



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

Honorable Karen L. Beye
Executive Director
Colorado Department of Human Services
1575 Sherman Street
Denver, Colorado 80203

APR 30 2008

Dear Director Beye:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) verification and focused monitoring visit to Colorado during the week of December 10, 2007. The August 23, 2007 letter informed you that OSEP is conducting verification and focused monitoring 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 C of the Individuals with Disabilities Education Act (IDEA). As re-authorized in 2004, IDEA requires the Department to monitor States with a focus on: (1) improving early intervention results and functional outcomes for infants and toddlers with disabilities; and (2) ensuring that States meet program requirements, particularly those most closely related to improving early intervention results for infants and toddlers with disabilities.

The purpose of our verification and focused monitoring visit was to evaluate the State's general supervision and data systems in order to assess and improve State compliance and performance, child and family outcomes, and the protection of child and parent rights and to review the State's procedures for its use of IDEA funds and the timely obligation and liquidation of those funds. During the verification and focused monitoring visit, OSEP: (1) analyzed the components of the State's general supervision and data systems to determine the extent to which they are designed to ensure compliance and improve performance; and (2) targeted compliance and results issues identified in our June 15, 2007 letter responding to the Colorado Department of Human Services (CDHS) Federal fiscal year (FFY) 2005 Annual Performance Report (APR)/State Performance Plan (SPP).

On December 30, 2005 CDHS was designated as the State's new Part C lead agency. In July 2006, CDHS implemented changes in the Part C system in order to effectively and efficiently conduct its general supervision and monitoring responsibilities. The change in lead agency resulted in the restructuring of 32 local EIS programs to 20 new programs. The Division of Developmental Disabilities (DDD) within CDHS is responsible for administering Part C of IDEA. Early intervention services (EIS) in Colorado are provided through contracts with 20 Community Centered Boards (CCBs) and four interagency agreements. CDHS also utilizes twenty-one professional/technical contracts for training and technical assistance and parent training. CDHS reported in its most recent 618 Federal child count data submission (Fall 2006) that 3,951 infants and toddlers with disabilities received early intervention services through CDHS services representing 1.92% of the State's infants and toddlers from birth to age two.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

As part of the verification visit to Colorado, OSEP staff met with Ardith Ferguson, CDHS's Part C Coordinator, John Miles, Director Child and Family Services, DDD, and other State personnel responsible for: (1) CDHS's general supervision (including monitoring, mediation, State complaint resolution, and impartial due process hearings) and its procedures for the use of Part C funds and the timely obligation and liquidation of those funds; and (2) the collection and analysis by CDHS of required State-reported data under IDEA. OSEP staff also conducted interviews with staff from CDHS and the Colorado Department of Education (CDE). In addition, OSEP conducted a group interview with parents, local EIS providers from Developmental Pathways and Foothills Gateway Developmental Opportunities/Starpoint, staff from three administrative units (Aurora Public Schools, Douglas Public Schools, Thompson School District), and staff from one statewide agency (CO-Hear/CHIP).

Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) Colorado's FFY 2005 APR submitted to OSEP in February 2007; (2) Colorado's SPP/APR submitted to OSEP in December 2005; (3) Colorado's grant applications under Part C of the IDEA for FFYs 2005, 2006, and 2007; (4) OSEP's March 10, 2005 Verification Visit letter to the Colorado Department of Education, former lead agency; (6) CDHS' web-site including the local publicly-reported data; (7) CDHS' monitoring protocols and reports for the period 2006 through 2007; and other pertinent data sources. The information provided by CDHS' staff during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of CDHS' systems for general supervision, data collection and reporting, and financial accountability. OSEP also conducted a conference call on November 14, 2007 with members of the Colorado Interagency Coordinating Council to hear their perspectives on the strengths and challenges of the State's systems for general supervision, data collection, and fiscal management.

In interviews at the lead agency, OSEP focused on the area of transition of toddlers at age three, specifically the transition requirements in IDEA section 637(a)(9), and applicable requirements in 34 CFR §§303.148 and 303.344(h), in response to Colorado's 2005 APR submission.

OSEP's discussion and conclusions for each of the critical elements used to guide our review of each State's general supervision, data, and IDEA fiscal systems are provided below.

General Supervision System – Discussion

Critical Element 1: Does the State have a general supervision system that is reasonably designed to identify noncompliance?

