



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

FEB 13 2012

Honorable Roger Breed
Commissioner of Education
Nebraska Department of Education
301 Centennial Mall South
P.O. Box 94987
Lincoln, Nebraska 68509-4987

Dear Commissioner Breed:

This letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) Continuous Improvement Visit (CIV) to the Nebraska Department of Education (NDE) during the week of September 26, 2011. As indicated in our letter to you dated March 28, 2011, the visit consisted of two components: (1) the verification of State systems for implementing key requirements of the Individuals with Disabilities Education Act (IDEA); and (2) a collaborative focus on improving results.¹ The CIV is designed to ensure compliance and improve performance with Part B of the IDEA in accordance with 20 U.S.C. 1416.

The purpose of the verification component of the visit is to review the State's systems for general supervision and fiscal management. OSEP developed critical elements that were used to guide its evaluation of Nebraska's general supervision (including data) and fiscal systems. The Enclosure to this letter describes the scope of OSEP's review of the State's systems for general supervision and briefly outlines relevant statutory and regulatory requirements for each critical element.

OSEP is currently in the process of conducting a comprehensive review of States' systems for implementing the fiscal requirements of the IDEA and related statutes and regulations, through the CIVs and other mechanisms, including the desk audits that OSEP's Recovery Act Facilitators are conducting with all States. In order to provide each State with an integrated response based on its review of States' fiscal systems, OSEP will respond to the State separately to address fiscal issues and has not included a fiscal section in the Enclosure. The fiscal information gathered during the verification visit will also be addressed in that separate letter.

OSEP found noncompliance, and has required corrective action in the following areas: (1) The State must revise its model due process complaint form to be consistent with 34 CFR §300.509, must identify those requirements in Nebraska law that go beyond the requirements in 34 CFR §300.508(b), which govern the content of due process complaints, and must include language in the form advising parents that Nebraska will not refuse to process their due process complaint if the parent does not provide the additional information required in Nebraska law; (2) NDE's Office of Special Education State complaint form must be revised to be consistent with 34 CFR §300.509 and must identify those requirements in Nebraska law for the content of State

¹ During the week of September 26, 2011, OSEP also conducted its Part C CIV to the Nebraska Department of Health and Human Services.

complaints that go beyond the requirements in 34 CFR §300.153(b), which govern the content of State complaints, include language advising parties that Nebraska will not refuse to investigate and resolve their complaint if the party refuses to provide the additional information, and must specify that a State complaint may allege that a public agency, as defined in 34 CFR §300.33 as including the State educational agency and any other political subdivisions of the State that are responsible for providing education to children with disabilities has violated an applicable requirement of Part B or the Part B regulations, as incorporated into Nebraska's regulations; and (3) Nebraska's document, "Parental Rights in Special Education," revised May 2009, must be modified, as described in the enclosure to this letter, to meet all of the requirements in IDEA section 615(d)(2) and 34 CFR §300.504(c), which require a full explanation of the procedural safeguards available to the parents of a child with a disability under Part B.

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 Nebraska's State Performance Plan. OSEP's analysis of each critical element and any required actions, if noncompliance was identified during the visit, are provided in the Enclosure to this letter.

During the CIV, Nebraska also focused on improving educational results and functional outcomes for children and youth with disabilities. Prior to the visit, Nebraska participated in a process with OSEP to concentrate its efforts on developing a reentry program for students with disabilities who have dropped out of school. Nebraska, with guidance from the Superintendent of Schools and stakeholders, including participants from the Parent and Special Education Advisory Council, National Dropout and Prevention Center for Students with Disabilities, NDE staff, Nebraska Youth Leadership Council for Students with Disabilities, State two- and four-year colleges/universities, Teams from Career/Adult Education, a local school superintendent, and OSEP staff, engaged in a facilitated process to examine the data, as well as current and past efforts to improve results in the graduation/dropout area, and formulate strategies that Nebraska will employ to improve results for children with disabilities in its selected area. Nebraska is developing a plan that includes specific benchmarks for improvement, as well as timelines, resources, and measurements for the NDE to improve results. The NDE will publish this plan with updates on the State's Web site at <http://www.education.ne.gov/sped/index.html>.

OSEP appreciates the cooperation and assistance provided by your State staff and others, including staff from the Nebraska PTI, the Nebraska Protection and Advocacy office, and parents of children and youth with disabilities in providing feedback and input on the State's systems for providing educational services to children and youth with disabilities. We look forward to collaborating with all stakeholders and actively working with the State to improve results and compliance for children and youth with disabilities and their families. If you have

Page 3 – Honorable Roger Breed

any questions or wish to request technical assistance, please do not hesitate to call your OSEP State Contact, Dr. Tony G. Williams, at 202-245-7577.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a large loop at the end.

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

Enclosure

cc: Gary M. Sherman
State Director of Special Education