



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

DIRECTOR

November 21, 2023

By Email

Honorable Michael Rice, Ph.D.  
State Superintendent  
Michigan Department of Education  
608 West Allegan Street  
P.O. Box 30008  
Lansing, Michigan 48909  
Email: RiceM6@Michigan.gov

Dear Superintendent Rice:

The purpose of this letter is to provide an update on the status of the findings and corrective actions identified by the U.S. Department of Education's (the Department) Office of Special Education Programs (OSEP) reported in the Differentiated Monitoring and Support (DMS) monitoring report to the Michigan Department of Education (MDE) dated January 12, 2023.

This letter is in response to MDE's April 11, 2023, email to OSEP to address the corrective actions noted in the January 12, 2023, DMS monitoring report. These findings and corrective actions were identified as a result of the DMS activities conducted by OSEP during its on-site monitoring visit on May 9 -11, 2022 and virtual engagement May 16 -17, 2022.

The summary of monitoring priorities and outcomes chart, included in this letter, describes the monitoring component, finding, required actions, OSEP analysis, and status of finding(s) based on the evidence received by OSEP to date.

We appreciate your efforts to ensure compliance and improve results for children with disabilities. If you have any questions, please contact your OSEP State Lead.

Sincerely,

Valerie C. Williams  
Director  
Office of Special Education Programs

cc: Part C Coordinator

**SUMMARY OF MONITORING FINDINGS AND STATUS**

<b>MONITORING COMPONENT &amp; FINDING</b>	<b>REQUIRED ACTIONS</b>	<b>OSEP ANALYSIS AND COMMENTS</b>	<b>NEXT STEPS/STATUS</b>
<p><b>Monitoring and Improvement</b></p> <p>1.1 OSEP finds that MDE does not have a general supervision system that is reasonably designed to monitor the provision of IDEA Part C services as required under 34 C.F.R. §§ 303.120, 303.342(e), 303.344(d) and 303.700 through 303.702.</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <p>1. Updated policies and procedures documenting its process for monitoring or otherwise providing oversight of the provision of early intervention services consistent with the IDEA Part C IFSP requirements in 34 C.F.R. § 303.344(d). This oversight should include the collection of information related to the length, duration, frequency, intensity, and method of early intervention services in MDE’s local service areas.</p>	<p>On April 11, 2023, the State submitted a Corrective Action Plan (CAP).</p> <p>In the CAP, the State indicated it is working on its policies and procedures. As of October 16, 2023, the policies and procedures have not been submitted.</p>	<p><b>OPEN</b></p>
<p><b>Monitoring and Improvement</b></p> <p>1.1 OSEP finds that MDE does not have a general supervision system that is reasonably designed to monitor the provision of IDEA Part C services as required under 34 C.F.R. §§ 303.120, 303.342(e), 303.344(d) and 303.700 through</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <p>2. Evidence of any system updates and/or monitoring protocols that it has developed to provide oversight of IFSP</p>	<p>On April 11, 2023, the State submitted a CAP.</p> <p>In the CAP, the State indicated it is working on its monitoring protocols and system updates to provide oversight of the IFSP implementation and provision of early intervention services. As of October 16, 2023,</p>	<p><b>OPEN</b></p>

