

**Arkansas Part C 2008 Verification Visit Letter
Enclosure**

The Arkansas Department of Human Services (DHS) is the lead agency responsible for administering Part C of the Individuals with Disabilities Education Act (IDEA) in Arkansas. The Division of Developmental Disabilities Services (DDS) is the division within DHS which has administrative responsibility for implementation of the program. The early intervention program, First Connections, reported in its Part C FFY 2006 Annual Performance Report (APR) that it served 3217 infants and toddlers with disabilities representing 2.75% of the State's population from birth to age three. The First Connections program has adopted a State system of payments under Part C of the IDEA. There are 79 providers contracted to provide Part C services through the First Connections program.

I. General Supervision

Critical Element 1: Identification of Noncompliance

Does the State have a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components?

Verification Visit Details and Analysis

The First Connections Program reported that the State utilizes two monitoring components that work together to identify and correct noncompliance with Part C requirements. The first component is the Quality Assurance Team (QAT). The QAT monitors each Developmental Day Treatment Clinic Service (DDTCS) program annually, on-site, primarily for license renewal purposes. The First Connections staff also uses the QAT to monitor independent providers not affiliated with a licensed day treatment program. While on site, the QAT randomly selects 20% of each provider's files for review to collect Part C data regarding Indicators 1, 7, 8A, B, C and some related requirements under Part C. After the QAT visits a provider, a letter is sent to the provider outlining the monitoring results, strengths, areas of noncompliance, and suggestions for improvement. If any areas of noncompliance are identified, the letter indicates that the QAT will conduct a follow up visit within 90 days of the letter to ensure that the noncompliance is corrected.

During the verification visit, DDS staff reported that a finding of noncompliance is made through the QAT when a threshold level of 25% noncompliance is identified in relation to a specific requirement. Noncompliance that does not reach the 25% threshold is reported as an "area for improvement," and not as a finding of noncompliance. DDS staff reported to OSEP that the First Connections program did not require programs to correct noncompliance within one year of identification when noncompliance was documented in a QAT report as an "area for improvement."

The second component used by the State to identify noncompliance is the Special Education Automated System (SEAS). The SEAS was newly implemented by the State in September 2007. It collects census data for all children served by Part C. In addition, the SEAS collects data for APR Indicators 2, 3, 4, 5, 6, 7 and 8B and C. SEAS data are entered by program service

coordinators and submitted electronically to the State data manager. The data are then transferred to spreadsheets and returned to program service coordinators to verify accuracy on a monthly basis. At the end of the year, the SEAS data are disaggregated by program office and are used to report annually to the public on the performance of each early intervention service program and to report on the State's Part C Annual Performance Report. Prior to September 2007, the State did not use its SEAS data to make findings of noncompliance.

Beginning in September 2007, the State used SEAS data to issue an annual "report card" to each of the 79 early intervention programs. Noncompliance reported in the "report card" was determined based on data submitted throughout the year by providers to SEAS and ultimately compiled by the DDS database. While on site, OSEP reviewed several "report cards" issued in September 2007. The "report card" letter served to formally notify providers regarding any noncompliance identified¹ by the SEAS in relation to Indicators 7, 8B and 8C. If noncompliance was identified, the program was directed to develop a compliance plan and make corrections within one year of the findings.

As reflected in DDS's September 2007 report cards, October 2008 follow-up letters, and FFY 2007 APR data,² DDS has made findings related to Indicator 2, natural environments. It is unclear to OSEP what data were used to make the findings reported by DDS. The State may not make findings of noncompliance based only on the number of children served in natural environments. While section 635(a)(16)(A) of the IDEA requires that the State ensure that, to the maximum extent appropriate, early intervention services are provided in natural environments, sections 635(a)(16)(B) and 636(d)(5) of the IDEA and 34 CFR §§303.342 and 303.344(d) require individualized family service plans (IFSP) Teams to make individualized decisions regarding the setting in which infants and toddlers with disabilities receive services. Any findings of noncompliance must be based on monitoring to ensure that IFSP teams make individualized decisions regarding settings in which infants and toddlers with disabilities receive early intervention services, and to ensure that appropriate justifications are included in a child's IFSP if a service is not provided in the natural environment. OSEP assumes that the DDS's monitoring efforts are consistent with these requirements. DDS may wish to review its data for Indicator 9 to ensure that its findings are based on Part C requirements.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP finds that the State has identified noncompliance through its QAT and SEAS systems. However, DDS staff reported that it has been making findings of noncompliance through the QAT when a threshold level of 25% noncompliance is identified in relation to a specific requirement. The QAT's use of a 25% threshold to identify noncompliance is not consistent with Part C requirements for identifying noncompliance in IDEA sections 616, 635(a)(10)(A) and 642 and 34 CFR §303.501. While the State may determine the specific corrective action that is needed to ensure correction of noncompliance, and may take into account the extent of noncompliance in

