

West Virginia 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
 - The State Interagency Coordinating Council
 - Parents and Advocates

Description of the Part C System of General Supervision

In West Virginia, the Department of Health and Human Resources (DHHR) is the State Lead Agency for Part C of IDEA. Within DHHR, the Birth to Three (BTT) System is administered by the Bureau of Public Health (BPH), Office of Maternal, Child and Family Health (OMCFH). DHHR has entered into contracts with eight Regional Administrative Units (RAUs), each of which provides "interim" service coordination (service coordination up to the point of the development of the initial individualized family service plan (IFSP)) to a designated geographical region of the State. The RAUs are designated as the system point of entry 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.

State's Part C system. The State considers the RAUs to be the State's early intervention service (EIS) programs. DHHR has also entered into provider agreements with approximately 600 to 700 service "practitioners" for the provision of on-going service coordination and early intervention services.

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 ensure that its general supervision system monitors all programs and activities used by the State to implement the requirements of IDEA Part C, including the timely EIS provision and IFSP transition content requirements.

During the verification visit, the State described its multi-faceted general supervision system. While the State uses a range of general supervision strategies, it is not clear how the State monitors all programs and activities used by the State to implement the requirements of IDEA Part C, including the timely EIS provision and IFSP transition content requirements.

For SPP/APR Indicator 1 (timely EIS provision), the State monitors practitioners, including on-going service coordinators and service providers, by designating a month each year (for FFY 2008 it was June 2009), and using its database to identify all children who, during that month, had either an initial or a subsequent IFSP meeting. For each of those children, the State then uses its billing information to determine whether services began in a timely manner. One method that the State uses to ensure that the billing information provides an accurate representation of when services began is by sending parents an "Explanation of Benefits" form; if services did not begin on the date indicated, parents can inform the Lead Agency of any discrepancy. The State reported that if it discovers such discrepancies, it investigates further to determine if there is noncompliance. It is unclear to OSEP, however, how the State ensures that it monitors all practitioners for the timely EIS provision requirements, if the process for selecting practitioners for review is based on which children had initial or subsequent IFSP meetings in a particular month, possibly resulting in the State never monitoring some practitioners.

For SPP/APR Indicator 8A (transition steps and activities in IFSPs), the State collects data, and identifies noncompliance, as part of its monitoring reviews. Based on data available through the billing system, concerns expressed by parents or service coordinators, and other information, the Lead Agency selects 30 to 40 practitioners out of a pool of approximately 600 to 700 on-going service coordinators and EIS providers each year for a monitoring review. It is unclear to OSEP, however, how the State ensures that it monitors all service coordinators for the IFSP transition content requirements in Indicator 8A, if the State annually monitors 30 to 40 practitioners, out of the pool of approximately 600 to 700 on-going service coordinators and EIS providers, resulting in possibly 15 or more years before a practitioner is monitored.

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 ensure that its general supervision system monitors all programs and activities used by the State to implement the requirements of IDEA Part C, including the timely provision of EIS and IFSP transition content requirements. Based on the review of documents, analysis of data, and interviews with State personnel, as described above, OSEP cannot determine whether the State's system monitors all programs and activities used by the State to implement the requirements of IDEA Part C, including the timely provision of EIS and IFSP transition content requirements. Further, without also collecting data at the local level, OSEP cannot determine whether the State's systems are fully effective in identifying noncompliance in a timely manner.

Required Actions/Next Steps

Within 90 days of the date of this letter, the State must clarify whether it has procedures to monitor all programs and activities used by the State to implement the requirements of IDEA Part C, including timely EIS provision and IFSP transition content requirements. If the State does not have such procedures, the State must provide, within 90 days from the date of this letter, an assurance that it has revised its procedures to ensure that all programs and activities used by the State to implement the requirements of IDEA Part C, including the timely EIS provision and IFSP transition content requirements, are monitored.

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.

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 §303.512; 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)).

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 the dispute resolution requirements of IDEA.

Required Actions/Next Steps

No 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?

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; (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.

OSEP Conclusion

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