

Commonwealth of the Northern Mariana Islands Part C Verification Visit Letter
Enclosure

Scope of Review

During the verification visit OSEP reviewed critical elements of the Commonwealth of the Northern Mariana Islands' (CNMI) general supervision, data and fiscal systems, and CNMI's systems for improving child and family outcomes and protecting child and family rights.

Methods

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

- Analyzed the components of CNMI's general supervision, data, and fiscal systems to ensure that the systems are reasonably calculated to demonstrate compliance and improved performance
- Reviewed CNMI's systems for collecting and reporting data regarding selected indicators in CNMI's Federal Fiscal Year (FFY) 2008 Annual Performance Report (APR)/State Performance Plan (SPP)
- Reviewed the following—
 - Previous Annual Performance Reports
 - CNMI's application for funds under Part C of the IDEA
 - Previous OSEP monitoring reports
 - CNMI's General Supervision Monitoring Procedures
 - Individualized family service plans (IFSPs)
 - CNMI's Data Manual
 - CNMI's Fiscal Procedures
 - CNMI's Web site
 - Other pertinent information related to CNMI's systems²
- Gathered additional information through surveys, focus groups or interviews with—
 - The Part C Coordinator
 - CNMI personnel responsible for implementing the general supervision, data, and fiscal systems
 - Early intervention services (EIS) program staff, where appropriate
 - CNMI's Interagency Coordinating Council

¹ For a description of CNMI's general supervision and data systems, see the SPP on CNMI's PSS 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 CNMI's systems.

Description of the Part C System

The CNMI Public School System (PSS) is designated as the lead agency to administer IDEA Part C program in CNMI and CNMI's early intervention system is a unitary system (i.e., the lead agency is also the only early intervention service (EIS) program).

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, CNMI must have a general supervision system that identifies noncompliance in a timely manner.

Based on OSEP's review of sample IFSPs, a report the CNMI PSS data manager issued to the Part C Coordinator in September 2009, and OSEP's interviews with CNMI PSS officials, OSEP finds that CNMI does not have an effective method for identifying noncompliance with Part C requirements using all three components of its monitoring system.

CNMI PSS officials reported that CNMI identifies noncompliance through: (1) internal file reviews (for non-APR requirements); (2) an annual database draw-down (for APR requirements); and (3) external monitoring (for both APR and non-APR requirements). Through a review of monitoring procedures submitted to OSEP by CNMI on August 29, 2010, completed protocols, monitoring reports, and interviews with CNMI's special education program officials, OSEP finds that CNMI only issued findings through its annual database draw-down on June 30, but has not issued findings of noncompliance when CNMI PSS identified noncompliance through: (1) its internal file reviews; and (2) external monitoring process when those two processes identified data reflecting noncompliance with IDEA Part C requirements.³ Although CNMI's August 29, 2010 monitoring procedures include procedures for CNMI to issue a letter of findings (or a letter of commendation for 100% compliance) following internal file reviews, CNMI PSS officials confirmed that this has not been the practice.

Internal File Reviews: CNMI PSS EIP staff review each other's files every December as a quality control measure to: (1) ensure that IFSPs include all of the required IFSP content; and (2) assess the quality of the IFSP document. CNMI PSS officials reported that noncompliance with IFSP requirements (that are not related to SPP/APR indicators⁴), is addressed informally and corrected "immediately." Further, CNMI PSS officials confirmed that CNMI does not issue written findings of noncompliance as a result of the internal file review. Prior to the verification visit, OSEP reviewed 30 IFSPs written between September 25, 2009 and August 31, 2010, and found in eight of the IFSPs the following noncompliance with one or more of the IFSP content requirements that EIP staff had not identified: (1) the general statement "as needed" for the frequency and duration of services; (2) no indication of a hearing screening or visual screening; (3) incongruence between the related services identified as needed on the IFSP and the child's

³ CNMI staff reported that EIP staff corrected the noncompliance "immediately," but does not document the noncompliance or its correction such that CNMI staff can determine when and how such noncompliance is corrected.

⁴ CNMI begins its annual data drawdown process on June 30 to review and report data for the SPP/APR. These data include compliance data for reporting on Indicators 1, 7 and 8.

present level of functioning in a particular developmental area; (4) delays in the provision of related services (a waiting period of up to three months in two IFSPs) with no explanations provided; and (5) no projected starting date for a related service in one IFSP. These areas indicate noncompliance with the requirements in 34 CFR §§303.344(d)(1) and (1)(i); 303.344(a)(1); 303.344(d)(1); and 303.344(f)(1), but had neither been identified as noncompliance by CNMI staff, nor had correction been required for this noncompliance.

External Monitoring: CNMI PSS officials reported that external monitoring is conducted in the fall by a Federal Program Monitor or a contracted consultant who reports to the Commissioner of Education. At the time of OSEP's verification visit, CNMI PSS officials reported that CNMI conducted external monitoring every two years; however, beginning in November 2011, CNMI is scheduled to conduct external monitoring every year. Through this component, CNMI verifies the accuracy of data entered in the data system, and examines the data to determine if CNMI PSS is meeting the following timeline requirements: (1) 45-day evaluation and initial IFSP meeting; (2) six month and annual IFSP reviews; (3) provision of timely services; and (4) 90-day transition conferences. The external monitor submits a report with potential areas of noncompliance to the Part C Coordinator who validates the noncompliance. CNMI PSS officials reported that after CNMI confirms the noncompliance, EIP staff correct it "immediately." CNMI PSS officials confirmed in interviews with OSEP that CNMI has not issued findings of noncompliance through external monitoring. However, during OSEP's November 8, 2010 verification visit, CNMI PSS officials stated that CNMI PSS has revised its internal file review and external monitoring procedures to issue findings, and document and ensure timely correction.