¹ The State reported that a 25% threshold requirement has not been applied to identify noncompliance based on data reported by the SEAS.

² OSEP will be responding separately to the State's FFY 2007 APR.

determining what corrective action is needed, the State must ensure the correction of all noncompliance, notwithstanding the extent of the noncompliance.

Required Actions/Next Steps

DHS must submit, with its FFY 2008 APR due February 1, 2010, an assurance that it has changed its practice to ensure the identification of all noncompliance, notwithstanding the extent of the noncompliance.

Critical Element 2: Correction of Noncompliance

Does the State have a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner?

Verification Visit Details and Analysis

The QAT staff is the licensing unit for all DDTCS programs that house many of the State early intervention programs. Re-licensing is required annually. State staff reported that the QAT corrective action procedures are part of the DDTCS procedural guidelines for licensure certification and are outlined in each voucher participant agreement. A certified provider found to be noncompliant with Part C requirements is allowed one year to correct noncompliance without jeopardizing the program's annual licensure status. The provider must submit a plan of correction within fifteen (15) days of receipt of a report of noncompliance. State staff reported that the correction plan must specify the methods of correction and it is monitored continuously by QAT staff until compliance is achieved. Verification of correction of noncompliance is based on on-site review of randomly selected files, typically completed within ninety days of formal notification of noncompliance to the provider. OSEP reviewed documentation for ten programs where noncompliance was identified through QAT on-site monitoring. In each case, a corrective action plan was required and approved, an on-site verification review was completed and a formal closure letter issued within one year of notification of the noncompliance.

Based on data the State reported in its FFY 2006 APR, OSEP calculated the State's performance on Indicator 9 regarding the timely correction of noncompliance identified through the QAT in FFY 2005 to be 91.8%. The State further reported in its FFY 2006 APR that one finding related to Indicator 1 and one finding related to Indicator 7, identified in FFY 2005, were subsequently corrected. The State later reported, in its FFY 2007 APR, that the remaining three findings identified in FFY 2005 were also subsequently corrected.

As reported above under Critical Element 1: Identification of Noncompliance, the State piloted the use of the SEAS as an additional general supervision mechanism to correct noncompliance in September 2007. Each provider received a "report card" that indicated either that the program was in compliance with all Part C requirements or that the SEAS had identified noncompliance. If noncompliance was identified by the SEAS, the letter directed the program to submit a corrective action plan to ensure correction of that noncompliance within one year of September 2007. State staff reported that a program's progress toward compliance was monitored by the program director based on monthly submission of electronic data related to each indicator. OSEP reviewed four of the close out letters issued by the State to the programs dated October 2008. In one of the letters,

the program was found to have corrected all previous noncompliance. The other letters reviewed indicated that the SEAS continued to find noncompliance related to compliance indicators. The State directed those programs to submit a new corrective action plan within ten days that would ensure full compliance within 90 days of the date of the letter or the program would be subject to DDS sanctions.

State staff described a system of enforcement actions authorized by DHS and detailed in the DHS procedural documents. The State reported that each provider's performance is evaluated in accordance with the First Connections Program performance based on contracting standards and the specified performance indicators for each program deliverable. One or more of the following remedies may be implemented for unsatisfactory performance with regard to licensure requirements, which include some Part C regulations: (1) if acceptable levels of performance are not met, the State may request that the contractor submit a corrective action plan within thirty (30) days of notification. Corrective action plans must be approved by the State Program Management Services Section (Quality Assurance Team). Payment may be withheld or reduced until an acceptable corrective action plan is submitted and implemented; (2) payment may be withheld or reduced; and (3) the contract may be terminated. The State has required programs to submit corrective action plans.