CDHS reported that it has implemented a new multi-faceted system of general supervision. System components include: (1) web-reported performance data that inform SPP/APR Indicators 1-8; (2) biannual on-site program quality surveys, including record reviews; (3) local desk audit data reviews and reports that document compliance and performance; (4) contracts; (5) focused surveys on a specific area of early intervention practices (e.g., public awareness, community partnerships, and multidisciplinary evaluation/assessment practices); and (6) training and

technical assistance. CDHS explained that the first five components (including program quality surveys, desk audit data reviews, and electronic data submission) are used to identify noncompliance at various times during the year.

In addition, CDHS implemented the following activities: (1) annual fiscal audits of the CCBs to validate billing information and other Part C data submitted to the State data system; (2) public reporting and status determination of local programs; 3) public recognition of high performance; and (4) processes for tracking the CCB plans of correction (POCs). CDHS noted that the State's new web-based system provides for real-time monitoring and detailed tracking of each of the CCBs, in relation to the SPP/APR Indicators.

CDHS reported that it monitors each CCB program onsite on a cyclical basis every two years, using the program quality survey and local desk audit data reviews to identify non-compliance. Ten of the twenty CCB programs were monitored during FFY 2006-2007. During the onsite visit, the program survey team utilizes a survey tool, called the "Program Quality Standards for Onsite Survey Early Intervention Programs," that the State reported is aligned with new State rules and Federal Part C regulations. They also use child record reviews, an early intervention checklist, a family questionnaire, and entrance and exit interviews, to collect information regarding compliance and performance. Subsequently, CDHS staff issue a written report of noncompliance findings within 30 days of the visit. This starts the one-year timeline for correction of noncompliance. The CCB has 30 days to respond to the report with a POC that is reviewed by the CDHS staff to determine if additional follow-up is needed.

OSEP reviewed CDHS' monitoring reports for five of the ten CCBs visited by the State during the period of 2006-2007. OSEP noted during the review of the five monitoring reports that CDHS cited systemic findings of noncompliance with the following OSEP SPP/APR Indicators and requirements: Indicator 1 (Timely Services) 34 CFR §§303.340(c), 303.342(e) and 303.344(f)(1); Indicator 7 (Evaluation, Assessment and Initial IFSP Meeting Within 45 Days) 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a); Indicators 8A, B, C (Transition Services) 34 CFR §§303.148 (b)(4) and 303.344(h); 34 CFR §303.148(b)(1) and 34 CFR §303.148(b)(2)(i).

In addition to its other monitoring procedures, CDHS informed OSEP that it is working with a consultant on developing focused monitoring procedures. The State intends to implement this additional monitoring component along with real time data collection in the next fiscal year. CDHS' General Supervision Manual indicates that when focused monitoring is fully implemented statewide it will address issues related to noncompliance or poor performance on specific priority areas. This activity will allow the State to tailor appropriate technical assistance to the needs of the CCBs.

Critical Element 2: As part of its general supervision system, does the State have mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, previous monitoring results, etc.) to identify systemic noncompliance issues?

CDHS described a multi-level approach to compile and integrate data across systems to identify systemic noncompliance that encompasses information from section 618 data, the State's DDD/Community Contract and Management System (CCMS), the web-based version of CCMS, annual fiscal audits, cyclical monitoring audits of child records, program quality surveys, local agency status determination, status of timely correction of non-compliance, POCs, family outcomes surveys, and technical assistance surveys. The child outcomes online data system (under development) will provide an additional source of data. CDHS also reported that its data system enables them to generate appropriate reports for Medicaid, which helps CDHS provide uninterrupted early intervention services.

CDHS reported that trend reports are developed from the data and utilized by the CICC to determine what is working and where there are problems to resolve. The CICC has specific work groups that have been established to address issues identified through the result of analysis of the shared data. The Part C coordinator reported that staff are able to use the data system to project growth in the number of children served and to inform some program decisions, including determining annual State funding requests.

At the time of OSEP's visit, the State had not received any complaints or requests for mediation or due process hearings. The State reported that they plan to review their procedures for requests for mediation or due process hearings as part of their monitoring procedures and technical assistance activities.

CDHS' Part C Coordinator reported that as a result of collecting, analyzing, and reporting data in areas such as child find, provision of timely services, evaluations and assessments, 45-day timeline from referral to initial IFSP meeting, the following improvement strategies were developed and implemented during 2005 and 2006: (1) strengthened and clarified its policies and procedures; (2) conducted training for all staff regarding policies, procedures and guidelines; (3) revised its Individualized Family Service Plan (IFSP) form that is used throughout the State and other documentation to ensure consistency of data collection; and (5) modified its child record review procedures to ensure alignment with SPP/APR Indicators, and all other Part C requirements.

