



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

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Superintendent of Public Instruction
Michigan Department of Education
608 West Allegan Street
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Lansing, Michigan 48909

APR 15 2004

Dear Superintendent Watkins:

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 Michigan. As indicated in my letter to you of August 19, 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 Michigan during the week of November 17, 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 Michigan Department of Education (MDE), the State's Part C Lead Agency, OSEP staff met with Dr. Jacqueline Thompson (State Director) and Ms. Vanessa Winborne (Acting State's Part C Coordinator), and members of MDE's early intervention staff who are responsible for: (1) oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearing); and (2) the collection and analysis of State-reported data. Prior to and during the visit, OSEP staff reviewed a number of documents¹, including the State's Part C Application, Self-Assessment, 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 September 16, 2003, with members of the Part B and 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 Dr. Thompson, and Ms. Winborne and her staff provided during the OSEP visit, along with information that OSEP staff reviewed in preparation for the visit, greatly enhanced

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 system.

our understanding of general supervision, and the collection and reporting of data within the MDE and within the MDE's *Early On 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.

Fifty-seven ISDs administer the Part C system directly through contracts with private agencies, contracts with local education agencies (LEAs) or a combination of both contract methods. Each ISD early intervention system may be administratively unique reflecting the administrative and programmatic structures of its constituent districts. The ISD ensures that all eligible infants and toddlers with disabilities in its jurisdiction and their families receive early intervention services in accordance with Part C requirements. The Local Interagency Coordinating Council (LICC) comprises the local early intervention structure. The LICC has mandated representation from mental health, public health, social services and the LEA. The level of participation varies for each local agency. *Early On's* Part C records can be in any of the four major agencies or any private agency that had agreed to participate (e.g. Easter Seals, Head Start, or other local non-profit human services agencies).

MDE monitors the 57 ISDs on a five-year cycle. Based on OSEP's review of MDE's monitoring system and interviews with *Early On* staff, OSEP concludes that MDE's monitoring system is ineffective in identifying and correcting noncompliance under Part C of IDEA.

Based on the 2001 Self Assessment and the 2002 Improvement Plan, MDE revised its monitoring system to the Early On System Review (EOSR). The EOSR was enhanced to look at additional sources of data in the monitoring process. During the revised local on-site review, MDE collects and analyzes three kinds of data: (1) focus group data; (2) record review data; and (3) pre-existing data. Pre-existing data sources may include: local service area plans; Wayne State University family, service coordinator and local implementation surveys; 618 data as well as other State reported data; and public awareness data. Future monitoring system activities include a revision to the local on-site review and Data Review Report, and the implementation of a local Self-Assessment tool by Spring 2004.

Based on a review of monitoring procedures and documents sent to OSEP prior to the verification visit, and confirmed in interviews with MDE *Early On* staff, MDE develops a written Data Review Report (Monitoring Report) from the EOSR that is mailed to the ISD about 6 weeks after the local on-site review. Next, MDE schedules a meeting with the ISD to review the Data Review Report within two weeks of its receipt at the ISD. Finally, the ISD develops a Service Area Improvement

Plan within 60 days after the review of the Data Review Report. The Data Review Report is organized into thirteen components: (1) Local Service Area Organization; (2) Comprehensive Personnel Development; (3) Public Awareness; (4) Data Collection; (5) Procedural Safeguards; (6) Central Directory; (7) Individual Family Service Plans; (8) Service Coordinator; (9) Comprehensive Child Find and Referral (including evaluation and assessment); (10) Transition Planning; (11) Natural Environments; (12) Family Support/Involvement; and (13) Progress Toward Outcomes. There are a total of 78 indicators in the Data Review Report that measure the ISD's performance and compliance in the thirteen components.