DDS staff also described the enforcement action it took when following up on noncompliance identified through a State complaint, including requiring the program to implement a directed plan of correction that included intensive oversight activities to ensure that all Part C violations were fully corrected within one year. However, with regard to the State's Part C complaint resolution system, DDS staff indicated that it could not confirm, or provide documentation showing, that noncompliance identified based on complaints was corrected within one year of identification. It also does not appear that DDS has included in Indicator 9 of its FFY 2006 or 2007 APRs findings based on noncompliance identified through complaints.

OSEP Conclusions

In order to effectively monitor the implementation of Part C of the IDEA by EIS programs in the State under IDEA sections 616(a), 635(a)(10)(A) and 642 and 34 CFR §303.501(b), the State must ensure that identified noncompliance is corrected in a timely manner. Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that the State has timely corrected some findings of noncompliance, and subsequently corrected additional findings of noncompliance, through the QAT. OSEP also finds that the State has timely corrected one finding of noncompliance identified through SEAS, but had not timely corrected three findings of noncompliance identified through SEAS. OSEP cannot determine if the State's system for correcting noncompliance is reasonably designed to correct noncompliance. OSEP notes that the State did not begin to identify noncompliance through SEAS until September 2007, and is not required to report correction of findings identified in FFY 2007, and corrected in FFY 2008, until its FFY 2008 APR, due by February 1, 2010.

In addition, with regard to the State's Part C complaint resolution system, DDS staff were not able to show that noncompliance identified through complaints was corrected within one year of

identification, and it does not appear that DDS included in Indicator 9 of its FFY 2006 or 2007 APRs findings based on noncompliance identified through complaints.

Required Actions/Next Steps

DHS must review its improvement activities in the SPP and revise them, if appropriate, to ensure they will enable the State to provide in the FFY 2008 APR, due February 1, 2010, under Indicator 9, data demonstrating that the State timely corrected noncompliance identified in FFY 2007 in accordance with IDEA section 635(a)(10)(A) and 34 CFR §303.501(b).

DHS must also report, in the FFY 2008 APR, due February 1, 2010, on the correction of findings made not only under the QAT, but also through (1) the SEAS and (2) complaint and other dispute resolution processes.

Critical Element 3: Dispute Resolution

Does the State have procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA?

Verification Visit Details and Analysis

State Complaints

State staff reported that the complaint procedures are included in the State's documents titled "Procedural Safeguards - Do Parents Have Rights?" and "My Family & the Individualized Family Service Plan." OSEP cannot determine which of those documents is the State's Part C notice that is required to include all of the information required in 34 CFR §303.403(b)(4). Neither of those documents includes a description of all of the requirements for complaint procedures under Part C in 34 CFR §§303.510 - 303.512, and must be revised.

The State reported that ten complaints were filed during the FFY 2006 APR reporting period. During the verification visit, OSEP determined that 2 of the 10 complaints were not based on Part C violations because the complaints related to health issues and not Part C requirements.

Due Process Hearings

The State did not report any requests for due process hearings in the FFY 2006 APR. The State reported to OSEP during the verification visit that the First Connections program has adopted Part B due process hearing procedures under 34 CFR §303.420, which is also what was reflected in the State's FFY 2006 APR. The FFY 2007 APR indicates that the State is working with the Center for Appropriate Dispute Resolution in Special Education (CADRE) to discuss changing their due process procedures from Part B to Part C procedures. State staff reported that the due process procedures are documented in the State's DHS Policy 1098, and its documents titled "Procedural Safeguards - Do Parents Have Rights?" and "My Family & the Individualized Family Service Plan." However, those documents do not include a description of all of the requirements for due process hearings under either the Part B or Part C procedures, and must be revised.

Mediation

The FFY 2006 APR indicated that there were no requests for mediations during the reporting period. The State reported that it has contracted with the University of Arkansas, Bowen School of Law, to provide mediations on request, and that the contract requires the Bowen School of Law to provide annual training to all providers. The State also reported that service coordinators are provided information regarding the availability of mediation as part of the annual service coordinator certification process.

The State's documents titled "Procedural Safeguards - Do Parents Have Rights?" and "My Family & the Individualized Family Service Plan" do not include a description of all of the requirements for mediation under Part C in 34 CFR §303.420, and the applicable changes in sections 615(e) and 639(a)(8) of the IDEA, and must be revised.

