

New Jersey Part C Continuous Improvement Visit Letter
Enclosure - Verification Component

Scope of Review

During the verification component of the Continuous Improvement Visit (CIV), OSEP reviewed critical elements of the State's general supervision and fiscal systems,¹ and the State's systems for improving functional outcomes for infants and toddlers with disabilities and protecting child and family rights.

Methods

In reviewing the State's systems for general supervision, including the collection of State-reported data,² 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 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) 2009 Annual Performance Report (APR)/State Performance Plan(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 systems³
- 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
 - Early intervention services (EIS) program staff, where appropriate
 - State Interagency Coordinating Council
 - Parents and Advocates
 - New Jersey Protection and Advocacy Agency

The New Jersey Department of Health and Senior Services (DHSS) is the State's Lead Agency for the New Jersey Early Intervention System (NJEIS). The NJEIS administers and monitors the Part C program in accordance with the New Jersey Administrative Code (N.J.A.C.), title 8, chapter 17 and the Federal Part C IDEA regulations, which are embedded within the N.J.A.C.

¹ As explained in the cover letter, OSEP will respond to the fiscal component of the review under separate cover.

² For a description of the State's general supervision system, including the collection of State reported data, see the State Performance Plan (SPP) on the State's Web site.

³ 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.

The NJEIS has a statewide system point of entry (SPOE) whereby families, providers or interested parties can place a referral for EIS through a toll-free hotline connected to one of four Regional Early Intervention Collaboratives (REICs). The State established the four REICs to plan and coordinate the State's early intervention system at the county and community level. For reporting on the SPP/APR, DHSS reports by its 21 counties as its EIS programs. DHSS staff told OSEP that 15 service coordination agencies provide ongoing service coordination within its 21 counties while 70 EIS providers provide direct EIS to eligible children and families. Throughout the State, more than 4,000 practitioners support the provision of EIS under Part C of the IDEA within the State.

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 303.501,⁴ the State must have a general supervision system that identifies noncompliance in a timely manner.

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 identify 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 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?

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

⁴ The IDEA Part C regulations cited in this enclosure are to the regulations with which States must comply during FFY 2011 and which were in effect prior to the publication of the new IDEA Part C regulations published in 76 Federal Register 60140 on September 28, 2011, unless otherwise noted.

for each child, unless the child is no longer within the jurisdiction of the EIS program and/or provider.

Enforcement Actions

The State reported in the FFY 2009 APR that it timely corrected (i.e., within one year from identification) only 88.89% of the findings of noncompliance that it made in FFY 2008 (July 1, 2008-June 30, 2009). These data represented two outstanding findings of noncompliance identified in the FFY 2009 APR.

In a letter to OSEP dated July 6, 2011, the State reported on the enforcement actions taken against the EIS programs to ensure correction of the two findings of noncompliance. The enforcement actions taken included designating the EIS programs as high-risk, providing technical assistance, and informing the EIS programs that if the noncompliance was not corrected within the following six months, the loss of the contract could result.

The State further told OSEP that one finding related to Indicator 1, timely service provision (34 CFR §303.310 (a)) was verified as corrected within 24 months. The second finding related to individualized family service plan (IFSP) meetings held within 45 days (34 CFR §303.342 (a) as modified by IDEA section 637(a)(9)(A)(II)), was verified as corrected within 25 months. During the on-site visit, OSEP confirmed through interviews with DHSS staff and the review of data that both EIS programs with outstanding noncompliance were correctly implementing the Part C requirements regarding timely service delivery and establishing IFSP meetings within 45 days. The State reported that it conducted on-site data verification visits, reviewed subsequent IFSPs and collected updated data, that included the review of monthly corrective action plans to verify that both EIS programs were implementing the Part C regulatory requirements consistent with OSEP Memo 09-02.

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, because the data for Indicator C9 in the FFY 2009 APR were 88.89%, OSEP cannot conclude that the State's systems are fully effective in correcting noncompliance in a timely manner.

Required Actions/Next Steps

No action 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 Conclusions

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: Data System

Does the State have a data system that is reasonably designed to timely collect and report data that are valid and reliable and reflect actual practice and performance?

To meet the requirements of IDEA sections 616, 618, 635(a)(14), 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 have a data system that is reasonably designed to timely collect and report data that are valid and reliable and reflect 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 timely collect and report data that are valid and reliable and reflect actual practice and performance.

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 application requirements, i.e., monitoring and enforcement related to local determinations and State-level interagency coordination?

The State must have procedures and practices that are reasonably designed to ensure that the State is implementing the following grant application requirements: (1) monitoring and enforcement related to local determinations pursuant to IDEA sections 616 and 642; and (2) State-level interagency fiscal coordination to ensure that methods are in place under IDEA sections 635(a)(10), 637(a)(2) and 640.

Methods: State-level Interagency Fiscal Coordination

With regard to State-level interagency fiscal coordination, in any State where a State-level agency, other than the State lead agency, provides or pays for IDEA Part C services, the lead agency must have a method for ensuring the financial responsibility for those services as required by IDEA sections 635(a)(10), 637(a)(2) and 640. In the IDEA Part C grant application, each State provides a certification regarding its methods and that method must be current as of the date the State submits its certification with its grant application. Beginning with the State's FFY 2012 IDEA Part C grant application, any State that is required to have a method must certify that its method meets the requirements of subpart F of the new IDEA Part C Final Regulations (new 34 CFR §§303.500 through 303.521), which were published on September 28, 2011. In addition, if the State's method is an interagency agreement or other written method (i.e.,

anything other than a State statute or regulation), the State must also submit that method with its FFY 2012 IDEA Part C grant application. OSEP's IDEA Part C Checklist for Fiscal Certification under new 34 CFR §303.202 provides further guidance regarding this fiscal certification. If the State has any questions about its methods or this fiscal certification, OSEP remains available to provide technical assistance.

Revised FFY 2011 Grant Budget

New Jersey's FFY 2011 Part C grant application included a proposal to allocate \$3,000.00 of its IDEA Part C funds in direct costs towards rent for the Part C program. Pursuant to 34 CFR §76.568 (and new 34 CFR §303.225(c)), the lead agency may not charge rent, occupancy, or space maintenance costs to the IDEA Part C grant, unless those costs are specifically approved in advance by the Secretary. In a conversation with the Part C Coordinator on December 16, 2011, and an email dated December 21, 2011, the State confirmed to OSEP that it had not yet charged the costs to the grant and would not charge rent to its FFY 2011 Part C grant funds.

OSEP Conclusions

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., monitoring and enforcement related to local determinations and State-level interagency coordination.

Required Actions/Next Steps

No action is required.