems, and local agency staff. In addition, OSEP interviewed a panel of local special education directors and local data managers. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) Massachusetts' FFY 2006 APR submitted to OSEP in February 2008; (2) Massachusetts' SPP submitted to OSEP in December 2005 and updated in 2007 and 2008; (3) Massachusetts' eligibility document submissions under Part B of the IDEA for FFY 2008; (4) OSEP's Verification Visit letter to MASSDE dated

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October 29, 2003; (5) Massachusetts Department of Education's website; and (6) other pertinent information.<sup>1</sup>

OSEP developed critical elements that were used to guide its evaluation of Massachusetts' general supervision, data, and fiscal systems. OSEP's analysis of each critical element and any required actions, if noncompliance was identified during the verification visit, are provided 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 or Part C requirements and the required actions OSEP has determined the State must take to address the noncompliance. As further detailed in the Enclosure to this letter, OSEP found noncompliance, and has required corrective action in the following areas: (1) requirements for timely correction of noncompliance in accordance with IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E); (2) requirements for timely resolution of State complaints in accordance with 34 CFR §300.152(a) and (b)(1); (3) requirements for LEAs to convene timely resolution sessions when parents file due process complaints pursuant to 34 CFR §§300.510(a) and 300.532(c)(3)(i); and (4) the requirement in 34 CFR §300.515(a) to ensure that the 45-day due process hearing timeline commences after the 30-day resolution period described in 34 CFR §300.510(b) or the adjusted time periods described in 34 CFR §300.510(c) when parents file due process complaints that do not involve disciplinary matters. To address the noncompliance in these areas, OSEP has prescribed corrective actions and is requiring the State to provide documentation demonstrating correction with its FFY 2008 APR, due February 1, 2010.

OSEP also found that Massachusetts does not make local determinations on the performance of their LEAs consistent with section 616(a) and (e) of the IDEA and has prescribed a corrective action for future local determinations. Within 60 days from the date of this letter, the State must provide documentation demonstrating correction of this noncompliance. With respect to the State's fiscal systems, OSEP found that Massachusetts does not ensure that the carryover period in 34 CFR §76.709, which implements Section 421(b) of the General Education Provisions Act (GEPA) [also known as the Tydings Amendment], applies to subgrant funds at the local educational agency level, and has prescribed a corrective action. Within 60 days from the date of this letter, the State must provide documentation demonstrating correction of this noncompliance.

We appreciate the cooperation and assistance provided by MASSDE 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

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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.

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or wish to request technical assistance, please do not hesitate to call your OSEP State Contact, Ken Kienas, at (202)245-7621.

Sincerely,

A handwritten signature in cursive script that reads "Patricia J. Guard".

Patricia J. Guard  
Acting Director  
Office of Special Education Programs

cc: Ms. Marcia Mittnacht  
Director of Special Education