



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

Honorable Bob Corkins  
Commissioner of Education  
Kansas Department of Education  
120 South East Tenth Avenue  
Topeka, Kansas 66612-1182

NOV 22 2006

Dear Commissioner Corkins:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) recent verification visit to Kansas. OSEP is conducting verification 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 B of the Individuals with Disabilities Education Act (IDEA). OSEP conducted a visit to Kansas during the week of September 11, 2006.

The purpose of our verification reviews of States is to determine how they use their general supervision State-reported data collection, and statewide assessment 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. In addition, OSEP piloted some approaches to monitoring for fiscal accountability during this visit. Because we are still developing these procedures, this letter does not address information reviewed or obtained as part of this pilot.

As part of the verification visit to the Kansas State Department of Education (KSDE), OSEP staff met with Colleen Riley, KSDE Director of Special Education and members of KSDE's staff who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); the collection and analysis of State-reported data; and (3) ensuring participation in, and the reporting of student performance on statewide assessments. Prior to the visit, OSEP staff reviewed a number of documents, including the State's Part B Grant Award Application; FFY 2003 and FFY 2004 Annual Performance Reports (APR); Kansas' December 2, 2005 State Performance Plan (SPP); desk audits submitted by KSDE; submissions of data under Section 618 of the IDEA; and the KSDE website.<sup>1</sup>

OSEP also conducted a conference call on August 17, 2006 with members of the Special Education Advocacy Council (SEAC) to solicit their perspective on the strengths and

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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 your State's systems.

weaknesses of the State's systems for general supervision, data collection and reporting and statewide assessment.

The information that Ms. Riley and other KSDE 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 KSDE's systems for general supervision, fiscal management, data collection and reporting, and statewide assessment.

### *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-ancions, 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, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

Based on the information provided to OSEP during the verification visit, it appears that the State's general supervision system is reasonably designed to ensure the identification and timely correction of noncompliance. However, without collecting data at the local level, OSEP cannot determine whether the State's procedures are fully effective in identifying and correcting noncompliance. As stated in OSEP's February 16, 2006 letter regarding the State's SPP, OSEP looks forward to reviewing data in the APR due February 1, 2007 that demonstrate full compliance with this requirement.

KSDE reported on several components of its general supervision system including: integrated data systems, multiple methods of monitoring special education compliance and performance; comprehensive system for providing technical assistance designed to enhance the capacity of local school districts and improve student outcomes; and updated and revised memoranda of understanding and interagency agreements between KSDE and several other partners including the Kansas Department of Health and the Environment (KDHE), the Kansas Department of Social and Rehabilitation Services (KDSRS), the Kansas Head Start Association, and other organizations.

The SEAC contains representation from all stakeholder entities and, along with members of the Kansas Association of Special Education Administrators, met monthly to discuss special education matters including monitoring activities. In addition, parent surveys were completed for each LEA within the monitoring cycle and this year, plans are underway to survey all parents of students with disabilities in Kansas.

KSDE explained that local educational agencies (LEAs), defined as school districts, cooperatives, inter-locals, or service centers, administer special education in Kansas. Kansas has approximately 80 LEAs. OSEP learned that KSDE used LEA performance against its SPP

targets for each indicator, AYP reports, LEA applications, dispute resolution findings, audit reviews, 618 data reports and previous monitoring reports to select approximately one sixth of LEAs for desk audits and on-site file reviews each year. As part of the State general supervision system, file reviews and desk audits were conducted to ensure compliance with Federal and State requirements in each LEA at least once every six years. Some LEAs were visited more than once every six years if data revealed a significant level of noncompliance. OSEP reviewed KSDE's protocol and forms for desk audits and file reviews. KSDE reported that it provided LEAs with desk audit and file review forms for use when conducting self-assessments and to prepare for KSDE's on-site visit; however, the self-assessment was not required. KSDE selected files for on-site file review based on a sample stratified by disability category, race/ethnicity, grade, age, and school building. Individualized education programs (IEPs) and student files were reviewed electronically at KSDE or on-site. In addition to conducting file reviews and desk audits, KSDE compared data collected through the Management Information System (MIS) with data in student files as described in more detail in the data section of this letter. KSDE reported that it verified data fields from MIS, including type and frequency of services provided, settings and IEP content.

