

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

Background: The Massachusetts Department of Health (DPH) is the State lead agency responsible for administering Part C of the IDEA in the State. Early intervention services in the State are provided through 59 early intervention service (EIS) programs, which are referred to by DPH as Early Intervention Programs (EIPs). DPH reported in its Part C FFY 2006 annual performance report (APR) that it served 14,878 infants and toddlers with disabilities as of December 1, 2006, representing 6.41% of the State's birth-to-three population. DPH has a State system of payments under Part C of the IDEA, and has adopted the Part C due process hearing procedures under 34 CFR §303.420 to resolve individual child disputes under Part C.

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

Components of the General Supervision System: DPH revised its general supervision system since OSEP's last visit to the State in 2003. Currently, DPH monitors EIPs to determine compliance with Part C on an annual basis using its general supervision system, which consists of the following: the Annual Report/Self Assessment, local determinations, focused monitoring, dispute resolution, and data verification. DPH also uses data from its Individualized Family Service Plan (IFSP) Lateness Report to identify noncompliance. At the time of OSEP's October 27, 2003 Verification letter, DPH used its program certification process to monitor EIPs on a cyclical basis (at least once every two years). Although DPH has the capacity to identify noncompliance in the State's 59 EIPs through each of these components, the Annual Report/Self Assessment is the primary mechanism the State uses to identify noncompliance.

EIP Annual Reports/Self Assessments: DPH uses the Annual Report/Self Assessment to issue findings of noncompliance, to collect and report SPP/APR data to OSEP and the public, to rank local EIPs, and to make local determinations. DPH collects Annual Report/Self Assessment data from EIPs through three separate mechanisms: (1) the Annual Report Data Verification/File Review and Timeliness of Services report for SPP/APR Indicator 1; (2) the Annual Report/Self Assessment Transition Survey for SPP/APR Indicator 8; and (3) the IFSP Lateness Report for SPP/APR Indicator 7. These mechanisms separately provide the data DPH reports on its annual SPP/APR to OSEP.

DPH uses the data from the Data Verification/File Review and Timeliness of Services Report to identify noncompliance with Part C's timely service provision requirements and to report data and information under SPP/APR Indicator 1. The State's 59 EIPs must submit to DPH by mid-October data on ten randomly selected children and provide the IFSP type (initial/review/annual) and date, service type, number of services per month, professional discipline, and the first date of service. In November of each year, EIPs

must submit to DPH the Transition Survey Report and provide data on early childhood transition, which DPH uses to identify noncompliance with transition requirements and report data to OSEP under SPP/APR Indicator 8. Also in November, DPH issues the IFSP Lateness Report to the 59 EIPs to address by mid-December data that are missing, unknown or unclear, and clean up data generated through the Early Intervention Information System (EIIS) Client data system. DPH uses these data to identify noncompliance with the 45-day timeline requirements and to report data to OSEP under SPP/APR Indicator 7.

Identification of Noncompliance: DPH staff reported that DPH issues a formal report to EIPs in March/April, which includes DPH's findings based on data from the Annual Report/Self Assessment, Transition Survey and the IFSP Lateness Report. If noncompliance is identified, DPH requires EIPs to develop a Corrective Action Plan (CAP) and submit it to the regional specialist¹ within 60 days of receiving the report.

Local Determinations: DPH reported that local determinations are based on compliance data reported for Indicators 1, 7, 8, and 9 (submitted through the Annual Report /Self Assessment, Transition Survey and IFSP Lateness Report), and the number of complaints filed against an EIP. DPH confirmed that DPH distributes local determination reports to each EIP after submission of DPH's SPP/APR to OSEP.

Focused Monitoring: DPH revised its Focused Monitoring component to identify the EIPs that it will monitor based on its local determination process. DPH staff reported that the purpose of the revised Focused Monitoring Process is to monitor and evaluate program compliance with Federal Part C IDEA regulations and the DPH's Early Intervention Operational Standards. Annually, DPH staff analyze data and rank EIPs based on local determination categories. EIPs that receive a determination of "Needs Intervention" or "Needs Substantial Intervention" will receive onsite Focused Monitoring visits to develop strategies for improvement.

