

DMS REPORT

DIFFERENTIATED MONITORING AND SUPPORT OFFICE OF SPECIAL EDUCATION PROGRAMS U.S. DEPARTMENT OF EDUCATION

STATE **HAWAII**

DATE JULY 18, 2019

IDEA Part C

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

July 18, 2019

Honorable Bruce S. Anderson, Ph.D.
Director of Health
Hawaii Department of Health
1250 Punchbowl Street
Honolulu, Hawaii 96813

Dear Director Anderson:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) on-site visit to the Hawaii Department of Health (HDOH) on January 11, 2019. OSEP's visit focused on the HDOH's system for ensuring timely provision of services and its correction of longstanding noncompliance, as required by the Individuals with Disabilities Education Act (IDEA).

OSEP conducted planning calls on November 2 and 29, 2018, with Charlene Robles and Stacy Kong and technical assistance providers.

During the visit the HDOH shared the factors that are impacting the State's data, the activities HDOH is utilizing to address timely provision of services across all early intervention programs, and the ways in which OSEP and/or OSEP-funded technical assistance resources can support the State. HDOH shared how it identifies and corrects noncompliance, including the verification of correction. The State also provided updates regarding the work that has occurred since the April 2018 State Systemic Improvement Plan (SSIP) submission.

The enclosure contains: 1) the background; 2) a summary of the compliance discussion; 3) OSEP's conclusion, and 4) next steps and required actions. If OSEP identified findings of noncompliance with the IDEA requirements, you will find specific details pertaining to the findings of noncompliance, along with the respective citation(s); and the corrective actions required to address the identified findings.

If you have any questions, please contact Jennifer Barrett-Zitkus, your OSEP State Lead, at 202-245-8417. We appreciate your efforts to improve results for infants and toddlers with disabilities and their families.

Sincerely,

/s/

Laurie VanderPloeg

Director

Office of Special Education Programs

Enclosure
cc: Part C Coordinator

ENCLOSURE

Background

OSEP has a Differentiated Monitoring and Support (DMS) system as a component of Results Driven Accountability to improve results for children with disabilities under the Individuals with Disabilities Education Act (IDEA). DMS is designed to help the Department identify potential grantee risk and to assist OSEP in effectively using its resources to monitor State grantees as they implement the IDEA in their States. DMS addresses State-specific and Entity¹-specific needs in the areas of results, compliance, State Systemic Improvement Plan (SSIP), and fiscal by differentiating levels and types of monitoring and support based on each State's and Entity's unique strengths, progress, and challenges in each area.

During the 2019 DMS Visit to Hawaii, OSEP examined the State's compliance systems under Part C of the IDEA with a focus on the State's implementation of the IDEA Part C requirement to timely service provision to infants and toddlers with disabilities and their families. OSEP met with staff from the Hawaii Department of Health (HDOH), the State lead agency responsible for implementing the IDEA Part C early intervention program in Hawaii and conducted the following activities by:

- Reviewing the State's systems for collecting and reporting its IDEA Part C data submitted for selected indicators in the State's Federal fiscal year (FFY) 2016 State Performance Plan/Annual Performance Report (SPP/APR).
- Reviewing the following additional documents:
 - Previous years' IDEA Part C APRs,
 - The State's FFY 2018 IDEA Part C Application,
 - The State's website for its IDEA Part C Early Intervention Program, and
 - Other pertinent information related to the State's IDEA Part C systems provided by the State
- Gathering additional information through surveys, focus groups or interviews with the following State staff:
 - Danette Wong Tomiyasu, HDOH Deputy Director, Health Resources Administration,

¹ States include each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico and Entities include freely associated States, outlying areas, and the Bureau of Indian Education.

