



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

DIRECTOR

August 10, 2023

By Email  
Honorable Charlie Brereton  
Director  
Montana Department of Public Health and Human Services  
111 North Sanders, Room 301  
P.O. Box 4210  
Helena, Montana 59604  
By E-mail: [charles.brereton@mt.gov](mailto:charles.brereton@mt.gov)

Dear Director Brereton:

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 Montana Department of Public Health and Human Services (MT DPHHS) dated January 24, 2023.

MT DPHHS emailed OSEP on February 22 and March 29, 2023, requesting an extension to the 90-day timeline required to submit updated policies and procedures outlined as corrective actions in the monitoring and improvement, data, fiscal management and dispute resolution components of the monitoring report. These findings and corrective actions were identified as a result of the DMS activities conducted by OSEP during its monitoring visit to MT DPHHS which occurred during the month of June 2022. On March 1 and March 29, 2023, OSEP approved MT DPHHS' request for an extension through email, and the State provided the required information to OSEP on June 24, 2023.

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, Vinetta Freeman at [vinetta.freeman@ed.gov](mailto:vinetta.freeman@ed.gov).

Sincerely,

Valerie C. Williams  
Director  
Office of Special Education Programs

cc: Part C Coordinator

**SUMMARY OF MONITORING PRIORITIES AND OUTCOMES**

<b>MONITORING COMPONENT &amp; FINDING</b>	<b>REQUIRED ACTIONS</b>	<b>OSEP ANALYSIS AND COMMENTS</b>	<b>NEXT STEPS/REQUIRED ACTIONS/STATUS</b>
<p><b>Monitoring and Improvement</b></p> <p>1.1 OSEP finds that DPHSS does not have a system reasonably designed to monitor its EIS providers to ensure compliance with IDEA Part C requirements, such as timely service provision to ensure there are no waitlists for services, as required under IDEA 34 C.F.R. §§ 303.120(a) and 303.700.</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>The State must submit to OSEP updated policies and procedures documenting its process for monitoring its EIS providers on key IDEA Part C requirements such as ensuring timely IFSP service provision requirements based on a review of child records and all other relevant available data (once the State has resolved its data finding below). These policies must reflect that all services (not just service coordination) that are identified on the IFSP must be timely initiated and provided.</p>	<p>DPHHS submitted to OSEP on June 24, 2023, the following document: <i>Montana Milestones Comprehensive Monitoring Manual</i>.</p> <p>OSEP is currently in the process of reviewing the State’s submission.</p>	<p>OPEN</p>
<p>1.1 OSEP finds that DPHSS does not have a system reasonably designed to monitor its EIS providers to ensure compliance with IDEA Part C requirements, such as timely service provision to ensure there are no waitlists for services, as required under IDEA 34 C.F.R. §§ 303.120(a) and 303.700.</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>The State LA must submit evidence that all five EIS providers were monitored for IDEA Part C requirements, including timely service provision and, if a finding was issued, a copy of the monitoring report which reports identifies the findings of noncompliance with IDEA Part C requirements, and include the one-year timeline for correction.</p>		<p>OPEN</p>
<p><b>Data</b></p> <p>2.1 OSEP finds that DPHSS does not have a system</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>DPHHS submitted to OSEP on June 24, 2023, the following documents: <i>Montana Milestones Data Validation Procedures and</i></p>	<p>OPEN</p>

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<p>reasonably designed to collect valid and reliable data as needed to report annually to the Secretary under 34 C.F.R § 303.702(b)(2) on three of the indicators established by the Secretary for the State performance plans, as required under IDEA 34 C.F.R. §§ 303.124, 303.224 and 303.701(c).</p>	<p>The State must submit to OSEP the procedures the State uses to verify the SPP/APR data for Indicators C-1, C-2 and C-7 that are submitted by its EIS providers to the LA as required under IDEA sections 616 and 618 (as modified by IDEA section 642) and 34 C.F.R. §§ 303.124, 303.224 and 303.701(c) and 303.720 through 303.724.</p>	<p><i>Montana Milestones Monitoring Record Selection Methodology.</i></p> <p>OSEP is currently in the process of reviewing the State’s submission.</p>	
<p>2.1 OSEP finds that DPHSS does not have a system reasonably designed to collect valid and reliable data as needed to report annually to the Secretary under 34 C.F.R § 303.702(b)(2) on three of the indicators established by the Secretary for the State performance plans, as required under IDEA 34 C.F.R. §§ 303.124, 303.224 and 303.701(c).</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>The State will provide with its FFY 2022 SPP/APR an explanation of how its data for Indicators C-1, C-2 and C-7 are valid and reliable and reflect the measurement. The explanation should include a discussion of the methodology used by the State to verify the validity and reliability of the data for C-1 (the percentage of infants and toddlers with IFSPs who receive all EI services on their IFSPs in a timely manner); C-2 (the percentage of infants and toddlers with IFSPs who primarily receive EI services in the home or community-based settings); and C-7 (the percentage of infants and toddlers with IFSPs for whom an evaluation and initial assessment and an initial IFSP meeting</p>		<p>OPEN</p>

