



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

Honorable Catherine Torres  
Secretary  
New Mexico Department of Health  
1190 S. St. Francis Drive  
Santa Fe, New Mexico 87502

JAN 31 2012

Dear Dr. Torres:

This letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) Continuous Improvement Visit (CIV) to the New Mexico Department of Health (NMDOH) during the week of October 3, 2011. As indicated in our letter to you dated March 29, 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.<sup>1</sup> CIVs are 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 visit is to review the State's systems for general supervision and fiscal management, as well as the State's systems for improving child and family outcomes and protecting child and family rights. OSEP developed critical elements that were used to guide its evaluation of NMDOH'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 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 respond to the State separately to address fiscal issues, and has not included a fiscal section in the Enclosure. The fiscal information gathered during the verification visit will also be addressed in that separate letter.

As also stated in the Enclosure to this letter, OSEP found noncompliance, and has required corrective action in the following area. The State must ensure under IDEA Section 641 that it has a State Interagency Coordinating Council (ICC) in place which functions to advise and assist the lead agency in the promotion of interagency agreements with other State-level agencies. During the verification visit discussion on State-level interagency coordination, OSEP was advised by State staff that the New Mexico ICC is functioning, but that it had not been appointed by the Governor, as required by section 641(a)(2) of the IDEA.

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<sup>1</sup> During the week of October 3, 2011, OSEP also conducted its Part B Continuous Improvement Visit to the New Mexico Department of Education.

As also stated in the Enclosure to this letter, New Mexico must review and revise its methods to ensure financial responsibility for IDEA Part C services provided, or paid for, by other State-level agencies. Those methods must be consistent with the requirements under Subpart F of the new IDEA Part C regulations published on September 28, 2011 (including the new use of insurance provisions), and must be current as of the time the State submits its fiscal certification with its FFY 2012 IDEA Part C grant application. With its FFY 2012 IDEA Part C grant application, the State must also submit its policies and procedures relating to use of insurance under its system of payments.

OSEP is offering technical assistance with the Grant Application checklist related to fiscal certification and the assurances in section II. B of the Part C Grant Application. The State also advised OSEP of changes to its statute that will affect both the child find and early childhood transition policies and procedures effective July 1, 2012. OSEP will review the State's revised policies regarding making services available beyond age three, early childhood transition, and any revised methods that are interagency agreements or other methods, as part of the State's FFY 2012 IDEA Part C grant application. Finally, OSEP will contact the State separately to request additional information regarding the IDEA Part C nonsupplanting and maintenance of effort requirements.

Generally, the Enclosure to this letter does not include detailed 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 CIV, New Mexico also focused on improving early intervention results and functional outcomes for infants and toddlers with disabilities. Prior to the visit, New Mexico participated in a process with OSEP to concentrate its efforts on Early Childhood Outcomes. With OSEP's participation, NMDOH and stakeholders, which included participants from the ICC, the Parent Centers (EPICS and PRO), early intervention provider agencies, and National and State technical assistance centers engaged in a facilitated process to examine the data, as well as current and past efforts to improve results in the early childhood outcomes area, and formulate strategies that New Mexico will employ to improve results for children with disabilities in its selected area. New Mexico has developed a plan that includes specific benchmarks for improvement, as well as, timelines, resources, and measurements for NMDOH to improve results. NMDOH will publish this plan with updates on the State lead agency's Web site at <http://www.nmhealth.org/ddsd/nmfit/fitindex.htm>.

OSEP appreciates the cooperation and assistance provided by your State staff and others, including staff from EPICS and PRO, the New Mexico Protection and Advocacy office, 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.

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If you have any questions or wish to request technical assistance, please do not hesitate to call your OSEP State Contact, Ginger Sheppard, at 202-245-7353.

Sincerely,

A handwritten signature in black ink, appearing to read "Melody Musgrove". The signature is fluid and cursive, with a large loop at the end.

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

Enclosure

cc: Andy Gomm  
Part C Coordinator