- Matthew Shim, HDOH Family Health Services Division Chief,
- Charlene Robles, HDOH's IDEA Part C Coordinator, and
- State personnel responsible for implementing compliance systems including:
 - Stacy Kong, System Improvement Unit Supervisor;
 - Clayton Takemoto, Care Coordination/Social Work Unit Supervisor;
 - Carrie Pisciotto, Developmental Services Unit Supervisor; and
 - Mae Bracerros, Contacts Unit Supervisor

During the visit, OSEP did not examine the areas of results, the SSIP or fiscal requirements since HDOH's level of engagement for each of these areas was universal; however, OSEP will continue to work with the State in these areas during regular phone calls and virtual engagement, and provide universal technical assistance (TA) through National TA calls, webinars and documents posted on our websites.

Compliance with Timely Service Provision and Correction of Noncompliance

OSEP focused its review on HDOH's compliance with the Part C requirements to ensure that all early intervention services identified on the individualized family service plan (IFSP) were provided in a timely manner to infants and toddlers with disabilities and their families as required by 34 CFR §§ 303.340(c), 303.342(e), and 303.344. In addition, OSEP reviewed how the State corrects noncompliance in a timely manner and monitors the implementation of Part C of the IDEA by early intervention service (EIS) programs/providers as required by IDEA sections 616, 635(a)(10)(A), and 642, 34 CFR §§ 303.500 and 303.501.

To explore the potential causes for the noncompliance in these areas, OSEP met with representatives of the State and OSEP-funded technical assistance (TA) centers to discuss the factors impacting the State's data and the ways in which OSEP and/or OSEP-funded TA resources can support the State. OSEP's visit with HDOH began with a brief overview of State initiatives and activities, followed by a focused discussion on timely service provision and the correction of long-standing noncompliance.

Timely Service Provision

In reviewing HDOH's FFY 2016 SPP/APR data for Timely Service Provision (Part C Indicator 1)² of 57.69% (submitted in February 2018), OSEP noted that the FFY 2016

² Indicator 1 of the IDEA Part C SPP/APR measures the "Percent of infants and toddlers with IFSPs who receive the early intervention services on their IFSPs in a timely manner" (referred to as timely service provision).

data reflected slippage from the State's FFY 2015 SPP/APR data of 67.14% (submitted in February 2017). The low level of compliance combined with a subsequent year of even lower compliance raised significant concerns about the State's ability to implement these core IDEA Part C requirements to provide IDEA Part C services in a timely manner to infants and toddlers with disabilities and their families.

Hawaii defines timely service provision as each IFSP service provided "within 30 days from the date of parental consent for the IFSP services." The State's timely service provision requirement is in Section XII (f) of Hawaii's IDEA Part C Early Intervention Policies and Procedures, dated June 22, 2015.

HDOH shared its process for monitoring timely service provision. Specifically, the State reported that it selects a sample of records for on-site monitoring from EIS programs across all 18 Part C programs. To ensure a random selection of children for review with the Self-Assessment Monitoring (SAM Tool), HDOH uses following criteria:

- Names of all children with an Initial, Review, or Annual IFSP between July and March of the reporting period are obtained by HDOH from each program.
- HDOH identifies and reviews records for 10% of children at each program based on the December 1 child count, or a minimum of fifteen (15) children, unless there was an insufficient number of children who met the above criteria. If there was an insufficient number of children, all were chosen to ensure that the monitoring was as comprehensive as possible.
- An Initial, Review, or Annual IFSP for each selected child is reviewed to determine if new services added to the IFSP are provided timely. If a Review or Annual IFSP is selected and no new services had been added, N/A is noted for this indicator.

The SAM Tool is completed for each child selected using the specified IFSP (Initial, Review, Annual), following the guidelines developed by HDOH to determine if services were timely and consistent with the definition for timely services. For each service, the following documentation is required to confirm the service was both provided and timely:

- If the service is provided by the EIS provider providing Care Coordination³ (CC), documentation must be included in anecdotal notes in the child's official record.
- If the service is provided by an EIS provider not providing CC, the EIS provider must verbally inform the CC of the date services were initiated or provide copy.

