



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Carmen Hooker Odom
Commissioner
Department of Health and Human Services
2001 Mail Service Center
Raleigh, North Carolina 27699-2001

OCT 25 2005

Dear Commissioner Hooker Odom:

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 North Carolina. As indicated in my letter to you of January 10, 2005, 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). OSEP staff conducted the verification visit to North Carolina during the week of July 11, 2005.

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 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, our staff met with Dr. Deborah Carroll, the State's Part C Coordinator, and members of the Early Intervention Branch (Central Office) staff in the North Carolina Department of Health and Human Services (NCDHHS), Division of Public Health, Women and Children's Health Section, who are responsible for: (1) the 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. The North Carolina Department of Public Instruction's (NCDPI's) Section 619 Preschool Coordinator joined NCDHHS and OSEP for a discussion regarding the State's efforts to correct noncompliance under Part C related to early childhood transition. Representatives from the National Early Childhood Technical Assistance Center (NECTAC) and the Mid-South Regional Resource Center (Mid-South RRC) also participated in the visit as technical assistance resources to the State.

Prior to and during the visit, OSEP staff reviewed a number of documents, including the State's: (1) Part C Application; (2) Self-Assessment; (3) Improvement Plan; (4) Federal Fiscal Year (FFY) 2001, 2002 and 2003 Part C Annual Performance Reports (APRs); (5) Progress Reports; (6) submissions of data under section 618 of the IDEA; (7) documents regarding the Lead

Agency's monitoring procedures that NCDHHS provided to OSEP to assist in preparation for the visit; and (8) other information and documents available through North Carolina's early intervention website.¹

OSEP staff conducted a conference call on June 16, 2005 with representatives from the State's parent training and information (PTI) center and disability organizations in the State to solicit information on the strengths and weaknesses of the State's systems for general supervision. On June 22, 2005, OSEP staff conducted a similar conference call with members of the North Carolina State Interagency Coordinating Council 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. Carroll and her staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed during and in preparation for the visit, greatly enhanced our understanding of NCDHHS' systems for general supervision and data collection and reporting.

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., section 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous results, etc.) to identify systemic issues and problems.

Structure of North Carolina's Infant and Toddler Early Intervention System

Until 2002, NCDHHS' Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS) was responsible for administering North Carolina's early intervention program. At the local level, a "Consortium" of the following three agencies administered the program: (1) the Area Mental Health, Developmental Disabilities, and Substance Abuse Program (Area DMH/DD/SA) that served as the local lead agency; (2) the local Public Health agency; and (3) the Developmental Evaluation Center (DEC). The DEC's were responsible for conducting evaluations and assessments, and the other two agencies were responsible for the provision of early intervention services. In its 2001 Self-Assessment, the State reported that, under this consortium structure, the Lead Agency did not have a single direct line of authority over the three different agencies administering the Part C program at the local level, and this structural issue was a significant barrier to ensuring compliance in a timely manner.

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 systems.

Pursuant to a special provision in a State budget appropriation from the General Assembly to study the Part C system, the Lead Agency prepared an Early Intervention Report for the General Assembly in April 2002 that described proposed early intervention redesign changes to strengthen the State's Part C system. The General Assembly approved NCDHHS' Report, which served as the foundation for the State's "Early Intervention Design Plan." The Lead Agency implemented the Early Intervention Design Plan, which transferred responsibility for administering Part C to NCDHHS' Division of Public Health, and established a framework for restructuring the State's Part C system and the provision of early intervention services at the local level.

As part of this redesign plan, the State's 18 DECs, under the jurisdiction of the Division of Public Health, began to assume the local Part C lead agency responsibilities from the Area DMH/DD/SAs in 2002-2003. In this role, the DECs were not only responsible for providing evaluation and assessment services, but also became responsible for the implementation of Part C for their "catchment area," and began to serve as system points of entry to the Part C system. The Lead Agency's intent was to ensure a smooth transition into the State's redesigned Part C system, effective July 1, 2004. In four catchment areas, however, the Area mental health programs informed the Lead Agency that they wished to relinquish their Part C responsibilities earlier, and in those four regions the Lead Agency piloted local Part C agencies called "Children's Developmental Services Agencies" (CDSAs), effective July 1, 2003.

Approximately six months prior to that date, the Lead Agency directed each of the four regions to submit transition plans, setting forth the procedures that the new CDSA would implement, the resources that the CDSA had available to implement the program, and the additional resources that the CDSA would need to implement the program. The Lead Agency requested the other fourteen regions to submit transition plans at the beginning of 2004. The Lead Agency reviewed and approved those plans, and the CDSAs in those 14 regions assumed responsibility for the program in their regions effective July 1, 2004.

