

Arizona Part C 2009 Verification Visit Letter

Enclosure

Background

Arizona's Part C program, the Arizona Early Intervention Program (AzEIP), is a component of the Arizona Department of Economic Security (ADES), the State lead agency under Part C of the Individuals with Disabilities Education Act (IDEA).

The Arizona Part C early intervention statewide system of services is comprised of the following State agencies and/or its contractors: (1) ADES which includes (a) AzEIP and (b) the Division of Developmental Disabilities (DDD); (2) the Arizona State School for the Deaf and the Blind (ASDB); (3) the Arizona Department of Health Services (ADHS); (4) the Arizona Department of Education (ADE); and (5) the Arizona Health Care Cost Containment System (AHCCCS). Services are provided in 17 regions by these State agencies and/or its contractors, which are the State's early intervention service (EIS) programs. Arizona has a system of payments on file with the Office of Special Education Programs (OSEP) and uses the Part C due process hearing procedures to resolve individual child disputes.

OSEP conducted a focused monitoring visit to Arizona under IDEA Part C in addition to the verification visit. The focused monitoring visit is discussed at the end of this verification visit enclosure. Specifically, OSEP's focus was on: (1) the 45-day timeline for initial evaluations, assessments and IFSP meetings in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342 (Annual Performance Report (APR) Indicator 7); and (2) the timely provision of services requirements in 34 CFR §§303.340, 303.342(e), and 303.344(f)(1) (APR Indicator 1). These requirements are part of the Special Conditions imposed on Arizona's Federal Fiscal Years (FFYs) 2008 and 2009 IDEA Part C grant awards based on continuing noncompliance by six EIS programs/providers and were also the subject of a three-year Compliance Agreement between ADES and the United States Department of Education (the Department), which was entered into in December 2004.

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: Under IDEA sections 616(a), 635(a)(10)(A) and 642 and 34 CFR §303.501(b), the State must monitor all Part C programs and activities (regardless of whether they receive Federal IDEA Part C funds) to ensure compliance with IDEA Part C requirements. AzEIP staff reported that AzEIP has been working with Federally funded resource centers to revise its general supervision system as of July 2009. The revised general supervision system utilizes on-site focused monitoring, desk audits and program self-assessments, review of database data and data validation, corrective actions, enforcement actions, review of family outcomes surveys, and dispute resolution data.

On-site Focused Monitoring: Prior to July 2009, AzEIP conducted on-site monitoring visits of all of its EIS programs and EIS providers over a five-year cycle. During the five-year cycle, AzEIP monitored 17 regions and included EIS providers that were selected based on population

risk factors, a review of data audits, dispute resolution data, and self-reported data. Focused monitoring visits were also conducted outside the five-year cycle where AzEIP noted noncompliance through complaints, desk audits, and/or when issues of noncompliance were not corrected. Since July 2009, AzEIP staff indicated that it selects the lowest performing EIS programs and providers for on-site focused monitoring visits. These programs are selected by reviewing data collected from: (1) desk audits; (2) monitoring data collected for APR Indicators 1 (timely service provision), and 8A, 8B, and 8C (timely transition); (3) Arizona Child Tracking System (ACTS) database for APR Indicator 7 (45-day timeline); and (4) dispute resolution procedures.

Desk Audits: AzEIP is transitioning to an integrated monitoring process, in which data from multiple sources are analyzed during desk audits. The results of the desk audit are used to: (1) determine focused monitoring priorities; (2) select programs for on-site focused monitoring visits; (3) identify policies and procedures that need clarification; and (4) identify training and technical assistance needed to implement policies and procedures. AzEIP monitors all programs annually through the desk audit process. Programs with the lowest performance will be selected for on-site focused monitoring.

Data Review: AzEIP uses monitoring data for APR Indicators 1 (timely service provision), 8A, 8B, and 8C (timely transition) and uses the ACTS database to collect data for APR Indicator 7 (45-day timeline). The data collection and review are further discussed in the data elements 1 and 2 below.

Monitoring for Part C Requirements: AzEIP staff confirmed that, during focused monitoring and data reviews, the State reviews all IDEA Part C requirements for compliance, including those reflected in the IDEA Part C APR priority indicators. MSIP's review of AzEIP's monitoring protocols and 38 monitoring reports confirmed that the State issued findings not only for noncompliance with APR priority indicators, but also related requirements under IDEA Part C. AzEIP issued findings in the areas of the Individualized Family Service Plan (IFSP) development, natural environments, and other IDEA Part C requirements.

Identification of Noncompliance: OSEP's interviews with AzEIP staff and review of the State's monitoring reports issued during the years of 2004 through 2009 confirmed that AzEIP provides written notification of its findings in the form of a monitoring report. As of July 2009, AzEIP's monitoring report includes: areas of strengths, challenges (findings of noncompliance), and the basis of the finding. The finding notes the Federal citations for the compliance requirement that was violated, the basis for the noncompliance, requires that child-specific noncompliance be corrected for each child, and provides timelines for correction. This written notification is issued within three months after the on-site visit. The report includes a cover letter, a chart that addresses the results of the on-site visit, and the requirements for a corrective action plan (CAP).

