



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

Honorable Rosa Perez
Secretary
Puerto Rico Department of Public Health
P.O. Box 70184
San Juan, Puerto Rico 00936-8184

FEB 22 2008

Dear Secretary Perez:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) verification visit to the Commonwealth of Puerto Rico (Commonwealth) during the week of November 5, 2007. My September 6, 2007 letter informed you that OSEP is conducting verification and focused monitoring 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, Part C of the Individuals with Disabilities Education Act (IDEA). As re-authorized in 2004, IDEA requires the Department to monitor States and IDEA Part C recipients with a focus on: (1) improving early intervention results and functional outcomes for infants and toddlers with disabilities; and (2) ensuring that States (including the Commonwealth) meet program requirements, particularly those most closely related to improving early intervention results for infants and toddlers with disabilities.

The purpose of our verification and focused monitoring visit was to evaluate the procedures used by the Commonwealth to implement its general supervision, data collection, and financial management systems in order to assess and improve performance, child and family outcomes, and the protection of child and family rights. During the verification and focused monitoring visit, OSEP: (1) analyzed the components of the Commonwealth's general supervision, data, and finance systems to determine the extent to which they are designed and implemented at the Commonwealth level to ensure compliance and improve performance; and (2) targeted compliance and results issues identified in our June 15, 2007 letter responding to the Commonwealth's Federal fiscal year (FFY) 2005 Annual Performance Report (APR)/State Performance Plan (SPP).

The Part C lead agency is the Puerto Rico Department of Public Health (PRDH). In Puerto Rico, each of the seven health regions (Arecibo, Bayamón, Caguas, Fajardo, Mayagüez, Metropolitan (Metro) and Ponce) is defined as an early intervention service (EIS) program. Within each health region there is an Avanzando Juntos System Point of Entry and Exit (SPEE) located in the Regional Pediatric Center (RPC). The functions of each SPEE include: receiving referrals, conducting and completing family intake, ensuring that the eligibility determination is completed according to regulations, arranging for and ensuring the completion of assessments activities necessary to plan and

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complete an individualized family service plan (IFSP), facilitating the IFSP team meeting, completing the initial IFSP, periodic and annual reviews of the IFSP and maintaining the Early Intervention (EI) Record for each child referred. PRDH reported in its most recent 618 Federal child count data (Fall 2006) that 4,262 infants and toddlers with disabilities received early intervention services.

As part of the verification and focused monitoring visit to Puerto Rico, OSEP staff met with Dr. Naydamar Perez Otero, PRDH's Part C Coordinator, and members of PRDH's early intervention staff responsible for: (1) the oversight of general supervision and financial systems for Puerto Rico's early intervention program (including monitoring, mediation, complaint resolution, and impartial due process hearings); and (2) the collection, analysis and reporting by PRDH of data required under IDEA. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) Puerto Rico's FFY 2005 Annual Performance Report (APR) submitted to OSEP in February 2007; (2) Puerto Rico's State Performance Plan (SPP) submitted to OSEP in December 2005; (3) Puerto Rico's grant applications under Part C of the IDEA for FFYs 2005, 2006, and 2007; (4) OSEP's Verification Visit letter to Puerto Rico dated February 27, 2004; (5) PRDH's website; and (6) other pertinent data.

The information provided by PRDH's staff 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 PRDH's systems for general supervision, data collection and reporting, and financial accountability.

Listed below are the discussion, conclusions and next steps, organized by the critical elements used by OSEP to guide our review of each State's general supervision, data and IDEA fiscal systems.

General Supervision System – Discussion

Critical Element 1: Does the Commonwealth have a general supervision system that is reasonably designed to identify noncompliance?

During the verification visit, PRDH Part C staff described Puerto Rico's approaches to identifying noncompliance, including any noncompliance with fiscal management requirements. The components of Puerto Rico's general supervision system were identified as: (1) monitoring, (2) complaints, (3) due process, and (4) the data collection system. Data are reported from each component in the SPP/APR. Requirements related to each component are used to identify noncompliance. PRDH Part C staff discussed each component and provided OSEP with forms used for the process of identifying noncompliance.