OSEP Conclusions

The State's documents titled "Procedural Safeguards - Do Parents Have Rights?" and "My Family & the Individualized Family Service Plan" and DHS Policy 1098 do not contain all of the requirements regarding due process hearings, complaints, or mediation, and must be revised.

Required Actions/Next Steps

With its FFY 2009 Part C grant application, DHS must provide an assurance that: (1) it is revising its procedural safeguards documents to include all of the Part C requirements regarding complaints, under 34 CFR §§303.510 - 303.512, and either the Part C or Part B requirements under 34 CFR §303.420 for mediations and due process hearings; (2) it will ensure that, throughout the period that the State uses its FFY 2008 grant funds under Part C of IDEA, all early intervention service programs and providers in the State will comply with all requirements of Part C of IDEA, including 34 CFR §§303.420 and 303.510 – 303.512; and (3) that the State will submit the revised documents to OSEP as soon as they are finalized but no later than September 30, 2009.

In addition, the State must ensure that complaints reported to OSEP in Table 4 of the APR are based on Part C violations.

Critical Element 4: Improving Educational Results

Does the State have procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities?

Verification Visit Details and Analysis

In interviews with OSEP staff during the verification visit, the State explained that a collaborative model of integrated training activities, monitoring, and information exchange is used to improve outcomes for infants and toddlers with special needs and their families. The system is implemented through core required certification for all service coordinators and annual re-training. Training emphasis is on functional evaluations, family assessment and linkages to State and community initiatives. The State further promotes improved outcomes through performance

based contracts with providers that specifically outline required levels of performance as to IFSP implementation, family assessment and data collections. Information collected during monitoring is used to target training and community outreach activities.

The State reported progress data and improvement activities required for Indicator 3 in the FFY 2006 APR. The FFY 2006 APR data also reported that the number of families that reported early intervention services had helped the family effectively communicate their children's needs had increased from 60% to 70%. However, slippage was reported related to parent's knowledge of their rights and parents that reported that early intervention services helped their child to develop and learn. The State reported that targeted training activities have been formulated to improve State performance such as greater emphasis on parent rights during service coordinator credentialing and joint training with the State parent resource centers.

The State QAT staff closely monitors each provider's child find activities as part of its licensure certification. The State First Connections training coordinator is actively involved in community child care expansion activities to promote a wider selection of service environments for children with special needs and their families.

OSEP Conclusions

Based on the review of documents and interviews with State and local personnel, OSEP believes the State has procedures and practices that are reasonably designed to improve educational results and functional outcomes for all children with disabilities.

Required Actions/Next Steps

No action is required.

Critical Element 5: Implementation of Grant Assurances

Does the State have procedures and practices that are reasonably designed to implement selected grant assurances (i.e., monitoring and enforcement, CSPD and interagency agreements, contracts or other arrangements)?

Verification Visit Details and Analysis

During OSEP's verification visit, State staff reported on the implementation of Part C grant application assurances related to monitoring and enforcement (specifically, public reporting and local determinations), interagency agreements, and the State's system for professional development.

Public Reporting and Local Determinations

As a part of its monitoring and enforcement responsibilities under section 616 of the IDEA, each State must annually report to the public on the performance of each early intervention service provider against the State's SPP/APR targets and must make an annual determination for each early intervention service provider. The State met the public reporting requirement by including each local program's performance on the State website. In addition, in September 2007, the State

sent formal notice to each provider regarding the program's determination based on the FFY 2006 data from the SFAS database on the programs' performance regarding Indicators 2, 3, 4, 5, 6, 7, 8B and 8C. In the "report cards" sent to the programs, the State specified the indicators that required corrective action and that the program must make correction within one year of the date of the letter. State staff reported that they are processing the report cards based on the data from FFY 2007, but they have not sent those report cards to the providers yet.

At a minimum, a State's annual determination process must include consideration of the following factors: an EIS program's performance on all SPP/APR compliance indicators, whether an EIS program submitted valid and reliable data for each indicator, EIS program-specific audit findings, and any uncorrected noncompliance from any source. (See Determinations FAQs dated 10/19/2006 and 12/4/2007 and OSEP Guidance on Determinations of the Status of Local Programs by State Agencies under Parts B and C of IDEA dated March 7, 2007).