Timelines for Correction: For child-specific noncompliance, the State's correction timeline is within 45-days of the State's identification and for systemic noncompliance, the correction timeline is within one year of the issuance of the report and CAP. The State defines a finding as any child-specific or programmatic requirement that does not demonstrate 100% compliance. Systemic issues are those that are persistently seen within an EIS program/provider, across EIS programs and across regions.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes that while the State has a general supervision system that is reasonably designed to identify noncompliance using its on-site focused monitoring, desk audits, data review, and dispute resolution procedures, 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?

Verification Visit Details and Analysis

Corrective Action Plans and Timeline for Correction: As noted in the GS-1 section above, AzEIP provides written notification of its findings in the form of a monitoring report that includes a cover letter and chart that addresses the results of the on-site visit and the CAP. The cover letter requires corrective actions for systemic noncompliance be completed within one year of the date of the report. The CAP includes benchmarks for tracking periodic progress on a quarterly basis. The CAP requires EIS programs/providers to identify the actions to be taken to correct the noncompliance in a timely manner and the root cause of the noncompliance. In addition, the CAP must include the following components: (1) use of infrastructure/staffing; (2) how the program will ensure provision of valid and reliable data; (3) the development of, or revisions to, program policies and procedures; (4) changes in local supervision; (5) provision of training and technical assistance, and (6) changes to program/provider practices.

Verification of Correction: OSEP Memorandum 09-02, dated October 17, 2008 (OSEP Memo 09-02), requires each Part C lead agency to verify correction of the State's noncompliance finding by ensuring that: (1) each EIS program or provider has corrected each individual child-specific finding by reviewing the specific child record; and (2) the EIS program or provider is currently (subsequent to the finding) in compliance with the specific regulatory requirements based on a "review of updated data such as data from a subsequent on-site monitoring or data collected through a State data system."

To meet the verification requirements of OSEP Memo 09-02 regarding correction, AzEIP staff confirmed to OSEP that a program/provider must demonstrate 100% compliance in an updated sampling of file reviews showing that the EIS program/provider is implementing the specific regulatory requirements and data that indicate that the child received the early intervention service, although late, indicating correction of child-specific noncompliance.

AzEIP staff reported that the State does not wait for the end of the one-year timeline before they document the correction. AzEIP verifies correction within the one-year timeline by completing the periodic progress verification review and sending a letter to the EIS program/provider noting the status of the review and whether continued reporting is required or whether correction has resulted in the agency meeting State and Federal Part C requirements.

Enforcement: Staff reported that sanctions and enforcement actions are included in AzeIP's "General Supervisions Policy" and are also delineated in the ADES contract language and/or Interagency Agreements between AzeIP and local agencies. When correction of noncompliance by agencies is beyond a year, AzeIP may require the agency to accept technical assistance and provide more frequent reporting.

For example, the State reported in the FFY 2007 APR that for the one program that had longstanding noncompliance regarding timely service provision, AzeIP required more frequent reporting and technical assistance and training related to the noncompliance; quarterly visits that included one-on-one file reviews with the service coordinator; continued drill-down of root causes and identification of appropriate improvement strategies; and focused monitoring with assistance and participation of representatives from national technical centers regarding timely provision of services. If there is no improvement as a result of the above actions, ADES can issue a letter from procurement that specifies the contract adjustment such as withholding funds or requiring additional assurances to ensure the provision of services.

APR Data: Arizona's FFY 2008 APR data for Indicator 9 were 95% or the timely correction of 35 of 37 findings. The State's FFY 2007 APR data for Indicator 9 were 86% or the timely correction of 82 of 95 findings of noncompliance. OSEP's review of the State's verification of the 2007 CAPs showed that five of eight EIS programs/providers had timely corrected the findings of noncompliance, one subsequently corrected noncompliance, and, as of November 2009, two had a finding that had not been corrected. In its FFY 2008 APR, the State reported on the actions it has taken to address the two outstanding FFY 2007 findings and three outstanding FFY 2004 findings. OSEP will respond under separate cover to Arizona's FFY 2008 APR data.

Longstanding Noncompliance: One finding that remains uncorrected is the State's February 14, 2005 and October 2-4, 2007 finding citing DDD for having policies and guidance regarding service approval that are inconsistent with IDEA Part C requirements. Specifically, DDD's service authorization procedures permit unilateral changes by the EIS provider (direct specialized instructor/therapist) and sometimes by support coordinators instead of by the IFSP team as required by IDEA section 636 and 34 CFR §§303.342, 303.343, and 303.344. This finding appears to be a systemic State issue as Arizona's complaint data showed that three separate findings related to the frequency and intensity of services were cited in two other DDD agencies by AzeIP during 2008-2009. DDD's service authorization process is inconsistent with the IDEA Part C requirements in 34 CFR §§303.342, 303.343, and 303.344, which require the IFSP team to identify on the IFSP the Part C services that an eligible child and family need; this decision cannot be overridden by DDD's State procedures. In addition, written prior notice must be provided to parents of the infant or toddler with a disability whenever the State proposes to initiate, change or refuse the implementation of an early intervention service, consistent with the requirements at 34 CFR §303.403.