During OSEP's verification visit, DPH staff reported that the goal of focused monitoring is to help identify the root cause(s) for low performance to develop corrective actions or improvement plans with strategies for continuous improvement. DPH staff described focused monitoring visits to include meetings with EIP administrators, file reviews, interviews with parents, staff, and community partners. In preparation for the onsite visit, the Focused Monitoring team, comprised of the regional specialist and two parents, meets to review information and data gathered about the EIP. Available data may include: previous monitoring reports, any formal and informal complaints based on discussions with the Director, Office of Family Rights & Due Process, EIIS data, and service delivery reports. DPH issues a report to the EIP summarizing the results and findings of the visit within 30 business days of the onsite visit. If DPH identifies noncompliance in the report, EIPs must submit a CAP to DPH within 60 business days from receipt of the report.

¹Regional specialists are DPH Early Intervention personnel who work out of the DPH regional offices throughout the State. Their primary responsibilities include: (1) providing technical assistance to EIPs within a designated region; and (2) monitoring the programs for compliance with the Federal regulations under Part C of the IDEA and DPH's Early Intervention Operational Standards..

Dispute Resolution: DPH staff reported that DPH also uses its State Dispute Resolution System to identify noncompliance. DPH staff confirmed that DPH investigates all written complaints to substantiate allegations of noncompliance and enforces due process hearing decisions. If DPH identifies noncompliance, findings are issued in the final report and EIPs are required to submit a CAP.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP has determined that DPH has a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components. Without collecting data at the local level, OSEP cannot determine whether the State's procedures are fully effective in identifying noncompliance in a timely manner.

Required Actions/Next Steps

No action is required.

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?

Correction and One-Year Timeline: DPH includes required corrective actions in its report notifying the EIPs of noncompliance. Local EIPs must describe their strategies for correction in a CAP. DPH staff reported to OSEP that EIPs must complete the required corrective action (and the State must verify correction) as soon as possible, and in no case later than one year after the date DPH issues its report identifying the noncompliance. OSEP confirmed through staff interviews, review of DPH policy, monitoring reports and CAPs that for the State to verify correction within its one-year timeline, EIPs must be able to demonstrate compliance within nine months.

Verification: Each approved CAP contains a "Required Evidence of Change" section. This section identifies the documentation the EIP must submit to DPH and the target dates for when noncompliance must be corrected. This section also specifies how and what mechanism(s) the regional specialists will use to verify the correction of noncompliance. The onsite visits include early intervention file reviews, including IFSP reviews, and review of data collected from the EIIS system to verify correction. DPH staff informed OSEP that the continuous monitoring and technical assistance method has helped to build capacity in EIPs and to improve their ability to correct noncompliance. In its FFY 2006 APR, the State reported 100% compliance for the timely correction requirements under Indicator 9.

Available Enforcement Actions/Sanctions: DPH staff described a system of enforcement actions that are authorized by State regulation and detailed in the Massachusetts Part C Local Determinations FFY 2007 Document. This document uses Federal definitions for Determination categories and includes a matrix of both required and optional enforcement actions for each determination category. A CAP is the minimally required enforcement action for EIPs DPH determines to be in "Needs Assistance," "Needs Intervention," or "Needs Substantial Intervention." DPH staff reported that DPH has

discretion to impose additional sanctions on EIPs that receive a determination of “Needs Intervention” and “Needs Substantial Intervention.”

Use of Sanctions: During the verification visit, OSEP learned that DPH has imposed sanctions with some EIPs through DPH’s annual program certification process. EIPs with pending CAPs receive conditional or provisional certification based on the recommendation of the regional specialist with approval by the Director of Early Intervention or Part C Coordinator. For those EIPs that receive a provisional certification, DPH requires reporting on a monthly basis.

DPH staff reported that DPH imposed a moratorium on all new referrals to one EIP in response to issues of noncompliance and fiscal concerns. DPH provided notice to the EIP that all families be immediately informed of other EIPs in their catchment area. If there is no other EIP in the catchment area, DPH staff discussed the possibility of issuing Requests for Referrals (RFR), which is a bid to create a new EIP in the specified catchment area. DPH staff reported that the issuance of an RFR provides incentive for the current program to come into compliance to avoid further sanctions. DPH staff reported that they are considering issuing RFRs for those EIPs whose local determination is “Needs Intervention” or “Needs Substantial Intervention.”

