



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

Honorable Carol Olson  
Executive Director  
Department of Human Services  
State Capitol  
600 East Boulevard Avenue  
Department 325  
Bismarck, North Dakota 58505-0250

NOV -7 2006

Dear Director Olson:

The purpose of this letter is to inform you of the results of the Office of Special Education Program's (OSEP's) recent verification visit to North Dakota under Part C of the Individuals with Disabilities Education Act (IDEA). As this office explained in its letter, received by the North Dakota Department of Human Services (NDDHS) on March 16, 2006, 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 IDEA. We conducted our visit to North Dakota on July 24 and 25, 2006.

The purpose of our verification reviews of States is to determine how they use their general supervision and State-reported data collection systems to assess and improve State performance, child and family outcomes, and the protection of 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 general supervision systems are designed to identify and correct noncompliance.

As part of the verification visit to your agency, OSEP staff met with Ms. Deb Balsdon, the State's Part C Coordinator, and with members of your agency's staff who are involved in, and responsible for, the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings) and collection and analysis of State-reported data. As part of the review process, we also reviewed a number of State documents<sup>1</sup>, including: (1) North Dakota's State Performance Plan (SPP); (2) North Dakota's combined Federal Fiscal Year (FFY) 2000, 2001, and 2002 Annual Performance Report (APR); and (3) North Dakota's Improvement Plan. In addition, we conducted a conference call on June 8, 2006 with a number of members of your State's Interagency Coordinating Council, to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision and data collection.

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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.

The information that Ms. Balsdon and the Part C staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, enhanced our understanding of the North Dakota Early Intervention System and NDDHS's systems for general supervision and data collection and reporting.

### **General Supervision**

In reviewing the State's general supervision systems, 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, previous monitoring results, etc.) to identify systemic issues and problems.

OSEP learned through review of North Dakota's combined APR submission and its SPP and confirmed through interviews with NDDHS staff that the North Dakota Part C program is a regional program administered through eight NDDHS Human Service Centers including, within one of the regions, the tribal council representing the Standing Rock Sioux Nation. These regional centers include special education units, a university and a hospital. Each Human Service Center provides services to persons with disabilities of all ages including infants and toddlers with disabilities under Part C in addition to services under other State programs. NDDHS staff reported that the State assumes oversight of the provision of Part C early intervention services by the regional Human Service Centers through State monitoring of key data entered by service coordinators in the statewide ASSIST electronic data system and through the quarterly review of individual Part C files.

ASSIST is a statewide data system that includes Part C data as well as data from other programs such as Medicaid and Foster Care and Child Support. The Part C data include demographic, referral, eligibility, individualized family service plan (IFSP), support assessment, and diagnostic information. A separate electronic file contains other Part C data including early intervention evaluations, IFSP periodic reviews and Quality Enhancement Reviews, which are prepared by service coordinators and relate to progress notes for an individual child and funding sources for the child's services.<sup>2</sup>

*Identification and correction of noncompliance.* OSEP learned during the verification visit that NDDHS's general supervision systems include the following components: (1) quarterly monitoring and compliance reviews of randomly selected IFSP files from each regional center; (2) quarterly review of key ASSIST data submitted by the regional centers; (3) annual Regional Interagency Coordinating Council (RICC) quality improvement plans (QIP) that respond to

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<sup>2</sup> Although OSEP and NDDHS staff discussed North Dakota's system of payments for Part C services, OSEP will respond separately regarding its analysis of the State's policies and procedures.

findings identified by NDDHS's quarterly review process; and (4) dispute resolution processes, including complaints, mediation and due process hearings.

NDDHS staff reported that as part of the regional center monitoring process, monitoring and compliance reviews are completed by members of the Technical Assistance and Training Project who randomly select folders from each region, review each IFSP on-line, and validate that services are provided consistent with Part C requirements and the infant's or toddler's IFSP. NDDHS further reported that it has procedures in place to ensure that the sample of records reviewed represents different early intervention service providers and funding streams; low incidence disabilities; geographic regions within the county; and children transitioning to Part B or other community services. NDDHS staff reported that these reviews provide a qualitative assessment of each regional early intervention service program. In addition, NDDHS reviews ASSIST data from each region. A regional report is generated based on these data sources and sent to the regional center administrators. NDDHS conducts a teleconference with the regional center administrators regarding the quarterly report during which program strengths and areas of needed improvement are addressed. NDDHS staff reported that the regional administrators share the report with the RICC for use in developing the annual QIP.