During OSEP's visit, neither DDD nor AzeIP staff were able to provide OSEP confirmation of corrected policies and procedures. IDEA section 635(a)(10)(A) and 34 CFR §303.501 require the Governor to establish a single line of responsibility in a lead agency that is responsible for monitoring all Part C programs and activities and enforcing correction of any findings of noncompliance. AzeIP, DDD, and other ADES staff informed OSEP that although AzeIP is designated within ADES to serve as the lead agency and ADES is appointed by the Governor to serve as the Part C lead agency, the State (Governor and ADES) has not ensured implementation of this requirement such that DDD is able to revise its procedures to be consistent with IDEA.

Special Conditions: Arizona’s FFY 2009 IDEA Part C grant award is subject to Special Conditions to ensure compliance by six EIS programs/providers with either the timely service provision requirements in APR Indicator 1 and the 45-day timeline requirements in APR Indicator 7. The State provided updated data to OSEP in October 2009 demonstrating the following:

Agency	Indicator 1	Indicator 7
A	84%	
B	94%	
C	97%	
D		92%
E		94%
F		94%

While these data indicate improvement for these specific EIS programs/providers, OSEP will respond to the Special Conditions report after submission of the final progress report due May 14, 2010.

AzEIP staff reported that AzEIP implemented enforcement activities such as requiring more frequent reporting to improve these six agencies’ performance. Staff reported that factors impacting AzEIP’s ability to meet the timely service provision and 45-day timeline requirements include: (1) limited existing personnel resources; and (2) the procurement process for replacing contractors, as a result of enforcement actions, is cumbersome. The State is implementing the team-based service delivery model to maximize personnel resources and the technical assistance and monitoring specialists (TAMS) are providing focused technical assistance so programs/providers are less likely to require more intensive sanctions, such as contract termination.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes that while ADES has some components of a general supervision system that are reasonably designed to ensure correction in a timely manner, ADES’s FFY 2008 APR data indicate 95% for timely correction. In addition, OSEP finds that ADES has not ensured a single line of responsibility under IDEA section 635(a)(10)(A) and 34 CFR §303.501(b)(2) such that DDD revises its service authorization policies to align with IDEA Part C requirements in IDEA section 636 and 34 CFR §§303.342, 303.343, 303.344, and 303.403.

Required Actions/Next Steps

Within 60 days from the date of this letter, ADES must provide a written assurance that it has: (1) demonstrated compliance with the single line of responsibility requirements to administer all programs consistent with IDEA section 635(a)(10)(A) and 34 CFR §303.501(b)(2); (2) ensured that DDD has revised its service authorization procedures to be consistent with IDEA section 636 and 34 CFR §§303.342, 303.343, 303.344 and 303.403; and (3) ensured that DDD has

revised its service authorization procedures to ensure that only the IFSP team determines the services (including frequency) identified on the IFSP.

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: Arizona's dispute resolution system requires that all complaints are resolved within 60 days of the original receipt of the complaint as required in 34 CFR §303.512(a). AzEIP staff confirmed that an extension may be granted in extraordinary cases only with respect to a particular complaint, where the nature or severity of allegations warrants further investigation. AzEIP maintains a tracking log to document that timelines are met.

All written decisions during FFYs 2005 through 2007 were issued within 60 days from the date the complaint was received. Of the 21 complaints filed during FFY 2008: (1) 16 were withdrawn; (2) two were completed within seven months of the complaint due to staff's inability to locate the families; (3) two are awaiting the due process hearing decision; and (4) one resulted in an August 13, 2009 letter of finding 151 days after the filing of the complaint. As noted in GS-2 section above, the written decision indicated noncompliance regarding the failure to provide prior written notice, as required by 34 CFR §303.403, when changes were made to the IFSP. The State found that changes to the IFSP were made by a body outside of the IFSP team. This resulted in a finding of noncompliance requiring a corrective action.

One finding that remains uncorrected is the August 13, 2009 letter of finding. According to their staffs, AzEIP and DDD personnel began meeting in September 2009 to review and make appropriate revisions to policies, procedures and guidance to ensure the implementation of the IFSP process and procedural safeguards in accordance with IDEA Part C requirements. Staff informed OSEP that they have been meeting with the State's legal counsel to ensure the correction activities were enforced; however, they were unable to provide OSEP with documentation of meetings held demonstrating decisions and outcomes toward compliance with IDEA Part C requirements. In addition, staff reported that the DDD has a different system of procedural safeguards that do not reflect those required by Part C. As a result, DDD provided Part C families with a different process for filing complaints that is inconsistent with the IDEA Part C State complaint procedures in 34 CFR §§303.510 through 303.512. OSEP is reviewing, and will respond to DDD's procedural safeguards notice in a separate letter.

Due Process Hearings and Mediations: Arizona requires that all due process investigations be resolved within 30 days of the due process hearing request as required in 34 CFR §303.423(b). OSEP's review of AzEIP's due process hearing tracking logs showed that for requests filed from 2005 to 2008 all decisions were reached within timelines. Of the 93 requests filed from 2008 to 2009: (1) 41 exceeded the 30-day timeline requirement; and (2) three resulted in findings related to the frequency and intensity of services as determined by the IFSP team. For these three cases, the State reinstated the frequency and intensity of services and awarded compensatory services in accordance with the requirements in 34 CFR §§303.510 through 303.512 by making up the missed sessions.