PRDH Part C staff reported using a variety of methodologies for monitoring that included review of EIS program and financial reports, analysis of surveys and EIS program self-assessments, on-site record reviews, and information from complaints. PRDH Part C staff reported that noncompliance is defined as "failure to comply with applicable Federal

regulations, Avanzando Juntos policies or PRDH quality system requirements. Noncompliance can result from action or omission. PRDH defines a finding of noncompliance as “an occurrence or determination of noncompliance that does not require further confirmation or investigation.”

PRDH has a staff member who oversees the on-site visits and another staff member who oversees the Corrective Action Plans (CAPs). These two staff persons collaborate in order to ensure effective technical assistance (TA) and training is provided to the EIS program staff. PRDH’s FFY 2005 APR submitted on February 1, 2007 provided detailed information about the findings PRDH has made in each of its EIS programs. Each of the seven EIS program agencies is monitored twice yearly. The Part C staff members reported that staff from the seven regional programs were trained on how to coordinate efforts to develop strategies and how to self-monitor. The PRDH staff person overseeing the CAPs sends comments on the CAPs to each EIS program and also on subsequent updates, submitted to PRDH every two months.

PRDH Part C staff also reported that within 30 days after an on-site monitoring visit, a draft report is developed and mailed to the authorized officials. The EIS program must submit a written response to the report within 14 days of receipt indicating disagreement with any findings and providing any necessary documentation. EIS programs are provided an opportunity to respond to the preliminary monitoring report in order to refute any of the data or submit record changes to come into compliance. Even where an EIS program has submitted a response, PRDH does not change its findings of noncompliance until the EIS program completes its CAP and submits updated data demonstrating compliance. Once this information is received, PRDH then issues a final report that will include all findings, the EIS program’s response to the draft report and the required corrective actions within 60 days of the completion of the monitoring activities.

Critical Element 2: As a part of its general supervision system, does the Commonwealth have mechanisms in place to compile and integrate data across systems (e.g., 618 data, due process hearings, complaints, mediation, previous monitoring results, etc.) to identify systemic noncompliance issues?

PRDH Part C staff conducts regional meetings that include all EIS program staff in order to provide ongoing guidance and collect information and data about the needs of the staff in each region. PRDH Part C staff reported that they plan to continue to compile data across the regions and determine if an issue or area of noncompliance is unique to a provider or is system-wide. The Part C staff also reported that some issues are specific to the seven nurses who conduct the initial evaluations and other issues are unique to the service coordinators who provide ongoing coordination of the IFSP and services.

PRDH Part C staff reported that they meet to analyze the data from the various components of the general supervision system. If a systemic problem is identified from this analysis, PRDH will conduct a system-wide training specific to the identified issue(s). During OSEP’s visit, PRDH staff reported that they had recently identified issues around conducting the 90-day transition conference and required all EIS programs

staff to participate in training.

Critical Element 3: Does the Commonwealth have a system that is reasonably designed to correct identified noncompliance, including the use of Commonwealth guidance, technical assistance, follow-up, and if necessary, sanctions?

PRDH provided OSEP with guidance documents that PRDH issued during the past year to assist EIS programs in correcting identified noncompliance. PRDH Part C staff reported on comprehensive training to assist the EIS programs in documenting correction of noncompliance. After submitting their CAPs, EIS programs must provide updates every two months with supporting data and documents. In order to verify the information, PRDH requires that each program also submit documentation of the results. If there are still deficiencies then TA and training is developed that is specific to the programs needs.

The CAP identifies the area(s) of concern or noncompliance, an analysis of the problems or barriers, the results, strategies developed, activities completed, resources and requests for TA. Staff reported that the EIS programs are not always aware of their needs and thus, PRDH staff provides training and assistance to EIS program staff in “drilling down” to identify the cause(s) of noncompliance. PRDH Part C staff help identify whether the EIS program can easily fix the issue, must take additional actions or need further PRDH assistance.

The lead agencies response to the CAP includes findings, problems identified by the lead agency (such as failure to include supporting documents), areas for which the EIS provider needs to take action (which need to be verified by lead agency staff), recommendations or reminders for the next CAP update, observations with questions (asking, for example, what will happen next?), and if appropriate, program strengths.

In order to show that correction was completed the EIS programs must be able to continually analyze data and show results of 100% compliance. The lead agency will respond formally stating that the EIS program does not need to send further updates but must maintain 100% compliance in that area. The PRDH Part C staff overseeing the CAPs will follow-up with a phone call and also present the EIS program with a certificate. The PRDH Part C staff will then set a date for a follow-up visit in order to confirm 100% compliance is maintained.

