



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Darlene Carty
Commissioner
Department of Health
P.O. Box 9965
St. Thomas, Virgin Islands 00801

NOV 16 2005

Dear Commissioner Carty:

The U.S. Department of Education's (the Department) Office of Special Education Programs (OSEP) conducted a site visit to the Virgin Islands (VI) from February 28 – March 4, 2005, under Part C of the Individuals with Disabilities Education Act (Part C of IDEA). The purpose of our visit was: (1) to review the progress of the Virgin Islands Department of Health (VIDH) in meeting the programmatic special conditions imposed on the Part C, Federal Fiscal Year 2003 (FFY 2003) grant; (2) to understand how the general supervision and data collection systems work at the Territory level (verification review); (3) to determine how the VIDH collects and uses data to make monitoring decisions; (4) to determine the extent to which the VIDH's systems are designed to identify and correct noncompliance; and (5) to provide technical assistance support to VIDH related to improving results for infants and toddlers with disabilities and their families.

OSEP's September 2005 grant award letter to VIDH transmitting the Virgin Islands Part C FFYs 2004 and 2005 grant awards contained special conditions regarding fiscal accountability and programmatic special conditions that require VIDH to ensure: (1) evaluations and assessments and initial IFSP meetings being conducted within 45 days of referral as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a); (2) timely provision of early intervention services in accordance with a child's IFSP as required by 34 CFR §§303.340(c) and 303.342(e); and (3) sufficient personnel to ensure timely evaluations and assessments and provision of early intervention services ("Special Conditions"). Reports on these three special conditions are due December 2, 2005 and April 14, 2006. OSEP will respond to these issues after receipt of VIDH's reports due under the Special Conditions.

Prior to the verification site visit, OSEP reviewed and analyzed data from VIDH's quarterly reports under its FFY 2003 grant conditions and other VIDH documents. During the week of February 28 – March 4, 2005, OSEP staff met with parents, service providers, two service coordinators, Ms. Renee Joseph-Rhymer (VIDH's Part C Coordinator), Ms. Nona McCray (VIDH's Part C Program Manager), Ms. Evelyn Hairston (VIDH's Federal Projects Officer), and representatives from the VI Lutheran Social Services (LSS) and VI Department of Education (VIDE). OSEP also reviewed pertinent financial records and other information.

As part of the review of VIDH's general supervision and data collection systems OSEP met with Ms. Joseph-Rhymer and members of VIDH's early intervention staff who are responsible for VIDH's general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings), and the collection and analysis of Territory-reported data. Prior to the visit, OSEP staff reviewed a number of documents, including the Territory's Part C Application, submissions of data under Section 618 of the IDEA, and VIDH's Federal Fiscal Year (FFY) 2002 Annual Performance Report (APR) dated October 29, 2004.¹ OSEP also conducted a conference call on February 17, 2005, with members of the Virgin Islands' Part C Interagency Coordinating Council to solicit their perspectives on the strengths and weaknesses of VIDH's systems for general supervision and data collection and reporting.

The information that Ms. Joseph-Rhymer and the Part C staff provided during OSEP's visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of the VIDH's Part C systems for general supervision and data collection and reporting.

General Supervision

In looking at VIDH's general supervision system, OSEP collected information regarding a number of elements, including whether VIDH: (1) has identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede VIDH'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, previous monitoring results, etc.) to identify systemic issues and problems.

Based on the documents and information reviewed and received both prior to and during the visit, OSEP concludes that VIDH's system for general supervision are reasonably designed to identify noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether they are fully effective in identifying noncompliance. OSEP cannot conclude, however, that VIDH's system for general supervision and monitoring is able to ensure correction of noncompliance.

As noted in OSEP's separate response to VIDH's FFY 2003 annual performance report (APR), VIDH indicated it has identified a number of areas of noncompliance. In the State Performance Plan (SPP), due December 2, 2005, VIDH must include data in response to indicator 9 that demonstrates VIDH's ability to correct noncompliance identified in its FFY 2003 APR. If VIDH cannot provide such data, it must include in

¹ Documents reviewed as part of the verification process were not reviewed for legal sufficiency, but rather to inform OSEP's understanding of the State's systems.

the SPP its plan to ensure compliance with the correction requirement in 34 CFR §303.501(b).

Current program supervision

One full-time Part C Coordinator, one full-time Program Manager and an ad-hoc Data Consultant implement administrative oversight (general supervision, fiscal management, and data collection) of the Part C system.

The VIDH Part C administrative staff reported, through interviews, that its general supervisory activities are focused on their responsibilities for meeting the special conditions imposed by the Department since the issuance of the FFY 2001 grant on July 1, 2002 (discussed in Section 1 of this letter). Procedures focused on meeting the special conditions include the following: (1) service coordinators are required to review monthly records such as evaluation reports, intervention notes, and IFSP documents to verify that services were provided in accordance with the child's IFSP; (2) the two service coordinators report to the Coordinator monthly regarding the number of referrals that were received and the number of IFSP's that were completed during that month; (3) the service coordinators convene monthly meetings with service providers to discuss the status of evaluations and assessments and early intervention services, to conduct problem solving, and to discuss best practices for serving children and families; and, (4) the service coordinators may also spot check with families to ensure services were provided.

