



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

May 10, 2001

Honorable Mavis Matthew
Acting Commissioner
Department of Health
P.O. Box 9965
St. Thomas, Virgin Islands 00801

Dear Commissioner Matthew:

The staff from the Office of Special Education Programs (OSEP), U.S. Department of Education appreciates having the opportunity to meet with you, former Acting Commissioner Moolenaar, Ms. Hairston, Ms. Kim Gomez and Ms. Nona McCray on December 7, 2000. Per our agreement, we are providing a written summary of issues of concern and possible solutions recommended by you and your staff to ameliorate the extremely serious problems with the implementation of the infant and toddler program under Part C of the Individuals with Disabilities Education Act (IDEA).

The purpose of our visit was to obtain information on whether the Special Conditions imposed on the Part C Federal Fiscal Years 1999 and 2000 grants to the Virgin Islands Department of Health (VIDH) have had a positive impact on the provision of early intervention services to infants, toddlers and their families. The Special Conditions required VIDH to: (1) establish a separate bank account used solely for the Part C funds to ensure that these funds are not commingled with other local, territory or federal funds; (2) drawdown a limited amount of Federal funds only after providing details and a certification by an authorized VIDH official to the Department of Education to show that funds are being spent on allowable purposes and are spent in a timely manner; and (3) complete outstanding audits and resolve audit findings.¹ The primary purpose for the Special Conditions on the Part C grants were to ensure: (1) prompt reimbursement to all vendors for appropriate expenditures; and (2) no interruption of early intervention services to eligible infants and toddlers with disabilities and their families.

During the week of December 4-8, 2000, OSEP staff met with parents, service providers, one service coordinator, members of the Virgin Islands Interagency Coordinating Council, the Virgin Islands Protection and Advocacy Organization, and Ms. Kim Gomez and Ms. Nona McCray from the Virgin Islands Part C office. OSEP also reviewed pertinent financial records and other information.

OSEP obtained very consistent data from all interviewees. With the exception of opening a separate bank account for the Part C grant, the problems that existed prior to the imposition of Special Conditions on the Part C grant in September 1999, remain unresolved. The Part C program is not being implemented in accordance with the federal requirements. The provision of early intervention services, including specialized equipment and devices for children, parent and provider training, and the smooth operation of the early intervention infrastructure are all

¹ See correspondence from U.S. Department of Education to VIDH dated September 23, 1999 and March 30, 2000.

severely inhibited because of lack of timely payments to providers and vendors, and personnel hiring procedures that make it difficult to recruit and retain qualified personnel.

Interviewees identified additional problems that they believe are having a negative impact on the delivery of services to infants and toddlers. These are: (1) service coordination is not available on St. Croix, affecting one-half of all children and families under Part C; (2) early intervention services are not being provided due to use of Part C grant-purchased vehicles by unauthorized personnel; (3) the St. Croix Part C office where parents, at times, receive services and have IFSP meetings, is in extremely poor physical condition prompting an inquiry by VIDH staff into alternative space.

Despite the enormous difficulties in the implementation of the Part C program, parents, providers, one service coordinator and Interagency Coordinating Council members relayed their strong support for the leadership provided by Ms. Kim Gomez and her administrative staff. They stated that Ms. Gomez is an excellent problem solver, team builder, interagency collaborator, and is always available to parents and the Part C staff. In addition, she attempts to increase the amount of training for parents and staff. Ms. Gomez has been instrumental in developing a physicians outreach program to ensure families are referred to the Part C program, training child care providers to include young children with disabilities in their child care centers, and developing innovative public awareness methods. Recently, Ms. Gomez established two other innovative projects: (1) A "Parent to Parent Program: Parents as Service Coordinators" whereby a cadre of parents are trained and paid for providing support and service coordination to parents whose children are enrolled in early intervention, and (2) An Infant Mental Health Project, consisting of community awareness training, Part C staff training, parent training, and direct services, to promote the well being of infants and toddlers and their families.

Supporting Ms. Gomez and her staff, the members of the VI Interagency Coordinating Council are integral and active partners in the VI Part C system. The Council meets quarterly, has nine standing committees and works closely with the VI Part C staff to bring ongoing issues and concerns to the forefront. It is in the process of developing a self -assessment procedure for the VI Part C system.

Lack of Timely Payments Results in Early Intervention Services Not Being Pro

OSEP staff reviewed current procurement and payment procedures with Virgin Islands' VIDH Part C staff. Based on interviews with VIDH Part C staff, it appears that: (1) VIDH personnel are not drawing down Part C funds in a timely manner; and (2) when drawdowns occur and appropriate documentation is forwarded for payment, the VI Department of Finance does not transmit checks to the intended recipients in a timely manner.

