

## **Tennessee Part C 2008 Verification Visit Letter Enclosure**

***Background:*** The Tennessee Department of Education (TDE) is the State lead agency responsible for administering Part C of the IDEA in Tennessee and the Tennessee Early Intervention System (TEIS) is the entity within TDE that administers Part C for TDE. Early intervention services in Tennessee are provided through nine regional or district early intervention service (EIS) programs, which are referred to by TDE as single point of entry or SPOE programs. TDE reported in its Part C FFY 2006 annual performance report (APR) that it served 4,014 infants and toddlers with disabilities representing 1.68% of the State's population from birth to age three. TDE has adopted a State system of payments under Part C of the IDEA and has adopted the Part B 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 State's Monitoring System:*** TEIS staff reported that the State utilizes a Continuous Improvement Monitoring Process (CIMP) that includes a self-assessment component, policy audit mechanism, focused monitoring, and dispute resolution processes. Although each of these mechanisms has the capacity to identify noncompliance in the State's nine regional Single Point of Entry (SPOE) offices, as of the time of OSEP's verification visit, TEIS was using only the self-assessment process to issue written or formal findings of noncompliance with Part C requirements. TEIS staff reported that in its self-assessment process, each SPOE submits a local annual performance report (APR) to TEIS with data from the State's data system, the Tennessee Early Intervention Data System (TEIDS). The data SPOEs must submit in the local APRs are on the same indicators that TEIS must report on in the State's Part C APR that must be submitted to OSEP under IDEA sections 616 and 642.

***When and How Findings are Issued:*** TEIS does not issue findings immediately after local SPOEs submit data, but rather after conducting data verification, and providing local programs the opportunity to clarify the data. TEIS staff indicated that additional steps and processes occur between the collection date for annual data (June 30<sup>th</sup> for Indicators 7 and 8C, and August 31<sup>st</sup> for Indicator 1), and the issuance of findings of noncompliance in order to validate the data collected from SPOEs (see Data Critical Element #1 for further description of these processes). After an opportunity for each SPOE to provide clarification on the data in TEIDS, including the opportunity to provide information on family and other exceptional circumstances, TEIS issues findings of noncompliance to the SPOE. For the FFY 2006 reporting period, TEIS identified findings of noncompliance in each SPOE's letter of determination, which were issued in December. TEIS staff reported that the State has been working to shorten timelines for identification, and indicated that the State will be issuing findings for Indicators 7 and 8C in October, and findings for Indicator 1 in November of 2008, before program determinations are made.

The State reported that findings, which are based on a full Federal Fiscal Year's (FFY) census data for Federal compliance indicators, are issued in a report to each SPOE's district administrator. OSEP reviewed the State's nine FFY 2006 letters of determination and concluded that each letter included a description of each finding of noncompliance with citations of applicable IDEA requirements, and the date by which the EIS program must correct noncompliance. TEIS staff reported that the State includes a Program Improvement Plan (PIP) tracking document with each finding of noncompliance that provides information on what the EIS program has agreed to do to address and correct the noncompliance.

*Other CIMP Components—Focused Monitoring, Audits, Dispute Resolution:* In addition to the APR process, TEIS staff reported that it is implementing a TEIS Policy Audit that has the potential of identifying findings of noncompliance. The first of these annual audits were performed in May and June of 2008. The State reported that policy audits currently provide an examination of how SPOEs are working to implement recent TEIS policy memorandums, many of which are related to the State's system of payments. However, TEIS staff reported plans to include additional indicators examining a number of related IDEA requirements, and to issue formal letters of finding based on data gathered in the audit process. TEIS staff reported that a written finding being issued through this mechanism would be included in the PIP tracking document with required actions, timelines, and documentation verifying correction of the noncompliance.

TEIS staff reported that its focused monitoring process is used primarily for technical assistance purposes, including an analysis of the root causes for noncompliance in the district, and an in-depth analysis of performance on results indicators within the SPOE. Information from focused monitoring visits is used to direct TEIS improvement activities including trainings at the program and individual staff levels. At the time of OSEP's visit, TEIS did not use its focused monitoring process to identify noncompliance or issue written reports. However, TEIS staff indicated that, if through the course of a root-cause analysis, additional noncompliance is identified (in related requirements, for example), the State will begin using its focused monitoring process to issue written findings of noncompliance to SPOEs.