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MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/STATUS
303.702.	implementation and provision of early intervention services.	the monitoring protocols and system updates have not been submitted.	
<p><b>Monitoring and Improvement</b></p> <p>1.1 OSEP finds that MDE does not have a general supervision system that is reasonably designed to monitor the provision of IDEA Part C services as required under 34 C.F.R. §§ 303.120, 303.342(e), 303.344(d) and 303.700 through 303.702.</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <p>3. A timeline for monitoring or other oversight activities.</p>	<p>On April 11, 2023, the State submitted a Corrective Action Plan (CAP).</p> <p>In the CAP, the State indicated it is working on its policies and procedures documenting timelines for monitoring and other oversight activities. As of October 16, 2023, the policies and procedures have not been submitted.</p>	<b>OPEN</b>
<p><b>Monitoring and Improvement</b></p> <p>1.1 OSEP finds that MDE does not have a general supervision system that is reasonably designed to monitor the provision of IDEA Part C services as required under 34 C.F.R. §§ 303.120, 303.342(e), 303.344(d) and 303.700 through 303.702.</p>	<p><b>Evidence of Implementation</b>—as soon as possible, but no later than one year from the date of the DMS monitoring report:</p> <p>1. Actual monitoring reports or data demonstrating that MDE has implemented its revised policies and procedures and provided monitoring or other oversight of the requirements in 34 C.F.R. §§ 303.120, 303.342(e), and 303.344(d).</p>		<b>OPEN</b>
<p><b>Fiscal</b></p> <p>2.1 OSEP finds that the State does not</p>	<p><b>Corrective Action Plan</b>—within 90 days of the date of the DMS</p>	<p>On April 11, 2023, the State submitted a CAP.</p>	<b>OPEN</b>

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<p>conduct fiscal monitoring as required under 34 C.F.R. § 303.120(a)(1) for two areas: payor of last resort (POLR) requirements in 34 C.F.R. §§ 303.500 and 303.510 and system of payment requirements in 34 C.F.R. §§ 303.520 and 303.521. In addition, OSEP finds that the State does not consistently implement its Statewide system of payment (SOP) to ensure that IDEA Part C funds are not used for services that would have been otherwise paid for from another public or private source in its local service areas as required under the POLR requirements in 34 C.F.R. § 303.510.</p>	<p>monitoring report the State must submit:</p> <ol style="list-style-type: none"> <li>1. A corrective action plan that includes timelines for implementation of activities related to ensuring that MDE’s system of payments is implemented consistently in all regions of the State incorporating IDEA Part C POLR requirements.</li> </ol>	<p>OSEP has determined that the CAP is insufficient, specific to the fiscal management component. MDE did not provide documentation to support how the State proposed activities will ensure consistent implementation of MDE’s system of payments consistently in all regions on the State. OSEP will meet with the State to discuss the areas of the CAP that need more information related to the fiscal component.</p>	
<p><b>Fiscal</b></p> <p>2.1 OSEP finds that the State does not conduct fiscal monitoring as required under 34 C.F.R § 303.120(a)(1) for two areas: payor of last resort (POLR) requirements in</p>	<p><b>Corrective Action Plan</b>—within 90 days of the date of the DMS monitoring report the State must submit a CAP that must include timelines and a list of supporting documentation that will be</p>	<p>On April 11, 2023, the State submitted a CAP.</p> <p>OSEP has determined that the CAP is insufficient, specific to the fiscal management component. MDE did not provide documentation to support implementation of monitoring and other oversight of IDEA</p>	<p><b>OPEN</b></p>

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<p>34 C.F.R. §§ 303.500 and 303.510 and system of payment requirements in 34 C.F.R. §§ 303.520 and 303.521. In addition, OSEP finds that the State does not consistently implement its Statewide system of payment (SOP) to ensure that IDEA Part C funds are not used for services that would have been otherwise paid for from another public or private source in its local service areas as required under the POLR requirements in 34 C.F.R. § 303.510.</p>	<p>submitted to OSEP, including documentation related to:</p> <p><b>a.</b> Monitoring and other oversight of IDEA requirements such as Statewide implementation of its system of payments and POLR policies.</p>	<p>requirements such as Statewide implementation of its system of payments and POLR policies. OSEP will meet with the State to discuss the areas of the CAP that need more information related to the fiscal component.</p>	
<p><b>Fiscal</b></p> <p>2.1 OSEP finds that the State does not conduct fiscal monitoring as required under 34 C.F.R. § 303.120(a)(1) for two areas: payor of last resort (POLR) requirements in 34 C.F.R. §§ 303.500 and 303.510 and system of payment requirements in 34 C.F.R. §§ 303.520 and 303.521. In addition, OSEP finds that the State does not consistently</p>	<p><b>Corrective Action Plan</b>—within 90 days of the date of the DMS monitoring report the State must submit a CAP that must include timelines and a list of supporting documentation that will be submitted to OSEP, including documentation related to:</p> <p><b>b.</b> Submit with its FFY 2023 grant application to OSEP under Section II.A.3.a. its method with its Medicaid agency.</p>	<p>On April 11, 2023, the State submitted documentation of their CAP with timelines for implementation.</p> <p>OSEP issued a memorandum to the State on May 19, 2023, and found that the interagency agreement, submitted under the State’s FFY 2023 grant application, Section II.A.3.b (Method), is incomplete due to the issues identified in an attached checklist. OSEP cannot approve the interagency agreement until the State submits a revised, signed agreement that meets the</p>	<p><b>OPEN</b></p>