³ HDOH uses Care Coordinator (CC) and Service Coordinator interchangeably.

- If the service is provided by a contracted fee-for-service provider, documentation must be provided via the required Service Log developed by HDOH or through a copy of the EIS provider note developed by the HDOH.
- EIS providers must use the “Late Reason” document provided by the HDOH to document family and program reasons for untimely service provision.
- If the service is not timely due to an exceptional family reason, HDOH requires confirmation of the family reason via a documented anecdotal note in the child’s official record (e.g., child was sick; family on vacation).
- If the service is late and there is no documentation of an exceptional family reason (only a date of when the service occurred), it is considered an EIS program reason and therefore does not meet the definition of timely services.
- If there is no documentation that the service was provided, it is considered a program reason and therefore does meet the definition of timely services.

HDOH reported that EIS programs and providers are trained on the requirements for timely service provision, including the policies and procedures that are in place to ensure parents understand the requirements of the timely services provision. These policies and procedures include:

- All EIS providers participate in a Mandatory Early Intervention (EI) orientation that includes training on the timely service provision requirement, including Hawaii’s definition that EI services will begin within 30 days from the date of parental consent (of IFSP services).
- Role and Responsibility of CC:
 - Informs the family of their rights and the procedural safeguards, including that the service cannot start later than 30 days from the date of parental consent.
 - Informs the family of the anticipated date that services will begin and, in any case where a service provider is not available due to provider shortages, informs the family of the possible delay and the plan that is in place to ensure that services will be provided.
 - Explains the contents of the IFSP to the family and documents the discussion in the IFSP notes.
 - Documents service provision in accordance to instructions and documentation guidelines, using the State documentation forms.
 - Documents the provider’s attempts to schedule a visit and reasons for delays using the “Late Reason” document.
 - Maintains all documentation in the child’s official record.

The State staff identified that personnel and provider shortages are the largest contributing factor to the timely service provision noncompliance across programs. HDOH reported that due to vacancies and provider shortages there is an increase in caseloads, creating full schedules which in turn creates challenges in scheduling home visits. Additionally, staff shortages impact accurate and timely documentation; when there are higher caseloads HDOH finds EIS programs are more likely to have late or incomplete documentation of service delivery.

Correction of Noncompliance

HDOH staff also shared its process of verifying EIS program or provider correction of findings of noncompliance as well as barriers to achieving compliance.

- The EIS program must demonstrate three months of 100% compliance in order to verify correction of longstanding noncompliance. HDOH reported their data analysis points to staff vacancies as a major barrier and that some program managers are providing direct services, which limits their ability to complete corrective action plans (CAPs).
- Programs identified with noncompliance are issued a CAP that requires correction of noncompliance as soon as possible, but no later than one year. Programs with identified noncompliance are required to complete a worksheet from the Self-Assessment Monitoring (SAM) tool for every child who had an initial IFSP, 6-month review, or annual IFSP.
- Immediate corrections for individual child-specific noncompliance are due within two weeks of the on-site monitoring date. Program Managers submit documentation that the service was delivered to the Lead Monitor. A finding is issued and then the State verifies the correction of systemic noncompliance via the CAP process.
- To demonstrate correction of noncompliance, EIS programs are required to submit data on a monthly basis. To demonstrate full correction, consistent with OSEP Memorandum 09-02, programs must submit a specified number of child records based on a program’s compliance levels:

95 – 100% level of compliance requires the EIS program to submit 1 month of data that shows 100% with a minimum of 2 records total

90 – 94% level of compliance requires the EIS program to submit 1 month of data that shows 100% with a minimum of 4 records total

80 – 89% level of compliance requires the EIS program to submit 2 months of data that show 100% with a minimum of 6 records total

- 70 – 79%** level of compliance requires the EIS program to submit 2 consecutive months of data that show 100% with a minimum of 8 records total
- Under 70%** level of compliance requires the EIS program to submit 3 consecutive months of data that show 100% with a minimum of 10 records total

As part of the verification process, the EIS Program Manager ensures that the service occurred by reviewing the required documentation (records or IFSPs), as specified by HDOH. HDOH verifies the data submitted by the EIS Program and ensures that the program submits the required evidence of correction documentation based on the percentage of noncompliance.