Critical Element 3: Does the State have a system that is reasonably designed to correct identified noncompliance, including the use of State guidance, technical assistance, follow-up, and, if necessary, sanctions?

In its FFY 2006 APR, the State reported that it corrected all of the noncompliance that was identified in FFY 2005 by the prior lead agency. The State indicated that most of the EIS programs that had developed plans of correction under the prior monitoring were no longer providing EI services in June 2006. For the two providers that continued to provide services after that time, the State reported that all of the prior findings of noncompliance have been corrected. OSEP will be responding under separate cover to the data and information provided in the State's FFY 2006 APR.

During the verification visit, the State also described its procedures to ensure that the noncompliance identified by the new lead agency will be corrected within one year of identification. When a monitoring report is issued, the CCB has 30 days to respond to the report with a POC that is reviewed by the CDHS staff to determine if additional follow-up is needed. CDHS reported that correction of identified noncompliance is ensured through training and technical assistance and verified through on-site verification of data.

CDHS reported that it provided targeted technical assistance in response to local findings, and IFSP and Service Coordination training around IDEA requirements including transition. Examples of training activities included: (1) Service Coordination Core Competencies training required for all service coordinators and EIS Part C Coordinators; (2) Colorado Individualized Family Service Plan training for service coordinators and EIS providers, local interagency coordination council members and community partners; (3) regional Procedural Safeguards training; and (4) regional training on Assessment, Evaluation and Programming System for Infants and Toddlers. CDHS also sponsored family leadership and engagement initiatives, and conducted monthly technical assistance calls.

CDHS reported that it reviews progress reports, local policies and procedures, local interagency agreements and child records to document the correction of noncompliance. Once CDHS determines that the noncompliance has been corrected, it notifies the CCB in writing that the terms of the POC have been met.

CDHS' draft General Supervision Manual indicates that enforcement activities would be implemented with providers that do not demonstrate compliance within one year of written notification of noncompliance. CDHS reported that the following enforcement/sanction options are available: (1) public reports disseminated to families and the general public; (2) required State training and technical assistance; (3) withholding funds; and (4) terminating or not renewing a contract. The State's contracts between DDD and each CCB include potential sanctions such as recovering funds, withholding funds or, in extreme circumstances, the termination of the contract. The Part C Coordinator explained since this is the first year that CDHS has issued POCs for the CCB programs, it has not had to use sanctions.

Local determination data is also compiled by CDHS, disaggregated by provider, and displayed on the State's website. Each provider is able to compare its performance to the statewide targets and to other providers. CDHS reported that public reporting of local data and the State's determination has served as an impetus for local programs to timely correct noncompliance.

Critical Element 4: Has the State 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 in a timely manner? If barriers have been identified, what mechanisms has the State put in place to address those barriers?

Because the State did not provide data in its Part C FFY 2005 SPP/APR for Indicator 8B, OSEP collected information related to transition during its verification visit through interviews with parents, CDE staff, Administrative Unit representatives and EIS/CCB agencies. OSEP identified

the following barriers to meeting the Part C transition requirements : (1) data collection and reporting issues; (2) significant changes in local CCB and child find providers due to the appointment of a new lead agency; and (3) lack of training for local Part C staff.

To address the data collection and reporting issues, CDHS reported that data collection and reporting activities specific to transition requirements are now included in the CCMS as follows: (1) date that the administrative unit was notified of a child potentially eligible for services under Part B of the IDEA who is approaching their third birthday; (2) date that the transition planning steps and services were documented in the IFSP; and (3) the date that the transition conference was held. The State has also required CCBs to enter the reason (i.e., system or family) into the CCMS if a transition planning conference occurs less than 90 days before a child's third birthday. In its FFY 2006 APR, the State has provided data for Indicator 8B. OSEP will be responding under separate cover to the data and information provided in the State's FFY 2006 APR.

To address the lack of training for Part C staff, and the significant changes in local CCB and child find providers, CDHS reported that frequent statewide training is offered to new local program coordinators and service coordinators on IDEA Part C requirements and best practices. CDHS staff also described to OSEP during the verification visit the implementation of ongoing technical assistance activities the State is participating in with private contractors, the Mountain Plains Regional Resource Center and the National Early Childhood Technical Assistance Center.

Critical Element 5: Does the State have dispute resolution systems that ensure the timely resolution of complaints and due process hearings?

