



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable Tracy L. Wareing
Director
Arizona Department of Economic Security
1717 West Jefferson Street
P.O. Box 6123
Phoenix, Arizona 85005

FEB - 9 2007

Dear Director Wareing:

I appreciate your taking the time to meet with my staff during the Office of Special Education Program's (OSEP) on-site monitoring visit to Arizona to review its progress under the Compliance Agreement (Agreement) between the Arizona Department of Economic Security (DES) and the U.S. Department of Education (Department) under Part C of the Individuals with Disabilities Education Act (IDEA). This letter confirms the information we learned during our visit and provides our review of the quarterly progress reports under the Compliance Agreement. The purpose of our visit was: (1) to determine DES's progress in implementing its December 16, 2004 Agreement with the Department; and (2) to provide technical assistance support to DES as it implements the Agreement.

The three-year Agreement requires Arizona to submit quarterly progress reports through December 31, 2007, regarding its efforts to ensure compliance with the following Part C requirements: (1) General supervision monitoring and correction requirements in 34 CFR §303.501(b); (2) Timely evaluation, assessment and IFSP meeting requirements in 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a); (3) Identification and timely provision of early intervention services as required in 34 CFR §§303.340(c), 303.342(e), and 303.344; and (4) Implementation of service coordination functions under 34 CFR §§303.23 and 303.344(g).

On behalf of OSEP, I want to express our appreciation for the cooperation of your Deputy Director, Nelba Chavez, DES Counsel, Theresa Martin, and DES Arizona Early Intervention Program (AzEIP) Part C Coordinator, Molly Dries Bright, and her staff, who all provided important information to OSEP staff about the provision of early intervention services to infants and toddlers with disabilities and their families in Arizona under Part C of the IDEA. OSEP staff also met with members of the State Interagency Coordinating Council (SICC), Agency Partners that included: (1) DES Division of Developmental Disabilities (DDD); (2) Arizona State Schools for the Deaf and Blind (ASDB); (3) Arizona Department of Health Services/Office of Children with Special Health Care Needs (ADSH/OCSHCN); (4) Arizona Health Care Cost Containment System (AHCCCS); and (5) Arizona Department of Education (ADE). We also

appreciated the time of parents, local early intervention service providers and service coordinators from Maricopa and Yavapai counties who met with us during our visit.

General Supervision

The Agreement requires DES/AzEIP as Arizona's Part C lead agency to monitor to identify noncompliance with Part C requirements in the State under 34 CFR §303.501(b). This includes monitoring State agencies, institutions, organizations and private providers that are part of the Part C system. In addition, under the Agreement, the State must timely correct identified noncompliance, enforce obligations against, and provide training and technical assistance to, all such entities and individuals under 34 CFR §303.501(b).

During the November 2006 visit, OSEP met with State agency partners, local service providers and AzEIP staff who reported that DES/AzEIP staff have conducted monitoring and technical assistance as ongoing activities in their counties. DES/AzEIP staff provided data on the status of counties and early intervention service programs in each of the monitoring cycles. In Cycle 1 (fall/winter of 2004), the State monitored the programs in its largest county, Maricopa County. In Cycle 2 (spring of 2005), the State monitored programs in an additional four counties, including Yavapai County. In Cycle 3 (April-June 2006), the State monitored programs in three additional counties and the Navaho Nation.

At the time of OSEP's visit, DES/AzEIP had made major changes to its monitoring and data systems as required by the Agreement. It had revised its intra- and inter-agency agreements with Part C State agency partners to address general supervision requirements and had aligned policies and procedures across agencies to include general supervision, evaluation and assessment, and service provision consistent with Part C compliance requirements. DES/AzEIP implemented its monitoring system, formalized a technical assistance system, and revised its Arizona Child Tracking System (ACTS) to expand data collection and reporting functions to be able to collect and report data on Part C compliance elements.

In its December 2006 progress report, DES/AzEIP reported that it conducted verification visits in December 2006 to Cycle 1 early intervention service programs in Maricopa County and that the programs had corrected noncompliance with the majority of findings made by DES/AzEIP, except for two main areas: timely evaluations and assessments and timely provision of early intervention services. The data indicated that six DDD units in Maricopa County continue to have specific challenges in these two areas, which include large caseloads, a misinterpretation of a DDD State statute governing the purchase of services, and a shortage of therapists.

In its December 2006 progress report, DES/AzEIP indicated that they met with the DDD Assistant Director in Maricopa County to set forth strategies to clarify the misinterpretation of the State statute by DDD service coordinators. DES/AzEIP also reported that their Technical Assistance Specialists met with supervisors and staff from

the six DDD early intervention offices in Maricopa County to review files and clarify requirements, including documentation requirements.