DPH staff reported that DPH has also withheld funds with one specific vendor agency that provided services for children with multiple disabilities in segregated settings. DPH now contracts with six regional consultation programs to provide consultative, family-centered services to children with complex medical needs throughout the State.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP has determined that DPH has a general supervision system that is reasonably designed to ensure correction of identified noncompliance in a timely manner. Without collecting data at the local level, OSEP cannot determine whether the system is fully effective in correcting noncompliance in a timely manner.

Required Actions/Next Steps

No action is required.

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

In FFY 2006, DPH reported that three complaints were filed, one mediation request was filed and withdrawn, and no due process hearings were requested. DPH staff reported that the State has adopted and fully implemented its complaint, due process hearing and mediation procedures.

Complaints: During OSEP’s verification visit, DPH staff reported that they call a complainant after the State receives a complaint to discuss the allegations and possible solutions. Through interviews with DPH and review of complaint records from FFY

2006, OSEP staff learned that the regional specialists and the Director of the Office of Family Rights and Due Process (OFRDP) provide frequent and on-going local technical assistance and training to parents and providers to encourage resolution at the local level. The State Part C Coordinator and Assistant Director of Early Childhood Programs indicated that they are also available and have responded directly to EIPs and parents.

When a formal administrative complaint is filed, the director of OFRDP sends a letter of receipt to the complainant, the EIP, and regional specialist of receipt of the complaint. DPH staff explained that the director of OFRDP will contact the complainant to clarify the issues and assist them in organizing and writing the complaint. DPH staff clarified that all formal complaints are investigated through an onsite visit to collect relevant information. DPH explained that the written decision is forwarded to the complainant, any applicable EIPs, the regional specialist, and the Assistant Director of Early Childhood within 60 days of receiving the complaint. If corrective action is required, the EIP must submit a CAP to the regional specialist within 30 calendar days from the date the written decision is issued.

Based on interviews with State staff and a review of complaint records and logs from FFY 2006, OSEP concluded that DPH started its 60-day complaint resolution timeline on the date that the State received the complaint. OSEP's review of all written decisions issued by the State found that some were not dated. However, through a review of complaint logs and other documents, OSEP verified that written decisions were issued within the required timelines. During the verification visit, OSEP staff emphasized to DPH staff the importance of including the date on written decisions issued to the complainant.

Mediation/Due Process Hearings: DPH staff reported that mediators must have formal training and experience with special education and eight hours of training per year. The director of OFRDP meets with mediators on an annual basis. DPH staff confirmed that, if an agreement is not reached during mediation, the Director of OFRDP or a member of OFRDP staff provides the necessary information for proceeding to a due process hearing. DPH staff confirmed that DPH procedures ensure that, no later than 30 days after the receipt of a request for a due process hearing, all parties are notified of the decision, the reason for the decision, relevant findings of fact, conclusions of law, and the right to appeal the decision in State and Federal Court.

DPH reported that its policy is to post on the State's website all redacted due process hearing decisions.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP has determined that DPH has procedures and practices that are reasonably designed to implement the complaint and mediation requirements under Part C of the IDEA. The lack of any due process hearing requests in FFY 2006 does not enable OSEP to determine whether such procedures and practices would be effective in ensuring that due process hearing requests are timely resolved.

Required Actions/Next Steps

No action is required.

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

DPH staff reported that all components of the State's general supervision system, including public awareness and child find efforts, monitoring, collection of data, and training and technical assistance efforts, are aimed at ensuring improved results and outcomes for infants and toddlers with disabilities and their families. In addition, DPH reported on a number of specific initiatives that are aimed at improving educational results and functional outcomes for infants and toddlers with disabilities, such as the SpecialQuest grant, and the Building a Community (BAC) training program.

DPH staff reported that DPH has collaborated with the Department of Early Education and Care, Department of Education, Head Start, and Early Head Start and was awarded the SpecialQuest grant to build upon already existing relationships to create a statewide system to provide quality inclusive opportunities for all young children and their families by embedding the SpecialQuest approach, materials, and resources into professional development and service systems.

The BAC training is mandatory for new Early Intervention (EI) staff and covers all components of the State's EI system. The two-day training is designed to provide basic knowledge of State eligibility criteria, the process of eligibility evaluation, and strategies for interpreting and sharing information. OSEP learned that it also provides basic training on relevant Federal and State legislation, regulations and policies (including IDEA, FERPA, Massachusetts Early Intervention Operational Standards, Massachusetts Special Education laws and vendor policies) that impact services and supports to children and families.