Under the current structure, fourteen of the CDSAs consist of NCDHHS employees, and four are contracted agencies. In either case, the CDSA director reports directly to the CDSA Program Manager, who in turn reports directly to the State's Part C coordinator. The Lead Agency stressed strongly the importance of this direct line of authority. The State's Part C Reorganization Plan also established a Regional Interagency Coordinating Council (RICC) in each CDSA catchment area as an advisory group to assist the CDSA. Each CDSA director is a member of the RICC for his or her region. The CDSA director provides data to the RICC, which it uses, in collaboration with the CDSA, to develop an early intervention plan for the CDSA region. Each CDSA's plan addresses local responsibilities, including: (1) implementing child find through public awareness activities; (2) ensuring the availability of early intervention services through assessment of service delivery capacity, the identification of child and family needs, and the development or revision of plans to address service gaps or inadequacies; (3) implementing policies for interagency professional development; (4) establishing methods for compliance monitoring and qualitative evaluation of services; and (5) developing a plan of coordination and integration with planning for other early childhood special education and related human services carried out by Mental Health Local Management Entities (LMEs), Smart Start, and local education agencies (LEAs).

Each CDSA now serves as the “local lead agency,” and is responsible for: (1) serving as the system points of entry into the Part C system, providing intake and evaluation/assessment services; (2) providing service coordination services to eligible children and families; and (3) ensuring that all early intervention services are implemented according to Part C requirements and the children’s individualized family service plans (IFSPs) through the monitoring of direct service providers and/or filling-in and providing such services when circumstances dictate. Direct services are provided by contract service providers and agencies that have established “Provider Agreements” with the CDSAs to provide services to Part C-eligible children and families.

Identification of Noncompliance

At 34 CFR §303.501, Part C provides that the Lead Agency is responsible for: (1) the general administration and supervision of programs and activities receiving assistance under Part C; and (2) the monitoring of programs and activities used by the State to carry out Part C, whether or not these programs or activities are receiving assistance under Part C, to ensure that the State complies with Part C.

NCDHHS informed OSEP that, from 2000 through 2003, it used the Community Review monitoring process to monitor compliance with Part C. The Lead Agency further reported that this local self-assessment process was effective in identifying noncompliance in a number of agencies, but had a number of shortcomings. The Lead Agency informed OSEP that it discontinued the Community Review monitoring in late 2003. It explained that while it conducted no systematic monitoring from late 2003 to the time of OSEP’s July 2005 verification visit for the purpose of determining compliance with the requirements of Part C (with the exception of reviewing data submitted by CDSAs regarding their compliance with Part C’s 45-day timeline and transition requirements), it did take the following actions between 2003 and July 2005 to help ensure compliance with Part C requirements: (1) requiring the DEC’s who were transforming into CDSAs to submit a Transition Plan (as discussed earlier); (2) the development, implementation and analysis of results of an early intervention services assessment scale that is a parent survey regarding their experiences in the State’s Part C system; and (3) ongoing, intensive technical assistance to the CDSAs from Lead Agency personnel, including the regional technical assistance consultants.

The Lead Agency described proposed components (as of July 2005) of a multi-faceted general supervision system that it intends to utilize to ensure compliance and improve performance, including: (1) ongoing data analysis from data collected using the State’s new Comprehensive Exceptional Children Accountability System (CECAS); (2) parent survey results from the Early Intervention Services Assessment Scale (EISAS) regarding their experiences through their participation in the State’s Part C system; (3) mandatory provider certification, Comprehensive System of Personnel Development (CSPD) requirements, and “Provider Agreements” between CDSAs and service providers concerning the provision of early intervention services detailing the CDSAs’ monitoring authority over service providers intended to ensure compliance with Part C requirements; (4) a new Continuous Improvement Monitoring Process that utilizes Quality Assurance Committees at the CDSA level to review 20% of children’s records (with a minimum of 12 records reviewed) on a quarterly basis, including provider service records, using a new

Child Record Review Tool, scheduled to be implemented in September 2005, for quarterly record reviews and analysis scheduled to start in Fall 2005; and (5) RICC reports, developed on a quarterly basis, to aid in the oversight and monitoring of the provision of early intervention services. The Lead Agency provided a flowchart regarding the implementation of its continuous improvement monitoring process including an onsite verification visit to each CDSA during the period from January through June 2006. The Lead Agency's proposed system appears to be reasonably designed to identify noncompliance. However, OSEP cannot determine whether the proposed system can identify noncompliance without reviewing documentation regarding the implementation of the proposed system.

Although the State has now taken significant steps to design and implement a new system for the identification of noncompliance, OSEP is concerned that the State did not, as explained above, have such a system in place from late 2003 to the time of OSEP's July 2005 verification visit. It will be important that, as part of the description of its General Supervision system in its State Performance Plan (SPP), due December 2, 2005, the State provide updated information regarding implementation of its proposed system for identifying noncompliance.