OSEP's review of the June, September and December 2006 progress reports under the Agreement and information shared during the November 2006 visit confirms that DES/AzEIP's monitoring system is able to identify noncompliance with Part C requirements. In addition, OSEP has confirmed that DES/AzEIP is monitoring all State agencies, institutions, organizations and early intervention service programs and providers that are part of the Part C system.

However, the data and information provided by DES/AzEIP indicates that the monitoring system, while able to correct some areas of noncompliance, is not yet able to correct all areas of noncompliance. As discussed further below, two significant areas of noncompliance still remain. DES/AzEIP staff reported that they would provide a complete analysis for its Cycle 1 (Maricopa County) monitoring findings and correction status in its March 2007 progress report. OSEP looks forward to reviewing the data and analysis in the March 2007 progress report.

Timely and Comprehensive Evaluations and Assessments

The Agreement requires DES/AzEIP to ensure that infants and toddlers receive timely evaluations in all five developmental areas and assessments and that the initial Individualized Family Service Plan (IFSP) team meeting is convened within 45 calendar days from a child's referral to Part C under 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a).

Statewide quarterly data from DES/AzEIP's June, September and December 2006 progress reports indicated substantial improvement with comprehensive evaluations completed within the 45-day timeline. Children evaluated and found eligible for Part C within 45 days increased to 88% during this period. This represents significant improvement from the 72% compliance rate for July 1, 2005 through December 31, 2005 for timely evaluations and eligibility determinations reported in the State's March 31, 2006 progress report. Three counties reported data in the December 2006 progress report indicating 100% compliance with conducting the eligibility determination within 45 days (Gila, Yavapai and Coconino). In the December 2006 progress report, Maricopa County reported timely eligibility determination data at 88% and 93% for its two regions.

Data on compliance with meeting the 45-day timeline for developing the initial IFSP¹ indicated some improvement, but significant noncompliance still exists. In its December 2006 progress report, DES/AzEIP reported that statewide data on meeting the 45-day timeline for developing and completing the IFSP was 39% for the 2005-2006 reporting year, after family reasons are taken into account. In the first quarter of the 2006-2007 year (July-September 2006), the statewide IFSP compliance data increased to 44%. The

¹ Arizona's standard is to complete the initial IFSP (including parent signature) within 45 days of referral in contrast to the Federal regulations, which require that the lead agency conduct the initial IFSP meeting within 45 days of referral under 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a).

most frequently reported reason for IFSP delay was team capacity, accounting for 55% of all IFSP delays.

This noncompliance appears to be concentrated in specific counties. For example, Coconino County reported 100% compliance with the 45-day timeline requirement and Yavapai County increased its 45-day timeline compliance data from 81% in the June 2006 progress report to 90% in the December 2006 progress report. However, all other counties reported data on the 45-day timeline with a range of 18% - 86% compliance with Maricopa County, which serves over 50% of infants and toddlers with disabilities under Part C, reporting compliance for its two regions at 18% and 52%.

DES/AzEIP had proposed a team-based service delivery model as part of its “Redesign” plan to address the team capacity issues in the State; however, the implementation of that plan has been delayed. In addition, on page 23 of the December 2006 progress report, DES/AzEIP reported that it is exploring with the DES Procurement and Financial Services Administration if, and how, the team-based model can be implemented in some areas of the State for children who are: (1) referred to and/or (2) eligible for AzEIP, but not DDD. DES/AzEIP indicated that this approach is a short-term solution to addressing the delays in implementing the plan.

OSEP remains concerned about the State’s ability to demonstrate compliance with the 45-day timeline for IFSPs by the end of the Agreement. OSEP looks forward to reviewing the State’s March 31, 2007 progress report to determine whether the State has made progress in this area.

Timely Provision of All Early Intervention Services on the IFSP

The Agreement requires DES/AzEIP to ensure that all early intervention services needed by the child are identified on the IFSP and provided in a timely manner to infants and toddlers with disabilities and their families as required by 34 CFR §§303.340(c), 303.342(e), and 303.344.

DES/AzEIP was required to provide in its 2006 quarterly progress reports, baseline census data (on all Part C children) on the timely provision of early intervention services and monitoring data on the identification of needed early intervention services. Data reviewed by OSEP both prior to and during the visit confirmed that DES/AzEIP is monitoring and timely correcting noncompliance to ensure that all needed early intervention services are identified on the IFSP.

However, DES/AzEIP was unable to provide census data on the timely provision of early intervention services as required under the Agreement. DES/AzEIP staff indicated that revision of the FOCUS data system under DES/DDD that would allow them to collect data on all children had been delayed.