OSEP learned that DPH is participating in the Haussein Project, a mentoring program for parents. The project is designed to increase the number of parent contacts. DPH reported that parent contacts serve as a conduit of information between DPH and the parents' EIPs. DPH commented that parent contacts share information with families, provide support by offering their thoughts and opinions to their EIPs and the State.

DPH staff reported that understanding family rights and ways of communicating a child's needs will be a focus of the project. DPH staff indicated that with support from stakeholders, information about the National Center for Special Education Accountability Monitoring Family Survey and its three components will go out to the larger provider community. DPH staff explained that the goal is to increase family participation during the IFSP process.

DPH staff reported that it continues to review the impact of the State's efforts to improve early intervention results and functional outcomes for infants and toddlers with disabilities. OSEP learned that the State is actively engaged in ongoing discussions with stakeholders to determine the best approach for measuring early childhood outcomes for Federal reporting purposes. DPH staff described that it is considering implementing the Early Childhood Outcomes Center's Child Outcomes Summary Form or the Battelle Developmental Inventory-2 for determining eligibility and for measuring child outcomes.

DPH staff reported that both options are still under consideration and the State's goal is to have final recommendation from stakeholders by the end of calendar year 2008. DPH staff reported that the State will use this data collection approach over a two to three-year period to train all 59 EIPs.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP has determined that DPH 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 application requirements, i.e., monitoring and enforcement, CSPD, and interagency agreements, contracts or other arrangements?

Verification Visit Details and Analysis

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

Local Determinations and Public Reporting: DPH staff confirmed that DPH conducted local determinations of its EIPs for 2007 (based on FFY 2005 data) and 2008 (based on FFY 2006 data). In addition, DPH staff described and provided documentation demonstrating that the State has reported local program performance data by each EIP on SPP/APR Indicators 1, 2, 5, 6, 7 and 8 to the public. DPH staff confirmed that these data are published on its website.

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 SEA) and potential interagency agreements regarding referrals of children under the Child Abuse and Protection Treatment Act.

DPH provides all Part C services either directly or through contracts. DPH staff confirmed that DPH uses Federal Part C funds as the payer of last resort, and ensured ongoing service provision for IFSP services in a timely manner during any disputes regarding financial responsibilities.

DPH has a Transition Interagency Agreement with the Massachusetts Department of Education, the Administration of Children and Families (Head Start), and the Executive Office of Health and Human Services on Early Childhood Transitions. DPH staff explained that the purpose of this Agreement is to provide a framework for joint planning

for the transition of young children with, or at risk of developing, special needs. DPH staff further described that this Agreement has resulted in EIPs incorporating best practice and that it has encouraged EIPs to develop their own memoranda of understanding with local programs at the local level.

Personnel Development: DPH uses its new Early Intervention Training Center to provide training and technical assistance to early intervention services personnel. A State training director oversees this center. DPH staff described its training and technical assistance as designed to meet the needs of a variety of personnel. DPH reported that current and ongoing efforts include trainings on the State's certification process, the BAC training, and transition. DPH staff further reported that regional specialists provide ongoing training and technical assistance to EIPs.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP has determined that DPH has procedures and practices that are reasonably designed to implement selected grant application requirements regarding local determinations and public reporting, interagency coordination, and CSPD.

Required Actions/Next Steps

No action is required.

II. Data

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

DPH staff utilize two major data systems, the Early Intervention Information System (EIIS) and the Service Delivery Report System (SDRS) to collect data required under sections 618 and 616 for Indicators 1, 2, 5, 6, 7, 8, and 9. These systems provide the State's 59 EIPs the capability to transmit program data to DPH in real time. Because SDRS correlates with the EIIS, DPH is able to validate and report data in a timely manner. DPH staff reported that the Annual Report/Self Assessment is a key component in reporting SPP/APR data submitted in the EIIS. DPH staff explained that data submitted through the File Review and Timeliness of Services report and the Transition Survey are used to report data for Indicators 1 and 8. DPH staff use data gathered through the IFSP Lateness Report to report APR data for Indicator 7.

