UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable D. Kent King
Commissioner
Missouri Department of Elementary and Secondary Education
P.O. Box 480
Jefferson City, Missouri 65102-0480

OCT 27 2005

Dear Commissioner King:

The purpose of this letter is to respond to the Missouri Department of Elementary and Secondary Education's (DESE's) March 31, 2005 submission of its Federal Fiscal Year (FFY) 2003 Annual Performance Report (APR) under the Individuals with Disabilities Education Act (IDEA) Part C for the grant period July 1, 2003 through June 30, 2004. The APR reflects actual accomplishments that the State made during the reporting period, compared to established objectives. The Office of Special Education Programs (OSEP) has designed the APR under the IDEA to provide uniform reporting from States and result in high-quality information across States. The APR is a significant data source for OSEP in the Continuous Improvement and Focused Monitoring System (CIFMS).

The State's APR should reflect the collection, analysis, and reporting of relevant data, and include specific data-based determinations regarding performance and compliance in each of the cluster areas. This letter responds to the State's FFY 2003 APR and its June 7, 2005 final Progress Report concerning the State's correction of previously-identified areas of noncompliance. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion of OSEP's October 13, 2004 FFY 2002 APR response letter required Missouri to submit an interim Progress Report, by October 31, 2004, addressing the correction of four areas of noncompliance, and a final Progress Report, by June 6, 2005, demonstrating correction of the identified noncompliance by May 7, 2005, related to findings that the State was not: (1) ensuring the correction of identified noncompliance (34 CFR §303.501(b)(1) and (4)); (2) meeting its responsibility under 34 CFR §303.501 to monitor all agencies that provide Part C services for compliance with all Part C requirements; (3) ensuring that all eligible infants and toddlers were identified, located and evaluated (34 CFR §303.321(b)(1)); and (4) ensuring that, within 45 days from referral, evaluations and assessments were completed and initial individualized family service plan (IFSP) meetings held, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a).[1]

[1] The first, third and fourth noncompliance areas were identified in OSEP's March 20, 2003 letter responding to the State's Self-Assessment and the second noncompliance area was identified in OSEP's May 2004 verification letter. OSEP's October 13, 2004 letter accepted the State's Improvement Plan to address each of these four areas.

OSEP's October 2004 letter also required the State to include, in its FFY 2003 APR, data and a determination of compliance or noncompliance regarding whether: (1) the State ensured the assignment of a single service coordinator in compliance with the requirements of 34 CFR §303.23; (2) IFSPs included all services necessary to meet the identified needs of the child and family, as required by 34 CFR §303.344(d); (3) all services identified on IFSPs were provided, as required by 34 CFR §303.340(c); and (4) the State was meeting the transition planning conference requirements of 34 CFR §303.148(b)(2)(i). For each of these areas, if the data showed noncompliance, the State was required to include a plan designed to correct the noncompliance within a reasonable amount of time, not to exceed one year from the date when OSEP accepted the plan.

In addition, OSEP's October 2004 letter required the State, in its FFY 2003 APR, to submit either: (1) data on the percentage of children participating in the Part C program that demonstrated improved and sustained functional abilities in the five developmental areas listed in 34 CFR §303.322(c)(3)(ii) (whether collected through sampling, monitoring, IFSP review, or other methods), targets for improved performance and strategies to achieve those targets for this area; or (2) a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan.

The State submitted a Progress Report on November 1, 2004. In its January 14, 2005 response, OSEP required the State to provide:

1. In its FFY 2003 APR: (a) report on its progress in ensuring that all areas of Part C noncompliance are identified, and that identified noncompliance is corrected within one year of identification; and (b) provide copies of the reports it prepares for any Single Point of Entry (SPOE) that has initial IFSP meetings in excess of the 45-day timeline, and other specific data demonstrating the extent to which the State's standard for "acceptable reasons for exceeding timelines" is consistent with the requirements of Part C; and

2. In its final Progress Report, documentation of the State's compliance with the requirements of 34 CFR §303.501 regarding the identification of noncompliance (for all Part C requirements with all agencies that provide Part C services), and the timely correction of such noncompliance.

General Supervision

<u>Identification and timely correction of noncompliance</u>

As detailed in OSEP's May 2004 verification letter, OSEP found that the State was not meeting its responsibilities to: (1) monitor all agencies that provided Part C services for compliance with all Part C requirements; and (2) ensure the timely correction of identified noncompliance.