DES/AzEIP provided monitoring data for some counties that indicated that Maricopa County (especially DDD programs) has been unable to correct findings in this area. In its

December 2006 progress report for Cycle 1, DES/AzEIP indicated that one program was at 100% compliance for the timely provision of services; however this program, ASDB, serves a very small percentage of children under Part C. DES/AzEIP also reported the results of Cycle 2 (Yuma, La Paz, Mohave and Yavapai Counties) monitoring data for timely provision of services indicating that five of seven programs reported 100% compliance with IFSP timely service provision while the remaining two programs from Cycle 2 reported 25% and 80% compliance.

On pages 14 and 15 of the December 2006 progress report, DES/AzEIP proposed amending its verification data to OSEP on the timely provision of early intervention services by using monitoring data through representative sampling of data on infants and toddlers with disabilities from each county rather than providing census data on all such children, due to the delays and challenges in interfacing two different data systems (FOCUS in DES/DDD and ACTS in DES/AzEIP). OSEP has reviewed and accepts DES/AzEIP's proposed monitoring plan for collecting and reporting data on the timely provision of services. By this letter, OSEP is amending the verification required under the Agreement workplan under GS.5B data elements 5, 6 and 7 to accept sampling (instead of census) data as proposed in DES/AzEIP's December 2006 progress report.

It is critical that OSEP receive data regarding the timely provision of early intervention services in Arizona's March 31, 2007 progress report and quarterly thereafter through the final progress report due December 31, 2007. OSEP continues to remain concerned that Arizona's strategies may need to be modified to address the specific challenges reported, such as large caseloads and a shortage of therapists, in order to ensure that Arizona will be able to demonstrate compliance with the timely provision of early intervention services requirement by the end of the Agreement in December 2007.

Service Coordination

The Agreement requires DES/AzEIP to ensure that all families have a service coordinator and that service coordination functions are implemented under 34 CFR §§303.23 and 303.344(f).

Data provided in the March 2006 progress report indicated significant improvement in meeting the service coordination requirement. On page 4 of the March 2006 progress report, Agreement work plan (GS. 3A), DES/AzEIP reported that service coordination programs submitted their annual Program Self-Assessment (PSA) with Corrective Action Plan (CAP) closeout data. "For those programs that reported noncompliance in the PSA on identification of a single service coordinator, programs were required to identify a service coordinator and ensure the IFSP is revised with the name of that person and send verification to DES/AzEIP within 45 days." Updated data provided in the March 2006 progress report from the PSA and through the DES/AzEIP's monitoring system indicated 100% compliance on the assignment and identification of service coordinators and completion of service coordinator responsibilities. DES/AzEIP reported that ongoing monitoring data would be included in the Part C Annual Performance Reports (APR).

OSEP appreciates the State's efforts to ensure the provision of service coordination services to infants and toddlers under Part C of the IDEA.

Conclusion

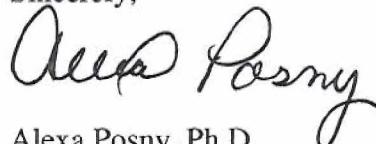
Arizona has implemented the terms of the Agreement by revising its monitoring system to be able to identify and correct noncompliance with many Part C requirements. It has also executed intra- and inter-agency agreements to ensure compliance with IDEA Part C requirements. Its progress under the Agreement includes demonstrating that its monitoring system can identify most areas of noncompliance and that it has significantly improved its ability to: (1) timely conduct evaluations and eligibility determinations; (2) identify needed Part C services on the IFSP; and (3) comply with Part C's service coordination requirements.

However, significant challenges remain in the State's ability to timely identify and correct noncompliance with two Part C requirements: (1) timely initial IFSP meetings; and (2) timely provision of early intervention services to infants and toddlers with disabilities and their families. In the State's March 31, 2007 progress report under the Agreement, as part of the data required under the Agreement, DES/AzEIP must specifically provide:

- (1) Updated correction data for Cycles 1, 2 and 3 (and explanations for any findings not timely corrected);
- (2) Statewide and disaggregated progress data (from counties, including Maricopa County) on the 45-day timeline for both evaluations and the initial IFSP meeting; and
- (3) Monitoring data (through sampling) from all counties on the timely provision of early intervention services.

We appreciate your efforts under the Agreement as Arizona continues to work to improve results for infants and toddlers with disabilities and their families in your State. If you have any questions, please contact Julia Martin at (202) 245-7431.

Sincerely,



Alexa Posny, Ph.D.
Director
Office of Special Education Programs

cc: Molly Dries Bright
Arizona Part C Coordinator