Correction of Noncompliance

At 34 CFR §303.501(b), Part C requires that the Lead Agency ensure the correction of any noncompliance, and enforce any obligations imposed, under Part C, on agencies, institutions and organizations used by the State to carry out Part C.

At the time of the verification visit, the Lead Agency was still in the process of formulating procedures for the correction of noncompliance as part of their new system of general supervision. The State will require the CDSAs and RICCs to use data from child record reviews to develop an Annual Report and Improvement Plans that will address areas of noncompliance.

Thus, although the State has a monitoring system that is designed to correct noncompliance, OSEP cannot yet determine the effectiveness of the proposed procedures. The State must include in the SPP, data and analysis regarding their effectiveness in ensuring the correction of noncompliance. In addition it will be important that, as part of the description of its General Supervision system in the SPP, the State provide information regarding implementation of its system for correcting noncompliance.

Dispute Resolution

The Lead Agency reported that it did not receive any administrative complaints or requests for due process hearings or mediation during FFY 2004. Staff noted that they expect to receive some complaints during FFY 2005. The Lead Agency described training that central office and the regional consultants provide to service coordinators to ensure that they provide parents with their procedural safeguards notice of parents' rights, and a tracking system maintained at the Lead Agency Central Office to keep track of calls and informal complaints raised by parents. Lead Agency staff provided OSEP staff with flowcharts of its administrative complaint process and its due process hearing complaint and mediation processes. OSEP staff suggested that the

Lead Agency may want to clarify the wording of its due process complaint system (hearings) to clearly distinguish it from the State's Part C administrative complaint system.

Data Collection

For the past 20 years, NCDHHS has had the Health Services Information System (HSIS), a mainframe computer system, for all its data tracking needs including its Part C data collection and reporting to OSEP and its Medicaid billing. HSIS is an individual record system, with individual child identifiers.

NCDHHS indicated that the State's Part C data definitions and directions for data entry are consistent with OSEP directions. The Lead Agency uses HSIS to collect and report its section 618 data for child count, primary service settings, services and exiting. Service coordinators complete a hard copy of a State Infant-Toddler Program form and are responsible for submitting a new data form whenever there is a change to the child's status, and a data entry clerk enters the information into the data system. HSIS can also be used to run a limited number of ad-hoc data reports, such as for the 45-day timeline.

NCDHHS described edit checks that are built into the HSIS system that identify illogical data, and acknowledged that the State has implemented no systematic monitoring procedures (as part of the prior Community Review process or currently) to compare data in the HSIS system with the information in children's records. NCDHHS indicated that it would consider adding, as part of its new continuous improvement monitoring process, a review of child records to verify the accuracy and reliability of the CDSAs' data collection and reporting. The Lead Agency reported that it has resolved previous problems with one county's child count data reporting, and that it is confident that the State's Part C child count, service settings, services, and exiting data are accurate (except for the category for Part B-eligibility not determined).

The Lead Agency explained that it collects personnel data through a survey that lists the full-time equivalents (FTEs) for all agencies providing services. At the present time, CDSAs complete personnel surveys regarding their staff and contract service providers under provider agreements to provide services to the Part C eligible children and families in their catchment areas. NCDHHS aggregates the personnel data and completes the 618 Personnel Data Table submitted to OSEP. NCDHHS indicated that it did not have a high level of confidence in the accuracy and reliability of its personnel data submissions. In the SPP, as part of its response to indicator #14, the State must include updated information regarding the accuracy of its personnel data.

NCDHHS explained that the State is currently working to finalize implementation of its new CECAS web-based data system that was developed jointly by NCDPI and NCDHHS and funded largely with an OSEP-funded General Supervision Enhancement Grant (GSEG). CECAS is an individual child record system with a number of data fields and functions that will be used by both Part B and Part C; and all of the CDSAs will collect and report data using CECAS. The State will use CECAS to capture all five of the required Part C data sets that it submits under section 618, and it can also be used as a case management system. NCDHHS stated that the data it submits regarding the December 1, 2005 child count and the other 2005 data tables will be

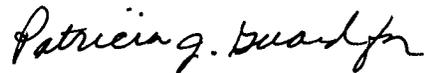
submitted based upon data collected through CECAS. Finally, the State will have far greater capacity to develop various data reports to analyze program compliance and performance that were not previously possible.

Conclusion

The SPP requires States to provide data and analysis regarding their effectiveness in ensuring the correction of noncompliance. It will be important that, as part of the description of its General Supervision system in its SPP, the State provide information regarding the implementation of its system for identifying and correcting noncompliance. In the SPP, as part of its response to indicator #14, the State must also include updated information regarding the accuracy of its personnel data.

We appreciate the cooperation and assistance provided by your staff during our visit, and look forward to our continued collaboration with North Carolina to support your work to improve results for children with disabilities and their families.

Sincerely,

A handwritten signature in black ink, appearing to read "Troy R. Justesen".

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Deborah Carroll, Ph.D.