OSEP learned that KSDE trained special education monitors through monthly meetings, KSDE conferences and other national conferences according to individual areas of expertise. Mentoring was also an important component of training at KSDE for monitoring staff. In addition, KSDE provided training to LEAs selected for the file review process on its monitoring activities and conducted presentations on its general supervision systems at the KSDE leadership conference.

OSEP learned through staff interviews and review of monitoring files that when KSDE identified noncompliance through monitoring, including desk audits, on-site file reviews, dispute resolution systems, or the school improvement process, LEAs were required to develop Corrective Actions Plans from a list of required corrective actions distributed by KSDE.

At the close of an on-site review, KSDE provided a draft monitoring report to the LEA. The monitoring report included the findings and any required corrective actions. The LEA was given 30 school days following the visit to dispute any findings or demonstrate that corrective actions were taken as a result of the visit prior to the final report being issued. In its final report, KSDE required LEAs to correct nonsystemic noncompliance within 30 school days of receipt of the final report (which would never be beyond one year of identification), and required correction of all systemic noncompliance within one year of identification. Systemic noncompliance was defined as noncompliance identified in at least 10% of reviewed files or in LEA processes and/or procedures. LEAs were required to submit written corrective action plans for systemic noncompliance within 60 school days for approval by KSDE. Additionally, each LEA was required to include any systemic noncompliance in its Targeted Improvement Plans (TIPs). TIPs also served as an application for training and technical assistance funds for the LEA. KSDE utilized a Legal Requirement Database to track systemic corrective action plans to ensure compliance within one year.

OSEP learned that KSDE used several mechanisms and strategies for correction and enforcement. If an LEA did not provide adequate evidence of correction, KSDE might select the LEA for another consecutive on-site monitoring visit focused on the systemic noncompliance. In

addition, if noncompliance was not corrected within one year, KSDE required more detailed corrective action plans. KSDE also reported that it considered other enforcement mechanisms and sanctions and that it had the authority to impose sanctions including the authority to withhold funds.

KSDE reported that the results of the State's evaluation of the Continuous Improvement Monitoring System, used between 1999 and 2005, showed a need to revise the general supervision system. The new system is more unified and evaluates both compliance and performance. Beginning in 2003, KSDE implemented Focused Assistance Monitoring (FAM) to review both outcomes and performance. OSEP learned that KSDE developed a joint system for monitoring performance on outcomes against State standards that includes Title I, Student Support Services (special education) and Quality Performance and Accreditation. KSDE staff reported that the school improvement process included collecting data for seven special education indicators including graduation, least restrictive environment (LRE) and disproportionality. KSDE created District Status Reports comparing district performance to State standards and distributed the reports to districts. Based on performance against targets in all areas, each district was placed into a level of school improvement category that determined the level of district support and intervention provided by KSDE.

Districts that did not meet State targets were identified for interventions based on the number of targets not met. Districts identified for interventions for two years or more were identified as "on improvement" and required to create a district action plan. Districts were assigned a KSDE District Support Team to provide more substantial intervention and center on root cause analysis and targeted activities. All districts that did not meet targets submitted a TIP to receive an allocation of funds specifically for targeted improvement. All districts were provided an opportunity to submit a TIP and districts in need of substantial intervention could be granted supplemental funds in addition to the base amount. OSEP learned that KSDE used the data gathered through the outcomes reviews to identify possible noncompliance with IDEA requirements. For example, KSDE provided evidence that during focused intervention on disproportionality, it identified noncompliance and required LEAs to correct noncompliance within one year.