In its SPP/APR, PRDH has not used the CAPs to report correction within one year, but has waited until a second on-site monitoring visit occurs. After discussing this issue, PRDH Part C staff decided to use the close out of the CAPs as the data for Indicator 9, and if the EIS program is not at 100% on the second on-site monitoring visit a new finding will be made and a new CAP developed. PRDH Part C staff appeared to have a misunderstanding over which year to use for Indicator 9 for identification of noncompliance. OSEP clarified that PRDH should report on findings of noncompliance in the previous year and on correction of those findings in the current APR reporting period.

PRDH Part C staff reported that only one of the seven regional EIS programs (Metro) is consistently identified as being in noncompliance. The service coordinators at each of the regional programs are employees of a non-profit agency, which maintains the contract for the systems point of entry and exit. They are housed at the regional programs, which are under the auspices of PRDH directly so PRDH administrators for that regional program provide supervision. The PRDH Part C coordinator has sent memos to both the regional supervisor and the non-profit agency regarding Metro's continual noncompliance, required training, and discussed potential consequences for repeated noncompliance. The PRDH Part C coordinator reported to OSEP that she plans to schedule a meeting with the program administrator to recommend an action to be taken and that the final step would be to make a change in the contract with the non-profit agency.

To date, PRDH has not applied sanctions. The lead agency does not have a formal process for sanctions. A formal memo may be sent to an agency when there are persistent problems. A follow-up meeting occurs between PRDH Part C staff, the EIS program administrator, the supervisor and all EIS program staff.

Critical Element 4: Has the Commonwealth identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the Commonwealth's ability to identify and correct noncompliance in a timely manner? If barriers have been identified, what mechanisms have the Commonwealth put into place to address those barriers?

PRDH staff identified three barriers to complying with Part C requirements and improving early intervention results for infants and toddlers with disabilities. First, fiscal crises at the Commonwealth level have interrupted the availability of funds to pay early intervention service providers. Second, poor communication makes it difficult to coordinate the transition of children exiting Part C to the Puerto Rico Department of Education's (PRDE's) preschool/ IDEA section 619 program. Finally, lack of available early intervention service providers makes it difficult to conduct evaluations and assessments in a timely manner and ensure timely provision of services. Each of these issues is discussed below with the strategies or actions PRDH is taking to address these identified barriers.

PRDH staff reported that a government-funding crisis in May of 2006 resulted in a shutdown of all non-essential government services and froze all budgets. This crisis not only interrupted the provision of Part C services, but also resulted in the loss of some EIS providers who had not been paid during the crisis. Although operations have resumed since the shutdown, PRDH has experienced a ripple effect in the availability of EIS providers. PRDH Part C staff reported that the loss of EIS providers has affected PRDH's ability to demonstrate compliance with Indicators 1, 7 and 8 of the SPP/APR. PRDH reported that the Commonwealth's government system is trying to de-centralize. PRDH staff reported on the piloting of a new system to expedite the processing of invoices, allowing PRDH staff to process all invoices directly and the Treasurer to only write checks. It is hoped that this will eliminate problems with untimely payment of EIS

programs. However, these actions will not prevent another Government shut down and stop payment order, which are out of PRDH's control.

PRDH Part C staff also reported that poor communication and lack of cooperation between Part C and Part B 619 staff have resulted in the transition at age three not being timely or smooth for toddlers who exit Part C. PRDH and PRDE have scheduled a meeting with the Governor of Puerto Rico to discuss the issues and how to resolve them. In addition, PRDH and PRDE have negotiated an interagency agreement that identifies their respective roles in ensuring a smooth and timely transition for children who exit Part C services and are potentially eligible for preschool services under Part B of the IDEA.

It was also reported that the limited number and/or availability of EIS providers in some regions has also impacted Puerto Rico's ability to correct noncompliance of the requirements for timely delivery of early intervention services, as reported under Indicator 1 of the APR. PRDH has addressed the issue of early intervention provider shortages in a technical assistance plan which calls for working with the National Early Childhood Technical Assistance Center (NECTAC) to develop sequential steps, including recruitment ideas, utilizing a primary service provider and proposing changes to the personnel standards. As a short-term solution, PRDH will have providers from other Pediatric regions cover where there are shortages. In addition, PRDH Part C staff identified one EIS program (Metro) that continues to show slippage even though this agency has received the most TA and training. The Part C coordinator reported that PRDH plans to strengthen its enforcement procedures when there is persistent noncompliance.