TEIS staff also reported that, although determinations made in the State's dispute resolution processes are sent to SPOE district administrators, and corrective actions related to any violations identified in the process are tracked to ensure that the State's decisions have been enforced, TEIS does not report these violations (even if they reflect noncompliance with IDEA requirements) as findings in its Indicator 9 data on timely correction in the State APR submitted to OSEP.

### **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(a) and (b)(1), TDE must identify noncompliance by issuing findings of noncompliance when TEIS obtains reliable data reflecting noncompliance with Part C requirements through TEIS policy audits, focused monitoring visits, and dispute resolution procedures. Based on the review of documents, analysis of data, and interviews with TDE and SPOE personnel, OSEP finds that one component of TDE's CIMP, the self-assessment process, is reasonably designed to identify noncompliance in a timely manner. However, TDE is not utilizing three other CIMP components, the TEIS policy audits, focused monitoring visits, or its dispute resolution processes, to issue findings of noncompliance. TEIS staff reported during OSEP's visit that the State is working to fully implement all components of the CIMP and that TEIS will issue written findings to its nine

SPOEs when noncompliance is identified through policy audits, focused monitoring and dispute resolution processes (state complaints and due process hearing requests).

**Required Actions/Next Steps**

Within 60 days from the date of this letter, the State must provide a written assurance that TDE will issue findings of noncompliance when reliable data reflecting noncompliance with Part C requirements is obtained through its general supervision procedures, including: TEIS policy audits, focused monitoring visits, or dispute resolution processes. In addition, the State must provide data with its FFY 2008 APR (due on February 1, 2010) on the number and source of findings it identified during FFY 2008.

***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**

*Procedures for Correction/Enforcement:* The corrective action planning process is the primary mechanism TEIS uses to ensure correction by local EIS programs of findings that TEIS issues through its self-assessment and determination process. This process is described in *Tennessee's Process for Issuing Findings and Determining Corrections for EIS Program Monitoring Indicators of Compliance*, and includes a requirement that programs must report monthly census data to TEIS on those indicators for which the program is in noncompliance. In addition to monthly progress reports, the process includes a training component through which TEIS program monitors provide technical assistance on compliance-related issues using a variety of methods including on-site trainings, teleconferences, and WebEx activities. These activities are geared toward SPOE leadership teams, which include the district administrator, data manager, eligibility coordinator, service coordination manager, direct services manager, and the district's training mentor.

Corrective Action Plans (CAP) and all other enforcement actions used by TEIS to ensure the timely correction of noncompliance are described in *Tennessee's System of Enforcements for EIS Programs*. This document details a process in which TEIS assigns one of the four Federal determination categories described in IDEA section 616(d) to each local EIS program, and provides a matrix of both required and optional enforcement actions for each determination category. The State's matrix factors in the EIS program's determination category, as well as the number of years it has been in that category, in determining the enforcement options that are at the State's disposal. For EIS programs determined to Need Assistance, Need Intervention, or Need Substantial Intervention, TEIS staff reported that a CAP is a required enforcement action. Other enforcement actions for repeated noncompliance include training or re-training of SPOE and vendor staff, and the review of Job Performance Plans (personnel evaluations).

*How and When Correction is Verified:* To verify correction, TEIS sends a monthly TEIDS report to each SPOE detailing child-level data for untimely meetings and/or services to the SPOE data manager who, in conjunction with the SPOE leadership team, identifies and verifies reasons for delay. Within a week of receiving the TEIDS data report, SPOE staff gather information, including data on family and other exceptional circumstances as well as system reasons for delay, and returns the report to TEIS program monitors for review. TEIS staff reported that its program monitors then validate the SPOE's analysis by randomly sampling 20% of the child files with

documented family circumstances and either accept the SPOE's submission or initiate a secondary review. When a monthly data report demonstrates compliance, TEIS staff reported that within 5 days the State Director of Early Childhood Services issues a letter notifying the SPOE district administrator that the noncompliance was corrected.