VIDH staff reported that once the paperwork leaves the VIDH and is sent to the central government Finance Department, that they have no means to track the payments to vendors and providers. The lack of personnel in the Virgin Islands' Department of Finance appears to be a barrier to timely payments to service providers and other vendors.²

² OSEP learned that the Virgin Islands Department of Finance has three staff who are responsible for processing paperwork and sending out payments for the entire Virgin Islands government that includes retirement, vendor

Moreover, the VIDH Part C staff stated that they do not have access to financial information they need to monitor federal drawdowns, deposits and withdrawals from its Part C bank account. The VIDH staff reported that they do not have "control" over when the central government Finance system pays the Part C providers and vendors and it is extremely difficult to "track down" where their payment request is in the system.

VIDH Part C staff attempted to institute procedures that would provide a means to track Part C fund drawdowns and withdrawals from the Part C bank account by requesting electronic "read only" access to information related to their Part C bank account so that the program could monitor when bills were paid, the status of monthly drawdowns from the U .S. Department of Education, and deposits and withdrawals from the Part C bank account. In September 2000, the former Acting Commissioner requested this access but as of April 2001, the VIDH had not received a response from the VI Finance Department to this request.

Parents, providers, administrators, a service coordinator, and State Interagency Council members reported that up to 100 infants and toddlers are on waiting lists for early intervention services, primarily speech and language therapy, special instruction, occupational therapy, and physical therapy. These interviewees also reported that Individualized Family Service Plans (IFSPs) are written to provide only services that are available rather than including services to meet the individualized needs of infants, toddlers and their families. Having waiting lists for needed services and developing IFSPs based only on available services mean VIDH is not in compliance with IDEA because Part C requires that each eligible child receive services based on individualized need.

The Part C staff reported that it is constantly attempting to create solutions to problems with implementation of IFSPs. For example, the Part C program employs therapists who are on leave from other agencies to implement IFSP services for the summer or during holidays. The Part C program continuously advertises for staff "off-island." However, as described below, these service providers remain for only a few months because they do not receive reimbursement for services, resulting in gaps in IFSP services.

Interviewees told OSEP that qualified personnel under contract with the Part C program are not reimbursed for services in a timely manner and resign after a few months due to nonpayment. Two contractors reported to OSEP that they wait up to 5 months to be reimbursed for their services. One contractor who provides special instruction for the Part C program reported that they only contract for services for 6-7 children because they cannot afford to wait for reimbursement for additional numbers of children. Interviewees also stated that the Part C program has extreme difficulty in recruiting qualified contractors or staff to meet IFSP needs because they must inform potential providers that it is likely that reimbursement for services will be delayed, that hiring new staff usually takes 8-12 months or longer, and that cost of living raises are rarely instituted.

payments, travel, public assistance checks, electric bills for facilities, port authority etc. The system is not automated.

Providers stated that "parents are quite discouraged because they are not obtaining consistent therapy." Parents reported to OSEP that they experience a great deal of confusion and many stop advocating for their child due to their frustration that "nothing changes" despite their complaints to high level governmental officials.

Difficulties in maintaining administrative operations, such as obtaining specialized equipment and providing parent information

Parents, service providers, a service coordinator, Interagency Coordinating Council members, and administrators reported that access to materials, supplies, equipment and other infrastructure items cannot be obtained without enormous difficulty. Most vendors will not accept the Virgin Islands government requisitions and this interferes greatly with the ongoing operation of the program. The administrators must "beg" vendors to accept government requisitions for any materials or supplies. These problems have resulted in: (1) Infants and toddlers waiting up to one year to obtain assistive technology devices or orthopedic devices in accordance with their IFSPs; (2) Parents not receiving timely information on procedural safeguards, IFSP processes, and transition; (3) Administrators not able to obligate allowable operational expenses in a timely manner due to the cumbersome procurement and vendor reimbursement processes. For example, even obtaining a round trip ferry ticket (cost \$6.00) for a physical therapist to provide direct services on the island of St. John is extremely difficult.

Personnel Issues

Parents, administrators, providers, a service coordinator and Interagency Coordinating Council members reported to OSEP that the infants and toddlers on St. Croix have not received service coordination services for a year and a half. This has occurred because of the extended process to terminate employment of an employee and to hire a qualified service coordinator. The Part C program offered the job to a qualified person on September 12, 2000, but due to delays in obtaining a "Notice of Personnel Action" from the VI Government, that person was not yet employed as of April 2001. OSEP was told that the applicant is already an employee of the VI Government and only requires a transfer. The Governor must approve "Notices of Personnel Actions".

