



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

Honorable Earl Hunter  
Commissioner  
Department of Health and Environmental Control  
260 Bull Street  
Columbia, South Carolina 29201

DEC 24 2003

Dear Commissioner Hunter:

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 South Carolina. 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 with improving performance under Parts B and C of the Individuals with Disabilities Education Act (IDEA). We conducted our visit to South Carolina during the week of September 22, 2003.

The purpose of our verification reviews of States is to determine how they use their general supervision, State-reported data collection, and State-wide assessment systems to assess and improve State performance, and 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 Part C verification visit to the Department of Health and Environmental Control (DHEC), the State's Part C Lead Agency, OSEP staff met with Linda Price, Program Director, DHEC Children with Special Health Care Needs, David Steele, the State's Part C Coordinator, and members of DHEC's early intervention staff who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); and (2) the collection and analysis of State-reported data. Prior to and during the visit, OSEP staff reviewed a number of documents, including the State's Part C Application, Self-Assessment, and submissions of data under Section 618 of the IDEA.<sup>1</sup> In addition, OSEP staff utilized the information from the September 9, 2003 Compliance Agreement under Part C of the IDEA ("Compliance Agreement") between DHEC and the U.S. Department of Education to prepare for the visit.

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<sup>1</sup> 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. Price, Mr. Steele and his staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, enhanced our understanding of DHEC's plan for developing its systems for general supervision, data collection and reporting, under the Compliance Agreement and for BabyNet, South Carolina's Part C early intervention system.

***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.

As set forth in OSEPs' January 6, 2003 South Carolina Monitoring report, OSEP made the following findings related to general supervision: DHEC did not have a method to identify local noncompliance with Part C requirements: (1) DHEC did not monitor other agencies; (2) enforce all obligations under Part C; and (3) DHEC had not adopted and used proper methods of administering each program, including providing technical assistance and training. DHEC has identified in its Compliance Agreement goals to ensure that all eligible infants and toddlers and their families have available appropriate early intervention services in accordance with Part C requirements through the development and implementation of an interagency comprehensive monitoring and general supervision system that includes a continuous improvement and focused monitoring process. The goals include the development of: (1) monitoring policies, procedures, and instruments that will identify compliance deficiencies and ensure these are corrected in a timely manner; (2) ongoing technical assistance and training to public and private providers, administrators, paraprofessionals, and special instructors to ensure compliant provision of services to infants and toddlers with disabilities and their families; and (3) appropriate sanctions to apply when necessary to enforce correction of deficiencies.

As a result of OSEP's monitoring visit to South Carolina in February 2002, the Department issued on January 6, 2003, a final monitoring report for South Carolina that documented DHEC's failure to comply with Part C in its provision of early intervention services to infants and toddlers with disabilities and their families. In response to OSEP's monitoring report, DHEC requested that the Department enter into a Compliance Agreement with DHEC in order to ensure a continued flow of Part C funds to the State while a structured plan to come into full compliance with Part C is implemented. The Compliance Agreement was signed on September 9, 2003 and will expire three years from that date. During the effective period of the Compliance Agreement, DHEC will be eligible to receive Part C funds as long as it complies with all the terms and conditions of the Compliance Agreement.

OSEP believes that DHEC's proposed plan for general supervision as reflected in the Compliance Agreement constitutes a reasonable approach to the identification and correction of noncompliance. However, OSEP cannot, at this time, determine whether the plan, when implemented, will be fully effective in identifying and correcting noncompliance. OSEP will be better able to determine the effectiveness of the new system as it is implemented and DHEC submits monitoring data as specified in the Compliance Agreement. Under the Compliance Agreement, DHEC is required to provide verification of its activities to the Department through quarterly reports, summaries of the status of each of the above goals, and summaries of progress in meeting the target completion dates for each of the activities identified under general supervision.

OSEP confirmed through interviews with DHEC staff, that DHEC has established a new infrastructure, as described below, at both the local DHEC Health District level and State level for implementing its general supervision activities. At the local level, as established under the Compliance Agreement, 12 BabyNet Coordination Teams (BNCTs) serve as the basis of the State's accountability system to address areas of noncompliance, through the ongoing analysis of data, improvement planning, monitoring, and verification of change. The BNCTs, which are comprised of local BabyNet participating agency representatives, providers, parents, and school district representatives, will now communicate information directly to DHEC. In addition, designated BabyNet Compliance Managers are in place in each of the DHEC Health Districts to ensure local compliance with Part C requirements and implementation of technical assistance plans in the following areas: Child Find and Public Awareness; Early Intervention Services in Natural Environments; Transition; and Eligibility and Evaluation. The Compliance Managers are also responsible for reviewing local data entry for accuracy. At the State level, agencies providing early intervention services have adopted and are implementing BabyNet policies in order to monitor compliance of the service coordination and early intervention services that they provide. OSEP also learned through interviews with DHEC staff, that DHEC has instituted a DHEC BabyNet Oversight Committee at the Deputy Director level, which demonstrates a renewed commitment to Part C services.

DHEC has established a written list of sanctions that will be implemented according to the reporting schedule established under the Compliance Agreement. These sanctions are a part of the BabyNet private provider contracts that may be imposed if a provider fails to take the requisite corrective actions, and includes: 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, cancellation of the program's early intervention contract. However, to date, DHEC has not actually imposed repayment sanctions or cancelled any provider's early intervention contract. As specified in the Compliance Agreement, documentation of interagency sanctions will be incorporated into the Interagency Agreement Memorandum that is being developed as part of the Compliance Agreement.