***Most Recent Timely Correction Data:*** The State's FFY 2006 APR included a description of a number of enforcement actions that TEIS has taken with EIS programs with longstanding noncompliance. These enforcement actions ranged from requiring additional data reporting and mandatory technical assistance with TEIS program monitors, to changing SPOE leadership staff. TEIS staff provided documents, including letters of finding and correction, and a CAP tracking document, indicating that the State has demonstrated progress in correcting noncompliance through these mechanisms. TEIS staff reported that all findings of noncompliance identified in FFY 2005 and FFY 2006 were corrected at the time of OSEP's visit, and that the State's FFY 2006 findings were fully corrected within 15 months of being issued. Data provided by the State indicates that TEIS has made progress in ensuring the timely correction of findings of noncompliance (from 40% in the State's FFY 2006 APR, to 60% in the data that will be submitted to OSEP in the FFY 2007 APR, due February 1, 2009).

### **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 a component of its general supervision system, its self-assessment process, to address correction, and that the State has fully corrected all of its FFY 2005 and 2006 findings of noncompliance. However, the State is not yet timely correcting noncompliance identified through self-assessments within one year of identification in all cases. As noted earlier in GS-1, OSEP cannot conclude whether additional findings of noncompliance (through policy audits or focused monitoring) would have required correction. With regard to the State's Part C dispute resolution system, although OSEP confirmed that TEIS timely corrects noncompliance identified through the dispute resolution system, TEIS is not reporting in its APR to OSEP on the timely resolution of those findings.

### **Required Actions/Next Steps**

With its FFY 2007 APR, due February 2, 2009, the State must continue to provide under Indicator 9 data on timely correction during FFY 2007 of all findings made during FFY 2006 including findings made through the self-assessment process, and dispute resolution processes. With its FFY 2008 APR, due on February 1, 2010, TDE must provide data on any findings it has made during FFY 2008 through policy audits and focused monitoring visits and any available data on the status of correction of those findings.

### ***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**

***Dispute Resolution Procedures & Practices:*** TDE must have in place dispute resolution procedures in order to implement its dispute resolution responsibilities under Part C of the IDEA

in sections 616(a), 635(a)(13), 639 and 642 and 34 CFR §§303.400, 303.420, and 303.510 through 303.512. During OSEP's visit, TEIS staff provided OSEP staff with information regarding Tennessee's implementation of the mediation, due process hearing request and complaint resolution procedures for Part C. Effective July 1, 2007, the Tennessee Department of State, Administrative Procedures Division (APD) is responsible for implementing the Part C due process and mediation procedures under 34 CFR §303.420. TDE maintains responsibility for: 1) investigating and resolving State complaints filed under 34 CFR §§303.510 through 303.512; 2) ensuring that mediation and due process hearing requests are communicated to APD in a timely manner; and 3) enforcing the decisions made by APD administrative law judges. APD provides administrative law judges to conduct hearings for TDE and other State administrative agencies, and also develops rules of procedure that apply to the conduct of those hearings consistent with Tennessee's Administrative Procedures Act.

TEIS staff described the coordination between TDE's Office of Legal Services, TEIS program monitors, and the Part C Coordinator to track the resolution and enforcement of decisions. As noted in GS-2 above, TEIS staff reported that, although the results of the State's Part C due process hearing and complaint decisions are sent to SPOE district administrators, and timelines are given for corrective actions required to address any violations identified, TEIS has not identified such violations as "findings" of noncompliance, and the correction of these violations has not been reported in the timely correction data in Tennessee's APR data submitted to OSEP.

TEIS staff reported that the State informs parents about procedural safeguards in a number of ways, including documents posted on the TEIS website. Included in these documents is a brochure, *The Rights of Infants and Toddlers with Special Needs Eligible for Tennessee's Early Intervention System*, which includes information on the range of dispute resolution options, and a publication entitled *A Guide To Special Education Administrative Complaints*. This guide includes the requirements for filing a State complaint, a model complaint form, and definitions, steps, and timelines for resolution.

