



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

Honorable Nancy Grasmick
State Superintendent of Schools
Maryland State Department of Education
200 West Baltimore Street
Baltimore, Maryland 21201

APR 18 2005

Dear Dr. Grasmick:

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 Maryland. As indicated in my letter to you on November 29, 2004, 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 under Parts B and C of the Individuals with Disabilities Education Act (IDEA). OSEP staff conducted a verification visit to Maryland during the week of March 14, 2005. This letter addresses our findings regarding your State's Part C early intervention program for infants and toddlers with disabilities and their families.

The purpose of our verification reviews of States is to determine how they use their systems for 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 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 Maryland Department of Education (MSDE), the State's Part C Lead Agency, OSEP staff met with Carol Ann Baglin, the State's Special Education Director, and Deborah Metzger, Part C Coordinator.¹ OSEP also met with other members of MSDE'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 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 Years 1999-2002; (4) Improvement Plan and subsequent progress report; (5) Interagency Agreements; (6) Monitoring Protocols; (7) General Supervision Enhancement Grants (GSEGs) for Federal Fiscal Years (FFY) 2002 and 2004; (8) Summative External Evaluation of the FFY 2002 GSEG; (9) General Supervision and 618 Desk Audits; and

¹ MSDE is both the State education agency (SEA), responsible for the administration of the State's special education system under Part C of IDEA, and the State's Lead Agency under Part C. In Maryland, 24 Local Infant and Toddler Programs (LITPs) constitute the statewide system of early intervention services.

(10) the submissions of data under Section 618 of the IDEA, as well as other information and documents posted on the MSDE's web-site.²

OSEP also conducted a conference call on February 22, 2005 with members of the Part C Steering Committee, Parent Training and Information Center (PTI) and other advocacy and stakeholder organizations to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision and data collection and reporting and recommendations for system improvements. MSDE State staff also participated in the call and assisted us by inviting the participants. OSEP learned from the review of the State's general supervision system that the systemic issues identified by the stakeholders during the conference call (i.e. child find, procedural safeguards, and follow-up activities to ensure the timely correction of noncompliance) were previously identified by the State and were being addressed through the implementation of the general supervision strategies described in the General Supervision section of this letter.

Prior to the visit, OSEP staff requested the following documents and procedures from a sample of Local Infant and Toddler Programs (LITPs) found in compliance by the State and those identified by the State with areas of noncompliance:

- local applications;
- local monitoring reports;
- improvement plans, and corrective action plans;
- data collection handbook;
- submission of data under Section 618 of the IDEA;
- data audit reports;
- comprehensive system of personnel development plans;
- documentation of technical assistance and training; and
- corrective actions and enforcement protocols and actions taken

The information that Dr. Carol Ann Baglin and Ms. Deborah Metzger and MSDE staff provided prior to and during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for and during the visit, greatly enhanced our understanding of MSDE's general supervision and the data collection and reporting systems it utilizes in carrying out its administrative and oversight responsibilities regarding the Maryland Early Intervention System (MEIS).

General Supervision

In reviewing 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

² Documents reviewed as a part of the verification process were not reviewed for legal sufficiency but rather to inform OSEP's understanding of your State's system.

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, previous monitoring results, etc.) to identify systemic issues and problems.

Based on OSEP's review of MSDE's general supervision documents prior to and during the verification visit, and discussions held with MSDE staff, OSEP believes that the State's systems for general supervision are reasonably calculated to identify and correct noncompliance. OSEP however, cannot determine whether MSDE's general supervision system is fully effective to identify and correct noncompliance without also collecting data at the local level.

Identification of Noncompliance

OSEP, in its April 23, 2004 APR letter responding to the State's FFY 2002 APR, reported that MSDE completed all of the strategies in the State's Improvement Plan to demonstrate compliance with the OSEP-identified areas of noncompliance, except in the area of transition from Part C to Part B. OSEP, in its April 2004 APR letter, requested that MSDE provide updated data to demonstrate compliance with the transition provision in the FFY 2003 APR, that was due on March 31, 2005. OSEP also requested that MSDE continue to report in the FFY 2003 APR, monitoring data to demonstrate how it ensured that areas of State-identified noncompliance, including those resulting in State corrective actions, were corrected.