Critical Element 5: Does the Commonwealth have dispute resolution systems that ensure the timely resolution of complaints and due process hearings?

A complaint filed under 34 CFR §§303.510 through 303.512 can be made orally or in writing with the EIS program or provider agency or directly with the lead agency. If an oral complaint is made, the complainant is informed of his or her rights to file a formal written complaint. PRDH staff reported that, in most cases, complainants have agreed to have the complaint handled informally. There is a form that is provided if the complainant prefers to file a formal complaint.

Until May 2007, complaints filed under 34 CFR §§303.510 through 303.512 were handled by the Commonwealth's Office of Ombudsman, which is a separate office under the Governor. This Office was responsible for resolving complaints, but did not issue formal decisions, which resulted in PRDH not being able to report meeting the 60-day timeline for resolving complaints in its FFY 2002, 2003 and 2004 APRs. In its FFY 2005 APR, PRDH reported 100% compliance for this requirement, but identified the need to assume direct responsibility for complaint resolution. In May 2007, PRDH created a new position for a staff person responsible for logging in and investigating complaints and issuing any required formal decisions. During OSEP's November 2007 visit, initial data indicated that creation of this new position has resulted in the issuance of timely decisions. OSEP will respond separately to PRDH's FFY 2006 APR data and

looks forward to the reviewing the impact of the new position as reported in the FFY 2007 APR, to be submitted on February 1, 2009.

As of May 1, 2007, complaints are handled in two phases. The first phase consists of five steps: (1) Written complaint is filed (a form can be used and help is available to the filer), (2) the filer is informed of his or her rights and the process is described, (3) case number is assigned, (4) an investigation by the medical center or pediatric administrator is completed within 30 days, and (5) a decision is issued with findings of fact and a conclusion. The second phase occurs when there is an appeal, which is reviewed by PRDH and resolved within 30 days.

Responsibility for conducting mediations and resolving due process complaints remains with the Office of the Ombudsman. No due process hearing requests were received during FFYs 2004, 2005 and 2006. One request received during FFY 2007 was pending during OSEP's November 2007 visit. PRDH has a staff person who tracks all requests for complaints, hearings and requests for mediations. This is done monthly, by phone and by visiting the Ombudsman's office.

OSEP confirmed with PRDH Part C staff that PRDH as the lead agency is responsible for ensuring that due process hearings are implemented consistent with Part C requirements. PRDH Part C staff track all requests for complaints, hearings and mediations. This is done monthly by phone and on-site at the Ombudsman's office.

PRDH Part C staff reported that the prior written notice is provided at intake and every time there is an evaluation, IFSP meeting, etc. There is no documentation of this after the initial provision of parent rights. Therefore, the lead agency has to rely on interviews with service coordinators and families to validate that prior written notice is provided subsequent to the initial evaluation. PRDH provided all providers with training on the prior written notice within the past year.

Critical Element 6: Does the Commonwealth have mechanisms that focus on improving early intervention results and functional outcomes for all infants and toddlers with disabilities?

PRDH staff meets to discuss the monitoring results including impact on early intervention results and functional outcomes for eligible infants and toddlers, and then determines what else is needed. This may lead to specific technical assistance taking into account staff issues and comments from families and stakeholders.

PRDH Part C staff also reported on its mechanism to measure early childhood outcomes for infants and toddlers with disabilities through the APR process. PRDH confirmed that it is now collecting progress data from all EIS providers. Further information about outcomes and results was not discussed during OSEP's visit. PRDH was required to report progress data in the FFY 2006 APR, due February 1, 2008 and baseline data as well as targets in the FFY 2007 APR, due February 1, 2009.

General Supervision System – Conclusions and Required Actions

Based on OSEP's review of PRDH's monitoring system during the visit, OSEP was able to determine that PRDH's general supervision system is reasonably designed to identify noncompliance in all seven of the Commonwealth's EIS programs. OSEP finds that PRDH has mechanisms in place to compile and integrate data across systems (e.g., 618 data, due process hearings, complaints, mediation, previous monitoring results, etc.) to identify systemic noncompliance issues.

