



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

Honorable Joan Miles  
Director  
Department of Public Health and Human Services  
Disabilities Services Division  
P.O. Box 4210  
11 N. Sanders, Room 301/308  
Helena, Montana 59604-4210

JAN 24 2007

Dear Director Miles:

The purpose of this letter is to inform you of the results of the Office of Special Education Program's (OSEP's) recent verification visit to Montana. As indicated in my letter to you dated April 26, 2006, 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 with Parts B and C of the Individuals with Disabilities Education Act (IDEA). OSEP staff conducted a verification visit to Montana on September 13 and 14, 2006.

The purpose of our verification reviews of States is to determine how they use their general supervision and State-reported data collection systems to assess and improve State performance, child and family outcomes, and the protection of 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. During the verification visit, OSEP also conducted a pilot monitoring of the Department of Public Health and Human Services - Developmental Disabilities Program's (DPHHS-DDP) Part C finance systems. OSEP will address any issues identified through this pilot in a separate letter.

My staff appreciated the opportunity to meet with Mr. Joel Matthews, Disabilities Services Administrator, Mr. Tim Plaska, Community Services Bureau Chief, Ms. Erica Swanson, Part C Coordinator, Mr. Ted Maloney, Interagency Coordinating Council member and with members of DPHHS-DDP staff who are involved in, and responsible for, the oversight of general supervision activities under Part C of the IDEA (including monitoring, mediation, complaint resolution, and impartial due process hearings), the collection and analysis of State-reported data, and the evaluation of the State's financial system. As part of the review process, OSEP staff reviewed a number of State documents<sup>1</sup>, including: (1) Montana's State Performance Plan (SPP); (2) Montana's Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR); and (3)

---

<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.

Montana's FFY 2006 Part C grant application. OSEP also reviewed local monitoring reports and data submitted under section 618 of the IDEA. In addition, OSEP conducted a conference call on September 6, 2006 with several members of Montana's Interagency Coordinating Council (SICC), to hear member perspectives on the strengths and areas for improvement of the State's systems for general supervision, data collection, and financial management. Ms. Swanson also participated in the call and assisted OSEP by inviting the participants.

The information that Ms. Swanson and her 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 Montana's systems for general supervision, data collection and reporting, and financial management.

### Structure of Montana's Part C System

Montana's Part C system is administered by its lead agency, DPHHS-DDP through its contractual arrangements with local providers, referred to as agencies. Seven regional agencies provide Part C early intervention services to eligible infants and toddlers and their families. Although not required by Part C of the IDEA, DPHHS-DDP also contracts with the regional agencies for the provision of intensive family intervention and support for infants and toddlers eligible for Part C early intervention services and home support services for children three through five years old who are receiving Part B services under section 619 of IDEA and their families.

### **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—sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) have mechanisms in place to compile and integrate data across systems (e.g., section 618 State-reported data, due process hearings, complaints, mediation, previous monitoring results, etc.) to identify systemic issues and problems.

### Components of the State's General Supervision System

OSEP learned, through review of Montana's SPP and its *Comprehensive Evaluation Process for Family Education and Support Services* (Comprehensive Evaluation Process) for children birth through 21 years of age, and confirmed through interviews with DPHHS-DDP staff and members of the SICC, that Montana's general supervision system consists of the following major components:

- (1) Interagency Agreements between the DPHHS and the Department of Public Instruction, and between DPHHS-DDP with the Montana Head Start Association (includes all Montana Head Start and Early Head Start, Tribal Head Start and Tribal Early Head Start Programs, Montana Region VIII Head Start Bureau, Region XII American Indian/Alaska

Native Head Start Branch) and the Office of Public Instruction, Division of Special Education;

- (2) Part C Annual Performance Report Data Sheet, which is used on a quarterly basis to gather information on all infants and toddlers who have received Part C services;
- (3) Montana's Comprehensive Evaluation Process that includes ongoing monitoring of direct services; annual desk reviews; periodic on-site file reviews; an annual summary report that focuses on exemplary practices and areas needing improvement; and Part C Enhancement Plan for correction of noncompliance;
- (4) Montana's Family Support Specialist Certification Process for all personnel working in Montana's early intervention system that requires full second level certification for Family Support Specialists within the first three years of employment;
- (5) Complaint Resolution System through which parents who express concerns related to compliance are informed and supported in exercising options for resolution either by Impartial Due Process Procedure/Mediation for Resolving Individual Child Complaints or by Procedures for Resolving Formal Complaints;
- (6) Parent Surveys of all Part C families;
- (7) State fiscal audits; and
- (8) Montana's *Part C System Improvement Comprehensive Strategic Plan*, which directs improvement outcomes, objectives and activities across all Part C services, including the SPP indicators.

