



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

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Secretary of Health  
Florida Department of Health  
Children's Medical Service  
4052 Bald Cypress Way  
Tallahassee, Florida 32399-1701

JAN 20 2004

Dear Secretary Agwunobi:

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 Florida. 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 Florida during the week of September 8, 2003.

The purpose of our verification reviews of States is to determine how they use their systems for general supervision, State-reported data collection, and statewide assessment to assess and improve State performance, and the protection of child and family rights. The purposes of the verification visits are to: (1) understand how these 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 general supervision systems are designed to identify and correct noncompliance and improve performance.

As part of the verification visit to the Florida Department of Health (FDOH), the State's Part C Lead Agency, OSEP staff met with Monica Rutkowski (the Bureau Chief for Early Intervention Unit). OSEP also met with other members of FDOH's early intervention staff who are responsible for the State's general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings), the comprehensive system for personnel development and the collection and analysis of State-reported data. Prior to and during the visit, OSEP staff reviewed a number of documents, including the: (1) State's Part C Applications for Fiscal Years 1998-2003; (2) Self-Assessment (SA); (3) Annual Performance Reports (APR) for Fiscal Year 1999-2001; (4) Improvement Plan and subsequent progress report; (5) Interagency Agreements; (6) Monitoring Protocols; (6) Local Monitoring Reports; (7) State Strategic Plan; (8) Local Contracts; (9) State Complaints; (10) General Supervision Enhancement Grant (GSEG); (11) Data Collection Handbook; and (12) the submissions of data under Section 618 of the IDEA, as well as other information and documents posted on the FDOH's web-site.<sup>1</sup> OSEP also conducted a conference call on July 11, 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

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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.

reporting. Monica Rutkowski and Janice Kelly also participated in the call and assisted us by inviting the participants. During the visit, OSEP staff also reviewed a number of State documents, including: (1) Community Plans; (2) FDOH's monitoring files for local early intervention programs, including reports and corrective action documents; (3) the draft of revised Natural Environment Protocols; and (4) Quality Assurance Review Protocol's aggregate data for FY'01-'03.

The information that Ms. Monica Rutkowski 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 FDOH's general supervision systems and data collection and reporting systems it utilizes in carrying out its administrative and oversight responsibilities regarding the Florida Early Intervention System (FEIS).

### **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 the authority, and sufficient staff and other resources, to effectively 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, due process hearings, and mediations; 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.

FDOH is in the process of implementing the Improvement Plan that OSEP approved in its letter dated April 16, 2002. The State's Improvement Plan included strategies to address the following general supervision noncompliance issues identified in OSEP's monitoring report issued April 23, 2001. These areas include: (1) ineffective monitoring procedures to ensure compliance with Part C requirements; (2) ineffective provision of technical assistance to ensure corrective action; and (3) ineffective procedures to correct deficiencies and enforce obligations. OSEP's April 16, 2002 letter requested that the State provide documentation to OSEP by May 31, 2003 that the State has corrected each of its areas of noncompliance identified in OSEP's monitoring report. In its July 1, 2003 Improvement Plan progress report submitted in conjunction with the Annual Performance Report (APR) FDOH identified changes to its general supervision system to address the noncompliance identified in OSEP's April 23, 2001 monitoring report. OSEP's analysis of FDOH's APR will be disseminated under separate cover letter. Based on OSEP's review of FDOH's monitoring system during the verification visit, OSEP believes that FDOH's revised system for general supervision is reasonably calculated to identify and correct noncompliance.

OSEP learned in the review of FDOH's documents and confirmed through interviews with FDOH staff that the State's general supervision system consists of: (1) interagency agreements; (2) Quality Assurance Process Review (QARP) monitoring; (3) parent surveys; (4) contracts; (5) community plans; (6) technical assistance and training initiatives; (7) enforcement provisions; (8) procedural safeguards and; (9) the Florida Interagency Coordinating Council for Infants and Toddlers (FICCIT).

OSEP reviewed and FDOH staff confirmed that interagency agreements, designed to assist FDOH in implementing a coordinated state-wide system of early intervention services, were established with the following entities: (1) the Florida Department of Education, Division of Blind Services; (2) Florida Department of Education, Bureau of Instructional and Community Support; and (3) Head Start. These interagency collaborative efforts result in the provision of direct services, professional development and ensure a smooth transition of children from Part C to Part B.

