



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Steve Shivers
Commissioner
Alabama Department of Rehabilitation Services
P.O. Box 11586
2129 East South Boulevard
Montgomery, Alabama 36111-0586

SEP 30 2003

Dear Commissioner Shivers:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) recent verification visit to Alabama. As indicated in my letter to you of June 18, 2003, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance and improving performance with Parts B and C of the Individuals with Disabilities Education Act (IDEA). OSEP staff conducted a verification visit to Alabama during the week of July 7, 2003.

The purpose of our verification reviews of States is to determine how they use their general supervision, State-reported data collection, and Statewide assessment systems to assess and improve State performance; and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

As part of the verification visit to the Alabama Department of Rehabilitation Services (ADRS), the State's Part C Lead Agency, OSEP staff met with you, Elizabeth D. Prince (the State's Part C Coordinator), and members of ADRS' early intervention staff who are responsible for the State's general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings), and the collection and analysis of State-reported data. Prior to the visit, OSEP staff reviewed a number of documents, including the State's Part C Application, Self-Assessment, and Improvement Plan, the Provider Appraisal Review (PAR) Handbook, and submissions of data under Section 618 of the IDEA, as well as other information and documents posted on the ADRS website.¹ OSEP also conducted a conference call on June 24, 2003, with members of the Part C Steering Committee, to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision and data collection and reporting. Ms. Prince and Ms. Kim Hill also participated in the call and assisted us by inviting the participants.

¹ 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 information that Ms. Prince and her staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of ADRS' systems for general supervision, and data collection and reporting, for the Alabama Early Intervention System (AEIS).

General Supervision:

In looking at the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State's ability to identify and correct noncompliance; (2) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (3) utilizes guidance, technical assistance, follow-up, and—if necessary—sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

OSEP believes that ADRS' systems for general supervision constitute a reasonable approach to the identification and correction of noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether they are fully effective in identifying and correcting noncompliance.

OSEP learned through review of ADRS' Provider Appraisal Review (PAR) Handbook and interviews with ADRS staff, that ADRS uses its PAR process to monitor, on a cyclical basis, all of the 62 local early intervention programs that provide service coordination and other early intervention services.² Some children and families are not served by one of these 62 programs. These families receive service coordination from staff in one of ADRS' seven District Offices, and other early intervention services from independent vendors; the District Office staff are responsible for contracting with the independent vendors and ensuring that services from these vendors meet Part C requirements. ADRS uses the PAR procedures, in connection with its annual performance evaluations of District Office staff, to monitor compliance of the service coordination and early intervention services that the District Offices and independent vendors provide. The goal of the PAR review process is to ensure compliance with the Part C requirements and improved performance for infants and toddlers with disabilities and their families.

It was evident from interviews with the two ADRS PAR monitors that they are well-trained, understand Part C requirements, and work together closely to ensure inter-rater reliability and improve the monitoring process on an on-going basis. OSEP also learned through interviews with ADRS staff, and review of the PAR Handbook and ADRS monitoring files, that ADRS has designed and implemented a systematic, data based process that consists of the following steps that allow ADRS to build a body of information regarding a program or District Office that results in a broad range of compliance findings. ADRS can use its PAR process to collect data from multiple

² ADRS stated that it conducts PAR monitoring reviews of each early intervention program at least once every three years, and more frequently if it finds areas of noncompliance or partial compliance, resulting in the local program receiving less than a three-year program certification.

sources and to use these data to focus its monitoring of each program and District Office, through sequential processes, including (1) previsit review of records and other data submitted by the monitored program or district office; (2) on-site record reviews and interviews; (3) issuance of a written compliance report that includes ADRS' findings, a recommendation for the length of program certification, and a Plan of Action summarizing the specific actions that the program must take to correct findings of noncompliance and target dates for completing those actions (ADRS informed OSEP that in all cases it requires that corrective actions must be completed no later than one year after the date of the compliance report); and (4) follow-up and ongoing technical assistance to assist the program in correcting cited areas of noncompliance .

As confirmed by OSEP's review of ADRS monitoring files and interviews with ADRS staff, ADRS is making a number of compliance findings regarding such Part C requirements involving IFSPs, transition, and evaluations and assessments. It appears, however, that ADRS is making few, if any, findings regarding some other Part C requirements such as public awareness and child find. OSEP noted that, in contrast to other compliance areas in the PAR Handbook, there are relatively few indicators for the public awareness and child find compliance component areas. Given that Part C identification is an ongoing concern for Alabama³, OSEP recommends that ADRS review its PAR indicators and other general supervision oversight activities concerning public awareness and child find to ensure that it is effective in determining compliance with all of the requirements set forth in 34 CFR §§303.320-303.323, and to make any changes necessary to strengthen those areas. OSEP also encourages ADRS, as part of its continuous improvement planning process, to closely examine Part C requirements for which it has few or no PAR indicators and/or few findings of noncompliance, to determine whether it is appropriate to strengthen its monitoring regarding those requirements.

OSEP also learned through interviews with ADRS staff and review of ADRS monitoring files, that ADRS conducts follow-up data collection and technical assistance visits, as necessary, to local programs and District Offices in order to ensure correction of identified noncompliance. Without conducting onsite data collection, OSEP cannot fully evaluate the effectiveness of ADRS general supervision system in correcting noncompliance in local programs and districts in which ADRS has identified persistent noncompliance. ADRS acknowledged, that while it is working aggressively and frequently with such programs to achieve correction, a few local programs have not been successful in correcting all noncompliance within a year.