If any problem is identified from its monitoring system, the Coordinator or service coordinator contacts or meets the staff involved. If the issue cannot be resolved immediately, the Coordinator prepares a written memorandum to the responsible staff person that directs the correction of the problem. The Part C Coordinator stated that she expects the correction to be completed within 30 days and she follows up with the staff to ensure correction has been completed. VIDH has the authority to withhold payments from its per diem providers if any substantiated questions arise regarding delivery of early intervention services. According to VIDH, this enforcement action has not yet been required. In the future, the Part C Coordinator told OSEP she intends to conduct field visits to observe IFSP meetings and provision of services.

During OSEP's visit, the VIDH Part C staff and OSEP discussed the need to have methods in place to monitor all Part C requirements in accordance with 34 CFR §303.501. In collaboration with OSEP and NECTAC during the onsite visit, VIDH Part C staff developed a draft plan to address this issue. In March and April 2005, with assistance from NECTAC, VIDH instituted a comprehensive record review of 30% of all children enrolled in the Part C program for the purposes of identifying and correcting any noncompliance found during this record review. The results of these record reviews and the mechanisms for carrying out general supervision were reported in VIDH's May 31, 2005 FFY 2003 APR. (OSEP has responded to the FFY 2003 APR under separate cover.) VIDH plans to continue to implement this comprehensive record review until all children's records are reviewed. In addition, the VIDH Part C Coordinator will develop corrective action plans to correct noncompliance that will include timelines for correction

no later than one year from the date of identification of the noncompliance, and provide training and technical assistance that is needed. Follow-up mechanisms, such as targeted record reviews, onsite observations, and communication with staff and families, will also be established. OSEP looks forward to reviewing this evidence of correction data in the SPP, due December 2, 2005.

Procedural safeguards

The Part C Coordinator reported that no requests for due process hearings or mediations have been received and no formal complaints were filed over the last three years. During the verification visit, VIDH and OSEP also discussed how VIDH informs parents of the dispute resolution procedures under Part C of IDEA. The Part C Coordinator told OSEP that the service coordinator is the primary contact for informing parents of the dispute resolution procedures. During interviews in the two Health Districts, parents told OSEP that they had been informed about their rights under Part C and that they knew whom to call if they had questions or concerns. OSEP could not determine if the lack of complaints, due process hearing and mediation requests was due to parent satisfaction or to lack of information by parents regarding the availability of such procedures.

During the visit, OSEP reviewed VIDH's prior written notice document to determine whether VIDH informs parents of the required information pursuant to 34 CFR §303.420 and 34 CFR §§303.510-512. Based on the information OSEP provided, VIDH indicated it would revise its prior written notice. With the SPP, or within 60 days of the date of this letter, VIDH must submit the revised prior written notice.

Data Collection under Section 618 of the IDEA

In looking at the Territory's system for data collection and reporting, OSEP collected information regarding a number of elements, including whether VIDH: (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.

Based on the information reviewed both prior to and during the visit, OSEP concludes that VIDH's system for collecting and reporting data is a reasonable approach to ensuring the accuracy of the data that VIDH reports to OSEP under section 618.

The Part C Coordinator sets a date after December 1 of each year by which the two service coordinators and the Part C Coordinator manually tabulate the federal reporting elements from each child's record. The Part C Program Manager manually compiles the

personnel data from personnel files. An ad-hoc Data Consultant summarizes the manual counts into the electronic database supplied by WESTAT for the purpose of summarizing 618 data. The Part C Coordinator told OSEP that she believes the data are accurate and valid because the data are summarized directly from each child's record and the data reflect the definitions provided by OSEP. According to the VIDH Part C staff, the current manual system for tabulating the Federal reporting under section 618 is extremely time consuming.

The Part C Coordinator told OSEP that some electronic records are maintained, including referral sources, demographic information and types of early intervention services provided for each child and family. However, VIDH does not have an operations or training manual for this database system (adapted from another state several years ago) and it is not possible to extract Federal data reports directly from the database. In order to use the electronic records, a data consultant must extract the information from the database and enter the information onto Excel worksheets; then the data from the Excel worksheets must be transferred to a statistical analysis database to produce the Federal reports electronically and any other ad-hoc reports the Coordinator may request or need during the year. The Part C Coordinator requested assistance in evaluating the capacity of the current system and possibly obtaining another electronic database that can be used for the purposes of Federal reporting and general supervision.

In the SPP, due December 2, 2005, VIDH must include data in response to indicator 9 that demonstrates VIDH's ability to correct noncompliance identified in its FFY 2003 APR. If VIDH cannot provide such data, it must include in the SPP its plan to ensure compliance with the correction requirement in 34 CFR §303.501(b).

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to collaborating with the Virgin Islands Department of Health as it continues to work to improve results for infants and toddlers with disabilities and their families. OSEP also recognizes that successful outcomes for children with disabilities and their families are dependent upon the cooperation between VIDH and all VI governmental agencies, including the support of the legislature and the Governor's office.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Renee Joseph-Rhymer, Part C Coordinator