



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

JAN 21 2004

Chiyome L. Fukino, M.D.  
Director  
Hawaii Department of Health  
1250 Punchbowl Street  
Honolulu, HI 96813

Dear Dr. Fukino:

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 Hawaii. 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 Hawaii during the week of September 8, 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 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 Hawaii Department of Health (HDOH), the State's Part C Lead Agency, OSEP staff met with Ms. Susan Brown (the State's Part C Coordinator), and members of HDOH'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 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. OSEP also conducted a conference call on August 13, 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.

The information that Ms. Brown 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 HDOH's systems for general supervision, and data collection and reporting for the Hawaii Early Intervention System (EIS).

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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.

***General Supervision:***

In looking at the State's general supervision system, OSEP collected data 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 conducted a monitoring review in Hawaii from October 16-24, 2000 and the week of February 12, 2001 for the purpose of assessing compliance in the implementation of IDEA. OSEP identified the following areas of noncompliance: (1) HDOH does not provide adequate monitoring and supervision to enforce obligations and correct deficiencies; (2) HDOH does not ensure that all infants and toddlers receive a comprehensive evaluation/assessment in all five developmental areas on a timely basis; (3) IFSPs are not developed with required content and; (4) HDOH is not meeting its responsibility for ensuring the local education agency is notified of children who are approaching the age for transition, that timely transition meetings are held, and that transition plans are developed and implemented for each eligible child. In April 2003, OSEP approved Hawaii's Part C Improvement Plan that includes strategies for implementing a comprehensive Part C monitoring system.

During the verification visit in September 2003, HDOH explained that they are still in the development phase of their new monitoring system and want to refine the system based on information from their pilot monitoring process. HDOH officials told OSEP during the visit that HDOH is planning to conduct comprehensive monitoring activities on a four year monitoring cycle that will include the EIS programs as well as programs that serve eligible Part C children operated by the Public Health Nursing Branch (PHNB), the Maternal Child Health Branch (MCHB) and Early Head Start (EHS) that serve Part C eligible infants and toddlers identified as "at risk."<sup>2</sup>

OSEP learned through review of draft monitoring documents and interviews with HDOH staff, that HDOH has piloted its monitoring process in all 16 EIS programs that serve children with developmental delays. HDOH had completed two monitoring reports at the time of OSEP's Verification Visit. Based on results from the pilot monitoring process, HDOH is now refining the EIS monitoring system to make it less cumbersome for local programs and the State level monitoring personnel to implement. It was evident from interviews with the HDOH general supervision staff that they are working hard to understand the Part C requirements, and are trying to develop monitoring tools that will provide the necessary information about local programs. The HDOH draft EIS monitoring process includes: (1) an annual self-assessment by each program and

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<sup>2</sup> Infants and toddlers who: 1) have developmental delays receive care coordination and services from EIS; (2) are biologically at risk and medically fragile receive care coordination from the PHNB and services from EIS; and (3) are environmentally at risk receive both care coordination and other services from Healthy Start, Home Reach, and EHS programs.

survey data from families, service coordinators and service providers; (2) on-site program reviews and written compliance reports; (3) improvement plans that programs must develop to correct findings; (4) information on program and child outcomes from internal program reviews carried out by local programs; (5) data management and profile reviews which will be a child-based management information system that will allow local early intervention programs and the HDOH EIS to monitor the implementation of Part C legal requirements as well as program components critical to improve child outcomes; (6) focused monitoring and special studies to determine best practices and program issues and concerns; and (7) follow-up activities that will be put in place if programs do not correct deficiencies.

As confirmed by OSEP's review of two EIS monitoring reports from the pilot monitoring and interviews with HDOH staff, HDOH is making a number of compliance findings regarding Part C requirements such as the timely development of IFSPs, including evaluation and assessment, content of the IFSP, and transition. HDOH issued the monitoring reports six months following the monitoring activities. HDOH staff stated that because they have limited personnel they are unable to shorten the timelines for developing monitoring reports to the programs. The monitoring reports identify noncompliance and require local programs to develop an improvement plan within 90 days of the monitoring report; however, HDOH staff stated that they have not provided training to local programs on how to develop an improvement plan to correct identified noncompliance, nor do they have procedures at the State level to determine whether improvement plans will be effective in correcting noncompliance in a timely manner. HDOH staff reported to OSEP that they are considering conducting follow-up monitoring activities and providing ongoing technical assistance to assist programs in correcting cited areas of noncompliance. As noted in OSEP's letter of April 1, 2003, HDOH must submit by April 1, 2004 its final Progress Report on its Improvement Plan that demonstrates that HDOH is implementing procedures that effectively ensure that any noncompliance that HDOH identifies is corrected within one year.