Identification of noncompliance: Monitoring all agencies -- On pages 8-13 of its FFY 2003 Part C APR, and pages 1-2 of its June 2005 final Progress Report, DESE described a set of general supervision components, including the State's: (1) new Part C monitoring system and procedures, developed in coordination with the National Center on Special Education

Accountability Monitoring (NCSEAM) (that included monitoring for all agencies that provide Part C services); (2) systems for collecting and reporting data regarding the SPOEs and the Central Finance Office (CFO) data system that processed provider reimbursements; (3) Part C complaint and dispute resolution systems; (4) informal issue system; and (5) quality indicators. DESE explained that it used all of these components as part of its comprehensive system for identifying noncompliance. DESE's monitoring plans and strategies appear reasonably designed to identify noncompliance through a combination of on-site monitoring reviews and other general supervision oversight in each SPOE covering all Part C responsibilities. OSEP appreciates the State's efforts in this area.

Timely correction of State-identified noncompliance – Regarding its efforts to ensure timely correction of State-identified noncompliance, DESE reported on page 11 of its FFY 2003 APR, that its SPOE monitoring activities involving initial and follow-up on-site monitoring visits. DESE stated that it would continue to follow-up on all noncompliance through corrective action plans (CAPs) and, beginning in June 2005 (subsequent to the State's March 31, 2005 APR and June 2005 Progress Report submissions), would address not only SPOE responsibilities, but also compliance requirements for ongoing service coordinators and providers. On page 11, DESE discussed the role of First Steps Regional Consultants who trained and provided technical assistance to all SPOEs, and, on pages 14-15, included SPOE monitoring and CAP charts that tracked important dates in the monitoring process from the initial monitoring review through submitting CAP documentation used to verify that the identified noncompliance had been corrected.

Although DESE's FFY 2003 APR and June 2005 Progress Report contained information confirming that the State has implemented follow-up procedures to verify correction of noncompliance, the data provided did not confirm that identified noncompliance was corrected within one year of the State's identification. Identification may be the date of the monitoring report or other mechanism used by the State to inform its local programs of the noncompliance but does not begin when the State approves its corrective action plans (CAP). In the State Performance Plan (SPP), due December 2, 2005, DESE must provide, in response to Indicator #9, data and analysis demonstrating the correction of State-identified noncompliance within one year of identification. OSEP will review these data and this analysis and respond to DESE at a later date.

Dispute resolution

In Attachment 1 and on page 19 of the FFY 2003 APR, DESE indicated that it received 11 formal Part C administrative complaints, two of which were withdrawn. The remaining nine were completed within the 60-day timeline. The State did not receive any Part C requests for a due process hearing or mediation during the reporting period. On page 19, DESE reported the results of a First Steps Family Survey reflecting that over 93% of parents responding stated that they received information and explanations about their Part C family legal rights and procedural safeguards. OSEP appreciates the work of the State and looks forward to reviewing the State's data in this area in the SPP, due December 2, 2005.

Personnel

On page 21 of the FFY 2003 APR, the State provided data on the number of children receiving early intervention services and the number of providers delivering early intervention services, broken down by type of early intervention services. The State also indicated on page 23 of the FFY 2003 APR that there are regions with provider shortages, particularly rural areas of the State. On page 55 of the FFY 2003 APR, the State reported that, due to delay in completion of the new data system, the ability to enter NPA data ("no provider available") into the database was not available during the FFY 2003 reporting period. Data collection on NPA began in 2004-2005. Guidance on the use of NPA authorizations was distributed, including what was required of service coordinators in the event that no providers were available. Requirements included: (1) continuing to look for providers; and (2) offering compensatory services when a provider was located. Further, consultants were also working on provider recruitment in areas where preliminary NPA data was being reported. Based on the incomplete data, OSEP cannot determine whether there are sufficient personnel to ensure the timely identification, evaluation and provision of services under Part C. To the extent provider availability is impacting the State's ability to ensure timely identification, evaluation and provision of services, those issues are addressed under the discussion regarding IFSPs below in the Early Intervention Services in Natural Environments section of this letter.

