

Alabama Part C Verification Visit Letter

Enclosure

Scope of Review

During the verification visit, the Office of Special Education Programs (OSEP) of the U.S. Department of Education (Department) reviewed critical elements of the State's general supervision, data and fiscal systems, and the State's systems for improving child and family outcomes and protecting child and family rights.

Methods

In reviewing the State's systems for general supervision, collection of State-reported data,¹ and fiscal management, and the State's systems for improving child and family outcomes and protecting child and family rights, OSEP:

- Analyzed the components of the State's general supervision, data, and fiscal systems to ensure that the systems are reasonably calculated to demonstrate compliance and improved performance
- Reviewed the State's systems for collecting and reporting data the State submitted for selected indicators in the State's Federal Fiscal Year (FFY) 2008 Annual Performance Report (APR)/SPP
- Reviewed the following—
 - Previous APRs
 - The State's application for funds under Part C of the IDEA
 - Previous OSEP monitoring reports
 - The State's Web site
 - Other pertinent information related to the State's systems²
- Gathered additional information through surveys, focus groups or interviews with—
 - The Part C Coordinators
 - State personnel responsible for implementing the general supervision, data, and fiscal systems
 - State Interagency Coordinating Council
 - Parents and Advocates

Description of the State's Part C System

Alabama's Early Intervention System (AEIS) is a division within the Alabama Department of Rehabilitation Services (ADRS), the Part C Lead Agency in Alabama. AEIS provides Part C services through three agencies, the Department of Mental Health/Mental Retardation (DMH/MR), Children's Rehabilitation Services (CRS), and the Alabama Institute for the Deaf and Blind (AIDB). Fifty-five early intervention service (EIS) programs provide services to infants and toddlers in Alabama through interagency agreements in place with DMH/MR, CRS, and AIDB.

¹ For a description of the State's general supervision and data systems, see the State Performance Plan (SPP) on the State's Web site.

² Documents reviewed as part of the verification process were not reviewed for legal sufficiency, but rather to inform OSEP's understanding of your State's systems.

I. General Supervision Systems

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?

To effectively monitor the implementation of Part C of the IDEA by EIS programs/providers, as required by IDEA sections 616, 635(a)(10)(A), and 642 and 34 CFR §§303.500 and 303.501, the State must have a general supervision system that identifies noncompliance in a timely manner.

The State informed OSEP that as part of its Provider Appraisal Review (PAR) Monitoring process, the State reviews child records, both on-site and through the Giving Infants, Families and Toddlers Support (GIFTS) real-time, Web-based database system, on which the State can review individualized family service plans (IFSPs), evaluations and assessments, and other child-specific documents. The State's PAR manual states clearly that 100% compliance is required for all Part C requirements.

Notwithstanding this requirement, however, the State informed OSEP during the verification visit that the State did not make a finding of noncompliance in all cases in which record review showed less than 100% compliance with a Part C requirement. Rather, if in reviewing records as part of a compliance monitoring activity, the monitor found only one or two records out of compliance, the monitor might determine that this was a "one-time error" and would decline to make a finding. The monitor clarified that there was no specific "threshold" for determining the level of noncompliance that could exist without making a finding, but indicated that this was a case-by-case judgment. The monitor further indicated that she could not identify the instances in which this had occurred because she had not been keeping track or retaining any documentation of the programs for which this had occurred.

OSEP Conclusion

To effectively monitor the implementation of Part C of the IDEA by EIS programs/providers, as required by IDEA sections 616, 635(a)(10)(A) and 642 and 34 CFR §§303.500 and 303.501, the State must issue written findings for all noncompliance, regardless of the level of noncompliance, unless such noncompliance is corrected prior to the issuance of a finding.

Based on the review of documents, analysis of data and interviews with State personnel, as described above, OSEP concludes that the State does not have a general supervision system that is, in its entirety, reasonably designed to identify noncompliance in a timely manner using its different components, because, as described above, the State did not, in all cases when a PAR review of records showed less than 100% compliance, make a finding of noncompliance. Rather, in some cases when a small percentage of records showed noncompliance, the State declined to make a finding of noncompliance.

Required Actions/Next Steps

Within 90 days from the date of this letter, the State must provide a written assurance that it has revised its practices so that it makes a finding of noncompliance when it finds any level of compliance below 100%.

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?

To effectively monitor the implementation of Part C of the IDEA by EIS programs/providers, as required by IDEA sections 616, 635(a)(10)(A), and 642, 34 CFR §§303.500 and 303.501, the State must have a general supervision system that corrects noncompliance in a timely manner. In addition, as noted in OSEP Memorandum 09-02, Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the Individuals with Disabilities Education Act, dated October 17, 2008 (OSEP Memo 09-02), to verify that previously identified noncompliance has been corrected, the State must verify that the EIS program and/or provider: (1) is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data such as data subsequently collected through on-site monitoring or a State data system; and (2) has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the EIS program and/or provider.

OSEP Conclusion

Based on the review of documents, analysis of data, and interviews with State and local personnel, OSEP concludes that the State's systems for general supervision are reasonably designed to correct noncompliance in a timely manner. However, without also collecting data at the local level, OSEP cannot determine whether the State's systems are fully effective in correcting noncompliance in a timely manner.

Required Actions/Next Steps

No action is required.

Critical Element 3: Dispute Resolution

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

The State must have procedures and practices that are reasonably designed to implement the following IDEA Part C dispute resolution requirements: the State Complaint procedures in 34 CFR §§303.510 through 303.512; and the mediation and due process procedure requirements in 34 CFR §§303.419 through 303.425 (as modified by IDEA sections 615(e) and 639(a)(8)).