OSEP verified through interviews with FDOH staff and a review of FDOH's monitoring protocols that staff from FDOH, the Florida State Education Agency (SEA), parents and interagency collaborators implement the QAPR monitoring process. FDOH utilizes an instructional manual to ensure consistency in training the monitors in the QAPR process. FDOH confirmed that all 16 regional early intervention programs receive an on-site comprehensive review every three years and a yearly desk audit, thus six programs are selected annually. The QAPR is comprised of 15 component areas and accompanying indicators are aligned with Federal Part C requirements. The 15 component areas include: (1) child find/public awareness; (2) referral process; (3) evaluation and assessment in determining eligibility; (4) service coordination; (5) Individualized Family Services Plan (IFSP); (6) natural environments; (7) transition; (8) procedural safeguards; (9) family involvement; (10) personnel development and training; (11) regional policy council; (12) interagency agreements; (13) community plan; (14) data and record keeping; and (15) fiscal management. FDOH told OSEP that in some regions of the State, the on-site comprehensive reviews for Part C compliance are conducted in conjunction with a Medicaid review, to ensure fiscal integrity and compliance with Medicaid provisions.

FDOH, to ensure consistency in assessing local performance, utilizes standardized policy and procedures review forms, a sampling formula to select child and family records for review and observations of evaluations and IFSP meetings. Interviews are conducted on-site with families, local providers, administrators and collaborators. Parent surveys are conducted annually by mail and by telephone. FDOH, to ensure consistency in the identification of noncompliance established written standards to assess compliance, a summary checklist to integrate the findings and a computerized format to compile the data on-site. Once the data are compiled, FDOH uses a standardized narrative format to develop its monitoring report that addresses the particular strengths and weaknesses of the program. The report is sent by FDOH electronically and in hard copy to the regional early intervention program within 15 days of the exit conference with FDOH.

OSEP also learned from its review of the State's monitoring protocols and FDOH staff confirmed that the desk audit involves a review of the community plan, technical assistance plan, verification plan, budget and fiscal reports, contracts, family resource action plan, and the desk audit report from the previous year. The community plan allows local programs to describe the strategies and procedures implemented to meet FDOH's criteria for compliance with Part C requirements. Within 10 days following the desk audit, FDOH conducts an exit conference with the regional early intervention programs, either by video or telephone conference. FDOH identifies in a written report to the early intervention director, priority areas and areas of deficiencies that must be address as part of the technical assistance plan and verification plan. FDOH staff confirmed that the results from the on-site comprehensive monitoring review and the desk audit are used to develop program technical assistance and verification plans and the data are aggregated to focus on state-wide technical assistance and training efforts.

During the recent verification visit, OSEP identified procedures in the QAPR and other guidance documents that FDOH must revise. The revisions include the process to determine noncompliance described below and the process used to determine the provision of services in the natural environment, discussed in the 618 section of this report.

OSEP identified and FDOH confirmed that 80% is the targeted goal established to determine compliance for indicators related to child record reviews, personnel records, family evaluations and conducting IFSP meetings<sup>2</sup>. A targeted goal of 80% does not reflect full compliance and is not consistent with Federal requirements. In determining compliance with child records, evaluations and IFSP meetings, Part C of the IDEA requires public agencies to ensure that all procedures are in place consistent with 34 CFR §§303.340 through 303.346. Part C of IDEA also requires that FDOH ensure that all personnel are in compliance with established State personnel standards and qualifications consistent with 34 CFR §§303.12(e), 303.360 and 303.361.

FDOH must ensure for those programs that attain 80% compliance in the areas noted above but noncompliance exists, that the noncompliant practice must be addressed as part of the State's corrective actions, technical assistance and verification plan or other methodology to ensure timely correction. Thus, FDOH must ensure that the process used to assess all component areas and indicators must ensure full compliance for all eligible infants and toddlers and their families and personnel participating in the state-wide system of early intervention services.

As confirmed by OSEP's review of FDOH's monitoring files and interviews with FDOH staff, FDOH is making progress in correcting identified deficiencies, inclusive of those identified by OSEP in its monitoring report issued in April 2001. OSEP reviewed FDOH's verification and technical assistance plans and FDOH staff confirmed that follow-up provisions, especially technical assistance appear to be effective procedures in correcting non-compliant practices. Decisions regarding technical assistance needs are often based on the complexity of the issue, and the resources available in the region. FDOH staff told OSEP that regional technical assistance personnel provide an array of supports to regional early intervention programs at varying levels, including follow-up monitoring, on-site mentoring and training and on-line tracking of progress. FDOH staff told OSEP that based on the data results from follow-up activities such as, technical assistance and verification plans, 12 out of the 16 regional early intervention programs demonstrated compliance with Part C requirements for the State's fiscal year (FY) 2002-2003. The remaining four early intervention programs were identified as "high maintenance". FDOH defines "high maintenance" as those programs that demonstrate persistent noncompliance even though FDOH has provided intensive technical assistance.

