



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Eddy A. Bresnitz  
Deputy Commissioner  
Department of Health and Senior Services  
John Fitch Plaza  
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DEC 22 2006

Dear Deputy Commissioner Bresnitz:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) recent verification visit to New Jersey under Part C of the Individuals with Disabilities Education Act (IDEA). As indicated in my letter to you on April 26, 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 a visit to New Jersey during the week of October 23, 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 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 New Jersey Department of Health and Senior Services (DHSS), the State's Part C Lead Agency, OSEP staff met with Terry Harrison, the State's Part C Coordinator, other DHSS staff members, and early intervention staff responsible for the State's general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings) and the collection and analysis of State-reported data under Part C of the IDEA. Prior to the visit, OSEP staff reviewed a number of documents, including New Jersey's Federal fiscal year (FFY) 2006 Part C grant application, its FFY 2003 and FFY 2004 Annual Performance Reports (APRs), the December 2, 2005 State Performance Plan (SPP), selected DHSS corrective action plans, and New Jersey's submissions of data under Section 618 of the IDEA.<sup>1</sup>

OSEP also conducted a conference call on October 6, 2006, with members of New Jersey's State Interagency Coordinating Council, to solicit their perspectives on the strengths and weaknesses of the State's systems for general supervision and data collection and reporting.

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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 the State's systems.

The information that Ms. Harrison and DHSS and other Part C staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of the New Jersey Early Intervention System and DHSS' 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., 618 State-reported data, due process hearings, complaints, mediation, previous monitoring results, etc.) to identify systemic issues and problems.

OSEP learned, through review of DHSS' monitoring reports and interviews with DHSS staff, that DHSS has established structures to monitor New Jersey's 105 Part C provider agencies consisting of 21 agencies that provide service coordination only and 84 agencies that provide other early intervention services. Throughout the State, over 4,000 practitioners support the provision of early intervention services under Part C of the IDEA. DHSS also funds four Regional Early Intervention Collaboratives (REICs) that are responsible for improving local programs including monitoring, training and technical assistance. DHSS reported that parents are an integral part of the REIC staffs.

OSEP also learned, through interviews and document reviews, that New Jersey's monitoring structures include:

1. A central management office. Personnel in this office manage the entry, analysis, and dissemination of data collected in New Jersey's electronic database system, System Point of Entry Database (SPOE), to support the Part C general supervisory system. DHSS staff reported that the central management office provides the tools for other State staff to: collect and analyze child specific data; ensure accountability for service delivery; verify data; ensure a timely system of payments; and maximize funding resources.
2. Desk audit analyses and inquiry procedures. DHSS staff told OSEP that these components, initiated in February 2005, are a significant part of the State's general supervisory system. DHSS staff explained that desk audits are designed to prevent the occurrence of noncompliance by early identification of potential noncompliance and to monitor the correction of previously identified noncompliance. The inquiry procedures are used to verify the accuracy of data obtained from the desk audit analysis, request and receive missing data, and make

a determination about whether providers addressed performance issues previously identified by the State. If noncompliance or need for improvement is identified using these procedures, a provider must submit an improvement or corrective action plan. The State requires correction of noncompliance within six months of identification of noncompliance.