Interagency Coordination:

Under IDEA sections 635(a)(10), 637(a)(2), (6) and (9), and 640, each State lead agency must include in its Part C application: (1) a certification that its methods to ensure service provision and fiscal responsibility for services are current; and (2) its policies and procedures for transition (including an interagency agreement if the lead agency is not the State Educational Agency (SEA)) and potential interagency agreements regarding referrals of children under the Child Abuse and Protection and Treatment Act (CAPTA).

With regard to service provision and fiscal responsibility for services, it is OSEP's understanding that DDS provides all Part C services either through the DDTCS centers, or through contracts with private providers. DDS staff confirmed that it uses Federal Part C funds as the payor of last resort, and ensured ongoing service provision for IFSP services in a timely manner during any disputes regarding financial responsibilities.

With regard to policies and procedures for transition, including an interagency agreement if the lead agency is not the SEA, DHS has an interagency agreement with several State agencies, including the Arkansas Department of Education, dated November 17, 1997. However, that agreement does not include the IDEA early childhood transition requirements, and it is OSEP's understanding that DHS does not have a separate early childhood transition interagency agreement with the Arkansas Department of Education that covers the requirements under 34 CFR §303.148(c). DHS Staff reported that they are drafting a transition policy with Part B.

With regard to referrals of children under CAPTA, the State's FFY 2008 grant application included both general and specific assurances that the State would submit to OSEP, by June 30, 2009 its policies and procedures that require the referral for early intervention services under Part C of a child under the age of 3 who is involved in a substantiated case of abuse or neglect; or is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure. OSEP will review and respond to the State's policies and procedures regarding CAPTA referrals through the State's Part C grant application process.

Personnel Development: The State develops its training agenda based on program performance as assessed through the annual determination process, analysis of QAT monitoring data, and through

specific program requests. First Connections requires all service coordinators to be certified and provides annual refresher courses.

OSEP Conclusions

Based on the review of documents and interviews with State and local personnel, OSEP finds that the State has procedures and processes that provide training for early intervention personnel.

It is unclear how the State's annual determinations on the performance of their EIS programs factor in an EIS program's performance on all SPP/APR compliance indicators (including Indicators 1 and 8A, for which data are collected through the QAT). It is also unclear how the State's annual determinations factor in any uncorrected noncompliance from any source (including findings identified through the QAT).

DHS must have an interagency agreement with the Arkansas Department of Education that covers the IDEA early childhood transition requirements.

Required Actions/Next Steps

DHS must provide, in its FFY 2008 APR due February 1, 2010, an assurance that its procedures for making annual determinations on the performance of its EIS programs include consideration of an EIS program's performance on all SPP/APR compliance indicators and any uncorrected noncompliance from any source (including noncompliance identified through the QAT).

With its FFY 2009 Part C grant application, DHS must submit its interagency agreement with the Arkansas Department of Education that meets the requirements under 34 CFR §303.148(c).

II. Data System

Critical Element 1: Collecting and Reporting Valid and Reliable Data

Does the State have a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner?

Verification Visit Details and Analysis

The State has established the SEAS for data entry by providers and State staff personnel. The SEAS electronically collects the data for Indicators 2, 3, 4, 5, 6, 7, 8B and 8C. State staff reported that provider contracts require that providers report timely and accurate data. Training and technical assistance is provided to providers throughout the year as requested and as determined by the data manager. A data manual is provided to each program and is updated as needed. Data input into the SEAS is reviewed for accuracy on a monthly basis by the State data manager. Incomplete data are returned to the provider and immediate correction is required. At the end of the year, the raw data are compiled by program and sent to the program manager who must complete a final review and verification. The program manager is required to sign an assurance that the data are correct and verify by signature that they have been reviewed as a final submission from the provider.

The data input by providers include demographic information. The system does not allow duplication of child information and will reject any file that is not complete as to required data. Other edit checks built into the system will reject files if the child is over age 3, flag files where services do not correspond to the IFSP and reject files that do not contain exit information, where appropriate. The SEAS system collects both 618 and 616 data.

The SEAS system does not collect the data for Indicator 1 or 8A. Medicaid records were used to collect Indicator 1 data reported in the FFY 2006 APR. The Medicaid report included the child's name, plan date and the actual Medicaid service billing date which provides information as to the timeliness of services. The information is sent in aggregate to the provider annually to give the provider opportunity to verify the information. The provider must sign the report as an assurance that the report is valid. The provider also provides reasons for delay at that time for the State to report in the APR.

