

Illinois Part C Verification Visit Letter

Enclosure

Scope of Review

During the verification visit, the Office of Special Education Programs (OSEP) 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 Coordinator
 - State personnel responsible for implementing the general supervision, data, and fiscal systems
 - Representatives of the agency under contract with the lead agency to monitor Child Family Connections (CFCs) and early intervention service (EIS) providers
 - State Interagency Coordinating Council
 - Parents and Advocates

Description of the Part C System

The Illinois Department of Human Services (DHS) is the State lead agency for Part C of IDEA. Within DHS, the Bureau of Early Intervention administers the Part C program. DHS has contracted with 25 CFCs, each of which provides service coordination to a designated geographical region of the State and serve as EIS programs for SPP/APR reporting purposes in the State. DHS has provider agreements with approximately 4,500 EIS providers for the

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.

provision of early intervention services other than service coordination. DHS has contracted with a private agency that monitors the CFCs and EIS providers.

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?

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.

Making Findings of Noncompliance Based on Settings Data, Without Evidence of Noncompliance with Part C Requirements Related to Services in Natural Environments

OSEP finds that the State has incorrectly issued findings of noncompliance in the area of natural environments, based on the information provided by State staff during the verification visit (and confirmed by OSEP through its review of the State's compliance letters to CFCs). Specifically, the State has made a finding of noncompliance when a CFC reported that less than 85% of the children it served received services in natural environments, even if the State had not found that the CFC had failed to comply with the IDEA Part C natural environments requirements in IDEA sections 632(G) and 636(d)(5) and 34 CFR §§303.12(b), 303.18, and 303.344(d)(1)(ii). The determination of the service setting identified on the child's individualized family service plan (IFSP) must be individualized for each child by the child's IFSP team under IDEA sections 632(G) and 636(d)(5) and 34 CFR §§303.12(b), 303.18, 303.342, 303.343, and 303.344(d)(1)(ii). Therefore, while it is important that the State monitor compliance with these Part C requirements (particularly in CFCs with low percentages of children receiving services in natural environments) and it must make findings of noncompliance if it finds noncompliance with any of those requirements, a specific percentage of children receiving or not receiving services in natural environments is not, in and of itself, noncompliance.

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 identify noncompliance. Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that Illinois has a general supervision system that is reasonably designed to identify noncompliance in a timely manner using its different components, except that the State has incorrectly issued findings of noncompliance based solely on the number of children provided Part C services in natural environments and not on the legal requirements regarding services in natural environments in IDEA sections 632(G) and 636(d)(5) and 34 CFR §§303.12(b), 303.18, 303.342, 303.343, and 303.344(d)(1)(ii). Specifically, while it is important that the State monitor compliance with the Part C natural environments requirements (particularly in CFCs with low percentages of children receiving services in natural environments) and it must make findings of noncompliance if it finds noncompliance with any of those requirements, a percentage of children receiving services in natural environments is not, in and of itself, noncompliance, and it is not appropriate for the State to make findings of noncompliance based solely on such a percentage. In Indicator 2 of its FFY 2009 APR, submitted to OSEP on January 28, 2011, and the revised SPP that the State submitted with the

FFY 2009 APR, the State included a new improvement activity, “effective with the issuing of findings in the first quarter of [FFY 2011],” the State would continue to track data on services in natural environments, “but [will] discontinue the practice of issuing findings based strictly upon data.”

Required Actions/Next Steps

With its FFY 2010 APR, due February 1, 2012, the State must confirm that, effective with the State’s receipt of this letter, it made findings of noncompliance when it found noncompliance with a legal requirement related to provision of Part C services in natural environments (including IDEA sections 632(G) and 636(d)(5) and 34 CFR §§303.12(b), 303.18, 303.342, 303.343, and 303.344(d)(1)(ii)), and not solely based on the percentage of children receiving services in natural environments.

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), in order 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.

The State informed OSEP that in order to verify whether a finding of noncompliance has been corrected, the State verifies whether the CFC or provider has completed the actions in its corrective action plan (CAP) and whether the CFC or provider has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of the EIS program and/or provider. The State acknowledged that it did not verify that the EIS program or provider was correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance) based on a review of updated data.

OSEP Conclusion

To ensure the timely correction of noncompliance by EIS programs and providers, as required by IDEA sections 616, 635(a)(10)(A), and 642, 34 CFR §§303.500 and 303.501, and OSEP Memo 09-02, States must verify correction by reviewing updated data that the EIS program or provider is correctly implementing the specific regulatory requirements (i.e., achieved 100% compliance). Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that Illinois does not have a general supervision system that is, in its entirety, reasonably designed to correct noncompliance in a timely manner using its different components, because, as described above, the State does not verify correction of noncompliance. Specifically, the State has not been verifying correction of noncompliance by ensuring that each EIS program

or provider 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. In the FFY 2009 APR that the State submitted on January 28, 2011, the State reported that it “has now added prong 2, ensuring that CFC offices have correctly implemented the specific regulatory requirement, as defined in OSEP Timely Correction Memo 09-02.”