3. An annual self-assessment. DHSS staff reported that the self-assessment, conducted annually by each provider agency serves two purposes: (1) to collect IFSP data not captured in SPOE and (2) to support local accountability by requiring supervisors to review records and observe early intervention practitioners each month. If noncompliance is identified in the self-assessment, a corrective action plan is developed. DHSS staff provided documentation showing that the State imposes sanctions if providers do not submit the required self-assessment on the designated date.
4. Focused on-site monitoring. DHSS staff reported that the State conducts six to eight focused on-site monitoring visits per year to target and address potential noncompliance identified through desk audits (and other general supervisory methods) and to improve performance. DHSS staff also provided documentation showing that the State has established decision rules to determine where the on-site monitoring will occur and the performance areas the State will investigate.
5. A Quality Assurance Team. This team is responsible for making recommendations regarding additional training, technical assistance, and improvement of the State's general supervision activities. The team, consisting of staff who oversee contracts, procedural safeguards, data collection, monitoring, and personnel development, told OSEP that they meet frequently, as often as weekly, and use monitoring data to focus their discussions about the State's general supervisory responsibilities.
6. Electronic practitioner enrollment and oversight. DHSS reported that this is a significant activity to ensure the State has adequate and qualified personnel to provide early intervention services. The State has the capacity to enroll new provider agencies within 24 hours of when the agency submits appropriate documentation. In addition, the electronic system provides data to State staff regarding provider agency financial stability, management practices, and clinical and technological expertise. State staff demonstrated how it uses the database to monitor current licensure and certifications and showed that the State has taken and will take action to bar agencies from participating in the early intervention system when licenses or certifications are not current or if the State has other concerns related to management or clinical practice. State staff also reported to OSEP that the Part C staff provides technical assistance to potential provider agencies to assist agencies in meeting State enrollment standards.
7. Incident reports. DHSS provided documentation showing that it initiates an incident report requesting additional information from a provider agency when

parents, provider agencies, practitioners or the REICs bring a matter to the attention of the State. DHSS told OSEP that this is a preventative measure for ensuring that an individual inquiry or complaint does not indicate a systemic problem. DHSS showed that if the State determines that a single issue is a performance or compliance concern, DHSS takes one of the following steps: performs a desk audit review, conducts a focused on-site monitoring visit, or requires the provider agency to develop an improvement or correction action plan if noncompliance is identified.

*Identification and Correction of Noncompliance.* DHSS reported to OSEP that these structures provide the Part C staff with detailed quantitative and qualitative information that is used as part of the State's preventative accountability strategies (e.g., to prevent the occurrence of systemic noncompliance).

OSEP learned, through interviews and document reviews, that data are collected and analyzed by the State, REICs, service coordination units and service providers on a weekly, monthly, quarterly or annual basis according to a State-set schedule. The data include unduplicated counts of children served in Part C, demographic data, Part C timelines, results of multidisciplinary evaluations, service encounters, impact of timely resolution of complaints, financial management indicators (timely billing and payment for services), child and family outcome information, and correction and improvement data.

The State has also developed monthly "forecast reporting" to examine trends in referrals, evaluations and numbers of children receiving services in order to prevent noncompliance from occurring. One example the State demonstrated was how it used child identification rates over time per area-per month to forecast the need to recruit and enroll additional early intervention providers before local providers reported a problem to the State. State staff reported to OSEP that it found that the forecast reports provided impact data that clearly demonstrated the results of the State's child find efforts. The State is also using forecasting to identify revenue, expenses, and potential financial deficits that are reported bi-weekly to the State's Office of Management and Budget. State staff also told OSEP that it plans to develop other types of reports that can be used in a variety of ways to support its ongoing accountability and improvement and to be responsive to requests for information from other State offices and stakeholders, including the SICC.

DHSS staff stated that it monitors the correction of noncompliance through desk audit analyses, SPOE data, provider monthly reports that contain specific evidence of change data required by each corrective action plan, on-site data verification visits, and annual self-assessments. DHSS provided OSEP with examples of its corrective action documents that indicate evidence of correction must be achieved no later than six months from the date noncompliance is identified. In addition, each REIC employs at least one full-time training and technical assistance coordinator who participates in the development of corrective action plans.

DHSS reported to OSEP that it has the authority to impose sanctions if a provider agency has persistent deficiencies continuing for at least six months without significant improvement. Enforcement actions include: (1) denying or recouping payment for services when there is documented noncompliance; (2) stopping all new referrals until the deficiency is substantially remedied; (3) debarring practitioners; (4) reducing service area and/or caseloads; and/or (5) terminating or not renewing provider contracts. DHSS provided documentation showing that it had exercised its enforcement authority in several instances where it was determined that such action was necessary. DHSS staff explained that it can also direct the agency to participate in training and technical assistance, place an agency in an "at-risk" status tied to its contractual provisions, and send written warnings to an agency, which gives the agency an opportunity to discuss evidence of change necessary to reverse enforcement action, if appropriate. DHSS remarked to OSEP, however, that it believes the requirement for agencies to provide detailed monthly reporting has had the most significant impact on the timely correction of noncompliance.