FDOH told OSEP that for those early intervention programs that demonstrate persistent noncompliance, sanctions or enforcement actions have been imposed. Since OSEP's 2001 monitoring report, FDOH has included language in its contracts, with each of the regional early intervention programs that specify the sanctions or enforcement actions to be imposed when a program is persistently noncompliant. These sanctions or enforcement actions may include the development of a technical assistance and verification plan with specified target dates for

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<sup>2</sup> FDOH on page 5 of the monitoring protocols states that in order for a program to be in compliance it must meet the established criteria for child and family records, personnel records, interviews or observation standards. FDOH requires local programs to demonstrate that 80% of the required responses or documentations be in place.

completion. If a program fails to perform under established criteria, a recommendation could be made to the Secretary of Children's Medical Services that action be taken to cancel the provider or agency's contract and seek another contract provider. FDOH imposed sanctions or enforcement proceedings on several providers in FY'01-FY'02 that included termination of a contract and the development of a verification plan.

OSEP also reviewed FDOH's systems for the resolution of State complaints, due process hearings and mediation. OSEP's review of FDOH's complaint log and Improvement Plan indicates that in FY'00-'01 there were three State level complaints filed. Two of the three complaints were resolved by the State within the 60-day time frame. A request for an extension for exceptional circumstances was filed and granted for the third complaint. FDOH staff informed OSEP that when a complaint is filed at the local level, it was FDOH's understanding that: (1) local programs had 60 days to resolve the complaint, and (2) if the same complaint was referred to the State, the State had another 60 days to render a decision. If FDOH continues to implement the two-tier complaint system, they must ensure that any complaint filed at the local level and referred to the State must be resolved within a total of 60 days from the date filed, consistent with 34 CFR §303.512. In addition, appeal of a local decision cannot delay the issuance and implementation of a written decision by the State within 60 days as described in the OSEP memo 00-21, dated July 17, 2000. FDOH staff informed OSEP that based on data from complaint logs there were no incidents of a complaint initiated at the local level that exceeded the required 60 days (without filing an extension) before a decision was rendered. OSEP recommends that FDOH revise its guidance documents to ensure that all participating programs and agencies fully understand this requirement and submit a letter of assurance to OSEP within 60 days of the date of this letter confirming that it has ensured that all locally-filed State complaints are resolved within 60 days and meet the requirements of 34 CFR §§303.500-303.512.

FDOH told OSEP that mechanisms were developed following OSEP's monitoring visit in February 2000 to ensure that families were informed of their rights. These mechanisms include: (1) expanding family resource initiatives; (2) instituting a parent survey; (3) conducting training at all levels; (4) implementation of a tracking system to track complaints and dispute resolutions; and (5) monitoring the provisions for procedural safeguards, as part of the QAPR process.

FDOH told OSEP that results from stakeholder forums held across the State identified additional challenges to ensuring compliance with Federal Part C requirements. These challenges include: (1) shortage of qualified personnel; (2) provision of services in natural environments; (3) family centered services; (4) timely transition from Part C to Part B; (5) Medicaid reimbursement; and (6) ongoing collaboration with other State level programs.

With assistance from the General Supervision Enhancement Grant (GSEG), FDOH developed a Professional Development Partnership with the State Department of Education, the FICCIT and Institutions of Higher Education (IHE) to implement a birth to 20 professional development system. Research based practices and competencies will be integrated into pre-service and in-service training initiatives. In addition an Infant-Toddler Developmental Specialist (ITDS) discipline was established to address the personnel shortage issue.

FDOH told OSEP that with support from the GSEG, FDOH plans also to upgrade the state-wide database system. The proposed revisions will enable FDOH to analyze the State and local data to determine child and family outcomes and to track, with appropriate parental consent Part C children

to Part B preschool services. FDOH is also working with the State's Medicaid Division to review the current system and to make a proposal to address areas of identified need. These areas include the reimbursement rates for early intervention services, the newly created ITDS discipline and the proposal for the home support waiver.

OSEP recommends that, as FDOH proceeds with the proposed modifications to its general supervision system, attention be given to: (1) correcting the areas of noncompliance confirmed in the Improvement Plan progress report submitted in conjunction with the APR; and (2) ensuring an effective complaint resolution process through the implementation of procedures to ensure parents have access to their rights

OSEP recommends that FDOH continue to review existing policies, procedures, practices, rules and regulation to determine the extent to which they impede FDOH's ability to ensure compliance with Federal Part C requirements and work with other national technical assistance programs and OSEP to devise appropriate strategies to continue to bring about better results for children and their families.