Through EIIS, DPH staff collect client demographic information, including eligibility, IFSP data, discharge data, service coordinator assignment, and other child-specific data. DPH staff enter these data into EIIS within ten days of the first face-to-face service date (a new standard in State fiscal year 2005) to create a new client record. DPH staff enter the eligibility determination within ten days of evaluation and enter service plan data within ten days of the IFSP signature date. The SDRS correlates with the EIIS and includes data on the specific EI services being provided, the assigned provider of each

service, and the method of delivering services. DPH staff utilize all of DPH's data sources to report valid and reliable data. DPH staff routinely examine data from sources, such as provider reported data, service delivery reports, parent complaints, and performance measures to determine its accuracy and reliability consistent with the Massachusetts Data Verification Plan². DPH staff reported that the State collects service and billing information from its 59 EIPs through the EIIS. DHS staff obtain section 618 data from a combination of claims and client information, such as referral source and date, demographics, evaluation information, and IFSP information.

DPH staff reported that DPH's processes for identifying and correcting data anomalies are consistent across both the SPP/APR and section 618 data collections. Data submitted to the State are subject to a number of edit checks designed to identify and address any anomalies on the State and local level. DPH staff confirmed that the EIIS and SDRS have built-in edit checks that identify data anomalies by creating red flags before the data are submitted to DPH. The system suspends or places claims "on hold" and will not pay claims until the EIP enters the corrected data.

Additionally, DPH staff reported that DPH sends "error reports" to all EIPs every other month. DPH requires EIPs to review each report and make the necessary changes to ensure the validity of data submitted by the EIPs. The "error reports" typically include undetermined eligibility, missing IFSP signature date, and missing EIIS client forms, client age, and ancestry information.

DPH distributes an Annual Error Report as part of its ongoing program monitoring and evaluation of how each EIP manages the EIIS. The Annual Error Report includes data on the number of children served, the number and percentage of children served with data errors, and the percent of change from the previous year. The Annual Error Report flags EIPs where five or less child records have data errors or where there is a 4% decrease in data errors from the previous report. The report also identifies EIPs where either 20% or at least 75 children have significant data errors in their records, particularly errors that have persisted over time. DPH staff reported that it ranks the EIPs based on the percentage of data errors, and disseminates the report to the EIPs. DPH staff indicated that the Annual Error Report provides an incentive for EIPs to develop improvement activities and training opportunities. Additionally, DPH staff reported that the regional specialists incorporate information obtained through "error reports" into the program certification process and for ongoing technical assistance.

OSEP Conclusions

Based on the review of documents, analysis of data, demonstration of data system capabilities, and interviews with State and local personnel, OSEP has determined that DPH 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.

Required Actions/Next Steps

No action is required.

² The Data Verification Plan provides a process to establish the reliability of data that are used and published by the Department of Public Health.

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?

DPH staff confirmed that data sources are routinely examined using the State's Data Verification Plan, which lays out the procedures for verifying data against practice. DPH staff reported that the regional specialists utilize the Plan to verify data submitted from the Annual Report/Self Assessment and Transition Survey by comparing data entry forms located in each individual file with the EIIS. The anomalies identified in these processes are corrected through a face-to-face meeting between the EIP data manager and regional specialist, file reviews, onsite data verification visits, and CAPs.

OSEP Conclusions

Based on the review of documents, analysis of data, demonstration of data system capabilities, and interviews with State and local personnel, OSEP has determined that DPH has procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

Required Actions/Next Steps

No action is 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

DPH staff reported that data from all components of the State's general supervision system, including its data system, APR process, focused monitoring, annual report/self assessment, local determination, data verification, and dispute resolution processes are used to develop appropriate improvement activities and modify them as needed. The State also reported that data from each of these components is used to revise State policies, procedures, and monitoring protocols. For example, EIPs use local determinations to identify strengths and focus technical assistance strategies. Additionally, EIPs with a specific determination receive a focused monitoring visit to identify the root causes of noncompliance and are required by DPH to develop corrective actions and strategies for improvement.

DPH staff further reported that the Annual Report/Self Assessment data assists DPH in monitoring EIPs' contract performance standards and identifying program issues that impact the State's provision of services to Part C recipients. DPH staff explained that the EIIS allows EIPs to generate reports to identify data errors such as missing or incomplete data that the EIP can correct at the local level. Improvement activities are developed based on the analysis of data errors generated by each EIP.

OSEP Conclusions

Based on the review of documents, analysis of data, demonstration of data system capabilities, and interviews with State and local personnel, OSEP has determined that DPH compiles and integrates data across systems and uses the data to inform and focus its improvement activities.