A further review by OSEP of the monitoring indicators used in the local on-site review and Data Review Report show that the State does not have monitoring elements to determine if all children are receiving timely and appropriate services according to the Individualized Family Service Plan (IFSP). For example, in the IFSP component of the Data Review Report, there is no indicator to address whether the services specified on the IFSP are actually being provided in a timely manner. The indicators focus mainly on the content of the IFSP. The Comprehensive Personnel Development component also, does not have an indicator to determine if the local ISDs have enough personnel to provide appropriate and timely services to infants and toddlers with disabilities. In discussions with MDE regarding the content of the monitoring instruments they use to collect on-site data, MDE stated that they could not determine if children are receiving timely and appropriate services using their current monitoring policies, procedures, and instruments. As part of the revision to its local on-site review and Data Review Report that MDE is undertaking this spring, OSEP expects MDE to review the indicators to ensure that all Part C requirements are addressed and to add indicators that address those requirements that are missing, including the requirement to ensure that services specified in the IFSP are provided in a timely manner. Within 60 days from the date of this letter, MDE must submit to OSEP the revisions that it has made to its local on-site review and Data Review Report to ensure that its monitoring process identifies compliance with all Part C requirements.

The Data Review Report also includes information on benchmark and compliance findings. Within the report each finding is assigned a category: Category 1 indicates evidence that a Service Area is meeting or close to meeting benchmark; Category 2 indicates evidence that the Service Area is making progress toward meeting the benchmark and; Category 3 indicates evidence that systemic issues will need to be addressed in the Service Area Improvement Plan. Based on interviews with MDE *Early On* staff, Category 1/Category 2 for an indicator does not require the ISD to respond, but can lead to technical assistance; but only at the request of the ISD. These two categories are assigned to areas that meet compliance at a 75% level with MDE's indicators. A Category 3 finding indicates systemic issues below 75% compliance and must be responded to in the Service Area Improvement Plan. OSEP reviewed two ISD Data Review Reports and MDE indicated Category 2 for many findings where the ISD was not meeting a Part C requirement. As noted above, the ISD is not required to respond to a category 2 finding. The ISD is required to address Category 3 noncompliance findings in its Service Area Improvement Plan. However, no timelines for correction of noncompliance were found in the Service Area Improvement Plans that OSEP reviewed. Additionally, MDE has not established formal sanctions to be imposed if a program fails to take the required corrective actions specified in Monitoring Reports sent to the ISD.

OSEP found in its review of the two ISD Data Review Reports that MDE's monitoring instrument is identifying noncompliance in areas such as meeting the 45-day timeline for development of the

IFSP, notice of procedural safeguards and IFSP reviews. However, the Service Area Improvement Plan submitted by the two ISDs in response to the Data Review Reports did not include improvement strategies, benchmarks or timelines for correction of noncompliance. The plans are narrative (not data-driven) and include informal activities for improvement. Of note was one ISD's Service Area Improvement Plan that included some benchmark/compliance responses, but did not include timelines for the correction of deficiencies. Furthermore, MDE was unable to demonstrate that the ISD's planned activities have or will result in the correction of the identified noncompliance. Within 60 days from the date of this letter, the State must submit a plan to OSEP for ensuring, within one year from the date on which OSEP approves the plan, that MDE is effectively implementing procedures that ensure the timely correction of noncompliance identified in the monitoring process.

MDE *Early On* staff informed OSEP that most of the noncompliance identified through the monitoring system is the result of poor documentation by local providers rather than systemic deficiencies. MDE further stated that the underlying causes of the problem are the variability across the State in how the Part C program is implemented, and a lack of training and consistent expectations of service coordinators relative to documenting services and entering required data in the Part C data collection system. MDE has created a committee to examine the data inconsistencies.

In interviews with MDE *Early On* staff and after reviewing MDE monitoring documents, OSEP concurs with MDE that the revised EOSR incorporates more data than the prior monitoring system and is helpful in understanding ISD systemic issues. However, when MDE monitors an ISD they provide the ISD with three separate reports (618 data, Data Review Report and survey data) that are not synthesized. The reports provide information on identified deficiencies, but do not provide information to assist the ISD in addressing systemic issues and developing improvement strategies. OSEP suggests that MDE use integrated data from all of these reports when planning its monitoring activities, identifying systemic issues, and developing improvement strategies for the State and ISDs. ISDs are monetarily rewarded for performance based on their 618 data; however, this practice has not served as an incentive for the lowest ranking ISDs to improve.