### **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 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 FDOH's system for collecting and reporting data is reasonably calculated to ensure the accuracy of the data that FDOH reports to OSEP under section 618, except in the area of services in natural environments, that is discussed further in this letter.

The University of Florida (UOF), Department of Pediatrics has been the contractor for FDOH's data-based system, since 1997. UOF partners with FDOH in the implementation of the Continuous Improvement Monitoring Process (CIMP) by collecting, analyzing and reporting data that demonstrates systems change and progress towards compliance.

FDOH told OSEP that the qualifications of the person entering the data vary across the 16 regional early intervention programs. FDOH told OSEP that UOF trains the individuals entering the data, and provides data handbooks to ensure consistency. The data handbooks were posted with other guidance documents on FDOH's web-site. FDOH staff can call UOF at any time for clarification of any technical question. UOF devised a web-based interface system that provides each of the 16 sites with a pass code to ensure confidentiality. FDOH told OSEP that, consistent with the data handbook, the data is entered into the system within 60 days of rendering a service. Each local program and the State can run data reports to review and analyze the data. FDOH reported that they

are able to monitor the local programs on-line by using the data-based system. FDOH also reported that data verification checks were conducted in conjunction with the on-site comprehensive review process.

FDOH told OSEP that the data handbook provides for edit checks to ensure the quality of the data. Each data entry person must sign an assurance statement that ensures adherence to the standards for data entry. FDOH told OSEP that data entry personnel do not always sign the assurance statement; FDOH is identifying other strategies to obtain assurances such as, including assurance language in the contracts. UOF randomly reviews approximately 50 IFSPs and child and family records to ensure the integrity of the data during the comprehensive on-site review. In addition sample records are reviewed every 18 months. The IFSPs reviewed may include those of eligible children who are: (1) newly enrolled; (2) receiving assistive technology and respite services; (3) 18 months of age; (4) medically involved; and (5) transitioning to Part B or other services.

FDOH told OSEP that UOF issues reports on a quarterly and annual basis to FDOH. FDOH reported that the quarterly reports were disseminated to the technical assistance liaisons. The reports assist the technical assistance liaisons and monitoring staff in confirming the observations made during the on-site review. The technical assistance liaisons and monitoring staff share the results of the quarterly reports with the staff in local agencies. The data results are also used by the FICCIT and other collaborators to identify priorities and make recommendations to leverage the change they would like to see. To ensure the validity and relevance of the data, FDOH formed a data users group that meets with UOF staff at least once a year. The group reviews the data to determine what is occurring across the State and makes suggestions for improvements.

OSEP discussed with FDOH staff the trend data regarding natural environments from the State's 618 data reported to OSEP. OSEP determined from a review of Florida's Part C 618 data that a majority of services were provided in developmental-day centers. FDOH staff confirmed that the code used to identify developmental-day centers is the same code used for billing purposes. For example, a therapist employed in a developmental-day center may provide services in a variety of community-based settings and code all the services under developmental-day for reimbursement purposes. Thus, the data reflecting the current setting or location of services may not be consistent with the 618 reporting criteria and as a result, may not reflect an accurate picture of the settings or locations in which services are provided. FDOH indicated it will work in collaboration with UOF to clarify the use of the billing versus setting codes. FDOH must in the next submission of its APR identify the strategies that FDOH will use to address this issue.

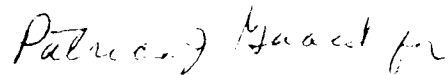
A long-term goal of FDOH's early intervention system is to link FDOH's data system with the Florida State Education Department data system. This linkage with appropriate parental consent will allow FDOH to conduct outcome studies for those Part C children who transition into the Part B special education system.

We appreciate the cooperation and assistance provided by your staff during our visit. As noted above, we request that FDOH submit as part of the Annual Performance Report, revisions regarding the State's policy on complaints, and data to clarify the location of services, or settings, consistent with the 618 definition issued by WESTAT. In addition, FDOH as part of the Annual Performance Report must keep OSEP informed of its progress in the implementation of the monitoring system that identifies and ensures correction in the local programs within a reasonable period of time not to

exceed one year. Specifically, FDOH must provide (1) general supervision data to ensure that parents have access to their rights; (2) family centered services data to ensure that family supports and services are identified on IFSPs; (3) natural environment data to ensure that services are provided in the natural environment, service coordinators are carrying out all their responsibilities, and the timely implementation of services on IFSPs; and (4) data to ensure that the 90 day transition conference is held.

We look forward to collaborating with Florida 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 Smith Lee".

Stephanie Smith Lee  
Director  
Office of Special Education Programs

cc: S. Elizabeth Ford  
Monica Rutkowski