



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

Honorable Lana Seivers  
Commissioner of Education  
Tennessee Department of Education  
6<sup>th</sup> Floor, Andrew Johnson Tower  
710 James Robertson Parkway  
Nashville, Tennessee 37243-0375

OCT 27 2003

Dear Commissioner Seivers:

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 Tennessee. As indicated in my letter to you of June 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, and improving performance under Parts B and C of the Individuals with Disabilities Education Act (IDEA). We conducted a verification visit to Tennessee during the week of August 18, 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 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 Tennessee Department of Education (TDE), the State's Part C Lead Agency, OSEP staff met with Brenda Bledsoe (the State's Part C Coordinator), and members of TDE's early intervention staff who are responsible for: (1) 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<sup>1</sup>, including the State's Part C Application, Self-Assessment, and Improvement Plan, and submissions of data under Section 618 of the IDEA, as well as other information and documents provided during the Improvement Planning Process. OSEP also conducted a conference call on August 4, 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.

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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 system.

The information that Ms. Bledsoe 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 TDE's systems for general supervision, and data collection and reporting for the Tennessee Early Intervention System (TEIS).

***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 TDE's systems for general supervision constitute a reasonable approach to the identification of noncompliance, but without also collecting data at the local level, cannot determine whether they are fully effective in identifying noncompliance. OSEP has concerns about its approach to correcting noncompliance in a timely manner, particularly in TEIS districts and other programs in which TDE has identified persistent noncompliance. TDE acknowledged that while it is working aggressively and frequently with local districts and other programs to achieve correction, TDE is concerned about requiring correction of noncompliance with Part C requirements within a specific or limited timeframe because it will take the focus away from systemic improvement planning.

OSEP learned through review of TDE Monitoring Documents and interviews with TDE staff, that TDE uses its monitoring process to monitor, on a three-year cycle, all nine of the TEIS districts that provide service coordination and other early intervention services. The TEIS district staff is responsible for contracting with independent vendors and ensuring that services from these vendors meet Part C requirements. TDE uses the monitoring, corrective action plans and progress reports, plus a quantitative data report (submitted every 6 months) to monitor Part C requirements for service coordination and early intervention services that the TEIS district offices provide. TDE also monitors other programs that serve Part C eligible children and families that are not served by the TEIS district. These individuals receive service coordination and other services from the Department of Mental Retardation Services (DMRS) and early intervention services, not including service coordination, from the Department of Health (DOH). The final component of TDE's system is to monitor the community programs that are a part of the TEIS district and serve Part C children such as DMRS, DOH, the Training and Infant Parent Services Program (TIPS) and Early Head Start.

It was evident from interviews with the Monitoring Coordinator and the three Regional Consultants who monitor that these staff 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 TDE staff and review of monitoring documents, that

TDE has designed and implemented a thorough, systematic, data-based process that includes all components necessary to monitor for compliance with Part C requirements. It produces information on a district or program that TDE can use to make a broad range of compliance findings. TDE uses its monitoring process to collect data from multiple sources and to use these data to focus its monitoring of each TEIS district through a sequential process, including: (1) review of Contract, Quantitative and Child Count Data Reports; (2) review of Self-Assessment by TEIS district; (3) on-site record reviews and interviews; (4) prompt issuance of a written compliance report that includes TDE's findings and a plan of action summarizing the specific actions that the program must take to correct findings of noncompliance; and (5) follow-up and ongoing technical assistance to assist the program in correcting areas of identified noncompliance.

As confirmed by OSEP's review of TDE's monitoring files and interviews with TDE staff, TDE is making a number of compliance findings regarding such Part C requirements as meeting the 45-day timeline for completion of IFSPs, including evaluations and assessments, and transition. However, TDE provides each district up to two years to correct noncompliance and improve performance results. OSEP also learned through interviews with TDE staff and review of TDE monitoring files, that TDE conducts follow-up technical assistance visits, as necessary, to local TEIS districts in order to ensure correction of identified noncompliance. In some cases, the correction of non-compliance may be documented in the progress reports that TEIS districts submit every six months. TDE stated that when persistent non-compliance exists in a district, the Regional Consultant is advised to assist the local programs to come into compliance. OSEP reviewed monitoring reports for two local programs for which TDE staff stated that technical assistance and training was provided to both programs to ensure correction of deficiencies. However, OSEP could not find documentation in the monitoring reports and subsequent progress reports that the identified noncompliance was corrected.

OSEP commends TDE for using its monitoring data to identify State-wide trends in meeting certain Part C requirements, and to determine root causes, in order to focus its monitoring and technical assistance efforts on systemic improvement. TDE presented monitoring data on its State-wide performance in meeting the 45-day timeline for completing IFSPs; a compliance area which has been an ongoing concern for TDE<sup>2</sup>.