OSEP also reviewed MDE's system for the resolution of State complaints, due process hearings, and mediations. Although the Lead Agency has adopted existing State complaint, due process hearing, and mediation procedures, there has only been one complaint filed with the Lead Agency and there were no mediations or due process hearings requested during 2001-2002. MDE indicated in the July 1, 2003 submission of the Annual Performance Report that future activities will include the release of complaint investigation findings and results to inform the early intervention field. 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's review of the parental rights document indicates that it meets Part C requirements.

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) 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 MDE's system for collecting and reporting data is a not a reasonable approach to ensuring the accuracy of the data that MDE reports to OSEP under Section 618 of the IDEA. The implementation of the system does not ensure accuracy of the data because service coordinators are not documenting needed information on the IFSP or entering the corresponding required data in the Part C data collection system. The technical construction of the database is well developed however; the data entry methods and procedures need significant improvement.

MDE staff informed OSEP that they are moving from the *Early On* Data, Information and Reporting/EETRK System to a Michigan Compliance Information System (MI-CIS). The 618 data collected for December 2003 will be collected by EETRK and then MDE will move to the MI-CIS, which is a web-based system. The ISD gets data from the IFSP entry through paper then each child is assigned a unique number for identification. The ISDs enter the information electronically and fill out a "Federal Report" which is translated into a data profile. The ISD also sends the information on a disk file to the State where it is entered into the EETRK system. Errors can be caught at entry level and again when analysis occurs at the State level when they conduct edit checks. Checks are made by MDE on missing data and duplicates. Missing data elements are often significant, so the State frequently has to request more information from the ISD.

MDE indicated that once the ISD moves to the MI-CIS, they would enter data through the web-based system. The instructions for data collection mirror the Federal table for 618 reporting and also include technical assistance and training. MDE will not require local programs to use the MI-CIS, but will explain the benefits of using the system such as access to the database at no cost. MDE indicates that many local programs are moving toward adopting the MI-CIS.

In interviews with MDE staff, OSEP learned that MDE has a systematic way of training at the local level on: (1) collecting data; (2) entering data; (3) understanding the system and the reports; and (4) how to use the data to make corrections and improvements in the system. However, as noted above, MDE staff reported a lack of training and consistent expectations of service coordinators relative to documenting services and entering required data in the Part C data collection system. MDE has created a committee to examine the data inconsistencies. Within 60 days from the date of this letter, the State must submit to OSEP a plan to address the accuracy and timeliness of the data submitted by service coordinators.

Our preliminary review of MDE's Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) indicates that MDE has revised the categories that it assigns to findings in its Data Review Report and is in the process of developing a plan to ensure that data provided by ISDs is valid and timely. We appreciate that MDE included this information in its FFY 2002 APR, as requested in OSEP's March 5, 2004 letter responding to MDE's FFY 2001 APR. OSEP will respond to MDE's FFY 2002 APR more fully in a separate letter. Although some information regarding the correction

of noncompliance identified by MDE and the accuracy and timeliness of data provided by ISDs was included in the FFY 2002 APR, OSEP did not request, and MDE did not provide, strategies to address OSEP's findings in this letter concerning the identification and correction of noncompliance and data accuracy. Therefore, within 60 days from the date of this letter, MDE must submit to OSEP (1) the revisions that it has made to its local on-site review and Data Review Report to ensure that its monitoring process identifies compliance with all Part C requirements; (2) a plan, including strategies, benchmarks, timelines and evidence of change, that demonstrates how MDE will ensure, within one year from the date on which OSEP approves the plan, that MDE is effectively implementing procedures that ensure the timely correction of noncompliance identified by the State in its monitoring process; and (3) a plan to address the accuracy and timeliness of the data submitted by service coordinators.

We look forward to collaborating with Michigan 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: Dr. Jacqueline Thompson
Vanessa Winborne