CDHS reported that it has adopted Part C due process hearing procedures under 34 CFR §303.420 and has dispute resolution systems in place to ensure the timely resolution of State complaints and due process hearings. As of December 10, 2007, CDHS reported that it has not received any complaints or requests for mediation or due process. CDHS reported that a DDD/Part C Community Coordinator is appointed to process complaints and requests for mediation and due process hearings, and to monitor decisions and findings to ensure timely decisions and resolutions. The DDD/Part C Community Coordinator receives all family concerns and works directly with the family to determine if informal strategies may be used to resolve a dispute or whether the parent is interested in pursuing formal dispute resolution. CDHS described various options for informal dispute resolution such as: facilitating a meeting with the parent and the local EIS provider and providing information on Colorado's Part C system, including explanations of parent rights and procedural safeguards. CDHS informed OSEP that training is planned for mediators and hearing officers during FFY 07-08 to provide information on Part C and Colorado's current policies and procedures.

Critical Element 6: Does the State have mechanisms that focus on improving early intervention results and functional outcomes for all infants and toddlers with disabilities?

CDHS reported that "Results Matter," Colorado's statewide system for measuring identified outcomes for all eligible children is the driving force in systematically improving evaluation and

assessment practices, IFSP development, data collection and reporting, training and technical assistance and monitoring.

In addition, CDHS reported that it has provided information and directives, both at the State-level and the local program level, that will have a direct impact on improved outcomes for infants and toddlers. For example, in a December 3, 2007 memorandum, CDHS notified CCBs of the Part C requirements for transition procedures, and timelines for toddlers who are transitioning out of early intervention services and into Part B preschool services or other appropriate community services. In addition, CDHS reported that it issued directives requiring local interagency agreements between CCBs and school districts or boards of cooperative services regarding transition agreements within local communities.

General Supervision System – Conclusions

As described above, CDHS, the State's new Part C lead agency, reported that it began implementing new monitoring procedures for Part C in July 2006. Based on OSEP's review of the new procedures, they appear to be reasonably designed to identify and correct noncompliance. OSEP cannot, however, without also collecting data and conducting reviews at the local level, determine whether the monitoring procedures are effective in identifying and correcting noncompliance.

Data System – Discussion

Critical Element 1: Does the State have a data system that is reasonably designed to collect and report annually to the Department and the public, timely valid and reliable data and information?

CDHS uses an electronic database to gather data for section 618 and SPP/APR. The database captures the data for Indicators 2, 5, 6 and 7. At the local level, during the on-site program quality survey monitoring, CDHS reviews child records to verify the data submitted by the providers for Indicators 1, 8a, 8b, 8c and 14 as well as other areas required by the State. CDHS staff reported that it has in place its web-based system to collect and analyze data for all of the SPP/APR Indicators (inclusive of its section 618 data) and provided a demonstration for OSEP staff during the visit.

CDHS changed its data system from an Access database to CCMS in October 2007. The CCMS is an online database and billing system that allows real time reporting at the local and State level. Data reports are currently run annually for the APRs and to rank CCBs on their performance in meeting Part C requirements. Reports are also generated through the CCMS database for section 618 data tables. The State reported that the CCMSweb provides efficiencies for CCBs in meeting data collection requirements, and allows for data collection to address reporting requirements of sections 618 and the SPP/APR.

CDHS reported to OSEP that its data system has many key components to ensure the collection of timely, valid and reliable data. They include: unique user IDs and passwords to authenticate

access; drop-down menu; monthly edit checks; a data manual, training and technical assistance; on-site monitoring that certifies data accuracy; and verification of data in POCs. Additionally, the data coordinator conducts error checks, and sends error reports to the CCBs with corrections. The corrections are made directly in the individual database as well as the State's aggregated database to ensure the reliability and accuracy of data entered into the system.

CDHS reported that the system utilizes different sources of data to monitor implementation of Part C, and CDHS staff cross-reference all available data in order to verify the data reported by the CCB programs and collected by CDHS staff.

Critical Element 2: Does the State provide clear guidance and ongoing training to local EIS programs and public agencies regarding requirements and procedures for reporting data under section 618 of IDEA and the SPP/APR?

CDHS reported that it has implemented a specific set of procedures to determine data accuracy and ensure that individuals who enter data do so in a manner that is consistent with State and Federal guidance. As a part of program monitoring, CDHS staff compare the data entered at the CCB to see if it matches the data received at the State level. The Part C Coordinator reported that the State's focus on data collection and reporting has been on training and implementation of the new data system. CDHS conducted six initial trainings statewide on the State's procedures, data and information requirements under section 618 and section 616 for the SPP/APR, and continues to provide 1:1 technical assistance with every CCB.