OSEP recommended that TDE include in its revised improvement plan (that was due to OSEP on September 15, 2003) a timeline for its nine TEIS districts and other programs to correct the noncompliance identified by TDE. OSEP has received the revised improvement plan, which includes a new one-year timeline for correction of noncompliance in local districts and programs. OSEP will shortly provide TDE with its analysis and review of TDE's revised improvement plan as part of OSEP's response letter to TDE on the Annual Performance Report (APR). As part of TDE's progress reporting to OSEP in the APR, TDE will address the ensuring of correction of noncompliance within the one-year timeline.

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<sup>2</sup> Tennessee's Part C Monitoring documents reviewed during Self-Assessment and Improvement Planning by OSEP State Contact in 2002, indicated non-compliance in meeting 45-day timeline in 3 districts. Focused Monitoring presentation at Verification Visit indicated that the 45-day timeline remains a systemic issue.

TDE is developing a comprehensive evaluation that will address its present monitoring system<sup>3</sup>. This evaluation will document the effectiveness of its monitoring system and will involve members from The National Early Child Technical Assistance Center (NECTAC). The evaluation will include a comprehensive report that will determine if revisions to the system need to be made. OSEP learned during interviews with TEIS staff that local programs found the system to be too cumbersome. Based on OSEP's review of the monitoring documents, the system is comprehensive and does ensure the identification of non-compliance, however an evaluation of the system would benefit TDE in determining if the system is useful to the local programs and also in correcting noncompliance.

TDE has established a list of sanctions that may be imposed if a program fails to take the requisite corrective actions specified in a Corrective Action Plan (CAP), which include: follow-up focused monitoring visits by Regional Consultants and additional technical support to ensure correction; and review by Department of Education, Office of Early Childhood to determine whether formal enforcement action is necessary to ensure timely correction.

According to interviews with TDE staff, the need for enforcement actions have been very limited. As explained earlier, targeted interventions have been made to address persistent noncompliance, however TDE has not documented that those interventions have resulted in correction. OSEP asks that TDE keep OSEP informed concerning its progress in ensuring correction in these programs through its Annual Performance Report and any other data requested through OSEP's review of the revised improvement plan. Additionally, if TDE determines that it cannot, without the use of sanctions, ensure timely correction of noncompliance in some programs, TDE must utilize sanctions, when appropriate, to achieve timely compliance.

OSEP also reviewed TDE's system for the resolution of State complaints, due process hearings and mediation. Although the Lead Agency has adopted existing State complaint, due process hearing and mediation procedures, there have been only two complaints filed with the Lead Agency and there were no mediations or due process hearings requested during 2001-2002. 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.

#### ***Data Collection under Section 618 of the IDEA:***

In looking at the State's system for data collection and reporting, OSEP collected information 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)

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<sup>3</sup> According to the Annual Performance Report and Verification Visit - A comprehensive report based on data from implementation of the monitoring process will clearly identify systemic areas of strengths and concerns regarding compliance with federal and state regulations. TDE indicated that a plan for a systemic improvement plan for Part C will be developed (October 2003) based on the information reflected in the comprehensive monitoring report.

implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies.

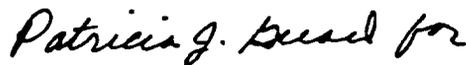
TDE staff informed OSEP that it provides a packet of all 618 data with instructions and a template on a diskette to each TEIS district to be completed and sent to the State office. TDE disseminates the annual OSEP data collection packet to local TEIS districts with guidance on how to collect and report all required data consistent with Federal data reporting requirements. TDE staff expressed overall confidence in the 618 data that they report to OSEP, but acknowledged that TDE cannot fully ensure the accuracy of its personnel data. In further discussions it was discovered that "transportation services" were included in the "other" category for settings data. TDE included in a document submitted to OSEP on September 17, 2003 strategies to correct inconsistencies in 618 data collected from TEIS districts.

In interviews with TEIS staff it was stated that the State office and the local TEIS district office provide the packet of information on submitting 618 data and technical assistance to the other providers in the local districts (private vendors, DOH DMRS and TIPS). However, TDE admits that DMRS and DOH submit data that is potentially duplicative and also not timely. The State has yet to develop a system of oversight to strengthen the data collection from other programs and admits that the Child Count and Exit data are incorrect. Specifically, these programs submit data that the TEIS district office may already have submitted. In many cases these programs do not submit exit data. OSEP requests that TDE submit a plan to OSEP as soon as possible, but within 60 days from the date this letter is received, to address the accuracy and timeliness of the data submitted by DMRS and DOH.

TDE has just been awarded the General Supervision Enhancement Grant (GSEG) in which they propose to develop a more streamlined data system between IDEA Part C and Part B programs. OSEP suggests that before TDE develops and implements the new data system, TDE develop a plan to ensure the accuracy of its personnel data, and to rectify problems with accuracy of data from other programs.

We look forward to collaborating with Tennessee 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: Brenda Bledsoe