HDOH reports that EIS programs continue to have difficulty correcting longstanding noncompliance. Again, HDOH shared that staff vacancies and provider shortages directly impact the correction of noncompliance. Where such vacancies and shortages exist, staff primarily responsible for data collection and monitoring must also provide direct services in the field, which results in incomplete documentation, errors, and delays in closing out longstanding noncompliance.

State Actions to Address Areas of Noncompliance

HDOH described activities the State has put in place to address the challenges in providing timely provision of services and correction of longstanding noncompliance, including increased efforts to attract, recruit, and retain providers and EIS staff, as well as implementing strategies to optimize time the providers currently have available.

- HDOH conducted a rate and salary study, which they used to justify a supplemental budget in 2019. The budget was passed and HDOH was able to increase all service provider reimbursement rates, all program administrative support staff salaries, and mandatory training rates. The supplemental budget also provided increased support for operational costs. As a result of these efforts, HDOH has seen an increase in retention.
- HDOH is exploring the use of telepractice, a priority for the Governor, in hopes of reaching underserved population in the State. Telepractice, also referred to as telehealth, is the provision of services via videoconferencing. HDOH has contracted with an agency to provide telepractice services and is planning to pilot the use of this practice with an EIS program currently experiencing a higher number of vacancies. HDOH is also collaborating with other States that utilize telepractice.
- HDOH shared that it is implementing the primary service provider (PSP) approach to Teaming and Coaching Model in natural learning environment. In the PSP approach, the team assigns one member of a multidisciplinary team as the primary service provider and he or she will receive coaching from other team members to support the primary service

provider's work with parents and other primary caregivers. HDOH provides a three-part webinar to all EIS providers and identified four demonstration sites to pilot the PSP approach.

- HDOH provided family handouts to support their understanding of the PSP approach. HDOH reported that three of the four pilot sites have experienced improvement in timely service provision.
- HDOH has invested in a new web-based data system and, at the time of OSEP's visit, they were finalizing the contract. They shared that this data system will provide one electronic record accessible to all EIS providers and real-time information for every child referred, including electronic IFSPs. In addition, HDOH reported the data system will provide for scheduling, task management, and tracking capabilities for real time monitoring.

Other Resources

The State staff also noted that HDOH is working with the following OSEP-funded TA centers:

- Early Childhood Technical Assistance Center (ECTA)
- The Center for IDEA Early Childhood Data Systems (DaSy)
- National Center for Systemic Improvement (NCSI)
- Early Childhood Personnel Center (ECPC). HDOH has recently been selected for intensive TA with ECPC. The TA will focus on the development and implementation of an integrated, comprehensive system of personnel development (CSPD)

OSEP Conclusion

Based on the review of documents, analysis of data, interviews with staff responsible for the State's system for collecting and reporting data submitted for Indicator 1 in the State's FFY 2016 SPP/APR, and information provided by the State, OSEP determined that the State does not have sufficient procedures in place to ensure that all early intervention services identified on the IFSP are provided in a timely manner to infants and toddlers with disabilities and their families, as required by 34 CFR §§ 303.340(c), 303.342(e), and 303.344.

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes that the State's systems for general supervision are not reasonably designed to correct noncompliance in a timely manner and to effectively monitor the implementation of Part C of the IDEA by EIS programs/providers. IDEA requires in sections

616, 635(a)(10)(A), and 642, 34 CFR §§ 303.500 and 303.501, that the State must have a general supervision system that corrects noncompliance in a timely manner.

In addition, as noted in OSEP Memorandum 09-02, Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the Individuals with Disabilities Education Act, dated October 17, 2008 (OSEP Memo 09-02), in order to verify that previously identified noncompliance has been corrected, the State must verify that the EIS program and/or provider:

- 1) is correctly implementing the specific regulatory requirements (i.e. achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and
- 2) has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the EIS program and/or provider.