State staff reported that in the FFY 2006 APR, the data for Indicator 8A were reported based on an assumption that if the notification to the State Education Agency occurred, the transition steps were documented. State staff explained that the QAT does monitor for transition steps in child folders but that this information was not part of the APR data reported to OSEP. State staff reported that they planned to use the data collected by QAT in the APR due February 2, 2009.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes, with the exception of data on the transitions steps and services required for Indicator 8A, the State has a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner. OSEP cannot, however, without also conducting a review of data collection and reporting practices at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures in a manner that is consistent with Part B.

Required Actions/Next Steps

The State must ensure that it uses data collected by QAT, or other valid and reliable data, for Indicator 8A of its APRs, as State staff indicated it would do starting with the FFY 2007 APR, due February 2, 2009.³

Critical Element 2: Data Reflect Actual Practice and Performance

Does the State have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance?

³ As noted earlier in this Enclosure, OSEP will be responding separately to the State's FFY 2007 APR.

Verification Visit Details and Analysis

The State reported that it has procedures in place to ensure that data are entered and reported accurately, and that data submissions are subject to on-line edits and tracking to ensure consistency. The State verifies the SEAS data by requiring each program manager to review the SEAS data on a monthly basis and sign an assurance as to its accuracy. Accuracy is further verified by the QAT during on-site visits. The QAT randomly selects folders to compare data in the client folder with data submitted to the SEAS data system. If an inconsistency is found, that information is transferred to the State data manager. The State data manager then requires a full review of the client folder and a resubmission of the corrected data.

Data are verified again when SEAS data are integrated with the main DHS mainframe. The DHS mainframe includes data on all persons served by DHS. These two systems do not communicate directly with each other. This second level of input requires that the SEAS data be reviewed again for "red flags" as the DHS mainframe system will reject any file for which data are incomplete. If any rejection occurs at the mainframe level, the State data manager contacts the provider for correction and resubmission of the data.

State staff reported to OSEP that 80% of all providers submit their data through the SEAS. Data from the remaining programs are collected and entered manually by the First Connection data manager, verified for accuracy and submitted into the State DHS mainframe. The State expects that all programs will be using the SEAS to enter data by 2010.

OSEP Conclusions

Based on a review of documents, analysis of data, demonstration of data system capabilities, and interviews with State staff, OSEP was able to determine that the State has procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

Required Actions/Next Steps

None Required.

Critical Element 3: Integrating Data Across Systems to Improve Compliance and Results

Does the State compile and integrate data across systems and use the data to inform and focus its improvement activities?

Verification Visit Details and Analysis

The State uses its data systems for continuous improvement, monitoring, technical assistance, and ongoing support for early intervention programs and service providers. Data from the SEAS are used to develop program improvement plans and to target professional development activities. The State's data system provides functions that allow local program managers to disaggregate, compile and compare data for program training and reporting activities.

The First Connections training coordinator reviews the technical assistance component of each corrective action plan to assess targeted work activities and other training designs submitted by the programs in an effort to achieve compliance. The training coordinator works collaboratively with other statewide early childhood initiatives to ensure that First Connection program activities are integrated into the overall State and local early childhood improvement initiatives and services.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP believes the State compiles and integrates data across systems and uses the data to inform and focus its improvement activities.

Required Actions/Next Steps

No action required.

III. Fiscal System

Critical Element 1: Timely Obligation and Liquidation of Funds

Does the State have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds?

Verification Visit Details and Analysis

During the verification visit, staff from the DHS First Connections program office and the DHS Finance Office described to OSEP staff the following mechanisms for ensuring that Federal IDEA Part C funds are timely obligated and liquidated at the State level. The First Connections Program has a designated staff member who communicates with the DHS Finance Office and with other divisions regarding financial matters. The DHS Finance Office has oversight responsibility for all Part C monies and ensures that such funds are timely obligated and liquidated at the State level.