OSEP learned from interviews with DHEC staff that DHEC is in the process of replacing its current system for the resolution of State complaints, due process hearings and mediation. In addition, DHEC staff told OSEP that they plan to review all complaints and determine how the complaint system fits into the Compliance Agreement target areas, particularly around provider training and technical assistance. DHEC reported to OSEP that there have been no Part C due process hearing or mediation requests or complaints filed in the State to date. However, even though DHEC has received no written, signed complaints or other written expressions of concern; DHEC receives

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.

OSEP concludes that the State's monitoring and dispute resolution systems are not sufficiently developed at this time to be used in a coordinated manner. However, DHEC plans to use section 618 data, such as the child count, to select counties for monitoring. and will be using the State's new data management system as a major vehicle for the identification of noncompliance. DHEC also plans to report complaint issues to the State Interagency Coordinating Council in the future, which will further enhance interagency understanding of Part C systemic issues and the need for collaboration to improve results for infants and toddlers with disabilities and their families. OSEP encourages DHEC to include a mechanism for coordinating the monitoring and dispute resolution components of its general supervision system as it develops and implements each component.

***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; (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) has identified any barriers, (e.g., limitations on authority, sufficient staff or other resources, etc.) that impede the State's ability to accurately, reliably and validly collect and report data under section 618.

OSEP believes that DHEC's plan for Babytrac-II, a new data management system for collecting and reporting data, is a reasonable approach to ensuring the accuracy of the data that DHEC reports to OSEP under section 618. However, OSEP also understands that verification of the new data system is part of the Compliance Agreement and a long-term process with many phases.

DHEC is in the process of implementing the first phase of Babytrac-II, an Internet application with a centralized database designed to collect information on service provision to ensure compliance with Part C requirements and to provide accurate data for Federal and State accountability purposes. DHEC staff informed OSEP that data are collected from local Babynet Coordination Teams (BNCT) by paper and pencil and submitted to the University of South Carolina's Training for Early Childhood Solutions (TECS) for data verification and entry. Data errors are then returned to the local Babynet service coordinator for correction. DHEC's proposed plan under the Compliance Agreement includes review of all local data entry by DHEC local compliance managers. Local level security protocols have been developed and validated. This process will take approximately six months and is dependent upon database hardware requirements being available at all local sites. Local data entry will be made available electronically on-line at local BabyNet offices. DHEC staff further informed OSEP that they are planning to go to on-line authorization, which the State feels will further enhance their ability to collect and report accurate and valid data.

DHEC is currently in the process of interviewing candidates for the Part C Data Manager's position which has been vacant for two years.

OSEP concludes that section 618 data are accurately reported at the local and State levels. DHEC has instituted the following procedures to ensure validity of the data: (1) annual site visits per Health District are conducted at the local level which include random sampling of submitted data; specific procedures for file verification; and a database review of files that are flagged for inconsistent data; (2) purging of the data system at the State level to eliminate data duplication; (3) conducting a series of data entry training seminars on a quarterly basis for local providers; and (4) holding an institute with a focus on data entry,

OSEP concludes that DHEC's new data system encourages consistency with section 618 requirements through multiple methods that include tracking who inputs the data, and who modifies the data by individual, county and Health District. DHEC stated that they plan to enforce compliance with data collection and reporting through the withholding of agency funds, if necessary. DHEC acknowledges that provider access to protocols related to data entry, revision and analysis continues to challenge the system, along with the lack of provider awareness of Federal data requirements. OSEP suggests that, as the State develops and implements the new web-based data system, DHEC consider ways in which to better ensure the accuracy of its personnel data, and encourages DHEC to use the new web-based data system to inform its monitoring decision-making.

DHEC informed OSEP that local providers and the BabyNet Offices submit a verification report to DHEC on a monthly basis, including the number of children and families served, and that 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 providers or receive service coordination through the BabyNet Offices and receive services through independent contract vendor providers. DHEC staff explained that they review these verification reports, checking the data for errors, and that they require the BabyNet 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 BabyNet Office submits a child/family closure form electronically, which deletes the child's name from the next monthly verification report from the BabyNet Office.

DHEC staff informed OSEP that they disseminate the annual OSEP data collection policy letters and memoranda to local DHEC Health Districts as guidance on how to collect and report all required data consistent with Federal data reporting requirements. DHEC staff expressed overall confidence in the new Babytrac II system to collect the section 618 data that they report to OSEP. While DHEC acknowledged that it currently cannot ensure the accuracy of its personnel data, OSEP understands that verifying the new data system will take DHEC more than a year as per the conditions in the Compliance Agreement. OSEP encouraged DHEC to discuss effective methods of collecting and reporting personnel data with Westat and other Federal technical assistance providers such as NECTAC and the Regional Resource Centers.

We appreciate the cooperation and assistance provided by your staff during our visit. As noted above, DHEC must keep OSEP and the Department informed of its progress in ensuring correction with ongoing noncompliance as required under the Compliance Agreement. OSEP will respond in a separate letter to you on the implementation issues raised by your November 17, 2003 letter and subsequent progress reports under the Compliance Agreement. We look forward to collaborating with South Carolina as you continue to work to improve results for children with disabilities and their families.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stephanie J. Smith Lee".

Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: David Steele