State staff noted that due to the dramatic increase in the number of due process requests related to State budget issues, AzEIP experienced barriers to meeting the dispute resolution timelines

during the period 2008 to 2009. In addition, the two hearing officers assigned from Arizona's Office of Appellate Services to process cases for AzEIP, processed cases for other State agencies. As a result, the State recognized a need to maintain a cadre of knowledgeable mediators and hearing officers cognizant of IDEA requirements and is exploring alternate sources for qualified individuals to conduct hearings and mediations. As noted in the FFY's 2005, 2006, and 2007 APRs, no mediation requests were filed during those periods.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP finds that the State has not demonstrated that it has procedures and practices that are reasonably designed to ensure the timely resolution of disputes (including complaints and due process hearings). Specifically, OSEP finds that ADES has not met the 30-day timeline for resolving due process hearing requests in 34 CFR §303.423(b).

Required Actions/Next Steps

ADES must provide with its FFY 2009 APR due February 1, 2011 updated data in Indicators 10 and 11 demonstrating compliance with the timely resolution requirements in 34 CFR §303.423(b) and 34 CFR §§303.510 through 303.512. If the data do not demonstrate compliance, ADES must revise its improvement strategies to ensure compliance.

Critical Element 4: Improving Early Intervention Results and Functional Outcomes

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

Staff reported that the improvement of EIS results and functional outcomes for infants and toddlers with disabilities may begin during the IFSP process. The IFSP team discusses child outcomes during the initial IFSP meeting through the review of information regarding the child's development, family concerns and challenges and resources available to address the concerns and challenges. Factors considered when developing the outcomes include but are not limited to: (1) family priorities, (2) the child's present level of development, (3) updated medical information, (4) identifying where learning opportunities can occur throughout the day, (5) strategies to address the outcomes, and (6) measures that include frequency and duration of services to meet the outcomes.

For example, the IFSP team may decide they will implement the coaching model to meet functional outcomes. The parents identify what they have observed about the child, explore what strategies they have used that have been effective, and have providers model other strategies that parents may implement. The full team of providers is available to conduct co-home visits where needed. To facilitate decisions regarding strategies to ensure outcomes are met, the team of providers conducts team meetings that may also include participation by parents. When issues regarding functionality of IFSP child and family outcomes are identified through AzEIP's file review process, agencies' performance improvement is required through a corrective action or performance improvement plan.

AzEIP provides technical assistance and training to promote strategies for meeting functional outcomes and improving early intervention results such as those around transition initiatives. Staff reported that they provide regional quarterly meetings regarding training in areas such as

IFSP development and Part C to Part B transition. Staff further noted that joint transition trainings were held between EIS and Part B staffs and where providers required refresher training to address slippage in compliance related to transition requirements. As a result of the trainings, staffs were clear on their roles and responsibilities and agencies' compliance percentages increased.

Staff also noted that AzEIP agency providers received initial training from the Early Childhood Outcomes (ECO) Center regarding the child outcome data for Indicators 3 and 4 in the APR. The State provides ongoing training for the child outcomes summary form (COSF) assessment tools. Instructions are provided to agencies regarding the annual updated forms. AzEIP is working to enable agency providers to access online training. The child outcome data will be used to identify the effectiveness of services and improvement strategies in the APR.

Staff further reported that the family survey to address APR Indicator 4 is distributed annually to parents on or near the transition conference time. Survey results are entered into an Access database, shared annually with agencies, and used in quarterly report cards. Specific issues and comments regarding staff are addressed between staff and supervisors to develop improvement strategies.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes 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, comprehensive system of personnel development (CSPD) and interagency agreements, contracts or other arrangement?

Verification Visit Details and Analysis

Public Reporting and Local Determinations: OSEP's determination letters for the FFY 2005 to FFY 2007 periods showed that the State's category was "Needs Intervention" for FFY 2005 and "Needs Assistance" for FFY 2006 and 2007. As a part of its responsibilities under sections 616 and 642 of the IDEA, the State must annually report to the public on the performance of the 17 regional programs against the State's SPP/APR targets. AzEIP staff reported that Arizona publishes the performance of each regional program on the AzEIP website. The AzEIP General Supervision Policy, effective July 1, 2009, addresses the State's local determination process. The process includes determinations by regions in the four categories that are similar to those established by OSEP for State determinations of: (1) meets requirements; (2) needs assistance; (3) needs intervention; and (4) needs substantial intervention.

Enforcement actions regarding the determinations mirror OSEP's enforcement for each determination level. The chart below provides the State's regional determinations for FFY 2005, 2006, and 2007.