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	were conducted within Part C’s 45-day timeline).		
<p><b>Fiscal</b></p> <p>3.1 OSEP finds that DPHSS does not have a general supervision system reasonably designed to monitor its EIS providers to ensure fiscal compliance with IDEA Part C, as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b). Specifically, the DPHSS monitoring system is not reasonably designed to identify and verify correction of fiscal noncompliance.</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. Revised fiscal monitoring policies and procedures to ensure that the LA has a system in place to identify and verify the correction of noncompliance (such as coordination of all available funding sources and payor of last resort) as soon as possible and in no case later than one year after the LA's notification of the noncompliance as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b).</li> </ol>	<p>DPHHS submitted to OSEP on June 24, 2023, the following document: <i>Montana Milestones Fiscal Program Monitoring</i>.</p> <p>OSEP is currently in the process of reviewing the State’s submission.</p>	OPEN
<p>3.1 OSEP finds that DPHSS does not have a general supervision system reasonably designed to monitor its EIS providers to ensure fiscal compliance with IDEA Part C, as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b). Specifically, the DPHSS monitoring system is not reasonably designed to identify and verify correction of fiscal noncompliance.</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> <ol style="list-style-type: none"> <li>1. Evidence of the State’s implementation of its fiscal monitoring policies and procedures such as, notification letters, monitoring reports, letters of findings, examples of fiscal finding close-out and verification of correction, or other supporting documentation demonstrating oversight of the State’s fiscal monitoring as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b).</li> </ol>		OPEN

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<p>3.2 OSEP finds that DPHHS has failed to monitor its EIS providers for compliance as required under 34 C.F.R. § 303.120(a) for the statewide system of payments policy requirements in 34 C.F.R. §§ 303.520 and 303.521.</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>2. Revised fiscal monitoring policies that demonstrate how the LA will provide oversight of the State’s system of payments as required under 34 C.F.R. §§ 303.120(a), 303.520 and 303.521.</li> </ol>	<p>DPHHS submitted to OSEP on June 24, 2023, the following document: <i>Montana Milestones Fiscal Program Monitoring</i>.</p> <p>OSEP is currently in the process of reviewing the State’s submission.</p>	<p>OPEN</p>
<p>3.2 OSEP finds that DPHHS has failed to monitor its EIS providers for compliance as required under 34 C.F.R. § 303.120(a) for the statewide system of payments policy requirements in 34 C.F.R. §§ 303.520 and 303.521.</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> <ol style="list-style-type: none"> <li>2. Evidence of the State’s system of payments practices such as, the process for evaluating the payor source, evidence of training to EIS providers, access to insurance, interim payments, or other supporting documentation demonstrating oversight of the State’s system of payments as required under 34 C.F.R. §§ 303.120(a), 303.520 and 303.521. In addition, the State must provide evidence that families have been provided a copy of the State’s system of payments policy and have consented, as appropriate, for the use of public and/or private insurance.</li> </ol>		<p>OPEN</p>
<p>3.3 OSEP finds that DPHHS does not have procedures and practices that are reasonably designed to ensure the</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>DPHHS submitted to OSEP on June 24, 2023, the following documents: <i>Fiscal Monitoring Policies and Procedures, Fiscal</i></p>	<p>OPEN</p>