State Complaint Decisions: OSEP reviewed Tennessee's 2008 Part C State complaint decisions and found that, when the decision was in favor of the State (as opposed to the complainant), the Part C decision did not contain the requisite findings of fact and conclusions, and reasons for the State's final decision, as required by 34 CFR §303.512(a)(4)(i) and (ii).<sup>1</sup> Each of these written decisions identified only the complainant's allegations, the documents or sources of information obtained and reviewed during the investigation, and the State's final decision. TEIS staff indicated that, in many cases, informal means such as phone calls with families who are the complainants or involved in the complaint, are used to convey this information to the complainant.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that TDE has procedures and practices that are reasonably designed to implement the dispute resolution requirements of Part C of the IDEA except for State complaints. TDE written decisions (in favor of the State) for State complaints do not contain findings of fact and conclusions and the reasons for TDE's final decision as required by 34 CFR §303.512(a)(4)(i) and (ii).

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<sup>1</sup> OSEP's review of the State's 2008 Part C written decisions in which the complainant prevailed confirmed that the Part C decisions included the required content in 34 CFR §303.512(a)(4)(i) and (ii). As discussed further in the Part B enclosure accompanying this letter, the Part B decisions did not contain this required content.

**Required Actions/Next Steps**

Within 60 days from the date of this letter, TDE must provide documentation (including copies of any written decisions issued since OSEP's verification visit) to ensure that decisions include findings of fact and conclusions and the reasons for the State's final decision as required by 34 CFR §303.512(a)(4)(i) and (ii). In the event no written decisions are issued by TDE by February 2, 2009, TDE must submit with its Part C FFY 2009 Application copies of any State complaint decisions issued since OSEP's verification visit.

***Critical Element 4: Improving Early Intervention Results***

*Does the State have procedures and practices that are reasonably designed to improve early intervention results and functional outcomes for all infants and toddlers with disabilities?*

**Verification Visit Details and Analysis**

TEIS staff indicated 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 designed to ensure improved results and outcomes for infants and toddlers with disabilities and their families. In addition, TEIS staff 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 Statewide training on Routine Based Interview (RBI) for use in family assessment and outcome development, the Screening Tools and Referral Training (START) program, and reforms to TEIDS, described below:

- TEIS selected RBI as a process for gathering family assessment information. The State reported that the use of the RBI in developing Individual Family Service Plans (IFSP) will assist the State in determining the resources, priorities, and concerns of families, and lead to the development of functional goals and outcomes, as well as increase the number of infants and toddlers with special needs that are served in natural environments.
- The START program, for which training has been performed in conjunction with TennCare, is aimed at creating partnerships (between early intervention service providers and pediatricians) that lead to improved identification of infants and toddlers with special needs. TEIS staff and SICC members reported that this improved detection of children with disabilities results in families having greater access to appropriate early intervention services and, through those services, leads to improved educational outcomes. To further support these partnerships, the State reported that TEIS has co-located with pediatricians in a number of locations to facilitate communication and identification of infants and toddlers with disabilities.
- TEIS staff reported that TEIDS includes a required field ensuring that justification is provided whenever a Part C service is identified as not being provided in a natural environment., and also that the data system has the capability to issue unique child identifiers which allow the State to track educational outcomes across TDE systems.

TEIS has also worked with East Tennessee State University to develop an outcome measurement system that collects and interprets data related to SPP/APR Indicator 3. This effort includes the development of policies and procedures clarifying aspects of data collection for reporting on child outcomes measurements, a child outcomes rating tool modeled closely on the ECO Center Child Outcome Summary Form (COSF), and ongoing training and technical assistance to address the data collection process. TEIS staff reported that currently three SPOEs are collecting data on early

childhood outcomes, and described a training schedule for SPOE and vendor staff that ensures all SPOE offices will be collecting early childhood outcome data by the fall of 2009.

TEIS staff reported that initiatives related to the Governor's Office of Children's Care Coordination (GOCCC) have resulted in reforms to the Part C system in the State intended to improve results for infants and toddlers with disabilities. The State reported that this effort, which began in 2006 and includes input from multiple sources and stakeholder groups, emphasized natural environments, family participation, and access to quality services. TDE reported that GOCCC reforms were also aimed at enhancing interagency collaboration and restructuring early intervention programs in the State to strengthen the single line of authority under TEIS. This process, along with the State's analysis of trends in administrative complaints, has driven TEIS' current emphasis on research-based approaches to improving outcomes for infants and toddlers having autism spectrum disorders.

#### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that TDE has procedures and practices that are reasonably designed to improve early intervention results and functional outcomes for all infants and toddlers with disabilities.

#### **Required Actions/Next Steps**

No further 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**

***Monitoring and Enforcement:*** TEIS staff reported to OSEP on its implementation of grant application requirements related to monitoring and enforcement, interagency agreements, and the State's system for professional development. Regarding monitoring and enforcement, in addition to the discussion in GS-1 above about determinations and connected enforcement actions, TEIS has reported to the public on the performance of each of its nine EIS or SPOE programs in comparison to the State targets in each of the past two years, and OSEP confirmed that such public reports are available on the TEIS web-site.

***Interagency Fiscal & Service Provision Responsibilities:*** Article Five of the State's interagency agreement addresses IDEA Part C Services and the early intervention system in the State. The agreement addresses collaboration, referral and intake, the provision of services, and dispute resolution. For Part C, this agreement is between TDE, Tennessee Department of Health, Bureau of TennCare, Tennessee Department of Children's Services, and Division of Mental Retardation Services. Article Six of the agreement includes sections on interagency dispute resolution procedures and the treatment of records, including applicable FERPA, IDEA, and State requirements. Tennessee's State regulations also identify dispute resolution procedures for disputes between agencies, including allowing for interim payments to ensure that services are not delayed, and continue to be provided, pending the resolution of interagency disputes.

***CSPD/Part C Personnel:*** TEIS staff described a training and technical assistance structure that has been revised since OSEP's last visit to the State. The new structure is centralized under TEIS and includes a training workforce coordinator position at the State level, and district training

mentors who participate on the leadership teams in each of the State's nine SPOE. TEIS staff described a stratified set of trainings, designed to meet the needs of a variety of personnel, as well as a number of methods through which training and technical assistance is provided, including on site and web-based trainings. TEIS staff reported that current efforts included trainings on the State's operations manual, vendor requirements, RBI, assessment tools, and a web-based curriculum on transition issues that was developed in conjunction with the Part B program.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that TDE has procedures and practices that are reasonably designed to implement selected grant application requirements, i.e., monitoring and enforcement, CSPD, and interagency fiscal and service provision responsibilities.

### **Required Actions/Next Steps**

No further 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**

Each lead agency must have a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and public in a timely manner to meet the requirements of Part C in IDEA sections 616, 618, 635(a)(14) and 642 and 34 CFR §303.540. TEIS staff reported that the State coordinates the collection of data from a number of sources in order to report annually to the Department and the public. These sources include the TEIDS database, an early childhood outcomes database, a family outcomes database, and separate tracking mechanisms for the correction of noncompliance and dispute resolution requirements. The State reported that TEIDS currently combines data elements related to a number of section 618 and section 616 reporting requirements, including APR Indicators 1 (timely provision of services), 2 (natural environments), 5 (percentage of infants birth to one served), 6 (percentage of infants and toddlers birth to three served), 7 (45-day timeline), and 8 (transition).

In order to ensure that the State's data systems collect and report valid and reliable data in a timely manner, TEIS staff reported that, as of January 1, 2007, it has implemented a number of updated elements in TEIDS. TEIDS is a child-level, web-based system for the collection and reporting of data on infants and toddlers with disabilities birth to three years of age. Information in TEIDS constitutes each child's official record. TEIDS allows the generation of a number of reports that allow SPOE leadership teams to track compliance and performance levels within the district. These include Active Child Reports that track timelines and status for children in all phases of eligibility and IFSP development, upcoming meeting reports, child count reports, rank order reports, and single timeline reports that allow for the collection of data on additional State timeline requirements.

TEIS staff reported that a number of functions in TEIDS ensure that the State is collecting valid and reliable data. These include data field validations (required fields), dropdown lists designed to avoid data entry errors, a data change log that records who has made changes to data, auto



calculation functions (including the calculation of due dates for the 45-day timeline, initial and annual IFSPs, six-month reviews, LEA notification, and transition conferences); and inter-function validations that ensure that prerequisite steps have been taken before certain data elements can be entered. TEIS staff additionally reported that unique child identifiers in TEIDS provide a systemic check on duplicate records and/or duplicate providers. Unique user IDs and password protections are used to authenticate access to TEIDS, and additional geographical and personnel-based security measures have been added in the system. Users are given restricted permissions to view detailed child records only within their region and as appropriate to perform their job duties.