MSDE staff explained that modifications were made to its General Supervision System since October 1999 when OSEP conducted its on-site monitoring visit under Part C. The Division of Special Education/Early Intervention Services was expanded to include Program Administration and Improvement, and Preschool and Family Support Services in order to maximize resources and foster school readiness. MSDE's Monitoring for Continuous Improvement and Results (MCIR) was revised to ensure consistency with Federal and State requirements and to ensure correction of the areas of noncompliance identified by OSEP in its July 26, 2001 Monitoring Report, in addition to those noncompliance issues identified by the State. MSDE staff informed OSEP that changes to the State's MCIR included changes to its: (1) policies and procedures; (2) regulations; (3) issuance of guidance documents; (4) training and technical assistance; (5) submission of assurances; and (6) corrective actions.

OSEP learned, through the review of MCIR documents and in interviews with MSDE staff, that MSDE utilized over sixty sources to determine and ensure compliance. OSEP reviewed many of these documents on-site, including: (1) State policies, procedures and regulations; (2) interagency agreements; (3) trend data; (4) rank-ordered data; (5) monitoring protocols; (6) self-assessments; (7) improvement plans; (8) targeted priorities; (9) record review and interview protocols; (10) data collection procedures; (11) technical assistance and training activities; (12) the electronic database system; (13) procedural safeguards; (14) the comprehensive system of personnel development; (15) best practices; (16) system of rewards; (17) corrective actions and sanctions; and (18) systems evaluation. MSDE staff reported that these general supervision tools were aligned with Federal Part C requirements to monitor compliance in the following priority areas: (1) child find and public awareness; (2) timely evaluations and assessments; (3) family-directed assessments; (4) decision making in the Individualized Family Services Plan (IFSP)

process; (5) services in natural environments; (6) continuous services; (7) timely transition from Part C to Part B or other services; (8) highly qualified personnel; (9) interagency collaboration; and (10) data collection and reporting.

MSDE identified in the MCIR protocols and OSEP verified through interviews with MSDE staff that the implementation of the State's MCIR process was an intra-interagency effort. Staff from MEIS, the State Education Agency (SEA), with assistance from the State Interagency Coordinating Council (SICC) including parents and Local Infants and Toddlers Program (LITP) directors monitored the 24 LITPs. MSDE staff reported that its monitoring protocols and data collection instruments were standardized, targeted goals and outcomes were identified, and the roles and responsibilities of the monitoring teams were defined to ensure consistency in the data collection and decision-making process.

MSDE staff confirmed that all 24 LITPs received an on-site comprehensive monitoring visit to establish baseline data on compliance requirements by Spring 2004. MSDE reported that monitoring staff conducted a debriefing, an exit conference and a follow-up meeting with each LITP to discuss findings as necessary. Once the baseline was established, MSDE assessed and analyzed various data sets, including data generated by the State's web-based data system (implemented on October 2003) to determine compliance with all Federal and State Part C requirements. MSDE staff reported that the implementation of the web-based data system afforded MSDE the opportunity to generate pre-defined reports to ensure consistency in the reporting of key elements across the 24 LITPs and allowed LITPs to generate regional or agency specific reports and track ongoing activities. MSDE reported that both the State and LITPs ran reports periodically, to assess compliance and performance. MSDE reported it required each LITP to develop a targeted priority plan to address the systemic areas of noncompliance, (based on the analysis of the data, including LITPs who had an on-site monitoring visit), and an Improvement Plan to focus on specific local noncompliance and designed areas for improvement. LITPs were required to include in the targeted priority plan and in the Improvement Plan strategies to monitor their performance to ensure correction of the noncompliance within one year from the approval of the plan by MSDE. MSDE required each LITP to submit targeted priority plans each year, as part of the State's application process for funding, to demonstrate compliance or progress towards compliance and improvement. MSDE staff informed OSEP and OSEP confirmed that monitoring reports, and local profiles for the 24 LITPs were posted on MSDE's web-site.