DPHHS-DDP staff reported that components one and eight noted above help provide a framework for interagency coordination and general supervision. DPHHS-DDP staff further reported that components two and three are the methods used for monitoring and timely correction of any identified noncompliance. DPHHS-DDP staff indicated that component four helps to ensure that local guidance is available to regional agency personnel and that policies and procedures are implemented in accordance with State administrative rules and Federal statutes and regulations.

DPHHS-DDP Quality Improvement Specialists implement general supervisory responsibilities, using the components noted above, through a variety of ongoing activities that include:

- (1) holding biannual meetings with individual parent representatives on the SICCC to exchange information;
- (2) reviewing and analyzing parent surveys;
- (3) conducting desk reviews of administrative and compliance documents including Part C file reviews of individual children and families;
- (4) conducting home visits with families;
- (5) conducting annual site visits to the seven regional agencies to ensure compliance is met;
- (6) developing a Part C Enhancement Plan that addresses corrective action of noncompliance in a regional Part C agency; and
- (7) conducting follow-up site visits, as needed, to ensure the correction of noncompliance.

In addition, the SICC advises DPHHS-DDP in its general supervision responsibilities by identifying potential solutions to systemic issues and regularly reviewing the regional agency profiles and 618 data. State Part C staff indicated they regularly engage stakeholders through informal meetings to identify areas of concern and hold quarterly meetings with Part B preschool staff to improve transition collaboration.

*Identification of and correction of noncompliance:*

DPHHS-DDP reported that Montana identifies noncompliance through its multiple monitoring processes, including its annual on-site monitoring of each regional early intervention service agency. DPHHS-DDP further reported that the State reviews child records to validate compliance with Part C requirements. DPHHS-DDP explained that it has procedures in place to ensure that the sample of child records reviewed represents different family support specialists (service coordinators), early intervention agencies and funding streams, geographic regions within the State, and children transitioning to Part B or other community services. Following the monitoring activity, a written monitoring report describing any identified noncompliance is sent to the regional agency, which, in turn, must submit, within thirty (30) calendar days of receipt of the report, a written improvement plan detailing actions and timelines for correcting the deficiencies.

DPHHS-DDP staff stated that it monitors correction of noncompliance identified from its ongoing monitoring structures through the: (1) Comprehensive Evaluation Process handbook; (2) Quality Assurance Observation Sheets to identify deficiencies and record exemplary practices during annual Quality Assurance Reviews; and (3) Part C Enhancement Plan that identifies the steps required to correct all identified noncompliance within agreed upon timelines, not to exceed one year from the date of the on-site visit. DPHHS-DDP further reported that on-site visits, record reviews, and telephone or letter contact with families are included in these structures in order to verify correction of identified noncompliance.

DPHHS-DDP explained that it has the authority to impose regulatory sanctions if a regional agency fails to take the requisite corrective actions. These sanctions include withholding funds as well as removing funds, resources, and authority to provide services in a designated area of the State. DPHHS-DDP indicated that it has not had reason to impose these sanctions on any Part C regional agency.

In reviewing the compliance indicators in Montana's Comprehensive Evaluation Process handbook, OSEP noted that the language in a few of the indicators needed to be revised to more clearly express Part C requirements. On November 13, 2006, as a follow-up to discussions held during the verification visit, Montana submitted to OSEP an updated version of the State's 2007 Part C Improvement Comprehensive Strategic Plan showing the specific actions it has already taken and will take to update the handbook to incorporate the technical assistance that OSEP provided during the verification visit regarding revision of the indicators.

Based on documents reviewed, prior to and during the verification visit, and discussions with the State as well as information the State submitted on November 13, 2006, OSEP believes that Montana's general supervision system constitutes a reasonable approach to identifying and

correcting noncompliance; however, OSEP cannot, without also collecting data at the local level, determine whether the State's procedures are fully effective in identifying and correcting noncompliance.

*Training and Technical Assistance:*

DPHHS-DDP reported that it targets training and technical assistance to issues identified in regional agency Part C Enhancement Plans, on-site visits, and the Montana Family Support Specialist Certification process. DPHHS-DDP explained that it also shares promising practices at the quarterly meetings with staff from the regional agencies. In addition, DPHHS-DDP and the University of Montana's Rural Institute sponsor continuing education conferences such as the 2006 Summer Institute, which highlighted promising practices about provision of early intervention services in the natural environment.