Updates on Actions and Data Since OSEP's Visit

As noted above, the State is working closely with OSEP-funded TA Centers and is implementing activities to address the barriers and challenges contributing to the low performance on Indicator 1, the timely service provision and correction of long-standing noncompliance. OSEP believes the activities to be reasonable to address the areas of noncompliance. HDOH staff reported that preliminary data showed an increase from 57.67 % in FFY 2016 to 73% in FFY 2017 (data submitted to OSEP in February 2019 for Indicator 1 of the SPP/APR).

Required Actions/Next Steps

- 1) Within 90 days from the date of this letter, HDOH must provide documentation of its proposed corrective action plan, including its timeline to adopt final policies and procedures to ensure that all early intervention services identified on the IFSP are provided in a timely manner to infants and toddlers with disabilities and their families as required by 34 CFR §§ 303.340(c), 303.342(e), and 303.344.
- 2) Within 90 days from the date of this letter, HDOH must provide documentation of its proposed corrective action plan, including its timeline to adopt final policies and procedures for general supervision that are reasonably designed to correct noncompliance in a timely manner and to effectively monitor the implementation of Part C of the IDEA by EIS programs/providers as required by IDEA sections 616, 635(a)(10)(A), and 642, and 34 CFR §§ 303.500 and 303.501. Such policies and procedures must incorporate OSEP Memo 09-02 to verify that previously-identified noncompliance has been

corrected. Under OSEP Memo 09-02, the State must verify that each EIS program and/or provider:

- a. is correctly implementing the specific regulatory requirements (i.e. achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and
 - b. has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the EIS program and/or provider.
- 3) Within 90 days from the date of this letter and with its FFY 2018 SPP/APR due on February 1, 2020, HDOH must provide an update on the activities it has implemented to ensure timely service provision and correction of longstanding noncompliance.

These updates are to include reporting on the status of:

- a. the implementation of the State's new data system
- b. the State's provider recruitment and retention efforts
- c. the work plan with any OSEP-funded TA center that is providing support related to compliance with timely service provision and correction of noncompliance.

DMS NOTICE

Results | Level of Engagement: *Universal*

| Factors | Existing/Current Engagement |
|--|---|
| <ul style="list-style-type: none"> Factors are only listed when the level of engagement is targeted or intensive. | OSEP continues to make information and technical assistance (TA) resources available and provide universal support to all States. |

New Engagement

OSEP will provide universal support to improve data quality and child performance outcomes related to positive social relationships, skills and knowledge.

Fiscal | Level of Engagement: *Universal*

| Factors | Existing/Current Engagement |
|--|--|
| <ul style="list-style-type: none"> Factors are only listed when the level of engagement is targeted or intensive. | OSEP continues to make information and TA resources available and provide universal support to all States. |

New Engagement

OSEP will provide the State with universal support related to Part C fiscal requirements.

Compliance | Level of Engagement: *Intensive*

| Factors | Existing/Current Engagement |
|--|--|
| <ul style="list-style-type: none"> Indicator 1: Timely service provision 57.69% | OSEP continues to make information and TA resources available and provide universal support to all States. |

New Engagement

OSEP will gather additional information to determine the scope of engagement necessary to assist the State in improving IDEA compliance. This may include working collaboratively with the State and OSEP-funded technical assistance centers, working with the State to conduct a root cause analysis of the factors that contributed to low compliance, and /or additional OSEP monitoring.

SSIP | Level of Engagement: *Universal*

| Factors | Existing/Current Engagement |
|--|--|
| <ul style="list-style-type: none"> Factors are only listed when the level of engagement is targeted or intensive. | OSEP continues to make information and TA resources available and provide universal support to all States. |

New Engagement

OSEP will provide universal support related to the State’s SSIP.