Required Actions/Next Steps

Within 90 days of receipt of this letter, the State must provide an assurance that it has revised its procedures for verifying the correction of noncompliance so that it verifies that noncompliance has been corrected only if the EIS program or provider is: (1) 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 or provider. With its response, during the SPP/APR clarification period to OSEP’s FFY 2009 Illinois Part C SPP/APR Status Table, the State must describe the extent to which it verified correction of findings of noncompliance identified in FFY 2007 (for the two FFY 2007 findings of noncompliance for Indicator 8C not corrected in FFY 2008) and FFY 2008 under Indicators 1, 7, 8A, and 8C in a manner consistent with the guidance in OSEP Memo 09-02.

Critical Element 3: Dispute Resolution

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

Under 34 CFR §303.420(a), the State has elected to adopt the IDEA Part B due process hearing procedures in lieu of the Part C procedures in 34 CFR §§303.420 through 303.424 and it must also adopt provisions consistent with 34 CFR §303.425.

Tracking Compliance with the 15-day Timeline for Resolution Meetings

Pursuant to 34 CFR §303.420(a), the State has elected to adopt the IDEA Part B mediation and due process procedures in 34 CFR §§300.506 through 300.512 and develop procedures that meet the requirements of 34 CFR §303.425, rather than developing procedures that meet the requirements in 34 CFR §§303.419 and 303.421 through 303.425. Because the State has elected to adopt the Part B procedures to resolve individual child disputes under Part C, it must adopt and implement all of the Part B due process hearing procedures in 34 CFR §§300.506 through 300.512, including the resolution meeting process requirements in 34 CFR §300.510.

OSEP confirmed through its review of the State’s written due process procedures that those procedures, as written, include the requirements in 34 CFR §303.510(a), including the requirement in 34 CFR §300.510(a)(1), that a resolution meeting will be convened within 15 days of receiving notice of the parent’s due process complaint, and prior to the initiation of a due process hearing under 34 CFR §300.511. Illinois did not receive due process hearing requests during FFY 2007 and received only three such requests in FFY 2008, all of which were resolved without a hearing. It is unclear, however, whether a resolution meeting was held when required for those three Part C due process hearing requests received in FFY 2008. During the verification visit, DHS staff informed OSEP that the lead agency was not clear on which agency (the State (DHS) or the EIS program (the CFC)) was responsible for convening a resolution

meeting, and that the State had not been ensuring that a resolution meeting was held when a parent requested a due process hearing under Part C.

OSEP Conclusion

To ensure that the State has procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA, the State must ensure compliance with the resolution meeting requirements in 34 CFR §300.510(a). Based on the review of documents, analysis of data, and interviews with State personnel, OSEP concludes that Illinois has procedures and practices that are reasonably designed to meet the dispute resolution requirements of IDEA, except that the State has not implemented the resolution meeting requirements in 34 CFR §303.510 (which the State has adopted under 34 CFR §303.420(a)). In addition, given that Illinois did not receive due process hearing requests during FFY 2007 and received only three requests in FFY 2008, all of which were resolved without a hearing, OSEP cannot determine whether the State's procedures and practices for due process hearings would be effective in ensuring timely resolution of such requests.

Required Actions/Next Steps

Within 90 days from the date of this letter, the State must confirm in writing which agency (DHS or the CFC) is responsible for conducting the resolution meeting and provide documentation that it has implemented procedures for ensuring that within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under 34 CFR §300.511, a resolution meeting is convened, unless one of the events specified in 34 CFR §300.510(a)(3) occurs.

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 Illinois 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; (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 Illinois 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.

OSEP Conclusion

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

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 Illinois 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 Conclusions

Based on the review of documents and interviews with State personnel, OSEP concludes that Illinois 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 Illinois 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 Illinois has procedures that are reasonably designed to ensure appropriate use of IDEA funds. OSEP notes that, in response to OSEP's request for Illinois' procedures for ensuring compliance with Part C non-supplanting (maintenance-of-effort (MOE)) requirements in 20 U.S.C.

1437(b)(6) and 34 CFR §303.124, the State provided OSEP with an April 2006 “draft” procedures document. OSEP did not conduct a formal review of the document, but the State acknowledged that the document did not reflect current procedures. The State agreed to update the document and submit the updated document to OSEP. On November 5, 2010, after the conclusion of the verification visit, the State forwarded to OSEP another, different set of Part C non-supplanting/MOE calculation procedures, which were also proposed and dated June 29, 2006. The State did not comment on whether the procedures had been made final or reflected current procedures, and OSEP has not conducted a review of its content.

Required Actions/Next Steps

Within 90 days from the date of this letter, the State must submit to OSEP its updated procedures, for ensuring compliance with the IDEA Part C’s non-supplanting/MOE requirements in the requirements in 20 U.S.C. 1437(b)(6) and 34 CFR §303.124.