Pursuant to 34 CFR §303.420(a), the State has elected to adopt the IDEA Part B mediation and due process procedures, which are in current Part B regulations in 34 CFR §§300.506 through 300.512, and develop procedures that meet the requirements of 34 CFR §303.425, rather than develop procedures that meet the requirements in 34 CFR §§303.419 and 303.421 through 303.425. Because the State has elected to adopt those Part B procedures, it must adopt and implement procedures that are consistent with the resolution session requirements in 34 CFR §300.510.

During the verification visit, the State informed OSEP that it had not adopted procedures that are consistent with the resolution session requirements in 34 CFR §300.510. OSEP also confirmed that the State's Early Intervention Child and Parent Rights for Alabama, the document that the State uses to meet the notice requirements of 34 CFR §303.403(b)(3) and (4), does not include the requirements of 34 CFR §300.510. (The State noted that it has never received a request for a due process hearing, and that there has not yet been a circumstance under which the resolution

process was required.) Following the verification visit, the State informed OSEP that it had begun the process of revising its Administrative Code to include procedures that are consistent with the requirements of 34 CFR §300.510.

OSEP Conclusion

To ensure that the State has procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA, as required by IDEA section 34 CFR §300.510, the State must adopt procedures that are consistent with the resolution process requirements in that regulation. Based on the review of documents, analysis of data, and interviews with State and local personnel, as described above, OSEP concludes that the State has procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA, except that the State does not have procedures to implement the resolution session requirements of 34 CFR §300.510 (which are required due to the State's adoption of the Part B due process hearing procedures under 34 CFR §303.420(a)).

In addition, given that Alabama did not receive complaints or due process hearing requests during FFYs 2007, 2008 and 2009, OSEP cannot determine whether the State's procedures and practices for complaints and due process hearings would be effective in ensuring timely resolution of such requests.

Required Actions/Next Steps

With its FFY 2011 application under IDEA Part C, due in May 2011, the State must provide a copy of its Administrative Code, as amended to include the requirements of 34 CFR §300.510, and an assurance that it has revised the State's Early Intervention Child and Parent Rights for Alabama document to include those requirements, including the requirement to inform parents of the dispute resolution process.

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?

The State must have procedures and practices that are reasonably designed to improve early intervention results and functional outcomes for all infants and toddlers with disabilities.

OSEP Conclusion

Based on the review of documents and interviews with State personnel, OSEP concludes that the State 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 action is required.

Critical Element 5: Implementation of Grant Assurances

Does the State have procedures and practices that are reasonably designed to effectively implement selected grant application requirements, i.e., making local determinations and publicly reporting on EIS program performance, comprehensive system of personnel development (CSPD), and State-level interagency coordination?

The State must have procedures and practices that are reasonably designed to ensure that the State is effectively implementing the following grant application requirements: (1) making local

determinations for, and publicly reporting on, EIS program performance pursuant to IDEA sections 616 and 642; (2) implementation of a CSPD pursuant to IDEA section 635(a)(8) and 34 CFR §303.360; and (3) State-level interagency coordination to ensure that methods are in place under IDEA sections 635(a)(10), 637(a)(2) and 640 and applicable provisions in 34 CFR §§303.520 through 303.528.

OSEP Conclusion

Based on the review of documents and interviews with State personnel, OSEP concludes that the State has procedures and practices that are reasonably designed to implement selected grant application requirements, i.e., making local determinations and publicly reporting on EIS program performance, CSPD, and interagency coordination.

Required Actions/Next Steps

No action is required.

II. Data Systems

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?

To meet the requirements of IDEA sections 616, 618, 635(a)(14), and 642 and 34 CFR §303.540, the State must 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 and ensure that the data collected and reported reflects actual practice and performance.

OSEP Conclusion

Based on the review of documents and interviews with State personnel, OSEP concludes that the State has a data system that is reasonably designed to collect valid and reliable data and information, to report the data and information to the Department and the public in a timely manner, and to ensure that the data and information collected and reported reflects actual practice and performance.

Required Actions/Next Steps

No 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?

To meet the requirements of IDEA sections 616, 618, 635(a)(14), and 642 and 34 CFR §303.540, the State must have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

OSEP Conclusion

Based on the review of documents 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.

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?

To meet the requirements of IDEA sections 616, 618, 635(a)(14), and 642, 34 CFR §303.540 and OSEP Memorandum 10-04: Part C State Performance Plan (Part C – SPP) and Part C Annual Performance Report (Part C – APR), the State must compile and integrate data across systems and use the data to inform and focus its improvement activities.

OSEP Conclusion

Based on the review of documents and interviews with State 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 Systems

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?

The State must have procedures that are reasonably designed to ensure the timely obligation and liquidation of IDEA funds, as required by the General Education Provisions Act (GEPA), its implementing regulations in the Education Department General Administrative Regulations (EDGAR) (including 34 CFR Parts 76 and 80), and the applicable sections of Office of Management and Budget (OMB) Circulars A-87 and A-133.

OSEP Conclusion

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

Required Actions/Next Steps

No action is required.

Critical Element 2: Appropriate Use of IDEA Funds
Does the State have procedures that are reasonably designed to ensure appropriate use of IDEA funds?

The State must have procedures that are reasonably designed to ensure appropriate use of IDEA Part C funds in the State that are consistent with the requirements of GEPA, EDGAR (including 34 CFR Parts 76 and 80), OMB Circulars A-87 and A-133, IDEA section 638 and 34 CFR Part 303.

OSEP Conclusion

Based on the review of documents and interviews with State personnel, OSEP concludes that the State has procedures that are reasonably designed to ensure appropriate use of IDEA funds.

Required Actions/Next Steps

No action is required.