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<p>appropriate use of IDEA Part C funds as required under 34 C.F.R. §§ 303.120(a) and 303.205, and the OMB Uniform Guidance in 2 C.F.R. Part 200.</p>	<p>3. Revised fiscal monitoring policies and procedures that demonstrate how the LA will provide oversight of the EIS providers use of IDEA Part C funds (including internal controls) as required under 34 C.F.R. §§ 303.120(a) and 303.205, and the OMB Uniform Guidance in 2 C.F.R. Part 200.</p>	<p><i>Monitoring Part C Annex, and Montana Milestones Internal Controls and Fiscal Monitoring.</i></p> <p>OSEP is currently in the process of reviewing the State’s submission.</p>	
<p>3.3 OSEP finds that DPHHS does not have procedures and practices that are reasonably designed to ensure the appropriate use of IDEA Part C funds as required under 34 C.F.R. §§ 303.120(a) and 303.205, and the OMB Uniform Guidance in 2 C.F.R. Part 200.</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>3. Evidence of the State’s monitoring of its EIS providers use of IDEA Part C funds such as, fiscal monitoring reports, and local EIS provider budgets, and fiscal data system procedures/screenshots, demonstrating the system’s capacity for oversight of Federal IDEA Part C funds.</p>		<p>OPEN</p>
<p><b>Dispute Resolution</b></p> <p>4.1 OSEP finds that Montana Milestones’ State complaint policies and procedures are inconsistent with 34 C.F.R. § 303.434(a). Specifically, publicly available documents indicate that families must engage in an informal process prior to filing a formal State complaint.</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. For State complaints:</p> <ul style="list-style-type: none"> <li>a. Revised procedural safeguards documents to ensure compliance with Part C requirements regarding complaints, under 34 C.F.R. §303.434(a);</li> <li>b. A copy of the memo sent to all EIS providers explaining the revised complaint procedures; and</li> </ul>	<p>DPHHS submitted to OSEP on June 24, 2023, the following documents: <i>Montana Milestones Part C of IDEA Procedural Safeguards Dispute Resolution, Montana Milestones Dispute Resolution Memo, and Montana Milestones Dispute Resolution Training Schedule.</i></p> <p>OSEP is currently in the process of reviewing the State’s submission.</p>	<p>OPEN</p>

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	<ul style="list-style-type: none"> <li>c. A training schedule for its EIS providers on implementing the revised Montana Milestones complaint procedures.</li> </ul>		
<p>4.2 OSEP finds that the State does not maintain a list of trained mediators as required under 34 C.F.R. § 303.431(a)(2).</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> <ul style="list-style-type: none"> <li>2. For Qualified Mediators:               <ul style="list-style-type: none"> <li>a. Policies and procedures that detail the State’s training activities and assurance that their mediators are knowledgeable on the Part C IDEA regulations relating to the provision of EI services.</li> <li>b. A list of individuals who are qualified mediators in the State and available on a random, rotational, or other impartial basis.</li> </ul> </li> </ul>	<p>DPHHS submitted to OSEP on June 24, 2023, the following documents: <i>Montana Milestones Dispute Resolution Training Schedule, ATTACHMENT I Dispute Resolution Presentation 2023, and Montana Milestones Part C Mediator List 2023.</i></p> <p>OSEP is currently in the process of reviewing the State’s submission.</p>	<p>OPEN</p>
<p>4.3 OSEP finds that the State does not ensure hearing officers possess knowledge of IDEA Part C consistent with 34 C.F.R. § 303.435(a).</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> <ul style="list-style-type: none"> <li>3. For Hearing Officers:               <ul style="list-style-type: none"> <li>a. Policies and procedures that demonstrate that the State trains its hearing officers on IDEA Part C requirements and the EI services available to infants and toddlers with disabilities and their families.</li> <li>b. Policies and procedures that demonstrate that the State ensures</li> </ul> </li> </ul>	<p>DPHHS submitted to OSEP on June 24, 2023, the following document: <i>Montana Milestones Dispute Resolution Training Schedule.</i> OSEP is currently in the process of reviewing the State’s submission.</p>	<p>OPEN</p>

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	<p>its hearing officers listen to the presentation of relevant viewpoints about the due process complaint, will examine all information relevant to the issues, will seek to reach a timely resolution of due process complaints and provide a record of the proceedings, including a written decision to the LA and parties involved in the due process hearing.</p>		