Based on OSEP's review of PRDH's monitoring system during the visit, OSEP finds that PRDH's general supervision system is reasonably designed to correct in a timely manner identified noncompliance in six of the seven EIS programs. For the remaining EIS program (the Metro region), PRDH reported that it has taken, and is considering, additional actions to ensure timely correction, including the use of guidance, technical assistance, follow-up, and if necessary, sanctions. In its FFY 2007 APR, due February 1, 2009, the Commonwealth must report under Indicator 9 its actions regarding the Metro region's noncompliance and the results of such actions.

Additionally, PRDH has identified at least three barriers to correction by EIS programs of noncompliance. PRDH provides needed TA and training to the EIS programs and providers to help them develop appropriate improvement strategies. OSEP looks forward to reviewing, and will respond separately to, the data in PRDH's FFY 2006 APR regarding timely correction.

Based on OSEP's review during the visit, OSEP finds that the Commonwealth has dispute resolution procedures to ensure the timely resolution of complaints and due process hearing requests, but the complaints and due process hearing requests filed under these new procedures were pending. OSEP will review these data in the FFY 2007 APR, due February 1, 2009.

Data System – Discussion

Critical Element 1: Does the Commonwealth have a data system that is reasonably designed to collect and report to the Department and the public, timely valid and reliable data and information?

PRDH staff reported that it has been working on improving its data collection system to respond to Federal reporting requirements as well as the Commonwealth's accountability requirements.

The staff described a variety of methods used to ensure data accuracy, including using understandable data collection instruments that reflect actual practice, a data dictionary available to all data providers that contains definitions of key terms, technically sound sampling plans that were approved by OSEP for collecting data on Indicators 3 and 4 of the SPP/APR, and the regular provision of guidance, training and ongoing technical assistance for all data providers.

The data collection system allows for the identification of missing data, data discrepancies, and data correction prior to submission to OSEP and Westat. This system has provided for the timely submission of data required under IDEA section 618 data by PRDH. Correction or changes to data after submission are unusual.

PRDH staff reported that evidence-based decision-making is now a key element in guiding systemic improvement efforts. Data are used to guide planning, measure performance and progress, assist decision-making and examine current and trend data.

PRDH staff indicated that they conduct periodic data validation reports. The September 2007 validation report showed that, on average, EIS program and provider agencies were at 87% validity in data for IFSP development and services and 88% in data for enrollment and eligibility. In May 2007, validity checks on specific data fields showed a validity of 41% for exit data, 63% for transition data, and 97% for child identification. PRDH staff followed up with individual programs and providers to ensure that data are correctly collected and reported.

Critical Element 2: Does the Commonwealth provide clear guidance and ongoing training to local EIS programs regarding requirements and procedures for reporting data under section 618 of IDEA and the SPP/APR?

PRDH staff described the system management policies and procedures for maintaining the integrity of the data collection and reporting at both the local and lead agency levels. There is a log in/password at both the local and Commonwealth/centralized levels. Policies include password protection rules as well as rules regarding protection of confidential information.

The Avanzando Juntos Points of Entry and Exit are responsible for Part C data collection at the EIS program level. PRDH's IDEA section 618 data collection policy includes the following:

1. Avanzando Juntos Points of Entry and Exit must submit all appropriate reports and information in the form, manner and timeframe specified by the Avanzando Juntos Central Office.
2. Avanzando Juntos Points of Entry and Exit will submit the data and reports in the established formats and according to applicable instructions provided by the Avanzando Juntos Central Office.
3. Avanzando Juntos Points of Entry and Exit must establish and maintain adequate internal controls and security for the collection and submission of complete and accurate information.
4. Submission of reports after the due dates specified may result in sanctions.

The Avanzando Juntos Data Manager at the Central Office is responsible for Part C data compilation and analysis. The procedures for IDEA section 618 data collection include specific duties of the service coordinators, the SPEE supervisors, the data manager at the lead agency and written instructions and forms for reporting requirements.

Service coordinators are responsible for assuring that data are accurate and complete for each child and family for which they provide or provided service coordination. Service coordinators are required to provide data entry personnel with information that addresses missing, unclear, or out-of-date data. The data manager reported the provider agency is provided specific instructions for correcting data inaccuracies. If no corrections are made, the data manager follows up with a telephone call or a memorandum.

The data manager and electronic data system administrator provide technical assistance (on site, telephone, e-mail, fax) regarding IDEA section 618 data requirements or questions from service coordinators, point of entry and exit supervisors, data entry personnel, pediatric center medical directors and administrators.