OSEP learned through interviews with NDDHS Part C staff that the procedure used to monitor IFSPs during the FFY 2004-2005 and 2005-2006 reporting periods could more effectively support general supervision. NDDHS determined that the procedure: (1) had focused largely on the quality of services relative to goals and activities listed on the IFSP and did not sufficiently capture quantitative data in a manner that could easily be analyzed or allow for reports to be generated without difficulty and (2) did not sufficiently ensure the timely correction of deficiencies identified through monitoring.

To address these concerns, NDDHS reported that it had modified its contract with a local university under the Technical Assistance and Training Project, which as noted, monitors regional programs, prepares summary reports, and provides technical assistance to the regional Human Service Centers. NDDHS reported that this ongoing collaboration has resulted in, among the other supervision activities discussed, the development of a monitoring protocol and guidelines to facilitate consistency among monitoring staff. NDDHS staff informed OSEP that in addition to identifying noncompliance the modification to the monitoring procedure provides a final summary report that identifies trends, systemic noncompliance, and potential barriers to the implementation of Part C requirements.

OSEP learned through review of North Dakota's SPP and combined APR submission and interviews with NDDHS staff that eight RICCs have been established and charged with the responsibility of developing and monitoring QIPs. NDDHS reported that the administrative officer of each regional center works with the local RICC to develop an annual regional QIP based on quarterly compliance review and monitoring results and ASSIST data. NDDHS indicated that the RICCs analyze regional data, assess personnel needs, identify strengths, and analyze areas of noncompliance. The QIP identifies improvement steps for achieving compliance and includes timelines for implementation of the improvement steps. However, QIPs are prepared annually and do not ensure correction of noncompliance within one year of

identification. Further, NDDHS reported that there has not been routine monitoring to ensure implementation of the QIPs.

NDDHS reported during the verification visit that it uses the quarterly monitoring and compliance reports, and ASSIST data reported by the regional centers, to determine whether improved compliance has been achieved in any areas of noncompliance that had been identified from previous quarterly reports. At the quarterly teleconference meeting, if progress has not been demonstrated by the reports and data, the need for improvement and compliance with Part C requirements is discussed, and if a regional center continues to demonstrate noncompliance from one quarter to the next, the monitoring and review process may be intensified to include bi-weekly reviews and feedback regarding any activities in question.

During the verification visit and in a September 20, 2006 follow-up telephone conference with the State Part C Coordinator, NDDHS reported that it has formulated plans to implement corrective strategies such as a quarterly component to the regional QIPs that includes activities to ensure timely correction of identified noncompliance in addition to the general supervision improvement activities reported in North Dakota's SPP. However, OSEP cannot determine at this time the effectiveness of NDDHS's proposed corrective procedures.

Based on the information provided to OSEP during the verification visit, OSEP believes that the State's general supervision system constitutes a reasonable approach to identifying noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether the system is fully effective in identifying noncompliance. In addition, OSEP cannot determine the effectiveness of the State's procedures to ensure the correction of all State-identified noncompliance.

In its March 28, 2006 letter responding to North Dakota's SPP, OSEP directed the State to provide data demonstrating correction of identified noncompliance by June 1, 2006. OSEP's September 25, 2006 memorandum to NDDHS responded to North Dakota's June 1, 2006 submission indicating that the data reported showed some improvement in the correction of identified noncompliance. However, as stated in OSEP's September 25, 2006 memorandum and its September 28, 2006 Part C grant award letter to North Dakota, NDDHS must include data in response to Indicator 9 in the FFY 2005 APR due February 2, 2007 that demonstrate timely correction of noncompliance as required by 34 CFR §303.501(b). In addition, as part of its response to Indicator 9 in the FFY 2005 APR, NDDHS must submit documentation demonstrating implementation of its proposed strategies for ensuring the correction of all State-identified noncompliance within one year from the date of its identification.

*Complaint Resolution, Mediation, and Due Process Systems.* During the verification visit, NDDHS staff reported that it disseminates information about methods available to resolve disputes concerning early intervention services through NDDHS's publication, *Your Parental Rights*. NDDHS reported that this procedural safeguards publication is given to parents at intake, IFSP development and review, and any time services are authorized or the IFSP updated. NDDHS reported that as part of its monitoring process, it verifies through child record review that parents are provided notice of procedural safeguards as documented on the child's IFSP.