Critical Element 3: Does the State have 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 IDEA sections 616 and 618, OSEP guidance, and State procedures?

CDHS developed a data manual for data users which it distributed electronically and can be downloaded by all local data managers. Definitions in the manual are those provided by Westat to the States. When inconsistencies in use of the definitions are found through the data audits sent to CDHS, the data manager provides clarification for all the users through guidance documents and telephone contact. The data manager sends notification to the CCBs on a quarterly basis of specific dates for updating all data.

Critical Element 4: Does the State have procedures for identifying anomalies in data that are reported to the State and correcting any inaccuracies?

The State reported that the CDHS data manager conducts quarterly audits of data submitted by CCB programs to identify anomalies, and works with the CCB programs to ensure correction. All infants and toddlers referred or eligible for early intervention services are entered into the data system with entry and exit dates regardless of funding sources. CDHS reported that the data system has two separate fields for validity and reliability. In order to ensure the correction of errors, the data is cross-checked with the database when local data are submitted to the State. If a CCB has inconsistent data, the State requires resubmission of the data for verification. The data manager works with Westat to ensure the accuracy of the data submitted under section 618.

Data System – Conclusions

It appears that the State's data system, CCMSweb, and related policies and procedures, including the provision of ongoing technical assistance, are reasonably designed to ensure the collection and reporting of required data by Colorado to OSEP and the public under sections 616 and 618. CDHS also confirmed that its section 618 data provided to WESTAT are timely and accurate. OSEP cannot, however, without also conducting a review of data collection and reporting policies, procedures and practices at the local level, determine whether all public agencies in the State implement the State's data collection and reporting procedures in a manner that is consistent with Part C.

Fiscal Management System – Discussion

Critical Element 1: Does the State have procedures that are reasonably designed to ensure appropriate use of IDEA funds at the State level?

OSEP reviewed CDHS's procedures for the use of Part C funds consistent with section 638 of IDEA.¹ The State reported that it has mechanisms for ensuring fiscal accountability at the State level in the use of IDEA Part C funds, including (1) a Governor's Executive Order; (2) State statute and regulation; (3) interagency agreements; (4) a line item in the budget for IDEA Part C funds; (5) the Colorado Financial Reporting System (COFRS); and (6) contracted fiscal audits.

CDHS staff reported that the State uses annual audits, and State accounting and procurement procedures. CDHS reported that internal control is exercised over expenditures to ensure compliance with program rules and regulations. All Part C expenditures are tracked by codes and verified by CDHS-DDD State staff. CDHS additionally reported that it conducts fiscal review of Part C funds used for the provision of early intervention services. An audit firm conducts State audits on each CCB contract on an annual basis. DDD provides budget reports externally to the State legislature and the Colorado Interagency Coordinating Council, and internally to CDHS staff. CDHS staff reported that it ensures that Part C funds that are not expended by CCBs are recovered by the State for appropriate obligation and liquidation. CDHS reported that it does not charge Part C FFYs 2006 and 2007 funds restricted indirect costs.

Critical Element 2: Does the State have procedures for ensuring the timely obligation and liquidation of IDEA funds by the State?

The State reported that it has mechanisms for ensuring the timely obligation and liquidation of IDEA Part C funds. CDHS reported that it uses the State COFRS accounting system, utilization reviews, and annual audits to track IDEA Part C funds and thus can easily determine when IDEA funds have been obligated and liquidated.

¹ Without conducting a complete review of CDHS's expenses and source documentation of all obligations, OSEP cannot determine or conclude that costs charged to IDEA Part C funds are allowable and whether CDHS's policies for use of funds are fully and appropriately implemented.

Fiscal Management System – OSEP Conclusions

Based on the information obtained prior to and during the visit, it appears that the State has procedures reasonably designed to ensure that the appropriate use of IDEA Part C funds at the State level consistent with IDEA section 638 and for ensuring that the State timely obligates and liquidates IDEA Part C funds at the State level.

We appreciate the cooperation and assistance provided by your staff during our visit to review the State's general supervision, data and fiscal management systems to ensure the provision of early intervention services to infants and toddlers with disabilities and their families in Colorado.

We look forward to collaborating with Colorado as it continues to work to improve results for infants and toddlers with disabilities and their families.

Sincerely,



William W. Knudsen
Acting Director
Office of Special Education
Programs

cc: State Part C Coordinator