

August 17, 2004

Honorable Deborah Fleming
Director
Wyoming Department of Health
Hathaway Building, First Floor
2300 Capitol Avenue
Cheyenne, Wyoming 82002

Dear Dr. Fleming:

The purpose of this letter is to respond to Wyoming's April 13, 2004 submission of its Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) for the Individuals with Disabilities Education Act (IDEA) Part C funds used during the grant period July 1, 2002 through June 30, 2003. The APR reflects actual accomplishments made by the State during the reporting period, compared to established objectives. The APR for IDEA is designed to provide uniform reporting from States and result in high-quality information across States.

The APR is a significant data source utilized in the Continuous Improvement and Focused Monitoring System (CIFMS) implemented by the Office of Special Education Programs (OSEP), within the U.S. Department of Education. The APR falls within the third component of OSEP's four-part accountability strategy (i.e., supporting States in assessing their performance and compliance, and in planning, implementing, and evaluating improvement strategies) and consolidates the self-assessing and improvement planning functions of the CIFMS into one document. OSEP's Memorandum regarding the submission of Part C APRs directed States to address five cluster areas: General Supervision; Comprehensive Public Awareness and Child Find System; Family Centered Services; Early Intervention Services in Natural Environments; and Early Childhood Transition.

The State's APR should reflect the collection, analysis, and reporting of relevant data, and document data-based determinations regarding performance and compliance in each of the cluster areas. OSEP's comments are listed by cluster area.

General Supervision

In this cluster area in the FY 2002 APR, WYDH provided an analysis of noncompliance identified by the State during the FFY 2002 APR reporting period and through October 2003 (pages five through eight). The State based its information on file reviews conducted on 20% (66) of files in seven of fourteen regional programs during on-site visits. The State found that no findings were determined to be systemic across regions. To enhance the State's oversight, Wyoming conducted an electronic data analysis of 1,660 IFSPs for the period 2000 through 2002 (page 18, and throughout the APR). OSEP

looks forward to reviewing further data regarding the State's correction of State identified noncompliance in the next APR.

On page 2 of the FFY 2002 APR, the State also reported that it received and resolved one complaint with the implementation of corrective action, and that no requests for due process hearings or mediation were received.

Verification visit

OSEP visited Wyoming the week of October 27, 2003 to verify the effectiveness of the State's systems for general supervision and data collection under Section 618 of IDEA. In OSEP's February 23, 2004 letter to WYDH regarding the verification visit to the State, OSEP found that WYDH did not have a list of trained mediators, as required by 34 CFR §303.419(b)(1)(iii) and (b)(2), or trained impartial person(s), as required by 34 CFR §303.421, to conduct due process proceedings. OSEP requested that WYDH submit its strategies and timelines in the FFY 2002 APR to obtain and make available qualified, trained mediators and hearing officers, within a reasonable timeframe not to exceed one year from OSEP's acceptance of the strategies. On page four of the APR, the State reported that it trained mediators and hearing officers on April 20 and 21, 2004 and would distribute the names of those individuals to regional providers by June 30, 2004. Wyoming also included the names of six mediators and hearing officers on page three of the APR. OSEP accepts the State's strategies to obtain and make available qualified, trained mediators and hearing officers. The State does not need to submit further progress reports regarding this issue, except the State must report in the next APR whether the list of qualified, trained mediators and hearing officers that was to be distributed by June 30, 2004 was indeed made available by June 30, 2004, and is available on an ongoing basis as required by the Part C regulations, to the regional providers.

In the February 2004 letter to WYDH regarding the State's 2001 APR, OSEP requested that the State provide updates on the State's Comprehensive System of Personnel Development (CSPD). On page 11 of the FFY 2002 APR, the State reported that it will continue to provide training and post graduate opportunities for staff and parents through its CSPD. In OSEP's February 2004 letter regarding its verification visit, OSEP requested that WYDH report in the FFY 2002 APR regarding its discussions with the State Education Agency relative to interagency collaboration for child find and early childhood transition. On page four of the FFY 2002 APR, WYDH reported that it intended to work with the State Education Agency to revise its current interagency agreement in 2004.

During OSEP's verification visit, OSEP found that WYDH could not demonstrate that it had a system in place for collecting and reporting data from regional early intervention programs that ensures the accuracy of the data that WYDH reports to OSEP under section 618 of IDEA. OSEP requested that WYDH submit a plan in the FFY 2002 APR to: (1) provide ongoing training to regional programs regarding requirements and procedures for reporting data under section 618 of IDEA; (2) ensure individuals accurately enter and

report data; and, (3) implement procedures for identifying anomalies in data that are reported and correcting any inaccuracies. On pages 12-13 of the APR, WYDH outlined its activities and timelines for ensuring that data that WYDH reported to OSEP under section 618 were accurate. The plan included: (1) adding software edits in WYDH's data base (by December 1, 2004); (2) holding technical assistance calls to all regional staff regarding requirements for reporting data under section 618 (by June 30, 2004); (3) providing ongoing assistance to regional staff concerning data requirements; (4) setting out a yearly schedule to verify and resolve data discrepancies (by January 15 and June 15 of each year). OSEP accepts WYDH's plan for ensuring accurate data, and looks forward to accurate reporting in the 618 data report.

In the next APR, the State must continue to report on its strategies to ensure compliance and performance in this cluster area.

Comprehensive Public Awareness and Child Find System

In this cluster area in the FFY 2002 APR, the State did not report that any systemic issues were found during the APR reporting period (pages 14-18).

