



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

JAN 24 2011

Honorable John T. Mattern
Superintendent of Schools
West Virginia Department of Education
1900 Kanawha Boulevard East, Building 6, Room B-358
Charleston, West Virginia 25305-0330

Dear Superintendent Mattern:

This letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) verification visit to the West Virginia Department of Education during the week of November 29, 2010. As indicated in our letter to you dated July 16, 2010, 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 West Virginia'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. As further detailed in that Enclosure, OSEP found noncompliance, and has required corrective action in the following areas: (1) the State's practice of routinely extending the timeline for State complaints received in November or December; (2) issuing local program determinations, as required in 34 CFR §300.600(a)(1) to all local educational agencies (LEAs); (3) ensuring that LEAs are in compliance with the requirements in 34 CFR §§300.160 and 300.320 as they apply to districtwide assessments; and (4) the State's policy of determining whether LEAs have met their maintenance of effort (MOE) obligation based only on a comparison of State and local funds on a total basis.

In its letter dated July 6, 2010, the Department granted the State's May 26, 2010 request for a waiver of its responsibility to maintain the level of State financial support for special education and related services, pursuant to 20 U.S.C. §1412(a)(18)(B) and 34 CFR §300.163(c), in the amount of \$491,580. Although the State received this waiver, the State has a continuing

¹ During the week of November 29, 2010 OSEP also conducted its Part C verification visit to the West Virginia Department of Health and Human Resources (DHHR). OSEP is sending the Part C verification letter and enclosure to DHHR under separate cover.

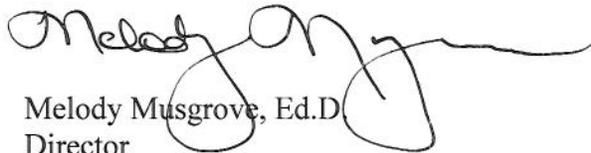
obligation to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities as required in 20 U.S.C. §1412(a)(1) and 34 CFR §300.101. In order to determine whether the State was, in fact, continuing to make FAPE available to children with disabilities, OSEP also conducted, in conjunction with the verification visit, a focused monitoring review related to the provision of FAPE. The methodology and results of that focused review are set forth in the final section of the Enclosure.

OSEP would like to recognize a number of improvement initiatives being implemented in the State that are designed to improve results for children and youth with disabilities. West Virginia is in its first full year of implementation of the Online Individualized Education Program (IEP), with full usage required by all schools in January 2011. The Online IEP is a Web-based application that teachers and related service providers use to complete the State-mandated IEP for each child with a disability. The Online IEP has edit checks and business rules in place to ensure compliance and accuracy in completion. The Online IEP requires IEP teams to write individualized goals for each child, rather than to select generic goals.

One of the goals of the West Virginia preschool program, called Universal Pre-K, is to promote equal access for students with IEPs to a quality universal pre-kindergarten program and to increase options for educating children with disabilities together with same-aged peers without disabilities. To promote inclusion of school-aged students with disabilities and increase access to the general education curriculum, the State began a Differentiated Instruction Cadre, which includes both general education and special educators and promotes teacher understanding in meeting the needs of all students in the classroom.

Additionally, OSEP appreciates the cooperation and assistance provided by your State staff and others, including staff from the West Virginia Parent Training and Information 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, Jennifer Finch, at (202) 245-6610.

Sincerely,



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

Enclosure

cc: Pat Homberg

State Director of Special Education