TEIS staff reported that its processes for identifying and correcting data anomalies are consistent across sections 616 and 618 data collections, and that data submitted to the State are subject to a number of edit checks designed to identify and address any anomalies. These include Data Quality Checks, and "Advance Search" features that allow TEIS to analyze and confirm census data including all active files for children in a SPOE. TEIS staff also described a weekly review protocol through which SPOE data managers review data on all meeting types completed by service coordinators in the district. The State reported that anomalies identified in these processes are corrected through training and technical assistance provided to data system users through onsite visits, teleconferencing, or WebEx. In this process, TEIS staff reported that technical assistance is scheduled with program staff, activities and deadlines are established for correction, and data anomalies are corrected within a two-week timeframe. To support user needs, TEIS staff reported that the State has developed a Data Managers' Tool Kit, and a TEIDS user guide, and that the State has added clarifications to these documents, and developed additional policies to address any systemic anomalies.

During the verification visit, TEIS staff specifically demonstrated the State's ability to collect and report valid and reliable data under APR Indicator 1, addressing OSEP concerns cited in Tennessee's FFY 2006 APR response table. Staff demonstrated TEIDS' capability to collect data on the timely initiation of Part C services identified in all IFSPs (initial and continuing, as well as six month reviews), and to generate Timely Services Delivery Reports that measure the first service sessions delivered compared to planned service start dates, and provide a child-level breakdown of timely and untimely services for each SPOE. TEIS staff also reported on the clarification process that is used by the State to validate information submitted by each SPOE on all compliance indicators, including verification of family and other exceptional circumstances through the review of individual child service logs, and "hard copy" signature pages.

### **OSEP Conclusions**

Based on the review of documents, analysis of data, demonstration of data system capabilities, and interviews with State and local personnel, OSEP finds that TEIS 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 further action is required.

***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?*

**Verification Visit Details and Analysis**

Each lead agency must have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance to meet the requirements of Part C in IDEA sections 616, 618, 635(a)(14) and 642 and 34 CFR §303.540. TEIS staff reported that the nature of TEIDS, as a child-level, web-based system that serves as each child's official record, ensures to a great extent that the data collected in the system reflects actual practice and performance. The data system is used uniformly across the State, and data entry requirements are embedded in naturally occurring documentation processes. TEIS staff reported that data entered into the system comes from the service coordinators and providers who are actually developing and implementing a child's IFSP and that, as a result, data pulled from the system is more likely to reflect actual practices, and less prone to the type of corruption that can occur when data is recorded and then re-entered multiple times.

TEIS staff reported and demonstrated that TEIDS has the ability to collect contact log information from all IFSP team members and to validate data on family and other exceptional circumstances by determining what attempts were made to schedule meetings and/or to provide services. TEIS staff demonstrated the ability to collect data on services delivered (including data on the frequency and intensity of services provided), through access to service logs that allow the State to measure actual receipt of services versus planned information in a child's IFSP. TEIS staff reported that data in TEIDS is further validated to reflect actual practices through a review by State program monitors of a number of "hard copy" documents, including dated signature pages, insurance information, medical records, and some evaluation documents. These documents are typically transmitted from the SPOE to TEIS via facsimile.

TEIS staff reported that TEIDS' procedures not only reflect practices in the State, but also drive improved practices. The State reported that elements of the system, including data validations, and inter-function validations (not allowing for the development of an IFSP until eligibility information is entered into TEIDS, for example), require that documentation and data entry be more accurate and complete.