Critical Element 3: Does the Commonwealth have 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 IDEA sections 616 and 618, OSEP guidance, and Commonwealth procedures?

PRDH staff reported there is a data collection plan that includes policies and procedures for collecting and reporting accurate section 618 and SPP/APR data and for editing and validating data submitted by data providers.

The data manager checks all data submissions for completeness and accuracy and compares them with the previous year's data to identify abnormal variances. Large variances or unusual findings are discussed with local data providers to determine if there have been errors in data collection or reporting. The supervision and monitoring unit staff conduct on-site monitoring. Data collected during monitoring are compared to previous period data to identify possible errors.

The following was reported with regard to data collected for APR indicators under IDEA section 616 and 642:

1. Indicator 1 (Timely Service Provision) – PRDH staff check documentation at the seven regional centers and collect the dates of services, comparing these with dates on invoices. PRDH staff reported that they check on all services, not just those included on the initial IFSP. PRDH staff interview regional center staff to determine reasons for the untimely services, because formerly the service coordinators only documented family circumstances. Percents are tabulated for all children to arrive at a percentage for the center.¹

¹ Prior to OSEP's visit, PRDH had been using outdated guidance distributed at a 2005 conference when calculating the percentage of children who receive timely services. OSEP issued guidance through an FAQ dated October 13, 2006, clarifying that if a child has four services on his/her IFSP and two were timely but two were not, one due to family illness and the other due to a provider issue, that child would be counted as not having been provided timely services. However, the Commonwealth should also include in its explanation of these data that three of the four early intervention services on a child's IFSP were initiated in a timely manner or were delayed due to family circumstances. OSEP also provided clarification on this indicator and the measurement in a national technical assistance call and at the 2007 Data Manager's

2. Indicator 7 (45-day Timeline) – PRDH staff reported using the date from referral to the drafting of the IFSP and noted if the IFSP documented any family circumstances. The regional center staff does not document other circumstances at this point in time, so that is collected through interviews with providers.
3. Indicator 8a (IFSP Transition Content) – PRDH staff visit the centers and identify the drafting date of the transition plan to determine if all necessary steps have been included. PRDH staff determines its monitoring sample by calculating a statistically significant percentage of the population and then stratifying according to age.
4. Indicator 8b (LEA Notification at Transition) – PRDH staff reported checking for the consent signature because the parent must either consent to disclose the child's early intervention record to the LEA or deny consent. Puerto Rico does not have an opt-out policy on file with OSEP. The Puerto Rico Part C coordinator reported that the interagency agreement with PRDE includes information about parent consent. The 2003 interagency agreement between PRDE and PRDH expressly provides for the electronic transfer of specific individual child find information (child and parent names, date of birth and parent contact information) to PRDE for the purpose of planning and preparation for anticipated needs. Under the agreement, the transfer is to occur immediately after an initial IFSP is developed for any infant or toddler with a disability.

However, during OSEP's visit, PRDH's current procedures require prior written notice and parent consent to provide the LEA with basic child information along with the child's early intervention record. PRDH staff reported that service coordinators had stopped providing the LEA notification due to problems in transferring the information to the PRDE data system. In addition, PRDH staff expressed concerns about parents of Part C eligible children being contacted by the Part B preschool program before a transition meeting is held with the parent. Therefore, currently, LEA notification occurs only when the parent signs consent for the referral packet to be sent to the LEA.

5. Indicator 8c (Timely Transition Conferences) – PRDH staff reported selecting children's records based on date of birth and checking the IFSP for documentation that the 90-day meeting was held. Where there appeared to be a delay, the providers are interviewed to determine the reasons for the delay.

Critical Element 4: Does the Commonwealth have procedures for identifying anomalies in data that are reported to the Commonwealth and correcting any inaccuracies?

All data providers use the same definitions. Data are collected on the date or for the time period required for the collection. All instances of a phenomenon are counted; no instances are omitted. Year to year changes in data are reviewed and large differences at

Conference in Washington. PRDH confirmed its understanding of the guidance during OSEP's visit. OSEP looks forward to reviewing corrected data in PRDH's FFY 2006 APR, due on February 1, 2008.

both the regional and central level are double-checked. Findings are discussed with local data providers to determine if errors in data collection or reporting occurred. If errors in data collection or reporting occurred, the Data Manager notifies Point of Entry and Exit supervisors for the appropriate corrective action.