DHSS explained that it ties its training and technical assistance to issues identified through its ongoing general supervisory activities. Early intervention service agencies must agree, through contract, to attend training and technical assistance activities scheduled by DHSS to ensure that local agencies understand the practices and activities for which they are accountable. All new service coordinators, providers and administrators are required to complete an online self-study module and test and attend at least a one-day orientation session, which includes homework completion. In addition, DHSS reported that it had developed a technical assistance package that contains materials and information that can be customized to the training needs of local agencies. DHSS also indicated that it uses data from its procedural safeguards database to direct its technical assistance and training throughout the State and that monthly meetings among State Part C staff, REIC directors and technical assistance providers, provider agency staff, and data managers facilitate information sharing, problem solving and dissemination of promising practices.

OSEP's March 10, 2006 letter (Table B, Indicator 9) responding to New Jersey's SPP stated that New Jersey had demonstrated its ability to correct noncompliance that was identified in the State's FFY 2003 APR. Based on documents reviewed, prior to and during the verification visit, and discussions with State staff, OSEP believes that the State's general supervision system constitutes a reasonable approach to identifying and correcting noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether they are fully effective in identifying and correcting noncompliance.

*Complaint Resolution, Mediation, and Due Process Systems.* During the verification visit, OSEP reviewed DHSS' system for the resolution of State complaints, due process hearings and mediations. OSEP learned, through interviews and document reviews, that DHSS has a Procedural Safeguards Office separate from the Part C office that is staffed by two employees, one of whom is a parent. A toll-free telephone hotline is available for parents to obtain additional information about their rights, discuss a concern, or file a

formal complaint. The staff in the Procedural Safeguards Office uses a database to document all communications from parents whether received by telephone or electronic or written correspondence. The data are analyzed on a regular basis and shared during the Quality Assurance Team meetings and with the SICC.

The State reported that it believes it has an effective system to address informal assistance requests from parents. The State remarked that the majority of requests for informal resolution of parental concerns are resolved within ten days. In addition, the State ICC told OSEP that it believes the structure of the Procedural Safeguards Office and the staff's responsiveness to family inquiries and complaints are strengths in the State's general supervisory system.

At the local level, the service coordinators are responsible for informing families about their rights under Part C and for guiding parents to the appropriate forums in the State's system. Parents employed by the REICs are also available to provide information to parents regarding dispute resolution. In addition, DHSS reported that it monitors local agencies to ensure parents are provided information about Part C dispute resolution procedures. DHSS further reported that annual training regarding procedural safeguards is made available to parents and local agencies and that mediators and hearing officers also attend annual State required training.

Between July 1, 2005 and June 30, 2006, the State received one written complaint, one request for a due process hearing, and four requests for mediation. The request for a due process hearing was resolved prior to the hearing in less than 30 days from the date the State received the request. All mediations resulted in resolution.

Investigation and resolution of the written complaint including issuing a written decision, however, exceeded the 60-day time limit required by 34 CFR §303.512(a) and there was no extension due to exceptional circumstances. Based on the DHHS' description concerning the length and complexity of the facts surrounding this complaint, including statewide circumstances beyond DHSS' control, it may have been appropriate for DHHS to have extended the time limit for the investigation and resolution of this complaint due to exceptional circumstances. Therefore, OSEP recommends that DHSS review its policies regarding when the State may extend the 60-day time limit and ensure that they are consistent with the requirement that an extension be permitted "only if exceptional circumstances exist with respect to a particular complaint" in 34 CFR §303.512(b)(1). The State must submit in its FFY 2005 APR due February 1, 2007: (1) information about any necessary revisions to or clarifications of its policies regarding extensions of time for complaints due to exceptional circumstances; and (2) updated data demonstrating compliance with the 60-day time limit requirements of 34 CFR §303.512(a) for any written complaints filed with DHHS after June 30, 2006.