As documented in HDOH's draft monitoring policies and procedures, HDOH has established a list of follow-up actions that may be imposed on EIS programs if they fail to take the requisite corrective actions specified in HDOH's monitoring report. Specifically, they provide, "for those early intervention programs [that] do not make improvement actions that are specific to Federal and/or State legal compliance, follow-up actions could include specific corrective action planning and implementation, imposing sanctions, and potential withdrawal of funds." During OSEP's visit, OSEP recommended that HDOH revise the draft monitoring policies and procedures to include timelines for correction of noncompliance and more specific information on the sanctions that could be imposed on local programs.

At the time of OSEP's visit, HDOH was working closely with the PHNB and MCHB to complete, by December 2003, the monitoring instruments designed to identify noncompliance with Part C requirements. Based on OSEP's review of the draft monitoring documents and interviews with HDOH staff, HDOH's oversight of programs that serve infants and toddlers identified as "at risk" will include the review of monitoring tools to ensure that they cover Part C requirements and the development of an annual report required by the "at risk" programs that includes a summary of Part C findings in all local programs monitored. HDOH informed OSEP that they have not developed enforcement actions to take against "at risk" programs for failure to comply with Part C regulations, but expressed a need to meet quarterly with the "at risk" supervisors to develop enforcement options and to implement a system of enforcement. HDOH must address this indicator in its next Annual Performance Report (APR) submission.

HDOH stated in its Improvement Plan progress report of November 28, 2003 that it is implementing its new monitoring system. However, HDOH provided no data for OSEP to be able to determine if HDOH's monitoring system is effective in identifying and correcting noncompliance. OSEP, therefore, is not able to conclude, based on the verification visit and HDOH's last progress report, whether HDOH's monitoring system is effective in enforcing obligations and identifying and correcting noncompliance under Part C of IDEA.

OSEP also reviewed HDOH's system 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 requests filed for Part C due process hearings, mediations or State-level complaint investigations. 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. HDOH must make sure, through its monitoring activities, that parents receive their prior written notice required under 34 CFR §303.403(b).

*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 HDOH's system for collecting and reporting data is not a reasonable approach to ensuring the accuracy of the data that HDOH reports to OSEP under section 618 of the IDEA.

HDOH staff informed OSEP that all Part C data are entered by paper only. In some cases, the other HDOH programs who provide Part C services have their own database and must pull information from their database and copy it to a paper document to be sent to HDOH. HDOH provides the Federal directions to local programs on how to complete the data reports. One State level employee, who is responsible for the data collection, provides technical assistance. Technical assistance is provided either on the phone or by visiting a local program. HDOH stated that when inconsistencies arise they call the local programs and have the data corrected.

HDOH staff informed OSEP that they disseminate the annual OSEP data collection policy letters and memoranda to local early intervention programs and "at risk" programs as guidance on how to collect and report all required data consistent with Federal data reporting requirements. HDOH staff expressed confidence in the accuracy of the child count and settings data that they report to OSEP, but acknowledged that HDOH cannot fully ensure the accuracy of its personnel or exit data. HDOH staff informed OSEP of the numerous challenges with their data collection system. One challenge is the limited staff at the State office to collect and review the data. OSEP

requests that HDOH submit a plan to OSEP as soon as possible, but within 60 days from the date this letter is received, to address the accuracy of its personnel and exit data.

The PHNB reports that data entry by clerical staff continues to challenge the program, as it is time consuming. There are too many people entering the data so there is no consistency. The nurses in PHNB are at different levels in their understanding of data and they require assistance. According to personnel in the HDOH office, other programs that provide data do not understand IDEA Part C data requirements. HDOH staff discussed a new database system that is being developed from an existing database that will be easily formatted to the needs of the EIS program. The database system will be able to query such fields as child data, analysis of data, and billing information. OSEP recommends that HDOH take the necessary steps to implement the database system as soon as possible and provide technical assistance necessary for local programs to enter data correctly. OSEP encourages HDOH to report on its progress in its next APR submission.

As noted in OSEP's letter of April 1, 2003, HDOH must submit by April 1, 2004 its final Progress Report on its Improvement Plan. The final Progress Report must include data that demonstrates HDOH's full compliance with each of OSEP's findings identified in OSEP's 2002 Monitoring Report. OSEP is concerned about HDOH's ability to meet its implementation deadlines since none of the Progress Reports submitted to date include any data or identify any measurable progress on implementation of a monitoring system. OSEP is available to work with HDOH as HDOH implements its monitoring system.

OSEP further requests that HDOH 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 collected under section 618 of IDEA submitted by "at risk" and EIS programs.

We look forward to collaborating with Hawaii 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: Sue Brown