In addition, OSEP learned through staff interviews that KSDE utilized the Kansas Statewide Technical Assistance and Resource System (KSTARS), projects funded in part by discretionary State grants, Section 619 of IDEA, the IDEA Part D State Improvement Grant and Part C funds, to increase the capacity of LEAs to design, implement, and evaluate improved learning and outcomes for children and youth with disabilities. KSTARS consisted of eight projects that were required to reapply for funding annually and focus their training activities on KSDE-identified priority areas. KSTARS projects were directed to focus technical assistance and resources for districts in areas that have been identified for noncompliance or improvement and were required to align their activities and forms with KSDE activities and forms. In addition, when noncompliance was identified in an LEA, the LEA was required to contact the appropriate KSTARS project for technical assistance in its corrective action plan. KSDE also reported on another technical assistance project, Kansas Infinitec Coalition, funded primarily by the districts, which provided professional development in the use of assistive technology, universal design and differentiated instruction.

*Early Childhood Transition*

In its December 2005 SPP, KSDE reported a 61% level of compliance for Indicator 12, the requirement that, by the third birthday of a child transitioning from Part C to Part B, an IEP or IFSP, if appropriate, has been developed and is being implemented. 34 CFR §300.124(2006); See also 34 CFR §300.132(1999). OSEP's February 16, 2006 response to KSDE's SPP required that KSDE demonstrate correction of this noncompliance in its February 2007 APR. OSEP staff met with Kansas' Part C and 619 Coordinators at the KDHE and learned about the collaboration between KSDE and KDHE and their efforts to improve compliance with the early childhood transition requirements and to report on the early childhood outcomes indicators in the SPP.

OSEP learned that KSDE, KDHE and the State Interagency Coordinating Council, funded jointly by KSDE, KDHE and the KDSRS, have implemented activities designed to correct noncompliance in this area. During the 2006-2007 school year, KSDE and KDHE implemented a new data system, the Kansas Individual Data on Students (KIDS) system that allows KDHE and KSDE to track students by unique identifiers that remain with children through age 21 or graduation from high school. KDHE reported that its OSEP General Supervision Enhancement Grant assisted in the development of a system for collecting early childhood data including transition and outcome data and exchanging that data between Part C and Part B database systems. KSDE and KDHE were able to disaggregate data reported by LEA and early intervention network and check it against monitoring data reported by districts, allowing it to require data verification in LEAs where noncompliance was reported and focus further intervention and technical assistance in those LEAs and early intervention networks.

KDHE and KSDE reported that it implemented other strategies to improve compliance in this area including monitoring Part B and Part C programs to ensure accurate data and compliance, revising and developing State Rules and guidance to reflect the IDEA 2004 regulations, providing technical assistance to specific Part C Networks and LEAs with continuing noncompliance in this area, and working with Families Together, Inc. and Family Service Coordinators to provide training and information support for families in transition. OSEP learned that KSDE believed that data reported in the APR would show improvement based on the changes made to the data system, as well as the other improvement strategies implemented. OSEP looks forward to reviewing KSDE's data on this indicator in the APR due February 1, 2007.

*Dispute Resolution Procedures*

OSEP staff met with KSDE staff responsible for dispute resolutions and reviewed complaint, hearing and mediation procedures, forms and tracking databases to verify that KSDE had systems in place for resolving disputes. KSDE reported that it had a two-tiered formal complaint system that required complaint decisions to be issued within 30 days of the filing of a complaint, after which a party was given fifteen days to appeal that complaint decision.

OSEP learned that KSDE implemented a formal mechanism to monitor the implementation of corrective actions required by due process hearings, mediation, and formal complaint decisions and tracked the completion of those actions in its dispute resolution database. OSEP learned through staff interviews that KSDE used its data to improve its due process hearing system by

determining the district where a majority of due process hearings were filed and directing guidance and technical assistance related to alternate dispute resolution methods. In the district that received the targeted assistance, the number of hearings filed decreased and the number of mediations held increased.