In addition, MSDE reported that joint monitoring of LITPs was conducted with Medicaid staff to ensure fiscal integrity and compliance with Medicaid provisions. Many of the Medicaid requirements were also Part C requirements. Targeted areas monitored included the provision of services compared to the services on the IFSP, qualifications of service providers, and IFSP record reviews. The main focus of the joint monitoring was to ensure that Medicaid regulations were met, but monitoring results were also used to identify noncompliance in LITPs and to merit further investigation by the State.

Correction of Noncompliance

MSDE staff told OSEP that one of the effective strategies implemented to ensure the timely correction of noncompliance was the development of data profiles. The data profiles highlighted data trends across targeted areas, for the 24 LITPs. MSDE developed a data profile for each LITP on a semi-annual basis. MSDE disseminated the data profiles with rank order data that compared LITPs across the noncompliance or improvement areas. Based on the data results, MSDE determined whether one of the five potential responses was needed: a comprehensive monitoring, focused monitoring, follow-up monitoring to verify correction or improvement, training and technical assistance, or the development of a corrective action plan. MSDE staff reported that LITPs not selected for a comprehensive on-site monitoring visit were LITPs whose data indicated compliance or demonstrated significant progress towards compliance in all priority areas. The LITPs not selected for a comprehensive on-site monitoring visit were required to complete a desk audit, in addition to MSDE tracking their compliance and performance activities through the web-based data system. MSDE staff stated that LITPs were required to develop a plan with designated timelines and strategies to ensure correction of the compliance issues within one year. OSEP reviewed the plans and timelines for several LITPs and determined that strategies were being implemented in a timely manner and in some LITPs the strategies were completed and the local was able to demonstrate compliance.

MSDE reported that dissemination of data profiles had encouraged self-identification and self-correction of noncompliance issues. Some LITPs utilized the data profile to identify noncompliance and in some instances compliance issues were corrected or progress was made towards correction prior to MSDE's intervention. MSDE staff told OSEP in order to assist LITPs in effective self-correction, MSDE developed Technical Assistance Bulletins that clarified Federal and State requirements and identified strategies to improve performance and compliance.

If LITPs demonstrated persistent noncompliance, MSDE imposed sanctions or enforcement actions. MSDE reported that to improve performance and compliance, MSDE: (1) disseminated letters to LITP directors and local agencies noting the noncompliance practices; (2) required submission of a signed assurance that the noncompliance would be corrected; and (3) required LITPs to target funds to correct noncompliance and submit monthly data reports to demonstrate progress. In addition, the Assistant Superintendent would meet with LITPs when there were significant interagency issues or disputes. MSDE staff also told OSEP that in one LITP the contract was terminated for persistent noncompliance.

OSEP reviewed with MSDE staff the State's data regarding the remaining noncompliance issue identified in OSEP's April 2004 APR letter relevant to transition from Part C to Part B. MSDE reported that the State law, regulations, policies and procedures were revised, the IFSP document was modified and a web-based IFSP system, that included a tutorial component, was implemented to monitor compliance in this area. MSDE provided OSEP with data collected for the period of October 1, 2004 to December 31, 2004. These preliminary data demonstrate progress towards ensuring that the transition meetings were held at least 90 days prior the child's third birthday for children potentially eligible under Part B as required under 34 CFR §303.148(b)(2). MSDE's analysis of these data determined that additional strategies were needed to clarify the new reporting criteria and to align the web-based data system with the

revised IFSP form to capture the required information. MSDE staff showed OSEP a series of activities that were initiated in February 2005 to address these concerns. MSDE told OSEP that the results of these activities would be reported in its FFY 2003 APR submitted to OSEP on March 31, 2005. OSEP's response to the State's FFY 2003 APR will be issued under a separate letter.

Procedural Safeguards

As part of the verification visit, OSEP reviewed the State's general supervision system in implementing procedural safeguards under Part C. MSDE staff reported that an important part of its general supervision system was to ensure that parents understood and received their rights and that complaints and due process hearings were resolved in a timely manner. MSDE staff reported that for the period from July 1, 2003 to June 30, 2004, four State complaints were filed. Two complaints were withdrawn before completing the investigation, one complaint resulted in a decision being rendered within the required 60 days and the remaining complaint was resolved beyond the 60 days with an appropriate documented extension. One staff member from the MSDE complaint investigation branch works with one member of the MSDE Part C staff to conduct investigations, write letters of finding, and follow-up with the finding or corrective action plan. The MSDE Part B complaint division is going to begin tracking Part C due process hearings and mediations as well.

