



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

FEB 15 2012

Honorable Hanna Skandera
Secretary of Education
Jerry Apodaca Education Building
300 Don Gaspar Avenue
Santa Fe, New Mexico 87501

Dear Secretary Skandera:

This letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) Continuous Improvement Visit (CIV) to the New Mexico Public Education Department (NMPED) during the week of October 3, 2011. As indicated in our letter to you dated March 29, 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 CIVs are 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, as well as the State's systems for improving child and family outcomes. OSEP developed critical elements that were used to guide its evaluation of NMPED'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) monitoring districtwide assessments in accordance with 34 CFR §§300.160 and 300.320(a)(6); (2) due process and State complaint model forms in accordance with 34 CFR §§300.153(b) and 300.508(b); (3) administration of due process complaints in accordance with 34 CFR §300.508; (4) alternative dispute resolution during the resolution period in accordance with 34 CFR §300.511(c); (5) due process hearing timelines and testimony in accordance with 34 CFR §§300.511, 300.512, and 300.532(c); (6) computation of timelines in accordance with 34 CFR §300.11; (7) criteria for exceptional circumstances when extending State complaint timelines in accordance with 34 CFR §300.152(b); (8) extending the 45-day due process hearing timeline in accordance with 34 CFR §300.515(c); (9) reporting actual target data in accordance with the Measurement Table; (10) determinations in accordance with 616(a) and (e), OSEP's *Questions and Answers on Monitoring, Technical Assistance and Enforcement*, and 34 CFR §300.600(a)(2).

¹ During the week of October 3, 2011, OSEP also conducted its Part C CIV to the New Mexico Department of Health.

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 its State Performance Plan. OSEP's analysis of each critical element and any required actions are provided in the Enclosure to this letter.²

During the CIV, NMPED also focused on improving educational results and functional outcomes for children and youth with disabilities. Prior to the visit NMPED participated in a process with OSEP to concentrate its efforts on least restrictive environment and reading achievement for children with disabilities. With OSEP's participation, NMPED and stakeholders, which included participants from local education agencies (LEAs), the State Advisory Panel, Parents Reaching Out and Education for Parents of Indian Children with Special Needs engaged in a facilitated process to examine the data, as well as current and past efforts to improve results in the least restrictive environment and reading achievement areas, and formulated strategies that the NMPED will employ to improve results for children with disabilities in its selected area. New Mexico is developing a plan that includes specific benchmarks for improvement, as well as timelines, resources, and measurements for NMPED to improve results. NMPED will publish this plan with updates on the State's Web site at <http://www.ped.state.nm.us/seb/>.

OSEP appreciates the cooperation and assistance provided by your State staff and others, including staff from Parents Reaching Out, Education for Parents of Indian Children with Special Needs, the New Mexico Protection and Advocacy office, and parents of children and youth with disabilities in providing feedback and input on the State's systems.

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 any questions or wish to request technical assistance, call your OSEP State Contact, Melissa Turner, at (202) 245-6415.

Sincerely,



Melody Musgrove, Ed.D.
Director

Office of Special Education Programs

Enclosure

cc: Denise Koscielniak
Director of Federal Programs

² OSEP currently is reviewing all States' submissions of data on the Part B Report on Maintenance of Effort Reduction and Coordinated Early Intervening Services (Table 8) related to LEA maintenance of effort, significant disproportionality, LEA determinations, and comprehensive early intervention services, and all States' compliance with the maintenance of State financial support requirement, and may have further communications with the State about those issues.