



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

FEB - 6 2012

Honorable Roger Breed
Commissioner
Nebraska Department of Education
301 Centennial Mall South
P.O. Box 94987
Lincoln, Nebraska 68509-4987

Honorable Vivianne Chaumont
Director
Nebraska Department of Health and Human Services
301 Centennial Mall South
P.O. Box 95044
Lincoln, Nebraska 68509-5044

Dear Commissioner Breed and Director Chaumont:

This letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) Continuous Improvement Visit (CIV) to the Department of Education and the Department of Health and Human Services during the week of September 26, 2011. As indicated in our letter to you dated March 28, 2011, the visit consisted of two components: (1) the verification of State systems for implementing key requirements of Part C of the Individuals with Disabilities Education Act (IDEA); and (2) a collaborative focus on improving results.¹ The CIV is designed to ensure compliance and improve performance with Part C of the IDEA, consistent with sections 616 and 642 of the IDEA.

The purpose of the verification component of the visit is to review the State's systems for general supervision and fiscal management. OSEP developed critical elements that were used to guide its evaluation of Nebraska's general supervision (including data) and fiscal systems. The Enclosure to this letter describes the scope of OSEP's review of the State's systems for general supervision (including data) and briefly outlines the relevant statutory and regulatory requirements for each critical element.

OSEP is currently in the process of conducting a comprehensive review of States' systems for implementing the fiscal requirements of the IDEA and related statutes and regulations, through the CIVs and other mechanisms, including the desk audits that OSEP's Recovery Act Facilitators are conducting with all States. In order to provide each State with an integrated response based on its review of States' fiscal systems, OSEP will be sending the State a separate letter addressing any fiscal issues, and has not

¹ During the week of September 26, 2011, OSEP also conducted its Part B CIV visit to the Nebraska Department of Education and the results of that visit are contained in a separate letter.

included a fiscal section in the Enclosure. The fiscal information gathered during the verification visit will also be addressed in that separate letter.

Generally, the Enclosure to this letter does not include descriptions of the State's systems because this information is available on the State's Web site in its State Performance Plan. OSEP's analysis of each critical element and any required actions, if noncompliance was identified during the visit, are provided in the Enclosure to this letter.

During the verification component of the visit, OSEP found noncompliance, and has required corrective action in the following area regarding the State's dispute resolution system. Specifically, the State's model due process complaint form does not meet the content requirements in 34 CFR §§303.420(a), 300.508(b) and 300.509.² Under 34 CFR §303.420, the Part C program has elected to adopt the IDEA Part B due process hearing procedures in lieu of the Part C procedures. OSEP notes that Nebraska will also need to revise its procedural safeguards generally, including its model form, to meet the new requirements in the 2011 IDEA Part C regulations published on September 28, 2011. A second area of concern with the State's dispute resolution system was resolved following the verification visit and is described in the Enclosure.

OSEP also notes in the Enclosure that the State must review, and if necessary revise, its methods to ensure financial responsibility to meet the requirements of subpart F of the new IDEA Part C Final Regulations (new 34 CFR §§303.500 through 303.521). If the State uses an interagency agreement or a method other than State statute or regulation, it must submit that method with its FFY 2012 IDEA Part C grant application and OSEP will review, and respond to, such method(s) as part of the IDEA Part C FFY 2012 grant application process.

OSEP would like to recognize an effective practice being implemented in the State that is designed to improve results for infants and toddlers with disabilities and their families. The State told OSEP that Results Matter is a child and family outcomes measurement system developed to assess the progress of infants and toddlers with disabilities from birth to age three. The State reported that the Results Matter system has led to improvements in positive social-emotional skills for infants and toddlers, informs program practices, guides the development of local and State policies and procedures, and, provides data to demonstrate results.

During the CIV, Nebraska also focused on improving early intervention results and functional outcomes for infants and toddlers with disabilities. Prior to the visit, Nebraska participated in a process with OSEP to concentrate its efforts on increasing the verification rate of Child Abuse Prevention and Treatment Act (CAPTA) referrals from 277 to 331 by 2013. With OSEP's participation, Nebraska and stakeholders, which included participants from Educational Service Units, Planning Region Teams, the Nebraska Parent Training & Information Center and the Early Childhood Interagency Coordination Council (ECICC), engaged in a facilitated process to examine the data, as

² The IDEA Part C regulations cited in this letter are to the regulations with which States must comply during FFY 2011 and which were in effect prior to the publication of the new IDEA Part C regulations published in 76 Federal Register 60140 on September 28, 2011, unless otherwise noted.

well as current and past efforts to improve results in the Child Find area, and formulated strategies that Nebraska will employ to improve results for children with disabilities in its selected area. Nebraska is developing a plan that includes specific benchmarks for improvement, as well as timelines, resources, and measurements for the Early Development Network (EDN) to improve results. EDN will publish this plan with updates on the State lead agency's Web site at <http://edn.ne.gov>.

OSEP appreciates the cooperation and assistance provided by your State staff and others, including staff from the Nebraska Parent Training & Information Center, ECICC, the Nebraska Protection and Advocacy office, and the Mid-South Regional Resource Center and parents of infants and toddlers with disabilities in providing feedback and input on the State's systems for providing early intervention services to infants and toddlers with disabilities.

We look forward to collaborating with all stakeholders and actively working with the State to improve results for infants and toddlers with disabilities and their families. If you have any questions or wish to request technical assistance, please do not hesitate to call your OSEP State Contact, Jennifer Miley, at 202-245-6049.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

Enclosure

cc: Carol McClain, PhD, Special Education Management Team (ED)
Joan Luebbbers, Part C Co-Coordinator (ED)
Amy Bunnell, Part C Coordinator (DHHS)
Heather Krieger, Unit Manager (DHHS)