In OSEP's February 2004 letter regarding the State's FFY 2001 APR, OSEP indicated that the State must change the goal it had regarding the number of infants and toddlers with disabilities of certain racial or ethnic backgrounds who will be identified as eligible for services under Part C. In its FFY 2002 APR, the State did not include similar goals based on racial or ethnic backgrounds, and the State reported that its monitoring visits have determined that families have access to culturally competent services and that practices, policies and procedures ensure traditionally underserved groups are not being excluded from the early intervention system (page 17).

Although the State has deleted, consistent with Federal law, the prior goals which were based on racial or ethnic backgrounds, page 19 of the State's FFY 2002 APR contains a general numerical goal regarding the number of children identified by Part C by stating that "[t]he percentage of eligible infants and toddlers receiving Part C services will remain comparable to State and national demographic data for the percentage of infants and toddlers with developmental delays." While it is not inconsistent with Part C of the IDEA to include a numerical goal regarding the percentages of infants and toddlers with disabilities determined eligible for services, the State must continue to monitor to ensure that eligibility decisions for all infants and toddlers are made in conformity with the individual evaluation and assessment requirements of Part C of IDEA (at 34 CFR §§303.320 through 303.323) and not based upon a numerical goal.

On pages 19-20 of the APR, the State outlined a number of activities and timelines to strengthen its child find and public awareness system, such as continuing to monitor referral sources, providing technical assistance on evaluation and assessment practices, and collecting State-wide data on how families and others first learn about early intervention.

In the next APR, the State must continue to report on its strategies to ensure compliance and performance in this cluster area.

Family-Centered Services

In this cluster area in the FFY 2002 APR, the State did not report that any systemic issues were identified during the APR reporting period. The State reported that its electronic review of 1,660 IFSPs between December 1, 2000 and December 1, 2002, revealed that families were voluntarily providing information relating to their concerns, priorities and resources and this information was listed in IFSPs. In file reviews conducted between January 2003 and July 2003 in four regions, 100% of the IFSPs contained family's resources, priorities and concerns. In addition, results of family surveys conducted between January 2003 and July 2003, showed a high rate of satisfaction with supports and services provided to families to enhance their child's development (page 29).

In the next APR, the State must continue to report on its strategies to ensure compliance and performance in this cluster area.

Early Intervention Services in Natural Environments

In this cluster area in the FFY 2002 APR, the State did not report that any systemic issues were identified during the APR reporting period. The State presented data from 1,660 IFSPs (for the period 2000-2002) that demonstrated all IFSPs listed a service coordinator for each child and family (page 33). Additional analysis showed the ratio of service coordinators per child served in each region. Because two regions had a higher ratio of child per service coordinator than in other regions, the State worked with the staff in these two regions to reduce the number of children assigned to each service coordinator. The State also reported that, by June 30, 2004, it planned to collect baseline data from two of the 14 regional programs documenting ongoing service coordination (page 34). The information provided in the APR indicates that the State is monitoring for timely, multidisciplinary evaluation and service delivery issues, and the State did not report that any systemic issues were found in those areas (page five and pages 35-52).

On pages 39-41 of the APR, WYDH reported data regarding services provided in natural environments.¹ Eighty-one percent (81%) of children received services primarily in the home, fourteen percent (14%) in programs for typically developing children. In the State's analysis of IFSPs reviewed from December 2000 – 2002, the State found that in 2002, three IFSPs did not contain an appropriate justification for why services could not be provided in a natural environment. For those cases, the Regional program was notified and corrective actions were taken.

¹ On page 40 of the FFY 2002 APR, the State included the following two targets: (1) 100% of Children are receiving services primarily in natural environments, and (2) 100% of Children have IFSPs that justify why services are not provided in natural environments. OSEP assumes that the State intended for the target to say "100% of Children are receiving services primarily in natural environments, or have IFSPs that justify why services are not provided in natural environments."

The Part C FFY 2001 and FFY 2002 APRs requested data on the percentage of children participating in the Part C program that demonstrated improved and sustained functional abilities (in the developmental areas listed in 34 CFR §303.322(c)(3)(ii)). The State provided the following information on page 42 of the FFY 2002 APR: By June 30, 2004, baseline data for two of fourteen regions would be established denoting children's sustained and functional abilities and the State's IFSP form would be annotated to include parent's ratings of accomplishment of child outcomes. Please provide to OSEP in the next APR (for FFY 2003 due on March 31, 2005) responsive data (whether collected through sampling, monitoring, individual IFSP review, or other methods) that demonstrate how children participating in the Part C program demonstrate improved and sustained functional abilities in the five developmental areas.

Early Childhood Transition

In this cluster area in the FFY 2002 APR, the State did not report that any systemic issues were identified during the APR reporting period. However, because the State noted a slight increase in numbers of children exiting services without a referral to another program (other than preschool special education) particularly in "frontier communities" (between July 1, 2000 and June 30, 2003), the State reported that it intended to create a digest of appropriate community services for home programming for children who reside in the frontier communities (page 48).

In the next APR, the State must continue to report on its strategies to ensure compliance and performance in this cluster area.

Conclusion

It is OSEP's expectation that, in reporting in its next APR, WYDH will collect, analyze and report to OSEP relevant data, and make data-based determinations regarding the current status and future activities of the five APR cluster areas.

OSEP recognizes that the APR and its related activities represent only a portion of the work in your State and we look forward to collaborating with you as you continue to improve results for infants and toddlers with disabilities and their families. If you have questions, please contact Sheryl Parkhurst at (202) 245-7472.

Sincerely,

/s/Patricia J. Guard for

Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Sheldon Skelcher
Acting Part C Coordinator