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, CNMI must identify noncompliance using all of the components of its general supervision monitoring system, regardless of the level of noncompliance. Based on the review of documents, analysis of data and interviews with CNMI PSS officials, as described above, OSEP concludes that CNMI does not have a general supervision system that is reasonably designed to identify noncompliance in a timely manner using all of the components of its monitoring system.

Specifically, CNMI did not issue findings of noncompliance when data reviewed through its internal file reviews and external monitoring reflect noncompliance. Although CNMI informed OSEP that it revised its monitoring system to issue findings of noncompliance through all of the components of its monitoring system, OSEP cannot determine whether the new procedures will be effective in identifying noncompliance.

Required Actions/Next Steps

Within 90 days from the date of this letter, CNMI must resubmit its revised monitoring procedures for identifying noncompliance or issuing findings of noncompliance when data reviewed through its internal file reviews and external monitoring reflect noncompliance. If CNMI corrects the noncompliance immediately and chooses not to issue a finding, CNMI's revised monitoring procedures must describe how CNMI PSS documents the correction of noncompliance to ensure that CNMI: (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 CNMI's data system; and (2) has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of CNMI.

Within 90 days from the date of this letter, CNMI must also provide a written assurance that it has provided training to all providers and monitors to ensure that IFSPs include all of the content required under 34 CFR §303.344, including, but not limited to: 34 CFR §§303.344(a)(1); 303.344(d)(1) and (1)(i); and 34 CFR §303.344(f)(1)).

In the February 1, 2012 APR, CNMI must include the results of its latest internal file review and external monitoring under relevant SPP/APR compliance indicators and Indicator 9.

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, CNMI 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, CNMI must verify that it: (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 CNMI's data system; and (2) has corrected noncompliance for each child, unless the child is no longer within the jurisdiction of CNMI.

CNMI has a policy to ensure that correction occurs within one year from written notification to the service coordinator or service provider. OSEP reviewed a corrective action plan and documentary evidence of correction for an individual child, as well as updated data indicating that CNMI corrects noncompliance consistent with OSEP Memo 09-02. However, OSEP learned that CNMI does not track correction of noncompliance when noncompliance is identified through internal file reviews or external monitoring.

OSEP Conclusion

Based on the review of documents, including data verifying correction, analysis of the data, and interviews with CNMI PSS officials, OSEP concludes that CNMI's system for general supervision is not reasonably designed to correct noncompliance in a timely manner because, as described further in GS-1 above, OSEP finds that CNMI only ensures the timely correction of noncompliance consistent with OSEP Memo 09-02 when it issues a finding of noncompliance through its annual data draw-down component.

Required Actions/Next Steps

See the required actions/next steps in GS-1 above.

Critical Element 3: Dispute Resolution

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

CNMI must have procedures and practices that are reasonably designed to implement the following IDEA Part C dispute resolution requirements: the State-level Complaint procedures in 34 CFR §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)). Under 34 CFR §303.420(a), CNMI has elected to adopt the IDEA Part B due process hearing procedures to resolve individual child disputes in lieu of the Part C due process hearing procedures in 34 CFR §§303.420 through 303.424 and adopted provisions consistent with 34 CFR §303.425.

OSEP Conclusions

During the November 2010 verification visit, OSEP directed CNMI to make technical revisions to its procedural safeguards notice to ensure compliance with 34 CFR §§303.400 and 300.504, and CNMI submitted that document to OSEP with the required revisions.

Based on the review of documents and interviews with CNMI PSS officials, OSEP concludes that CNMI has procedures and practices that are reasonably designed to implement the dispute resolution requirements of IDEA. However, because CNMI had not received any complaints and/or due process hearing requests in its FFYs 2007 and 2008 APRs submitted respectively in February 2009 and 2010, OSEP could not determine the effectiveness of those procedures and practices.

Required Actions

No further action is required.

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?

CNMI 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 Conclusions

Based on the review of documents and interviews with CNMI personnel, OSEP concludes that CNMI 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?

A 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.

The requirement for making local determinations and publicly reporting on EIS performance pursuant to IDEA sections 616 and 642 do not apply to CNMI because it is a unitary system (in which the lead agency is the only EIS program) and does not have other EIS programs. CNMI meets the public reporting requirement by making its SPP/APR available to the public.

OSEP Conclusions

Based on the review of documents and interviews with CNMI personnel, OSEP concludes that CNMI has procedures and practices that are reasonably designed to implement selected grant application requirements, i.e., 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, and that the data collected and reported reflects actual practice and performance?

To meet the requirements of IDEA sections 616, 618, 635(a)(14), and 642 and 34 CFR §303.540, CNMI 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 Conclusions

Based on the review of documents and interviews with CNMI personnel, OSEP concludes that CNMI 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, CNMI must have procedures that are reasonably designed to verify that the data collected and reported reflect actual practice and performance.

OSEP Conclusions

Based on the review of documents and interviews with CNMI personnel, OSEP concludes that CNMI 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), CNMI 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 CNMI personnel, OSEP concludes that CNMI 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?

CNMI 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 Conclusions

Based on the review of documents and interviews with CNMI personnel, OSEP concludes that CNMI 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?

CNMI must have procedures that are reasonably designed to ensure appropriate use of IDEA Part C funds in CNMI 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 Conclusions

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

Required Actions/Next Steps

No action is required.