Collection and timely reporting of accurate data

On page 26 of the FFY 2003 APR, the State described a set of procedures and efforts, including CFO help-desk technical assistance and support that DESE employed to ensure the accuracy of data entered into the data system at the SPOE level. These data are sent to the CFO on a regular basis, and the CFO sends DESE an updated "super-SPOE" database containing all relevant child and family data, and IFSP information/service authorization data used to aggregate and disaggregate data through queries for Federal reporting purposes. The State also discussed the development and implementation of the State's new web-based SPOE data system, scheduled to be implemented in Summer 2005, that would greatly enhance the Part C program's capability to collect, analyze and report data for program evaluation and monitoring purposes. OSEP appreciates the State's efforts in this area and looks forward to reviewing updated data and information regarding the State's efforts to improve its data collection and reporting and program evaluation and monitoring uses of data collected, reported and analyzed through its new web-based SPOE data system in the SPP, due December 2, 2005.

Comprehensive Public Awareness and Child Find System

OSEP's October 2004 letter required Missouri to submit a final Progress Report, by June 6, 2005, demonstrating correction of noncompliance related to ensuring that all eligible infants and toddlers were identified, located, and evaluated (34 CFR §303.321(b)(1)). Based on the data in the FFY 2003 APR, and the information provided in Missouri's June 2005 Progress Report, OSEP has no additional concerns regarding Missouri's public awareness and child find system.

Pages 28-37 of the APR included child-count data indicating an increase in the percentages of infants and toddlers identified and served in the State's Part C system from December 1, 2002 to

December 1, 2004, for both the birth through two population (from 1.33% in 2002 to 1.56% in December 2004) and the birth to one population (from 0.48% in 2002 to 0.71% in December 2004). On pages 29, 31 and 37 of the FFY 2003 APR, DESE included Part C child count data, reflecting that the State served 1.67% of the birth through two population, disaggregated by SPOE, and by referral source. DESE had First Steps Consultants target SPOEs with the lowest percentage of infants and toddlers served and identify causes for the low child count. In cooperation with the Regional Interagency Coordinating Council (RICC) or Local International Coordinating Council (LICC), a plan for targeted child find activities was developed with referral sources that demonstrated low referral rates. On page 31, DESE reported a large increase in the percentage of referrals from parents and from the "Parents as Teachers" program, as well as an increase in the number of referrals from neonatal intensive care units (NICUs) and hospitals. DESE described interagency initiatives, such as working with the Department of Health and Senior Services (DHSS) and working with the Department of the Mental Health (DMH) to assist with child find. On page 33 of the FFY 2003 APR, DESE described its child find outreach initiatives in the St. Louis County and the Greater St. Louis SPOEs through education of various referral sources at conferences and seminars focusing on children's needs or needs of children with disabilities or developmental delay. The State's June 2005 Progress Report summarized the same child count data and analysis. OSEP appreciates the work of the State regarding these requirements. OSEP looks forward to reviewing the State's data in this area as part of the SPP, due December 2, 2005.

Family Centered Services

On pages 38-41 of the FFY 2003 APR, the State included First Steps Family Survey data that indicated a high rate of family satisfaction, regarding whether: (1) the family's concerns and needs were addressed in the evaluation and IFSP processes; and (2) the information and help received by the family made the family better off. The State also collected data from the First Steps Family Exit Survey that indicated a 95% level of family satisfaction concerning whether the First Steps program helped the family and the child's caregivers increase the family's confidence. Page 40 included information regarding the State's development of IFSP Quality Indicators that emphasized family-centered services by examining the linkages between the families' concerns, priorities and resources and child and family outcomes and services needed by the child and family. OSEP appreciates the State's efforts in this area and looks forward to reviewing the State's plan to collect family outcome data in response to the family outcomes indicator #4 in the SPP, due December 2, 2005.

Early Intervention Services (EIS) in Natural Environments (NE)

Service coordination

OSEP's October 2004 letter stated that OSEP could not determine, from the data and information in the FFY 2002 APR, whether the State was meeting its responsibility to ensure that a service coordinator was provided to each eligible child, as required by 34 CFR §303.23, and required the State, in its FFY 2003 APR, to include data and analysis, along with a determination of compliance or noncompliance in this area.

On page 43 of its FFY 2003 APR, DESE stated that while it had reported in its FFY 2002 that the data system did not show authorizations for service coordination for 25 children, these were found to be data entry omissions, the SPOEs had been contacted to update their service coordinator data as needed, and that there was no indication that there were any children who did not have a service coordinator. OSEP appreciates the State's efforts in this area.