Determination	2005	2006	2007
Meets	0	0	8
Needs Assistance	3	8	7
Needs Intervention	14	9	2
Needs Substantial Intervention	0	0	0

Interagency Coordination: Under IDEA sections 635(a)(10), 637(a)(2), and 640, each State lead agency must include in its Part C application a certification that its methods to ensure service provision and fiscal responsibility for services are current. In Arizona, Part C services are provided at the State level by the following State agencies and/or its contractors: (1) ADES which includes AzEIP and DDD; (2) ASDB; (3) ADHS; (4) ADE; and (5) AHCCCS. AzEIP staff confirmed that AzEIP has interagency agreements with: (1) ADE regarding transition and child find; (2) ASDB regarding the provision of services statewide; (3) Northern Arizona University regarding early intervention services and the AzEIP staff development and training project; and (4) the Navajo Nation for the provision of early intervention services. AzEIP staff reported that AzEIP also has memoranda of agreements with the Administration for Children and Families, Head Start Bureau, Arizona Early and Migrant Head Start grantees, and Regions IX, XI, and XIII.

Personnel Development: AzEIP reported that it uses the State’s professional development system to ensure that it has a CSPD. AzEIP’s professional development activities are annually determined based on areas of need identified through the implementation of its integrated monitoring activities and State and national initiatives. Examples include activities regarding corrective actions, the team-based model, child indicators for child and family outcomes, transition, and child find. AzEIP also provides regional and program-specific training and technical assistance to Part C personnel, which are directly related to outstanding compliance issues and open CAPs.

OSEP Conclusion

Based on the review of documents, analysis of data and interviews with State personnel, OSEP concludes the State has demonstrated it has procedures and practices that are reasonably designed to implement selected grant assurances regarding local determinations and public reporting, interagency coordination regarding provision of services, and CSPD.

Required Actions/Next Steps

No further action is required.

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 reported that Arizona collects IDEA section 616, 618, and State SPP/APR data from the EIS program/provider agencies through the ACTS desk-top data system. The system is installed on the desktops of agency programs/providers. Agencies that provide data collection through other data management systems include Arizona's DDD, ASDB, and United Cerebral Palsy (UCP). AzeIP staff informed OSEP that these three agencies collect and report data through their own systems with AzeIP providing the required format that includes definitions, data fields, data values/parameters for each field, and OSEP-defined values for ethnicity and exit tables. AzeIP also requests involvement in the development of, or changes to, the three partner agencies' data collection systems.

Data is entered in ACTS or local agency databases by the service coordinators or entry clerks. Data is transmitted from agencies via a secure data transfer site. Because the data submissions are generally transmitted to AzeIP on a monthly basis, the data captured in ACTS is not real time data. AzeIP staff stated that although resource constraints impact the States evolution to real time data, as opportunities arise, changes are made to existing databases, and data analysis tools are refined, developed and/or implemented.

ACTS incorporates data validation procedures to verify accurate and complete data. Local EIS agencies are required to clean data prior to quarterly data verification. Statewide data training is provided and monthly database teleconferences are held to address any anomalies in a timely manner. The system contains specialized reports to identify missing data elements, noncompliance and data trends.

Staff reported that ACTS captures each agency's demographic, referral, eligibility, IFSP requirements, settings, service delivery, and entry and exit data. According to staff, each agency gathers child outcome data through a modified version of the ECO form or the National Center for Special Education Accountability Monitoring (NCSEAM) family survey. The ECO form is submitted to AzeIP via paper or in an electronic version and AzeIP staff enter the data into the Arizona Child Outcome databases. Data checks are conducted to ensure paper version submissions are accurately entered into the Child Outcome database. For the NCSEAM family survey, data are entered by AzeIP staff into the AzeIP Family Outcomes database. Timely services and transition data are captured through file review by AzeIP and technical assistance contractor staff. AzeIP further reported that it captures the 618 settings data from the billing and or direct service delivery fields in ACTS and other agency databases. The billing fields capture the services provided, the dates of the services, the setting of the service and the amount of payment. For example, billing for services on December 1st for half an hour includes the setting where the service occurred.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that the State has procedures that are reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner. Without conducting a review of data collection and reporting policies at the local level, OSEP cannot determine whether all EIS programs and providers in the State implement the State's data collection and reporting procedures in a manner that reflects actual practice and performance.

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

To ensure that data reflect actual practice, AzEIP uses approaches and mechanisms such as ensuring agencies comply with policies, procedures, guidelines and record keeping requirements. Staff informed OSEP that AzEIP verifies that agency data collected reflects actual practice and performance through on-site monitoring of agencies. The monitoring includes the comparison of child files to the child's data in the ACTS database.

Monitoring teams receive training related to the collection of valid monitoring data. Where discrepancies are noted, AzEIP drills down to determine the cause of the data entry error such as a typo or a misunderstanding of the data element or data source.