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implement its Statewide system of payment (SOP) to ensure that IDEA Part C funds are not used for services that would have been otherwise paid for from another public or private source in its local service areas as required under the POLR requirements in 34 C.F.R. § 303.510.		requirements under Section II.A.3.b.	
<p><b>Fiscal</b></p> <p>2.1 OSEP finds that the State does not conduct fiscal monitoring as required under 34 C.F.R § 303.120(a)(1) for two areas: payor of last resort (POLR) requirements in 34 C.F.R. §§ 303.500 and 303.510 and system of payment requirements in 34 C.F.R. §§ 303.520 and 303.521. In addition, OSEP finds that the State does not consistently implement its Statewide system of payment (SOP) to ensure that IDEA Part C funds are not used for services that would have been otherwise paid for from another</p>	<p><b>Corrective Action Plan</b>—within 90 days of the date of the DMS monitoring report the State must submit a CAP that must include timelines and a list of supporting documentation that will be submitted to OSEP, including documentation related to:</p> <p>c. Analysis of the impact of inconsistent access of Medicaid as a payor source on the provision of early intervention services and outcomes for infants and toddlers with disabilities.</p>	<p>On April 11, 2023, the State submitted a CAP.</p> <p>The CAP included the State’s activities, timeline, and a list of supporting documentation, but did not provide the supporting documentation or evidence of correction. OSEP will meet with the State to discuss the areas of the CAP that need more information related to the fiscal component.</p>	<b>OPEN</b>

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public or private source in its local service areas as required under the POLR requirements in 34 C.F.R. § 303.510.			
<p><b>Fiscal</b></p> <p>2.1 OSEP finds that the State does not conduct fiscal monitoring as required under 34 C.F.R. § 303.120(a)(1) for two areas: payor of last resort (POLR) requirements in 34 C.F.R. §§ 303.500 and 303.510 and system of payment requirements in 34 C.F.R. §§ 303.520 and 303.521. In addition, OSEP finds that the State does not consistently implement its Statewide system of payment (SOP) to ensure that IDEA Part C funds are not used for services that would have been otherwise paid for from another public or private source in its local service areas as required under the POLR requirements in 34 C.F.R. § 303.510.</p>	<p><b>Corrective Action Plan</b>—within 90 days of the date of the DMS monitoring report the State must submit a CAP that must include timelines and a list of supporting documentation that will be submitted to OSEP, including documentation related to:</p> <p><b>d.</b> Training activities provided to service areas regarding IDEA Part C fiscal requirements for a statewide system implementing MDE’s system of payments and ensuring compliance with IDEA POLR requirements.</p>	<p>On April 11, 2023, the State submitted a CAP.</p> <p>The CAP included the State’s activities, timeline, and a list of supporting documentation, but did not provide the supporting documentation or evidence of correction. OSEP will meet with the State to discuss the areas of the CAP that need more information related to the fiscal component.</p>	<b>OPEN</b>