Evaluation and identification of needs

OSEP's March 20, 2003 response to the State's Self-Assessment identified noncompliance with the requirement to complete evaluations and assessments and convene initial IFSP meetings within 45 days of referral, as required by 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a). In its May 2004 letter, OSEP accepted the State's strategies for correcting this noncompliance, and required the State to: (1) ensure correction within one year from the date of that letter; (2) submit an interim Progress Report by October 31, 2004; and (3) provide a final Progress Report by June 6, 2005.

In its January 2005 letter responding to the State's November 2004 Progress Report, OSEP required the State, in its FFY 2003 APR, to provide copies of the reports it prepared for any SPOE that had initial IFSP meetings in excess of the 45-day timeline, and other specific data demonstrating the extent to which the State's standard for "acceptable reasons for exceeding timelines" was consistent with the requirements of Part C, and to include documentation in its final Progress Report, due by June 6, 2005, showing correction of the noncompliance.

On page 50 of its FFY 2003 APR, the State included baseline and trend data regarding the 45-day timeline that indicated continued noncompliance. The State reported that in 2002–2003 44.1% exceeded the 45-day timeline. In 2003-2004, 32.43% exceeded the 45-day timeline. While these data demonstrate improvement statewide, the St. Louis SPOE had an increase of 7.95% (70.39% for FFY 2003 compared to 62.34% in FFY 2002). The State further described the steps it was taking to ensure correction of the noncompliance. DESE noted, on page 51 of the FFY 2003 APR, that it was verifying the accuracy of the reported 45-day timeline data through monitoring reviews, and that the lead agency's consultants were working closely with SPOEs in ensuring compliance. Beginning in the winter of 2005, SPOEs began to report the reasons for exceeding the timelines. On page 51 of the FFY 2003 APR, Missouri reported that 53.5% of the delays were caused by parent/child reasons, with the remaining 46.5% caused due to reasons within the control of the lead agency. The State did not include copies of the reports it prepared for any SPOE that had initial IFSP meetings in excess of the 45-day timeline, as requested by OSEP in its January 2005 letter.

The State included data and information in its June 2005 Progress Report, demonstrating some improvement. On page 3, the State reported that in the past, all SPOEs were in noncompliance with the 45-day timeline, but the most recent data indicated no current findings of noncompliance. However, the State also reported that it uses an "80% compliance" standard to

determine compliance.[2] The State provided the following compliance rates with the 45-day timeline for the period between January 15 and March 15, 2005:

- St. Louis County SPOE 93.38%
- Greater St. Louis SPOE 94%
- NW SPOE 94.87%

Accordingly, given the limited data included in the June Progress Report, and the 80% compliance standard used by the State, OSEP is unable to conclude that Missouri is in compliance with Part C's 45-day timeline requirement at 34 CFR §§303.321(e)(2), 303.322(e)(1), and 303.342(a). In the SPP, Missouri must provide updated correction data regarding the percentage of eligible children who received an initial assessment and evaluation and for whom an initial IFSP meeting was convened within 45 days of referral, broken down by SPOE, covering the time period January 2005 through the most recent data available to Missouri. If the data are available, Missouri must also provide the reasons for delays, broken down by SPOE. OSEP will review those data and determine what additional actions, if any, will be required. In addition, in the SPP, the State must ensure that its targets for compliance indicators are 100%.

Individualized family service plans (IFSPs)

The October 2004 letter required the State to provide in the FFY 2003 APR data as to whether: (1) IFSPs included all services necessary to meet the identified needs of the child and family, as required by 34 CFR §303.344(d); and (2) all services identified on the IFSPs were provided, as required by 34 CFR §303.340(c).

On pages 22–23 and 54 of the FFY 2003 APR, the State reported that the April 2004 First Steps Family Survey included data showing that 96.11% of families surveyed agreed or strongly agreed that their child received all the services listed in their IFSP. However, as indicated in the personnel section of the General Supervision cluster area of this letter, the State reported, on page 23 of the FFY 2003 APR, that extremely rural areas were especially likely to have: (1) very limited availability of providers; (2) a need to recruit providers; and (3) a need to provide compensatory services to children and families affected by these No Provider Available situations. On page 55 of the FFY 2003 APR, the State reported that data from the Quality Indicators will become available during 2005-2006 and will be incorporated into the State's general supervision efforts. OSEP could not determine from the data and information in the APR whether a shortage of personnel resulted in a delay or denial of early intervention services in children's IFSPs. In the SPP, in response to Indicator #1, the State must provide updated data regarding the percentage of eligible children under Part C who receive their early intervention services in a timely manner and include a plan if the data indicate noncompliance.