As noted in DS-1, built-in database edit checks ensure that the data reported in ACTS, from DDD, ASDB and UCP agencies are valid and reliable. AzEIP reviews child and family outcome data for completeness and contacts the agencies to correct, clarify and/or validate submissions. To further ensure the accuracy and validity of data submissions, AzEIP: (1) provides technical assistance and guidance to agencies on an as needed basis; (2) recommends that contractors implement data handling and verification plans that require a periodic review of a selection of files and comparison of the child's paper file to the child's data; (3) reviews monitoring procedures with TAMS prior to monitoring visits; and (4) conducts group discussions of files reviewed during the monitoring visits. In addition, AzEIP cross checks child data, billing data, aggregate data, and child files to note contradictory results and trends or patterns that emerged during the completion of the monitoring report.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that the State has procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance. OSEP cannot, however, without conducting a review of data collection and reporting policies at the local level, determine whether all EIS programs and providers in the State implement the State's data collection and reporting procedures in a manner that reflects 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

AzEIP reported that to improve program and system operations, Arizona compiles data in the form of reports that are provided to stakeholders and local programs. The reports may be used

to: (1) compare local data to State targets; (2) provide technical assistance to local programs regarding the use of their data; (3) identify local and statewide data trends that impact compliance with the 45-day timeline requirement; (4) conduct a root-cause analysis of identified noncompliance at local, regional or system level; and (5) assess program costs and service usage patterns.

To improve performance and sustain compliance, AzEIP comparison reports are compiled and reviewed for trends, red flags, and anomalies. Annual child count and population data are analyzed and tracked at statewide, State agency and regional levels to examine trends and noncompliance. Where noncompliance is identified, data are reviewed to identify factors that impact noncompliance and to develop improvement strategies to correct the noncompliance. Correction of noncompliance may require State level technical assistance (TA) to programs/providers or the implementation of new initiatives. For example, to increase child count reporting, the State provided TA to physicians in collaboration with the Arizona Pediatric Society regarding the identification of infants for potential eligibility in early intervention programs. To support the implementation of the team-based model initiative, AzEIP compares and contrasts evaluations eligibility data for team-based contracts and non-team-based contracts.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes that 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 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

ADE's fiscal staff reported that the State's Financial Management Control System (FMCS) enables AzEIP to obligate and liquidate Part C funds within the 27 month grant period. The separate accounting codes and controls built into FMCS, such as start and end dates for payments and fields for correction of expenditures, provide checks and balances for allotments and expenditures. Funds are obligated to local programs via contracts and intergovernmental agreements with agencies such as the Navajo Nation and ASDB. ADES provides additional specifications to local programs regarding the financial obligation and liquidation of funds.

Contractors upload their billing invoices on a monthly basis into the FMCS. An AzEIP staff member reviews the invoices to determine where there are anomalies or errors in the billing data. Errors and anomalies are corrected or clarified within three days of notification to the contractors. Once AzEIP verifies the corrections, invoices are processed for payment.

During OSEP's visit, staff from the ADES Financial Services Administration (FSA), demonstrated how the FMCS documents the flow of Part C funds from obligation to liquidation.

According to the Department's Grant Administration and Payment System, Arizona timely obligated and liquidated all of its Part C funds between FFY 2003 and FFY 2007.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes that the State 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 further 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 Education Department General Administrative Regulations (EDGAR), the *Office of Management and Budget (OMB) Circulars A-133, Audits of States, Local Governments and Non-Profit Organizations; and A-87 "Cost Principles for State, Local, and Indian Tribal Governments,"* and other applicable Federal requirements.

AZEIP ensures that payments are withdrawn from the assigned four digit reporting category code and reviews past expenditures to assure expenditure levels are maintained each year. Providers have up to 12 months to bill for services and then the State has some flexibility to move funds between funding sources. Under the *OMB Circular A-133*, agencies that receive Federal funds are required to conduct an annual Federal single audit. OSEP reviewed AZEIP's single audits for the period of July 1, 2005 through June 30, 2006 and July 1, 2006 through June 30, 2007. Arizona's Office of Auditor General conducted the single audits pursuant to the requirements of the Single Audit Act of 1984, as amended, and *OMB Circular A-133*, as set forth in EDGAR at 34 CFR §80.26. The auditors cited no *OMB Circulars A-133* and *A-87* violations.

Payor of Last Resort/System of Payments: The State has policies and procedures in place, including interagency agreements and contractual arrangements, to ensure the coordination of resources and that Federal Part C funds are used for appropriate purposes and as the payor of last resort. Arizona's system of payments policy under IDEA section 632, which is on file with OSEP, requires that AZEIP's Part C funds be used as the payor of last resort. AZEIP's Family Cost Participation policy will supplement Arizona's current system of payments policy once the infrastructure to implement this policy has been established between AZEIP and DDD. Staff reported that children with disabilities and their families receive services either through AZEIP, ASDB, or DDD. Arizona Part C funds are primarily administered by AZEIP to support evaluation, eligibility and ongoing early intervention services for AZEIP-only eligible children. State and/or Medicaid funds are used to serve children who are eligible for services in ASDB and/or DDD.

According to AZEIP's system of payments policy, upon parent consent, contracted early intervention providers may bill a family's private insurance for early intervention services.

Procedures between AzEIP and Arizona's Medicaid agency, and AHCCCS facilitate children's and families' payment for services.

Nonsupplanting Requirements/Indirect Costs: State fiscal personnel reported to OSEP that AzEIP has procedures to track expended funds and had met Part C's nonsupplanting/maintenance of effort requirements in IDEA section 637(b)(5)(B) and 34 CFR §303.124 for the State fiscal years of 2004 through 2008. The State has a restricted indirect cost rate agreement under 34 CFR Part 76 approved by its cognizant Federal agency.