The Data Manager first evaluates data issues identified by Westat. Findings are discussed with supervision and monitoring unit staff, the electronic data system administrator and the Part C coordinator. If errors in data collection or reporting occurred, the data manager notifies the SPEE supervisors for the appropriate corrective action. Any data changes are reported back to Westat with the applicable explanations by the Part C coordinator.

Data System – Conclusions and Required Actions

OSEP determined that, with the exception of data for two APR indicators, PRDH's data system, and its related policies and procedures regarding data collection and reporting, are reasonably designed to ensure the collection and reporting of timely, valid and reliable data and information by PRDH to OSEP and the public under IDEA sections 616 and 618. However, due to a need for additional guidance and a potential opt-out policy, PRDH's data for APR Indicators 1 and 8b do not reflect the measurement for these indicators.

Specifically, PRDH indicated that it used the wrong measurement for its Indicator 1 data on timely service provision in its FFY 2005 APR and that PRDH's policies and data collection regarding LEA notification under Indicator 8b are inconsistent. PRDH staff reported that it would correct the measurement for Indicator 1 in its FFY 2006 APR, which was due February 1, 2008. OSEP looks forward to reviewing, and will respond separately to, PRDH's Indicator 1 corrected data in its FFY 2006 APR.

With respect to PRDH's Indicator 8b data, PRDH must submit with its FFY 2008 Application, due on May 7, 2008, revised transition policies to either reflect its 2003 interagency agreement with PRDE or an opt-out policy. It appears that PRDH's FFY 2006 data under Indicator 8b may not accurately reflect the measurement for that indicator, but OSEP will address data submitted for Indicator 8b in its response to the FFY 2006 APR.

Fiscal Management System – Discussion

Critical Element 1: Does the Commonwealth have procedures that are reasonably designed to ensure appropriate use of IDEA funds at the Commonwealth level?

OSEP reviewed PRDH's procedures for the use of Part C funds consistent with section 638 of IDEA.² PRDH has separate interagency agreements with PRDE, the Department

² Without conducting a complete review of PRDH's expenses and source documentation of all obligations, OSEP cannot determine or conclude that costs charged to IDEA Part C funds are allowable and whether PRDH's policies for use of funds are fully and appropriately implemented.

of Family Administration for Families and Children (ADFAN), Early Headstart/Headstart (EHS/HS), Department of Family Administration for Integral Child Care and Development (ACUDEN), and the Office of the Ombudsman for Persons with Disabilities. These five interagency agreements include financial responsibility provisions regarding payment for Part C services and non-supplanting provisions (including maintenance of effort requirements). In addition, the agreements specify that funds will be allocated for the implementation of the agreement without diminishing services and resources to other groups of children and families.

The PRDH Finance Office maintains separate and distinct accounts for Federal IDEA Part C funds and keeps records and supporting source documentation for all transactions. These records include copies of the Notices of Awards, Annual Operating Reports, Financial Status Reports, receipts of expenditures, and balances of accounts. PRDH staff reported that the Fiscal and Accounting areas at the Children with Special Health Care Needs Section provide support to Part C fiscal operations. These units provide services to the Part C program in budgeting, claims processing, purchasing, fiscal reporting, and other fiscal activities as deemed necessary, and serve as the coordinating units between the Part C Program and PRDH offices in fiscal matters.

PRDH also has in place a centralized billing and payment system to ensure that Part C funds are expended in accordance with Part C requirements and to maximize utilization of Commonwealth and Federal IDEA Part C funds in order to meet Part C's payor of last resort requirements. All early intervention services in Puerto Rico are billed through a Fiscal Unit Area within the Children with Special Health Care Needs Section. The Fiscal Unit Area has mechanisms in place to ensure that Commonwealth and Part C funds are expended on allowable Part C activities. Payments are made through the PRDH Finance Office and the Puerto Rico Treasury Department.

PRDH staff reported that EIS providers are paid following the provision of services on a fee-for-service basis. The providers are responsible for all billing of Part C services to PRDH through the Regional Pediatric Centers. At the regional Pediatric Centers, the invoices are checked by a fiscal staff person and certified as accurate by the center's administrator or medical director. PRDH contracts with a nonprofit agency that is responsible for hiring, training and payment of SPEE staff.