The Finance Office allows each DHS program to manage its budget but Finance Office staff monitors the liquidation and distribution of all funds (including Federal IDEA Part C funds) on a monthly basis. All funds within the State are designated by a separate funding code, which DHS uses to track both Part C and other funds. Each program and project has a specific accounting expenditure code in the accounting system. State DHS finance personnel reported that, at any point in time, DHS is able to generate activity reports to check on the status of Arkansas Part C grant funds, including funds that were obligated, approved, and paid to date, as well as the balance for unexpended funds. Finance Office staff notify First Connections Program staff on a monthly basis as to expenditures and available remaining Federal IDEA and other funds.

According to the U.S. Department of Education's Grants Administration and Payment System, Arkansas expended all of its FFYs 2004, 2005 and 2006 IDEA Part C funds. DHS staff confirmed that, consistent with its FFY 2008 Part C application, DHS does not charge indirect costs to its FFY 2003 Part C grant funds.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes that DHS has procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds at the State level.

Required Actions/Next Steps

No action is required.

Critical Element 2: Appropriate Distribution of IDEA Funds

Does the State have procedures that are reasonably designed to ensure appropriate distribution of IDEA funds within the State?

Verification Visit Details and Analysis

Procedures for Appropriate Use of IDEA Part C Funds at the State Level: Each lead agency must ensure that IDEA Part C funds are expended at the State level on appropriate uses of funds, consistent with the requirements in IDEA section 638, the EDGAR, OMB Circular A-87, and other applicable Federal requirements. DHS ensures that funds are not commingled with other Federal programs by applying a funding code specific to IDEA Part C funds. Any funding requested to pay for Part C services is made from an approved prior authorization number specific to early intervention or the funding request is rejected. The State electronic data system (EDS) manages the liquidations and ensures that funds are used only for authorized early intervention activities.

Payment to early intervention service (EIS) providers by DHS is made through a voucher system. Each EIS provider is obligated an amount of money to access based on each provider's past two-year history of Part C fund utilization. The State must authorize any release of funds. Each provider monitors for the prior authorization system over and/or under utilization. Incoming prior authorizations are applied against the provider's account on a daily basis. Service coordinators input the prior authorization information. DHS staff reported that Federal IDEA Part C funds can only be used based on an internal order code specific to early intervention. The individual can only bill for services that are approved in advance by the prior authorization unit.

Nonsupplanting Requirements: State staff reported that, with the exception of Medicaid State match funds, no other State or local expenditures are used to pay for Part C services. However, DHR staff did not identify any procedures to comply with the tracking of State and local expenditures to meet the requirements of Part C's nonsupplanting/maintenance of effort (MOE) requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b).

Payor of Last Resort/System of Payments: DHS staff reported to OSEP during the verification visit that the requirement that Part C function as the payor of last resort is part of each provider voucher agreement and is a component of the required service coordinator training. DHS staff reported that DHS uses Medicaid to pay for Part C services for eligible children through the DDS mainframe before authorizing payment for early intervention services.

DHS staff reported that Arkansas has implemented a system of payments for early intervention services that utilizes family private insurance and co-payments when applicable. However, OSEP does not have a record of the State's system of payment on file as part of Arkansas' Part C grant application. Service coordinators are monitored to ensure that private insurance, where available, is accessed for families. DHS staff reported that DHS requires the service coordinator to complete a financial screening on each family to make sure all appropriate funding sources are accessed before applying Part C funds.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that DHS appears to have some procedures that are reasonably designed to ensure appropriate use of IDEA Part C funds at the State level, but that DHS does not have: (1) procedures to determine compliance with Part C's nonsupplanting/MOE provisions in IDEA section 637(b)(6) and 34 CFR §303.124(b); or (2) a system of payments policy that is on file with OSEP.

Required Actions/Next Steps

DHS must submit with its Part C FFY 2009 Application a specific written assurance that DHS has informed its State audit office of the need to review under the State's Single Audit, conducted under the Single Audit Act, DHS's procedures to comply with the tracking of State and local expenditures to meet the requirements of Part C's nonsupplanting/MOE requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b). DHS must also continue to keep OSEP apprised in writing of any further efforts it or its State audit office makes to ensure compliance with Part C's MOE requirements.

DHS must also submit with Section II of its Part C FFY 2009 Application its written policies and procedures that identify its system of payments under IDEA section 632 and 34 CFR §§303.520 and 303.521. Such policies must meet the public participation requirements in 34 CFR §§303.110 through 303.113.