OSEP reviewed examples of complaint, mediation and due process files where noncompliance was identified and corrected as well as reports generated from the database that tracked dispute resolution and found these documents to be consistent with KSDE's dispute resolution procedures. KSDE revised its procedures and forms to reflect the 2004 amendments to IDEA and required resolution sessions to be conducted for each due process hearing request. In its December 2005 SPP, KSDE reported that 96% of State complaint decisions were issued within timelines and that 100% of due process hearing decisions were issued with timelines.

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

In looking at the State's system for data collection and reporting under Section 618 of 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 collect and report accurate, reliable and valid data under Section 618.

OSEP believes that KSDE's system for collecting and reporting data for Part B of IDEA is a reasonable approach to ensuring the accuracy of the data that KSDE reports to OSEP under Section 618.

OSEP staff met with KSDE staff responsible for the collection of data under Section 618 and other KSDE special education data. KSDE's MIS was created in 1988 to collect student information. The MIS was updated to meet new Federal requirements and changing technology and contains current and historical data for all students with disabilities as well as building and district-level data for special education purposes. OSEP also learned that MIS was connected with other KSDE databases including those used to collect discipline and personnel data. In addition, KSDE collected assessment data through a database housed at the Center for Educational Testing and Evaluation at Kansas University. KSDE piloted a new data collection system to collect discipline data for both general and special education students, KAN-DIS. OSEP staff also learned that KSDE implemented the KIDS Assignment System that assigned all children, including children with disabilities, unique identifiers to be used from birth to graduation from high school. KSDE reported that KIDS could be used together with MIS to track students and special education data. KSDE also planned to implement a statewide web-based IEP that would increase the amount of data available to KSDE.

OSEP staff reviewed KSDE's MIS data dictionary that was updated every year and disseminated to data clerks in each LEA. Training was provided at least annually to LEA data clerks and other

staff responsible for data collection and reporting on the data dictionary and on the mechanics of the database and was also available on request from KSDE staff. Data clerks were responsible for entering student information into MIS when the student began to receive services and additional service information throughout the school year. KSDE reported that in addition to automatic data checks for validity, LEAs had the ability to run local validation checks before exporting data securely to KSDE twice each year. Upon receipt of LEA data, the KSDE Part B Data Manager verified submitted data and returned a report to LEAs detailing the records needing verification. Data were corrected and resubmitted when necessary to KSDE prior to the creation of 618 data reports and finalized child count reports were returned to LEAs for additional verification.

OSEP staff learned that MIS data validation was conducted in conjunction with on-site file reviews. Data entered in MIS were verified against data in the student's file and recorded on MIS data review worksheets that OSEP reviewed. Findings of inaccurately reported data were recorded on the file review findings report and recommendations were made for the immediate correction of procedural or data-entry errors or long-term correction of systemic issues. Where noncompliance with IDEA requirements was identified through the MIS data validation, correction was required within one year in conjunction with other noncompliance identified through file reviews.

KSDE reported that it reviewed the effectiveness of its data systems through annual reviews of data including trend data. Stakeholder input from LEA special education directors and the SEAC was used to revise the data system. The SEAC identified the increase in collection of data as a strength of KSDE's special education programs. In addition, KSDE reported that it has implemented an Outcomes Web System to collect data for the SPP outcome indicators. KSDE provided training and materials to staff to ensure the collection of accurate data from the Early Childhood Outcomes summary forms. KSDE planned to collaborate with KDHE to utilize exit data collected by KDHE for its SPP as entry data for the preschool outcomes indicator.

### ***Statewide Assessment***

In looking at the State's system for statewide assessment, OSEP collected information regarding a number of elements, including whether the State: (1) establishes procedures for statewide assessments that meet the participation, alternate assessment, and reporting requirements of Part B, including ensuring the participation of all students, including students with disabilities, and the provision of appropriate accommodations; (2) provides clear guidance and training to public agencies regarding those procedures and requirements; (3) monitors local implementation of those procedures and requirements; and (4) reports on the performance of children with disabilities on those assessments, in a manner consistent with the requirements of Section 612(a)(16)(D).