OSEP learned through interviews with NDDHS staff that under its procedures, complaints and mediation requests are filed with the NDDHS Administrator of Children and Family Supports and that NDDHS conducts appeal hearings. The State reported that no complaints or requests for mediations or due process hearings were received under the Part C system during the FFY 2004-2005 reporting period.

OSEP cannot determine whether the lack of complaints and requests for mediations and due process hearings is due to a high degree of family satisfaction with Part C services or parents not having been sufficiently informed of the State's Part C dispute resolution procedures. OSEP has reviewed NDDHS's procedural safeguards document, *Your Parental Rights*, and determined that it does not include all information required by 34 CFR §303.403(b). OSEP will address the issues it has identified in a separate memorandum to NDDHS.

### **Collection of Data under Section 618 of the IDEA**

In reviewing the State's system for data collection and reporting under section 618 of the IDEA, 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 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 learned through review of North Dakota's combined APR submission and its SPP and confirmed through interviews with NDDHS that the ASSIST database is used to collect and report the data required under section 618 of the IDEA. NDDHS reported that ASSIST enables the State to aggregate and disaggregate its early intervention data. Policies on data collection and reporting are documented in the ASSIST User Manual and supplemental training documents. NDDHS staff reported that each November, ASSIST completion instructions are reviewed as part of the early intervention videoconference. On-site training is provided for all new programs and when requested by existing programs. NDDHS staff further reported that the ASSIST user manual is updated as changes occur and users are notified by e-mail of any program modifications.

During the verification visit, OSEP learned that access to ASSIST is restricted based on State staff roles and responsibilities. All staff entering or viewing the data are NDDHS employees who have completed provider purchase of service agreements that address data and confidentiality issues. Encryption technology is used to protect the confidentiality of data in the transmission process.

NDDHS reported that it has procedures in place to identify and correct errors and inadequacies in the ASSIST data. NDDHS also reported that it ensures reliability through an editing program that performs a check on the data to verify its accuracy. NDDHS stated that its staff examine

data on a quarterly and annual basis to determine its accuracy specifically with regard to the following: age of referral; percentage of children in active service in each reported ethnic group by county; number of children served; number of children leaving service each month; number of children at-risk tracking; and children served by types and location of service provided. An error report is generated to identify inaccuracies. OSEP learned that NDDHS staff members are responsible for ensuring that all findings on the error report are corrected in a timely manner. NDDHS staff reported that the data report is run again to ensure that any inconsistencies have been corrected. The cross-reference tests developed by WESTAT are performed on all regional data before it is combined with statewide data. NDDHS also reported that query reports from ASSIST are reported to Excel spreadsheets to allow for aggregation.

*New Data Initiatives.* During the verification visit, NDDHS reported that the State is currently designing data packaging to take raw detail data from spread sheets and develop user friendly reports and charts specific to each regional Human Service Center administrator that will facilitate analysis and use of the data to make decisions regarding compliance and improvement activities specific to individual programs. NDDHS reported that it intends to include data regarding a child's eligibility for Part B as part of the electronic submission by each regional Human Service Center. To fully implement these improvements, additional elements will be added to ASSIST queries within the next twelve months.

Based on the information provided to OSEP during the verification visit, OSEP believes that the State's system for collecting and reporting data from early intervention service programs is a reasonable approach to ensuring the accuracy of the data the State is required to report to OSEP under section 618 of the IDEA.

## **Conclusion**

As noted above, although OSEP believes that North Dakota's general supervision system constitutes a reasonable approach to identifying noncompliance, OSEP cannot determine the effectiveness of the State's procedures to ensure the correction of all State-identified noncompliance within one year of its identification. As part of its response to Indicator 9 in the FFY 2005 APR due February 2, 2007, NDDHS must include documentation demonstrating implementation of its proposed corrective strategies for ensuring timely correction of all State-identified noncompliance and data demonstrating that identified noncompliance has been timely corrected as required by 34 CFR §303.501(b).

We appreciate the cooperation and assistance provided by your staff during our visit. If you have any questions about this letter, please contact Ms. Jill Harris, OSEP's State Contact for the North Dakota Part C program, at 202-245-7372. We look forward to collaborating with North Dakota as you continue to work to improve results for infants and toddlers with disabilities and their families.

Sincerely,



Alexa Posny, Ph.D.  
Director  
Office of Special  
Education Programs

cc: Deborah Balsdon  
Part C Coordinator