OSEP Conclusion

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

Required Actions/Next Steps

No action is required.

IV: Focused Monitoring Component of the Verification Visit: Timely Service Provisions and 45-day Timeline Requirements

Background: OSEP's verification visit included a focused monitoring component on two major requirements: the 45-day timeline and timely service provision. This is in part because Arizona's FFY 2009 Part C grant award is subject to Special Conditions to ensure compliance with the timely service provision requirements in 34 CFR §§303.340(c), 303.342(e); and 303.344(f)(1); and 45-day timeline requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a).

Arizona's progress report data under its FFY 2008 grant's Special Conditions showed that: (1) three EIS programs/providers continue to be in noncompliance with the timely services provisions; and (2) three EIS programs/providers continue to be in noncompliance with the 45-day timeline requirements. Specifically, regarding the timely service provision requirement, Arizona's progress report data for the period July 2008 through April 11, 2009 reflected low levels of compliance for the following three EIS programs/providers: (1) Maricopa County - DDD (51%); (2) Pima County - DDD (84%); and (3) Pima County - AzEIP/ESBF (85%). Regarding the 45-day timeline requirement, Arizona's May 14, 2009 progress report data indicated low levels of compliance in three system point of entry (SPOE) programs: (1) Blake-Pinal/Gila (70%); (2) Blake-Pima 2a (82%); and (3) Blake-Pima 2b (77%).¹

The State's October 22, 2009 updated data showed improvement by these EIS programs/providers: (a) the timely service provision requirement for the period of April 2009 through August 2009 demonstrated the following compliance: (1) Maricopa County—DDD (83.6%); (2) Pima County—DDD (94%); and (3) Pima County—AzEIP/ESBF (97%); and (b) the 45-day timeline requirement for the period of August 2009 demonstrated the following: (1) Blake-Pinal/Gila (92%); (2) Blake-Pima 2a (94%); and (3) Blake-Pima 2b (94%).

¹ The contract for a fourth SPOE program, SWHD-Maricopa (with compliance at 51%), was terminated by ADES on January 31, 2009.

As part of the verification visit process, OSEP conducted a two-day focused monitoring to provide technical assistance to the State in examining the root causes contributing to the continued noncompliance for the six EIS programs/providers. During the focused monitoring process, OSEP reviewed IFSP files and conducted interviews with State staff and representatives from the six provider agencies.

IFSP Reviews: OSEP's review of 10 IFSPs that met the April 2009 through August 2009 review period showed the following: (1) the IFSPs captured dates for the initial referral, eligibility, initial and annual IFSP implementation, six month review, functional outcome status, and duration, intensity and frequency of the services; (2) the service coordination date documented on all IFSPs met the timeliness requirement; (3) occupational therapy services were provided within five to 42 days of the initial IFSP; (4) physical therapy services were provided within nine to 34 days of the initial IFSP; (5) special instruction was provided within 14 to 26 days of the initial IFSP or on the same day of the implementation of the initial IFSP; and (6) with the exception of one case, speech and language services were provided within two to 30 days of the initial IFSP. For this one case, speech and language services were implemented within 63 days of the initial IFSP due to documented exceptional family circumstances.

Timely Service Provision: OSEP, State staff, and representatives from the three EIS provider agencies examined four main areas regarding the root causes that contribute to the continued noncompliance related to the timely services provisions:

- (1) The authorization process for the provision of services identified in the IFSP requires the approval of an ADES/DDD support coordinator supervisor. The State conducted DDD's District 1 focused monitoring visit during October 2-4, 2007 to "... investigate factors that contributed to DDD's inability to ensure timely services...." Although the report cited factors related to the authorization process, the CAP did not include corrective action strategies. In addition, the State did not cite in Arizona's FFY 2007 APR, the authorization process as a factor contributing to the noncompliance related to the provision of timely services. OSEP discussed this issue with AzeIP and DDD administrative personnel. Arizona State statute designates ADES (appointed AzeIP) as the lead agency as required at 34 CFR §303.501. Staff informed OSEP that the statute directs adherence to IDEA Part C, but does not specifically address enforcement actions and sanctions related to AzeIP's ability to meet the requirement at 34 CFR §303.501(b)(2). Staff further informed OSEP that although AzeIP is appointed by ADES as the lead agency, the State has not provided AzeIP with the authority to implement this requirement; thereby impacting AzeIP's ability to issue additional sanctions or enforcement actions that will result in the correction of noncompliance;
- (2) According to AzeIP and DDD staff, Arizona's vendor call for services processed in accordance with Arizona's Revised Statute (ARS) 36-557 promotes limited speech, physical and occupational therapy services in certain geographic areas; such as rural areas and those deemed unsafe by the providers. Also, some families do not have transportation available to access service providers. In addition, therapies may require bilingual providers and DDD does not recognize interpreters as an allowable cost. DDD sends out a service inquiry therapist form to identify an available service provider/contractor. The form is sent out biweekly Statewide. In cases where therapists do not respond to the inquiry, the family is placed on a waiting list until a service provider is identified. Agencies reported that sending out an announcement to every

therapist has proven the most effective method for employing service providers. Staff reported that the implementation of a consultative model and/or the team-based delivery model has also proven effective. AzEIP has implemented the team-based model and Maricopa and Pima Counties are beginning to employ therapists who have used the team-based delivery model;