OSEP believes that KSDE's written procedures for statewide assessments and the State's reports to the public and the Secretary on the participation and performance of children with disabilities on such assessments are consistent with Part B requirements at Section 612(a)(16)(D). OSEP cannot, however, without also collecting data at the local level, determine whether all public agencies in the State implement the State's procedures in a manner that is consistent with Part B.

The Kansas assessment system was comprised of three assessments: the general assessment, the Kansas Assessment with Modified Measures (KAMM), and the Kansas Alternate Assessment (KAA). Kansas assesses students in reading and mathematics in grades three through eight and once in high school; science in grades four, seven, and once in high school; social studies in grades six, eight, and once in high school through the general and KAMM assessments. OSEP learned that KSDE implemented an “opportunity to learn” program that provided the flexibility to assess high school students after they had the opportunity to learn subject content rather than assessing all students in a specific grade. Students assessed through the KAA were assessed in all areas in the same grades with the exception of high school, when they were assessed once on all subjects. KSDE did not administer out-of-level assessments.

To ensure the provision of appropriate accommodations and modifications, the State provided training to teachers and personnel in a variety of formats. KSDE reported that it published an accommodations manual including a list of acceptable accommodations for all students including accommodations that do and do not affect the validity of assessment results. Administrators, educators, and parents received extensive training on the selection of accommodations by the IEP team emphasizing that assessment accommodations should be the accommodations that are regularly used in the classroom. OSEP reviewed the accommodations manual and the training materials including presentations developed by KSDE for local technical assistance and presentations developed by Families Together, Kansas’ Parent Training and Information Center. KSDE also planned to implement a survey of teachers to further evaluate the appropriate use of accommodations on assessments. KSDE staff presented an IEP team decision flow chart for assessment decisions developed from information provided in the assessment tool-kit published by OSEP and the Office of Elementary and Secondary Education. Training was provided to IEP team members including parents on determining appropriate assessments for students with disabilities.

OSEP learned that KSDE monitored for the appropriate use of accommodations through the on-site visit and review of student IEPs. If systemic issues were found, LEAs were required to submit a plan for compliance that must be corrected within one year. Through the KIDS database, KSDE was able to ensure that all eligible students participated in the State assessments.

OSEP learned that KSDE implemented the KAMM during the 2005-2006 school year based on Department of Education interim flexibility that allowed up to 2% of students to be assessed against modified achievement standards. Additionally, KSDE administered the KAA for all areas and grades in which the general assessment was administered. KSDE revised its KAA standards to more closely align to general education grade-level standards and published alternate standards and indicators for each general education standard. OSEP learned through staff interviews and review of the KAA Teacher’s Guide that, when an IEP team determined that the KAA was the most appropriate assessment for an eligible student, the team selected five indicators from the grade-level alternate standards for each content area being assessed by the KAA. Parents and other IEP team members were provided with extensive training on the KAA, the selection of indicators, and the alignment of alternate standards to general education grade-level standards. The Inclusive Network of Kansas, one of the KSTARS projects, provided parts of that training.

OSEP learned that participation and performance data for the Kansas assessment system was collected and verified by both the Center for Educational Testing and Evaluations and KSDE. Following the validation of data, reports are created at the student, building, district and State level. OSEP reviewed reports on-site and on KSDE's website and found that participation and performance data were reported for students with disabilities participating in the general, KAMM and KAA assessments in the same frequency and manner as the data for general education students.

***Conclusion***

We appreciate the cooperation and assistance provided by your staff during our visit. If you have any questions about this letter, please contact Ms. Sheila Friedman, OSEP's State Contact of the Kansas Part B program at 202-245-7349. We look forward to our continued collaboration with Kansas to support your work to improve results for children with disabilities and their families.

Sincerely,



Patricia J. Guard  
Deputy Director  
Office of Special Education Programs

cc: Ms. Colleen Riley  
State Director