**OSEP Conclusions**

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

**Required Actions/Next Steps**

No further 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**

TEIS staff reported that data from all components of the State's general supervision system, including its data system, APR process, focused monitoring, policy audit, and dispute resolution processes are used to determine appropriate improvement activities. The State reported that each of these mechanisms has the potential of resulting in revisions to the improvement activities included in State's SPP/APR to OSEP, as well as additions to State policies, procedures, and/or monitoring protocols. For example, TEIS staff reported that data collected for the APR or focused monitoring may result in training and technical assistance, as well as protocol items being added to the TEIS Policy Audit or TEIS Operations Manual. Because TEIDS collects child-level data, the State reports that data from that component of the State's system can be focused on a particular SPOE or at the individual Early Intervention Resource Agency (EIRA), vendor, or staff level within them. The State reported that trends in data from TEIDS have the potential of being reflected, positively or negatively, in staff Job Performance Plans. Similarly, the State indicated that program performance, which is available in the State's public reporting, is also based on data from TEIDS.

TEIS staff reported that, in addition to the components described above and in the general supervision section of this table, the State's Central Reimbursement Office (CRO) is also an important source of information used to guide improvement planning efforts in the State. TEIS staff described the CRO as an "early warning system" for potential noncompliance related to the timely provision of services, as well as the frequency, duration, and payor source for those services (compared to levels and payor source planned on a child's IFSP). The State reported that the CRO utilized data from TEIDS, and that there is frequent communication (and close physical proximity) between CRO and program monitoring staff in TEIS. TEIS staff reported that this communication drives and focuses related training and technical assistance efforts.

TEIS staff reported that efforts to compile and integrate data across systems is also reflected in the State's analysis of trends in administrative complaints, which has led to a recent statewide focus on research-based approaches for meeting the needs of infants and toddlers with autism spectrum disorders, as well as the State's plans to analyze annual family survey results and compare data on family outcomes with other data points, including a program's compliance with federal requirements, or child outcome data. TEIS staff reported that the role of SPOE data managers, as members of each districts leadership team is further evidence of the importance of data in driving decision-making related to the improvement planning process in the State.

**OSEP Conclusions**

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

**Required Actions/Next Steps**

No further action required.

### III. Fiscal

#### ***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**

Each lead agency must ensure that IDEA Part C funds are timely obligated and liquidated in accordance with the requirements in the Education Department General Administrative Regulations (EDGAR). During OSEP's visit, TDE staff described its system to ensure that IDEA Part C funds are obligated and liquidated in a timely manner. Under this system, the State assigns a unique grant number, and sub-grant numbers as appropriate, for each Federal grant, that includes a designation for the particular Federal Fiscal Year (FFY) in which the grant was awarded. TDE staff reported that expenditures are charged to multiple Part C grant awards on a first-in, first-out basis, and that each grant account remains open until the end of the 27-month period of availability or until the grant funds have been exhausted, whichever come first. When the period of obligations ends for each Federal grant, TDE staff reported that the State monitors to ensure that Federal funds are liquidated and final invoices are paid before grant funds are no longer available in the Federal Grant Administration and Payment System (GAPS), and those funds are no longer available for liquidation (90-days after the obligation period ends). TDE staff reported that, although there is no recent history of the State needing additional time to liquidate funds, the State does have procedures that allow for submitting a request for an extension to OSEP to re-establish the grant in GAPS. Tennessee has spent all IDEA Part C funds from FFY 2004, 2005, and 2006 Part C grant awards.

#### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP finds that the TDE has procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA Part C funds.

#### **Required Actions/Next Steps**

No further action 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**

*Procedures for Appropriate Use of IDEA Part C Funds at 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. TEIS staff reported that IDEA Part C funds are spent primarily for State administrative functions and for the reimbursement of approved vendors in the Delegated Purchase Authority (DPA) process.<sup>2</sup>

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<sup>2</sup> TEIS also provides funds from sources other than IDEA Part C funds to its nine EIS programs through a number of mechanisms, including Delegated Grant Authority (DGA), which is used in contracting with Early Intervention Resource Agencies (EIRA), DPA, Dual Service Agreements (DSA) which are used to contract with other State partnering agencies, and direct funding of the State's SPOEs. The State reported that DGAs, DSAs, and SPOE

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TEIS staff described a number of mechanisms used to ensure fiscal accountability in the use of IDEA Part C funds. These include: (1) Single State Audits; (2) TDE Departmental Audits; and (3) Audits of TDE by the State's Comptroller of the Treasury. TEIS staff reported that both Single State and TDE Departmental Audits are performed annually and that TDE Departmental Audits, which are performed by staff in the State's Fiscal Services Department, serve as internal audits of programs including DPA vendor agreements. The State reported that the TDE is audited by the State Comptroller's of the Treasury, and that at any level of the State's monitoring, unresolved audit findings have the potential of resulting in enforcement action including a loss of funding and/or disciplinary personnel action.