ADRS has established a list of sanctions that may be imposed if a program fails to take the requisite corrective actions specified in the Plan of Action, which include: the repayment of misappropriated Federal Part C and State funds, the withholding of State and Federal funds until the corrective action is taken to ensure compliance, and, as a last resort, the cancellation of the program's early intervention contract. However, to date, ADRS has not actually imposed repayment sanctions or cancelled any program's early intervention contract. ADRS staff commented that they have discussed the imposition of sanctions with some programs and have given some programs only a continued pending certification on the condition that the program will come into compliance by a specific targeted date or actually lose its program certification when the pending time-period

³ Alabama's Part C early intervention system was identified on the Part C Child Count Data Chart as one of the State Part C systems with a low ranking in the percentage of the birth to three population that it serves in comparison to other States, with 1.18 percent of the birth through two population served based upon the December 1, 2001 child count.

expires. OSEP asks that ADRS keep OSEP informed concerning its progress in ensuring correction in these programs.

OSEP also reviewed ADRS' systems for the resolution of State complaints, due process hearings and mediation. Although the State has adopted State complaint, due process hearing and mediation procedures, to date there have been no Part C due process hearing or mediation requests or complaints filed. (Although ADRS has received no complaints or other written expressions of concern, ADRS does receive telephone calls and emails from parents, and has worked with these individuals to resolve their concerns informally.) OSEP cannot determine whether the lack of administrative complaints and or due process hearing requests is due to a high degree of family satisfaction with Part C services, or whether parents have not been sufficiently informed regarding the State's Part C dispute resolution procedures.

As part of its evaluation of the State's dispute resolution system, OSEP reviewed ADRS' prior written notice documents, required pursuant to 34 CFR §303.403, to determine whether they include all of the required information regarding complaints and due process hearings, and whether any lack of required notice content might be a factor in the lack of complaints and due process hearing requests. The Part C regulations at 34 CFR §303.403(b) require that: "The notice must be in sufficient detail to inform the parents about—... (3) All procedural safeguards that are available under §§303.401-303.460 of this part; and (4) The State complaint procedures under §§303.510-303.512, including a description of how to file a complaint and the timelines under those procedures." OSEP found that ADRS' prior notice forms on parents' rights do not include all of the requisite information regarding administrative complaint procedures, required pursuant to 34 CFR §§303.403(b)(4) and 303.510-303.512. ADRS must revise its prior written notice documents to ensure that they meet those requirements. OSEP is available to work with ADRS to ensure that the required information is included. Please submit the revised notice materials to OSEP within 60 days from the date of this letter.

Data Collection under Section 618 of the IDEA:

In looking at the State's system for data collection and reporting, OSEP collected data regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local and/or regional level do so accurately and in a manner that is consistent with the State's procedures, OSEP guidance, and section 618; and (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies.

OSEP believes that ADRS' system for collecting and reporting data is a reasonable approach to ensuring the accuracy of the data that ADRS reports to OSEP under section 618.

ADRS staff informed OSEP that when ADRS receives a referral form from a parent or other referral source, ADRS enters the child into its data system. They explained that ADRS does not include a child as part of the Part C child count until the evaluation and assessment process is complete, ADRS has found the child eligible under Part C, and the child has an IFSP; once a child is determined to be eligible, the program or District Office is responsible for entering child and family information, along with the child's IFSP, into the database.

ADRS further informed OSEP that local early intervention programs and District Offices submit a verification report to ADRS on a monthly basis, including the number of children and families served, and they are responsible for providing updated information to keep the State's Part C data system current. These monthly data verification reports track the infants and toddlers and their families who are served by the local program or receive service coordination through the District Offices and receive services through independent contract vendor providers. ADRS staff explained that they review these verification reports, checking the data for errors, and that they require local programs and District Offices to make the appropriate edits and updates with regard to their program data. Additionally, when a child and family exits the Part C system, the local program or District Office submits a child/family closure form electronically, which deletes the child's name from the next monthly verification report from the local program or District Office. ADRS explained that, as a result, children who have exited the early intervention system are no longer identified in the State's automated data system after a month.

ADRS staff informed OSEP that they disseminate the annual OSEP data collection policy letters and memoranda to local early intervention programs and District Offices as guidance on how to collect and report all required data consistent with Federal data reporting requirements. ADRS staff expressed overall confidence in the 618 data that they report to OSEP, but acknowledged that ADRS cannot fully ensure the accuracy of its personnel data.

ADRS is in the process of developing and implementing a new web-based data system; the first phase of which is to be implemented beginning in October 2003. OSEP suggests that, as the State develops and implements the new web-based data system, ADRS consider ways in which to better ensure the accuracy of its personnel data, and encourages ADRS to use the new web-based data system to inform its monitoring decision-making.

We appreciate the cooperation and assistance provided by your staff during our visit. As noted above, we request that you keep us informed of your progress in ensuring correction in the local programs with ongoing noncompliance and await the submission of your revised notice materials within 60 days from the date of this letter. We look forward to collaborating with Alabama as you continue to work to improve results for children with disabilities and their families.

Sincerely,



Stephanie Smith Lee
Director
Office of Special Education Programs

cc: Elizabeth D. Prince