Distribution of Services Due to Vehicle Misuse

Parents, administrators, providers, the service coordinator and Interagency Coordinating Council members reported to OSEP that vehicles purchased for the sole use of the Part C program are being utilized by unauthorized users. The Part C staff reported that during the past four years, the program has had persistent difficulties providing direct services to families because: (1) The vehicles are not available for providers when they have appointments with families; (2) The vehicles are returned with no gasoline, with spoiled food, and insect-infested; (3) The vehicles are returned by unauthorized users with flat tires; (4) Just prior to OSEP's visit, one vehicle was recently returned by an unauthorized user with major physical damage. Between October 1999 and January 15, 2000, unauthorized users put almost 5,000 miles on the vehicle purchased with Part C funds. One service provider relayed to OSEP that she was to make a home visit recently and the Part C vehicle had no gasoline due to an unauthorized user taking the vehicle and not

replenishing the gasoline. Because of a VI government policy that gasoline could not be purchased on Fridays and that was the day she needed the vehicle, she had to go through numerous steps to try to get a few gallons of gasoline to provide the early intervention services.

OSEP also learned that the Part C vehicles are often seen around the islands over the weekend parked at restaurants and shops. Recently at least one vehicle was used for state officials to attend a funeral during the week when providers needed it to provide services. The former Acting Commissioner commented that the Virgin Islands attorney general's interpretation is that these vehicles, once purchased, became the property of the Virgin Islands government and therefore, could be used by all government officials. He asked that OSEP provide guidance on the use of these vehicles.

Attached is applicable federal regulation, 34 CFR §80.32(c), which provides that equipment must be used for the project for which it was acquired, and can be used for other programs supported with Federal funds only if such use will not interfere with the work on the intended project. Thus, a vehicle purchased with Part C funds must be used for the Part C program. Other uses that interfere with the use by the Part C program can not be permitted. In addition, under the equipment management requirements, the grantee must keep the property in good condition and maintain a control system to prevent damage or theft. See 34 CFR §80.32(d), also attached. The U. S. Department of Education is available for additional guidance on this matter.

Unsafe and Insufficient Facilities for Part C Program Site on St. Croix

Because of the extremely poor and dangerous conditions in the State owned building on St. Croix³, the Part C Coordinator investigated obtaining commercial space on St. Croix and learned that it would cost approximately \$5,000 per month to pay rent, utilities, phone lines, maintenance, etc. The VIDH Deputy Commissioner asked whether the State could charge rent to the Part C grant. This depends on several factors. If the VIDH wishes to pursue this matter by providing details, we would be happy to provide feedback.

Solutions proposed by VIDH

The Acting Commissioner will follow up with appropriate Virgin Islands Government officials to obtain the "read-only" access to the Part C accounts. In addition, the VIDH Federal Programs Director agreed to work with the Virgin Islands Part C staff to establish a tracking system for requisitions and other payment requests within the VIDH system to ensure that the required procedures are expedited. For example, the VIDH Federal Programs Director could provide the federal drawdown report two times a month to the Part C program staff.

³ Parents, administrators, providers, a service coordinator and Interagency Coordinating Council members reported to OSEP that the location in St. Croix where Part C staff is housed is unacceptable. One parent stated "The place is so ugly. I'm afraid to put my child on the floor because the lead paint is peeling off the walls, the building is extremely dirty, and asbestos is in the building". Another parent stated that it is difficult for children in wheel chairs to gain entry into the building because a wheel chair must be pushed over an extended graveled area to access the building. All stated that there is no area available to hold confidential IFSP meetings or discussions. One provider told OSEP that it is demoralizing to work in the facility because the roof is constantly leaking, the telephones do not always work, lead paint is peeling off the walls, the air conditioning does not work, and there are no adequate bathroom facilities. Other state health and social service programs use this facility.

VIDH staff mentioned that VIDH currently has several federally funded programs that are successfully operating under a third party agent. They suggested that using a third party agent to expedite certain operations of the Part C program could be a *temporary* action to resolve urgent concerns to ensure that infants, toddlers and families receive the services to which they are entitled under the Part C program. For example, the VIDH could contract with a third party for contract service providers, provision of materials and supplies, training activities, consultants, and vehicle maintenance.

VIDH staff stated that the Virgin Islands government has formed a partnership with the University of Virgin Islands to plan and develop improved procurement and financial procedures and the VIDH will be the "model demonstration site" for this new system as soon as it is developed. The recommendations to revise the system will probably be completed in the spring of 2001.

The Acting Commissioner also agreed to expedite the "Notice of Personnel Action" for the person that has been offered the service coordinator position on St. Croix.

The Office of Special Education Programs wants to thank you, Dr. Matthew, as well as the former Acting Commissioner Moolenaar, Ms. Hairston, and the Part C staff for the cooperation you demonstrated to our staff prior to and during our site visit. Everyone was extremely interested in outlining the serious problems and creating possible solutions to solve them. This Office wants to work in collaboration with VIDH to improve the situation in the Virgin Islands so that infants and toddlers with disabilities and their families receive the services to which they are entitled. We will be reviewing the results of our site visit with other officials within the U.S. Department of Education shortly so that concurrence can be obtained between our Department and yours on probable avenues to resolve the very serious problems outlined in this report.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Ms. Kim Gomez
Part C Coordinator