Required Actions/Next Steps

No action is 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 at the State level?

Verification Visit Details and Analysis

DPH staff described the State's procedures to ensure that all Federal IDEA Part C funds are obligated and liquidated in a timely manner. DPH staff reported that timely obligation and liquidation of such funds are ensured through a system in which all EIPs are given a five-year contract with an established maximum obligation. DPH staff reported that all EIPs are part of a Master Service Agreement (MSA) specifically dedicated to the State's 38 vendor agencies,³ which allows EIPs to liquidate funds through an "open order account" that is not tied to any specific entity. DPH staff explained that, once an EIP exhausts its specific maximum obligation, reimbursement claims are transferred to the MSA. DPH staff reported that the maximum obligation is assigned at the beginning of the State's fiscal year (July through June). DPH staff reported that, to receive reimbursement, EIPs must submit a payment voucher to the State's Central Reimbursement Office (CRO). DPH staff reported that CRO uses the State's Practice Management System to monitor these expenditures and track liquidations and draw-downs.

To further ensure the timely and appropriate obligation and liquidation of Part C funds, DPH staff conduct ongoing fiscal analysis. DPH's analysis includes a monthly cost report with year-to-date expenditures that DPH disseminates to all EIPs. DPH staff confirmed that the funds from an entire grant year are typically expended within 15 months and that the State will reallocate funds if an EIP does not expend its yearly obligation in a timely manner. OSEP confirmed through the U.S. Department of Education's Grants Administration and Payment System that DPH had not lapsed any of its FFY 2004 and FFY 2005 Part C funds.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds the State has procedures that are reasonably designed to ensure the

³ A vendor agency is an approved organization with which the State conducts business. A vendor may manage many EIPs as well as other contracts with DPH.

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 use of IDEA funds at the State level?

Verification Visit Details and Analysis

DPH staff reported that the State utilizes several funding sources, including funds available from DPH's own budget, private insurance, MassHealth (Medicaid), and other State and Federal dollars.

Payor of Last Resort/System of Payments: DPH staff confirmed that Massachusetts General Law authorizes the State to use public benefits and insurance and private health insurance to pay for services under Part C. DPH staff reported that EIPs are required to contract with third party insurance providers and that legislation mandates third party insurers to cover the cost of EI services as part of their basic benefits package. The State's system of payment policies are on file with OSEP. In addition to the State's third party insurance legislation, families are assessed an annual fee, prorated per period of eligibility, based upon family size and income. EIPs match this information into one of five categories according to the Federal Poverty Income Guidelines.

DPH staff confirmed that service types, reimbursement, and rates are consistent statewide. In addition, EIPs are responsible for billing third party insurers which responsibility, DPH staff reported, provides an incentive for EIPs to submit a "clean claim" and avoid delays in payments. DPH staff reported that DPH requires EIPs to take appropriate action to pursue all other means of reimbursement before accepting financial responsibility to ensure its status as payor of last resort. DPH staff also reported that DPH is the payor of claims for non-insured children and is the payor of last resort for all EI services of insured families and their children.

Fiscal Accountability: To further ensure appropriate distribution of Part C funds, DPH has included fiscal policies and procedures in its Early Intervention Service Delivery Reporting Requirements and Reimbursement for Services Manual. This manual describes the State's claims processing system, billable EI services, payment sources, service delivery requirements and vendor responsibilities related to obtaining reimbursement for claims. Additionally, any organization seeking to provide contracted EI services is required to meet fiscal, legal and administrative requirements set by the State. Entities seeking a contract with the State are required to adhere to the Early Intervention Operational Standards and Service Delivery Reporting System. DPH staff confirmed that all EIPs use the same rate established by the State and the same accounting codes when billing for EI services.

Nonsupplanting/Indirect Costs: With respect to Part C's nonsupplanting requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b), DPH staff confirmed that all funding sources for Part C services within the State receive a separate funding code that

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the State uses to track both Part C and State funds. The State's FFY 2008 Part C Application indicates that DPH does not charge indirect costs to its FFY 2008 Part C grant award.

OSEP Conclusions

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP determines that the State's system is reasonably calculated to ensure appropriate use of IDEA funds at the State level.

Required Actions/Next Steps

No action is required.