SICC members confirmed that training and technical assistance is readily available from the State Part C staff, including Quality Improvement Specialists. DPHHS-DDP administrators confirmed in interviews with OSEP that the plan is to hire five additional Quality Assurance Specialists to permit continued annual reviews and technical assistance for the Part C system, but if that does not occur, the State may restructure its monitoring system to a biennial process.

*Complaint Resolution, Mediation, and Due Process Systems:*

DPHHS-DDP reported that it has disseminated information to regional agencies about methods available to resolve disputes concerning early intervention services. Parents are provided notice of procedural safeguards through the State's publication, *First Steps A Parent Information Handbook: Infant and Toddler Programs –Preschool Special Education*, along with local agency procedural safeguards brochures. DPHHS reported that when it receives a call from a parent, DPHHS-DDP staff discusses parent rights under Part C and tells the parent how to file a complaint and request a due process hearing or mediation. DPHHS-DDP further reported that as part of its monitoring process, the State verifies through record reviews and family interviews that parents have been properly informed of, and understand, their procedural safeguards, including the availability of the dispute resolution processes under IDEA.

Montana reported in its SPP that it did not receive any requests for due process hearings or mediations during the 2004-2005 reporting period. During the verification visit, DPHHS-DDP staff confirmed that it had not received formal complaints, but that it had received informal complaints. Montana believes that it has an effective system to address informal requests from parents at the local and State level. Montana reported that all regional agencies document the number of informal complaints, the person who responded to the informal complaint, the number of days to resolution of the issue, and the reasons for the informal complaint. DPHHS-DDP reported that the 12 informal complaints received at the local level during the 2004-2005 reporting period resulted in resolution.

Part C regulations, at 34 CFR §303.403(b), require that prior written notice to parents be in sufficient detail to inform parents about all procedural safeguards available under 34 CFR §§303.401 – 303.460 and the State's complaint procedures under 34 CFR §§303.510 – 303.512,

including a description of how to file a complaint and the timelines under those procedures. It is OSEP's understanding that DPHHS-DDP is in the process of revising the State's Part C Dispute Resolution Handbook to ensure consistency with these requirements. In its FFY 2006 Part C grant application, the State gave an assurance that any changes to its procedural safeguards as required by section 639 of the IDEA would be completed by June 30, 2007.

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

In reviewing the State's system for data collection and reporting under section 618 of the 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 accurately, reliably and validly collect and report data under section 618.

DPHHS-DDP told OSEP that Montana has developed data collection and reporting policies and procedures that address accuracy and timeliness. DPHHS-DDP demonstrated that Montana uses a combination of electronic and paper transmittal data systems to collect and report the data required under section 618 of the IDEA. DPHHS-DDP also explained that Excel spreadsheets are used to aggregate and disaggregate the data from the regional Part C agencies, as well as to identify trend data.

DPHHS-DDP has developed guidelines and instructions for the collection of data for section 618, the SPP, and APR reports. DPHHS-DDP reported that it provides technical assistance and follow-up with each regional agency to ensure that the agencies are collecting the data according to those guidelines and instructions. Regional agencies collect and compile their data and submit the data through an email attachment to the Part C Coordinator and the 618 Data Manager for review and analysis. DPHHS-DDP stated that multiple reviews are conducted at the State level to ensure that the data are correct. Part C staff, SICC members, and technical assistance providers have routinely participated in OSEP conferences, meetings, and technical assistance conference calls that have specifically addressed the section 618 report, the SPP, and the APR.

Montana currently collects child count data electronically and DPHHS-DDP reported that the State has contracted with a provider to develop a process to collect additional section 618 data electronically through the DPHHS-DDP billing system. Montana reported that it might develop an online system to report the performance of the early intervention systems including transition data to the public.

### **Conclusion**

Based on the information provided to OSEP during the verification visit, OSEP believes that Montana's system for collecting and reporting data from early intervention service programs is a

reasonable approach to ensuring the accuracy of the data Montana is required to report to OSEP under section 618 of the IDEA.

We appreciate the cooperation and assistance provided by your staff during our visit. If you have any questions about this letter, please contact Jacquelyn Twining-Martin, OSEP's State Contact for Montana's Part C program at 202-245-7558. We look forward to collaborating with Montana as you continue to work to improve results for infants and toddlers with disabilities and their families.

Sincerely,

A handwritten signature in black ink that reads "Alexa Posny". The signature is written in a cursive style with a large initial "A".

Alexa Posny, Ph.D.

Director

Office of Special Education Programs

cc: Erica Swanson, Part C Coordinator