MSDE staff told OSEP that the State was in the process of revising its parent's rights notice to reflect the Federal changes resulting from IDEA 2004. OSEP reviewed the current parent's right notice and determined that it contained the requisite information regarding informing parents on how to file complaints. MSDE staff reported that while MEIS utilized Part C complaint and due process procedures, the responsibility for investigating State complaints was shifted to the State complaint investigation branch in MSDE's Part B office.

Challenges

MSDE staff identified several challenges to the State's general supervision system including: (1) understanding and implementing IDEA 2004; (2) aligning the State's regulations with the 2004 Federal requirements; (3) sustaining stakeholder involvement at the State and local levels; (4) linking Part B and Part C data systems; and (5) ongoing evaluation systems to ensure that what is working becomes a part of the system.

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.

Based on OSEP's review of information both prior to and during the verification visit, OSEP believes that MSDE's system has the elements for collecting and reporting data to reasonably ensure the accuracy of the data that MSDE reports to OSEP under section 618.

MSDE staff told OSEP that, with support from OSEP's General Supervision Enhancement Grant, MSDE contracted with John Hopkins University Center for Technology in Education (CTE) to develop a Part B/C web-based data system and provided technical assistance and modifications. The Part C components of the data system were implemented on October 2003. MSDE staff reported that 618 and other data elements were entered into the data system at the local level and reported the following additional information. Data used to compile the report for the 618 data report were downloaded from the web-based system at the State level. MSDE required each LITP to develop an interagency agreement and policies and procedures to ensure that data were submitted to MSDE on time and in the manner required by Federal regulations and State policies. MSDE staff reported that LITP directors were responsible for supervising the accuracy and the timely entry of data. LITP staff were able to run audits on the data at the local level before it is sent to MSDE. MSDE also ran audits on the data and returned it to the LITP for correction when errors were found.

MSDE told OSEP that during on-site monitoring visits to the LITPs, data were checked against child's records and services provided. MSDE reported that Federal and State confidentiality requirements were included in the interagency agreements and were reviewed by all LITP directors and data entry staff. Access to the data system was limited to those individuals who had access to personally identifiable information. OSEP also observed MSDE's ability to generate variable reports through the database. OSEP reviewed the database entry pages as well as pre-determined reports and customized reports ran through the database. OSEP observed the built-in error corrections and screens that ensured that children were not duplicated in the system. Through interviews with MSDE Part C staff, OSEP learned that as a result of the web-based data system LITPs were taking the initiative to self-identify and correct potential areas of noncompliance.

MSDE staff informed OSEP that oversight and ongoing technical assistance for the data system were provided by the Data Manager in addition to supervision from the Section Chief for Program Improvement and support from the Technical Assistance Specialist. MSDE staff reported to OSEP that training was provided to data entry, supervisory personnel and local staff before using the database system. LITP directors were responsible to ensure that new data entry staff was adequately trained while ongoing support for training and technical assistance was provided by the State. MSDE reported that ultimately the web-based system would link Part C data to Part B data to better evaluate child and family performance and outcomes and ensure better results. MSDE contracted with an external evaluator, Evaluation Association, Incorporated to determine the efficacy of the database system and make recommendations for improvement. MSDE reported that it has begun to implement strategies to continuously improve the database system.

We appreciate the cooperation and assistance provided by your staff during our visit. MSDE as part of the APR process must continue to keep OSEP informed of the State's progress in the implementation of the monitoring system that identifies and ensures correction of noncompliance and specifically the remaining noncompliance issue regarding timely transition conferences under 34 CFR §303.148(b)(2). We look forward to collaborating with Maryland as you continue to work to improve results for children with disabilities and their families.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education
Programs

cc: Carol Ann Baglin
Deborah Metzger