- (3) Staff reported that personnel shortages impact the timely services to families and infants and toddlers. To fill personnel vacancies and retain staff, agencies have implemented or are examining: (a) the use of a primary provider approach such as a video consultation led by a provider who has the expertise to serve the child; (b) ways to provide joint contract providers between AzEIP and DDD; (c) the offering of incentives regarding therapists' recertification; (d) reinstating stipends over and above the base salary for bilingual therapists; and (e) providing incentives such as "loan forgiveness" to providers who graduate from Arizona universities; and
- (4) To address the inconsistent documentation of timely services on the IFSP, the State has provided quarterly technical assistance to service coordinators and new personnel on the use of forms and logs for documenting start dates.

The State's October 22, 2009 updated data for the period of April 2009 through August 2009 showed that AzEIP's quarterly technical assistance to service coordinators and new personnel on the use of forms and logs documenting start dates resulted in the following:

- (1) Maricopa County DDD demonstrated progress from 51% to 83.6%;
- (2) Pima County DDD demonstrated progress from 84% to 94%; and
- (3) Pima County AzEIP/ESBF demonstrated progress from 85% to 97%.

45-Day Timeline: OSEP, State staff, and representatives from the three EIS program/provider agencies examined two main areas regarding the root causes contributing to the continued noncompliance related to the timely services provisions:

- (1) Because agency staff did not always understand the significance of meeting the 45-day timeline requirement at 34 CFR §303.321(e)(2), State staff conducted quarterly meetings with agencies' new and service coordinator staff regarding this requirement. The service coordinator's role and responsibilities were also increased in the monitoring process; and
- (2) Foster care placements often result in the need to coordinate the provision of services between the biological and foster families. Agency staff works with urgent response teams when the agencies cannot locate the biological families. Although hospitals or doctor's offices do not always honor medical record requests in a timely fashion because they must obtain a parent release for records, child protective services (CPS) has the authority to request records. This assists agencies in meeting the 45-day timeline requirement. Agencies reported that approximately 18% to 27% of children referred through the CPS system are found eligible for EIS.

To promote compliance with the 45-day timeline requirement, AzEIP required agencies to increase the frequency of reporting for this data. Data is uploaded on the 1st and 15th of each month. Reports show cases that are currently open and in need of an IFSP that is past the 45-day timeline. Month to month reporting is used to document the quarterly reports to note areas of progress or slippage. As noted in the State's updated data reporting for the period of period of

August 2009, agencies demonstrated the following increases in compliance with the 45-day timeline requirement:

- (1) Blake-Pinal/Gila demonstrated progress from 70% to 92%;
- (2) Blake-Pima 2a demonstrated progress from 82% to 94%; and
- (3) Blake-Pima 2b demonstrated progress from 77% to 94%.

OSEP Analysis and Conclusions

Although AzEIP's APR reported data reflect improvement in ensuring compliance with the timely services provisions and the 45-day timeline requirements specified in the Special Conditions of Arizona's FFY 2009 Part C grant award, major budget cuts in 2009 and other factors contributed to noncompliance. One factor is DDD's service authorization procedures which permit changes in service frequency without IFSP team authorization (discussed under the General Supervision section of this letter).

A second factor is Arizona's ARS 36-557, relative to the "*Qualified Vendor*," allows contractors to decline to provide services in specific geographical regions. OSEP finds that Arizona's ARS 36-557, relative to the "*Qualified Vendor*," is inconsistent with the timely service provision requirements in 34 CFR §§303.340(c) and 303.342(e). Agency staff reported that a major effort is made to identify vendors. Where a vendor does not accept a request to provide services, the agency reissues the request and families are placed on a waiting list. DDD staff informed OSEP that as of October 2009, 242 infants and toddlers with disabilities who required occupational, physical or speech and language therapy were placed on the waiting list and as of OSEP's visit were awaiting services. OSEP directs the State to the payor of last resort requirements at 34 CFR §303.527(b)(1). This requirement provides that Part C funds may be used to pay the provider of services, if necessary to prevent a delay in the timely provision of services to an eligible child or the child's family, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

Required Actions/Next Steps

Within 60 days from the date of this letter, ADES must provide a written assurance that Arizona's ARS 36-557, relative to the "*Qualified Vendor*," will not apply to Part C or the State must identify another appropriate written method under IDEA sections 637(a)(2) and 640(b) to ensure that Part C services are provided in all geographical regions in the State and there are no waiting lists.

In addition, as noted under GS-2 above, within 60 days from the date of this letter, ADES must provide a written assurance that it has: (1) demonstrated compliance with the single line of responsibility requirements to administer all programs consistent with IDEA section 635(a)(10)(A) and 34 CFR §303.501(b)(2); (2) ensured that DDD has revised its service authorization procedures to be consistent with IDEA section 636 and 34 CFR §§303.342, 303.343, 303.344 and 303.403; and (3) ensured that DDD has revised its service authorization procedures to ensure that only the IFSP team determines the services (including frequency) identified on the IFSP.