



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

Honorable Ronald J. Tomalis
Acting Secretary of Education
Pennsylvania Department of Education
333 Market Street, 10th Floor
Harrisburg, Pennsylvania 17126-0333

MAR 14 2011

Dear Acting Secretary Tomalis:

This letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) verification visit to the Pennsylvania Department of Education (PDE) during the week of November 29, 2010. As indicated in our July 22, 2010 letter to former Acting Secretary Thomas Gluck, 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 of the Individuals with Disabilities Education Act (IDEA).¹ Section 616 of the IDEA requires 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 early intervention and educational results for children and youth with disabilities.

The purpose of the verification visit is to review 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. OSEP developed critical elements that were used to guide its evaluation of Pennsylvania's general supervision, data, and fiscal systems. The Enclosure to this letter describes the scope of OSEP's review of the State's systems and briefly outlines relevant statutory and regulatory requirements for each critical element. Generally, the Enclosure to this letter does not include descriptions of the State's systems because this information is available on the State's Web site in the State's State Performance Plan. 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.

Pennsylvania has a unique structure for administering its preschool special education program in the State. In January 2007, Pennsylvania created a new unified office for the Departments of Education and Public Welfare. The new office, the Office of Child Development and Early Learning (OCDEL), coordinates all Pennsylvania early childhood programs, including the infant/toddler and Part B preschool early intervention programs. Although OCDEL is responsible for overseeing the Part B preschool special education programs in Pennsylvania, PDE, as the State education agency (SEA), has general supervisory responsibility for all special education programs for children aged three through 21. In the attached Enclosure, we have

¹ During the week of November 29, 2010, OSEP also conducted its Part C verification visit to the Office of Child Development and Early Learning (OCDEL). OSEP is sending the Part C verification letter and enclosure to OCDEL under separate cover.

included OSEP's conclusions regarding the State's Part B preschool special education program. OSEP will provide the Department of Public Welfare a separate verification visit letter and enclosure that focuses on our review of the IDEA Part C early intervention program.

OSEP found noncompliance with, and has required corrective action, in the following areas:

(1) the State does not ensure that, in monitoring school age and preschool programs, it identifies and requires correction of all noncompliance in information available to it, regardless of the level of noncompliance, including when data in databases or other monitoring data clearly reflect noncompliance as required by IDEA sections 612(a)(11) and 616, 34 CFR §§300.149 and 300.600, and 20 U.S.C. 1232d(b)(3)(E);

(2) the State's dispute resolution procedures and practices are not consistent with IDEA requirements, specifically:

- a. the State requires use of a model form for filing State complaints, which is inconsistent with 34 CFR §300.509,
- b. the State does not resolve each alleged violation of IDEA in State complaints filed with the SEA consistent with the requirements at 34 CFR §300.152(a)(5),
- c. the State does not consistently document the date the complaint is received and issue a written decision within 60 days of the date the complaint is received (unless an extension of time is determined appropriate) consistent with the requirements at 34 CFR §300.152(a) – (b),
- d. the State did not ensure that if the reconsideration process for a State complaint is completed later than 60 days after the original filing of the complaint, implementation of any corrective actions required in the SEA's final decision is not delayed pending the reconsideration process, consistent with the requirements at 34 CFR §300.152(a) – (b),
- e. the State did not have a mechanism for tracking the resolution process required under 34 CFR §300.510 to determine when the resolution period has concluded and the 45-day hearing timeline required under 34 CFR §300.515 commences,
- f. the State's procedures for due process hearings do not ensure that hearing decisions are issued within the timelines required under 34 CFR §§300.515(a) and (c) and 300.532(c),
- g. the State does not transmit findings and decisions to the State Advisory Panel in a manner consistent with the requirements at 34 CFR §300.514(c), and
- h. the State does not ensure that if a hearing officer agrees with the child's parents that a change of placement is appropriate, the child is afforded that placement during the pendency of any administrative or judicial proceeding consistent with the requirements at 34 CFR §300.518(d).

(3) State was not meeting the requirements at 34 CFR §300.160(f) for public reporting on participation and performance in statewide assessments;

(4) the State did not accurately report data for Part B Annual Performance Report Indicator 16 (timely resolution of State complaints) and Indicator 17 (final due process hearing decisions issued within required timelines) as required by IDEA sections 616 and 618, and 34 CFR §§300.601(b) and 300.640 through 300.646;

(5) the State does not provide local educational agencies (LEAs) the full 27 month period for the obligation of funds, pursuant to 34 CFR §76.709; and

(6) the State does not distribute any section 619 funds to LEAs that provide special education and related services to those eligible children with disabilities who enroll in LEA kindergarten programs and who are five years old, consistent with IDEA sections 611(f) and 619(g) and 34 CFR §§300.705 and 300.816.

OSEP would like to recognize Pennsylvania for its initiatives and commitment of resources to improve outcomes for children with disabilities and developmental delays, birth through age five. Through the establishment of OCDEL, the State has created a seamless system of service delivery through which IDEA Part C and Part B preschool programs function in a coordinated manner to meet the needs of infants, toddlers, and children with disabilities in Pennsylvania. OCDEL's Bureau of Early Intervention Services (BEIS) has collaborated with other bureaus responsible for certification, subsidized child care, and early learning, to coordinate their efforts to ensure that the needs of these children and their families are met across these various functions. OCDEL supports 25 Early Intervention Technical Assistance (EITA) Consultants who provide State, regional and local professional development. EITA staff include family members, special education and early childhood teachers, infant/toddler specialists, speech language pathologists, a teacher of the deaf, an occupational therapist, and behavior specialists. BEIS is engaged in a number of activities to promote the integration of Infant/Toddler and Preschool Early Intervention (EI) services including monthly meetings of Infant/Toddler and Preschool EI leadership, use of similar eligibility tools, sharing of successful strategies, and the development of joint policies and training plans.

OSEP would like to recognize several additional initiatives being implemented in the State that are designed to improve results for children and youth with disabilities including: (1) PDE program advisors have frequent contact with local program staff which has created a strong focus on the provision of technical assistance and program improvement; (2) PDE has established comprehensive monitoring protocols as part of the State's system of General Supervision; (3) PDE's use of technology promotes effective practices and procedures through the State's ability to demonstrate trend data which both the State and school districts use to inform meaningful improvement activities; (4) Through careful planning and thoughtful time, the State has nearly completed the consolidation of all of its data systems into a single comprehension system called the Pennsylvania Information Management System (PIMS).

Additionally, OSEP appreciates the cooperation and assistance provided by your State staff and others, including staff from the Northeast Regional Resource Center and parents of children and youth with disabilities in providing feedback and input on the State's systems for special education. We look forward to collaborating with all stakeholders and actively working with the

State to improve results for children and youth 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, Josiah Willey, at 202-245-7350.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove", with a long horizontal flourish extending to the right.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosure

cc: John Tommasini
State Director of Special Education

Gary Alexander
Office of Childhood Development
and Early Learning