OSEP also reviewed DHSS' prior written notice document, the *NJ Early Intervention System – Birth to Three – Family Rights Handbook*, to determine whether it includes all of the requirements in 34 CFR §303.403(b), which requires that prior written notice to parents be in sufficient detail to inform parents about all procedural safeguards available

under 34 CFR §§303.401 – 303.460 and the State’s complaint procedures under 34 CFR §§303.510 – 303.512, including a description of how to file a complaint and the timelines under those procedures. OSEP found that this document includes the dispute resolution content required by 34 CFR §303.403(b).

***Data Collection Under Section 618 of the IDEA***

In looking at 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 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.

In interviews with OSEP, DHSS staff stated that the State collects and analyzes 618 data from each REIC in order to meet OSEP’s submission timelines and ensure reliability of the data submissions through the SPOE system. DHSS staff demonstrated that data entry begins with the initial referral of a child into the Part C system and follows the child and family throughout their participation in Part C. Each REIC employs data managers and data entry staff who receive IFSP data and early intervention records from all the service coordination units. DHSS staff indicated that service coordinators and REICs are required to follow a specific schedule for data entry and submission to DHSS. Further, DHSS staff can retrieve updated electronic files from each REIC on a daily basis.

In interviews with OSEP, DHSS staff told OSEP that the SPOE system has numerous security features including: (1) data are encrypted so that unauthorized parties cannot access data when it is transferred from one point to another; (2) a disaster recovery plan is in place with a stand-by server in a secure location separate from the lead agency’s building; (3) user names and passwords are controlled by the lead agency; (4) REICs and service coordinators have access to data only for the children assigned to their local areas; and (5) data reports are stored on a server that restricts access to only those individuals who need the information.

The State also explained that it ensures the accuracy of data through numerous mechanisms including: (1) statewide business rules are in place to help eliminate data entry errors through automated checks and balances; (2) State staff use a data entry checklist monthly to identify missing data or potential data errors for follow-up with the REICs and service coordination units; (3) all electronic and paper forms are standardized; and (4) the electronic database has specific fields for data entry and drop down menus to

support accuracy of data entry. DHSS staff indicated that if significant data anomalies are identified, DHSS conducts an on-site data verification visit.

DHSS told OSEP that it believes other important activities also support the data system's accuracy and reliability, such as holding monthly meetings with REIC data managers, providing frequent written and verbal updates to REIC staff, data managers and service coordination units, and providing timely responses to questions that arise in the field about data concerns. In addition, DHSS staff reported that if any data modifications are made, the State's data manager conducts statewide training sessions.

The State explained in its SPP that it was late submitting the 618 data report due February 1, 2005 because of challenges encountered in implementing its new electronic database (SPOE) in early 2005. DHSS has submitted all subsequent 618 reports – due November 1, 2005, February 1, 2006, and November 1, 2006 – in a timely manner.

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

### *Conclusion*

As noted above, OSEP believes that New Jersey's general supervision and data collection and reporting systems constitute reasonable approaches to identifying and correcting noncompliance and ensuring the accuracy of the data New Jersey is required to report to OSEP under section 618 of the IDEA. However, OSEP requests that the State submit in its FFY 2005 APR due February 1, 2007: (1) information about any necessary revisions to or clarification of its policies regarding extensions of time due to exceptional circumstances consistent with the requirements in 34 CFR §303.512(b)(1) and (2) updated data demonstrating compliance with the 60-day time limit requirements of 34 CFR §303.512(a) for any written complaints filed with DHSS after June 30, 2006.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to collaborating with New Jersey as you continue to work to improve results for infant and toddlers with disabilities and their families.

Sincerely,



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

cc: Terry Harrison  
Part C Coordinator