Under the State's DPA arrangement, vendor agencies are granted DPA through vendor agreements and assigned account numbers to allow reimbursement for services rendered. The State reported that, in order to receive reimbursement, vendors must register with and submit invoices to the Central Reimbursement Office (CRO) through TEIDS. TEIS staff reported that these expenditures are currently monitored through the State of Tennessee Accounting and Recording System (STARS). The State reported that STARS grant monitoring functions will be replaced in November by the Edison system, which will also monitor State funds and payroll expenses.

In order to further ensure the appropriate use of IDEA Part C funds in the DPA process, TEIS staff reported that it has included fiscal policies and procedures in the State's vendor agreements, and that provider requirements for vendors are included in documents comprising a vendor kit that is available on the TEIS website. The State staff reported that this kit consists of documents including *TEIS General Provider Requirements* (with a section for vendors), vendor registration information, policy memorandums related to payment, and CRO procedure documents. Procedures described in *TEIS General Provider Requirements* include a description of the claims processing system, vendor responsibilities related to establishing a provider account (in STARS) and obtaining reimbursement for claims, and procedures for addressing errors and changes in child information. TEIS staff reported that recent reforms to the structure of the State's early intervention system have clarified the single line of authority in the State, and that direct vendor agreements, which include business rules as well as IDEA requirements, have been an important component of those reforms. The State also reported that controls on the use of IDEA Part C funds are provided through the service authorization process (which occurs at the SPOE district office, and is recorded in TIEDS), through establishing the scope of services that can be provided and billed for by individual vendors, and through the State's system of payments.

*Payor of Last Resort Requirements:* TEIS staff reported that the State has adopted policies to ensure that IDEA Part C funds are used as a payor of last resort, including a State system of payments that is comprised of policies that are on file with OSEP. The State's system of payments policies define the State's use of public and private insurance and benefits to pay for Part C services. The State reported the funding source for each Part C service is identified in the Planned Services section of each child's IFSP. TEIS staff reported that vendor agreements require each vendor to conduct its own financial intake and to use all other payor sources prior to billing TEIS through the CRO, which utilizes the information provided by the vendor (in TEIDS) along

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personnel and functions are funded without the use of IDEA Part C funds, through a combination of State funds appropriated in the legislative process as well as funds generated in accordance with the State's signed interagency agreement and/or, for programs providing targeted case management services, and a cooperative agreement with Department of TennCare (Medicaid).

with CRO policies and procedures,<sup>3</sup> and System of Payments policies to process the invoices that it receives.

***Nonsupplanting Requirements:*** With respect to Part C's nonsupplanting requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b), TDE staff reported that the State does not have a formal process for calculating the total amount of State funds expended on early intervention services in a given fiscal year. TEIS staff reported that TDE is able to assure that the State maintains effort under Part C of the IDEA because: 1) no local funds are used to support the Part C early intervention system in Tennessee; and 2) State appropriations to TEIS have not been decreased. However, TDE does not have in place a specific method to calculate the amount of State and local funds actually expended for early intervention services for Part C children and their families in order to comply with Part C's maintenance of effort requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b).

### **OSEP Conclusions**

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP finds that TDE has procedures that are reasonably designed to ensure appropriate use of IDEA Part C funds at the State level with the exception of Part C's nonsupplanting requirements. OSEP finds that TDE has not adopted specific procedures to track the amount of State and local funds actually expended for early intervention services for Part C children and their families in order to comply with Part C's maintenance of effort requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124(b).

### **Required Actions/Next Steps**

Within 60 days from the date of this letter, the State must provide a specific written assurance that TDE has informed its State audit office of the need to review TDE's procedures to comply with the tracking of State and local expenditures to meet the requirements of Part C's maintenance of effort (MOE) requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124 in the State's Single Audit conducted under the Single Audit Act. TDE 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.

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<sup>3</sup> *Tennessee's Early Intervention System Central Reimbursement Office Policies and Procedures*