In implementing Part C's payor of last resort provisions, PRDH staff reported that it utilizes a system of payments to access public and private health insurance and benefits to pay for two specific types of Part C early intervention services in Puerto Rico. Health reform regulations in Puerto Rico prohibit billing public or private insurance to pay for early intervention services, with the exception of assistive technology and transportation services. Families pay only for any co-payments or costs associated with the use of their insurance for these two specific services and are not charged for any other Part C services. PRDH staff confirmed that its policies ensure that the inability of a family to pay for services will not result in the delay or denial of services to the child or the

family.³ PRDH also administers Federal Part C funds used to support the Commonwealth's Interagency Coordinating Council.

During OSEP's visit, PRDH staff described its procedures for all fiscal transactions. PRDH has adopted specific written procedures to ensure that each transaction: (1) has proper authorization; (2) is a verified expenditure, (3) has adequate funds allocated or otherwise available within regularly approved budgets that cover it; and (4) is in accordance with PRDH and other applicable policies, laws, regulations, rules, contracts, and grants. In addition, each fiscal transaction is recorded in PRDH's Finance System: (1) in a timely manner; (2) in the fiscal (accounting) period to which it relates; (3) using adequate descriptions of transactions; and (4) in accordance with all other PRDH accounting policies. Procedures also require two PRDH staff persons to review and certify each financial transaction.

Critical Element 2: Does the Commonwealth have procedures for ensuring the timely obligation and liquidation of IDEA funds by the Commonwealth?

Obligation and tracking of Part C funds liquidation during the Federal funding period is a joint responsibility of the accounting area and the fiscal interventions area within the Children with Special Health Care Needs Section of PRDH. PRDH staff reported that Federal Part C funds not used during the first 15 months are used first in the succeeding fiscal year to ensure they are liquidated no later than December 31st of the second year of the available 27-month period. PRDH staff confirmed that the Commonwealth's Treasury liquidates its Part C funds after services are obligated and provided.

PRDH staff reported that the practice of the Commonwealth's Treasury Department is to require the use of Commonwealth funds first before Federal IDEA Part C funds are obligated and liquidated to pay for early intervention services. Puerto Rico is usually awarded its Part C funds in July, but PRDH does not begin to obligate these funds until October. However, as OSEP staff clarified during the visit, Federal IDEA Part C funds may be used at any point in time during the 27-month obligation period provided that Part C's nonsupplanting and maintenance of effort requirements are met during the applicable FFY period.

Fiscal Management System – Conclusions and Required Actions

Based on OSEP's review during the visit, it appears that PRDH has procedures that are reasonably designed to ensure PRDH's use of IDEA Part C funds consistent with IDEA

³ PRDH staff reported that for any co-payments or costs associated with the use of parent insurance for assistive technology and transportation services a parent's "inability to pay" is defined as the inability of the parents of an eligible child to pay family cost share or amounts due to catastrophic circumstances or extraordinary expenses. The Pediatric Center administrator may modify a family's payment plan or cost share if circumstances warrant. The family must document its extraordinary expenses or other catastrophic circumstances by showing one of the following: (1) Out-of-pocket medical expenses in excess of 15% of gross income, (2) A fire, flood or other disaster causing a direct out-of-pocket loss in excess of 15% of gross income, or (3) Other catastrophic circumstances causing a direct out-of-pocket loss in excess of 15% of gross income.

section 638. In addition, while PRDH has procedures for ensuring the timely obligation and liquidation of IDEA Part C funds, PRDH reported that the Commonwealth's Treasury Department's practices have resulted in PRDH's inability to fully access Federal Part C funds during the available 27-month obligation period. Therefore, we enclose a copy of Departmental correspondence that provides information about late liquidation, which correspondence we recommend PRDH share with its fiscal staff and the Treasury Department. OSEP remains available to provide further technical assistance on the availability period for obligation and liquidation of Federal Part C funds.

Summary

In its FFY 2007 APR, due February 1, 2009, the Commonwealth must report under Indicator 9 its actions regarding the Metro region's noncompliance and the results of such actions.

We appreciate the cooperation and assistance provided by your staff during our visit. We look forward to collaborating with Puerto Rico as it continues to work to improve results for infants and toddlers with disabilities and their families.

Sincerely,



Patricia J. Guard

Acting Director

Office of Special Education Programs

Enclosure

cc: Puerto Rico Part C Coordinator