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MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/STATUS
<p><b>Fiscal</b></p> <p>2.1 OSEP finds that the State does not conduct fiscal monitoring as required under 34 C.F.R. § 303.120(a)(1) for two areas: payor of last resort (POLR) requirements in 34 C.F.R. §§ 303.500 and 303.510 and system of payment requirements in 34 C.F.R. §§ 303.520 and 303.521. In addition, OSEP finds that the State does not consistently implement its Statewide system of payment (SOP) to ensure that IDEA Part C funds are not used for services that would have been otherwise paid for from another public or private source in its local service areas as required under the POLR requirements in 34 C.F.R. § 303.510.</p>	<p><b>Evidence of Implementation</b>—as soon as possible, but no later than one year from the date of the DMS monitoring report:</p> <p>1. Training and implementation for each of the remaining 13 service areas on accessing Medicaid for eligible infants and toddlers consistent with the MDE’s system of payments.</p>		<b>OPEN</b>
<p><b>Fiscal</b></p> <p>2.1 OSEP finds that the State does not conduct fiscal monitoring as required under</p>	<p><b>Evidence of Implementation</b>—as soon as possible, but no later than one year from the date of the DMS monitoring report:</p>		<b>OPEN</b>



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<p>34 C.F.R. § 303.120(a)(1) for two areas: payor of last resort (POLR) requirements in 34 C.F.R. §§ 303.500 and 303.510 and system of payment requirements in 34 C.F.R. §§ 303.520 and 303.521. In addition, OSEP finds that the State does not consistently implement its Statewide system of payment (SOP) to ensure that IDEA Part C funds are not used for services that would have been otherwise paid for from another public or private source in its local service areas as required under the POLR requirements in 34 C.F.R. § 303.510.</p>	<p>2. Implementation of MDE’s State-wide SOP policy in service areas impacted by their lack of access to Medicaid funding for early intervention services.</p>		
<p><b>Dispute Resolution</b></p> <p>3.1 OSEP finds that the State does not select mediators on a random, rotational, or other impartial basis as required under 34 C.F.R § 303.431(b)(2)(ii).</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <p>1. Documentation demonstrating that it has procedures and practices in place that are reasonably designed to implement the IDEA dispute</p>	<p>On April 11, 2023, the State submitted an updated FAQ for Mediation and Facilitation that is located on the Special Education Mediation Services (SEMS) website (contractor designated to manage mediation and facilitation). The updated document indicates the State must select the mediator on a random, rotational, or other impartial basis.</p> <p><a href="https://www.mikids1st.org/faq/">https://www.mikids1st.org/faq/</a></p>	<p><b>CLOSED</b></p>

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	<p>resolution requirements of IDEA in accordance with 34 C.F.R. § 303.431. Specifically, MDE must:</p> <ol style="list-style-type: none"> <li>a. Provide evidence that mediators are selected on a random, rotational, or other impartial basis.</li> </ol>	<p>The State also provided a list with links to public facing documents available on the MDE website, the Michigan Alliance for Families website, and the Family Matters website that were revised on February 23, 2023, to reflect language in accordance with federal regulations in the area of mediation.</p> <p>Also submitted on April 11, 2023, the State provided evidence of their mediation selection process. The submitted evidence provides a step-by-step mediator selection process, including screen shots, that has been implemented by SEMS. The steps with description include the intake process, case assignment, scheduling of session, determining mediator availability, mediator selection, assignment of mediator, and the notification of parties.</p>	
<p><b>Dispute Resolution</b></p> <p>3.2 OSEP finds that the State’s mediation policies and procedures are not consistent with the requirement under 34 C.F.R § 303.431(b)(7) that discussions that occur during the mediation process must be</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. Documentation demonstrating that it has procedures and practices in place that are reasonably designed to implement the IDEA dispute</li> </ol>	<p>On April 11, 2023, the State submitted a revised Statement of Understanding Regarding the Special Education Mediation Process that also includes the Virtual Agreement for Mediation. Language and practice not aligned with 34 C.F.R § 303.431(b)(7) was removed. The revised document clearly addresses mediation confidentiality under the federal regulations</p>	<p><b>CLOSED</b></p>

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confidential.	resolution requirements of IDEA in accordance with 34 C.F.R. § 303.431. Specifically, MDE must: <ul style="list-style-type: none"> <li>a. Provide evidence that discussions occurring during the mediation process, whether in-person or virtual, are confidential.</li> </ul>	and Michigan Administrative Rules for Special Education (MARSE).	