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[2] OSEP notes that on page 7 of its May 2004 verification letter, OSEP notified the State that its 80% compliance standard was inconsistent with the requirements of 34 CFR §303.501(b)(4), which requires DESE to ensure the correction of all identified noncompliance. The SPP requires 100% compliance as the target for all compliance indicators and the State must revise its targets in the SPP.

Natural environments

On page 56 of the FFY 2003 APR, the State included data from December 1, 2003, indicating that approximately 95% of infants and toddlers received early intervention services in natural environments, and data disaggregated by age and race, showing approximately the same percentage. On pages 57-58, the State reported that justification for services provided outside of the natural environment was monitored in conjunction with the SPOE visits, and natural environments were not the area where problems were identified. One SPOE had a noncompliance finding with regard to natural environments, and this area of noncompliance was being addressed through corrective actions. OSEP appreciates the State's efforts in this area and looks forward to reviewing updated data and information regarding the State's efforts in this area in the SPP, due December 2, 2005.

Early childhood outcomes

Under the Government Performance and Results Act of 1993, 31 U.S.C. 1116, the effectiveness of the IDEA Part C program is measured based on the extent to which children receiving Part C services demonstrate improved and sustained functional abilities in the cognitive, physical, communication, social or emotional and adaptive developmental areas. The Part C FFY 2001, 2002 and 2003 APRs requested data on the percentage of children participating in the Part C program that demonstrate improved and sustained functional abilities in the developmental areas listed in 34 CFR §303.322(c)(3)(ii).

On page 59 of the FFY 2003 APR, DESE stated that Missouri has very restrictive eligibility criteria for First Steps and, therefore, a large percentage of children in the First Steps program are expected to continue to special education under Part B of IDEA. The data show that, for children under three years of age who had an IFSP, the number in the exit category "Completion of IFSP" grew from 38 in 2002-2003 to 129 in 2003-2004. Page 59 also included First Steps Family Survey data from April 2004 that indicated that 97% of parents reported the early intervention services provided pursuant to their family's IFSP had a significant impact on their child's development and that the information and help the family received had made the family better off. Page 60 included family survey data results showing that 94% of families indicated that their IFSP services had a significant impact on their child's development and that 90% of families indicated that First Steps program enhanced their child's participation in family and community activities.

The SPP instructions establish a new early childhood outcomes indicator, for which States must provide a plan in the SPP to submit baseline entry data in the FFY 2005 APR, due February 1, 2007. The State must make a determination as to whether plans currently in place to collect data related to this area will be responsive to those requirements. Absence of this information at that time will be considered in OSEP's annual determination on the status of the State's performance and compliance required under section 616(d) of the IDEA. OSEP looks forward to reviewing the State's plan for collecting these data, in the SPP.

Early Childhood Transition

As noted above, OSEP's October 2004 letter required the State to provide either: (1) updated accurate current data showing that the State was meeting the transition planning conference requirements of 34 CFR §303.148(b)(2)(i); or (2) the State's plan, including strategies, proposed evidence of change, targets, and timelines, for correcting any noncompliance with those requirements within a reasonable period of time, not to exceed one year from the date OSEP accepted the plan.

Pursuant to 34 CFR §303.148(b)(2)(i), the State must, in the case of a child who may be eligible for preschool services under Part B of the Act, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency (LEA) at least 90 days, and at the discretion of the parties, up to 6 months, before the child is eligible for the preschool services, to discuss any services that the child may receive.[3] On page 63 of the FFY 2003 APR, the State reported that data from the Monthly First Steps Family Exit Survey indicated that 86.85% of families either strongly agreed or agreed that "a transition meeting was held six months prior to their child's third birthday so a smooth and effective transition occurred at age three." The State also reported on page 64 of the FFY 2003 APR that transition issues have been identified as a systemic issue and were being addressed through corrective action plans. While these data reflect efforts to improve performance in the transition area, they do not measure compliance with 34 CFR §303.148(b)(2)(i).

With the SPP, due December 2, 2005, the State must submit updated data in response to Indicator #8 regarding compliance with 34 CFR §303.148(b)(2)(i). If the data indicate noncompliance, the State must submit a plan to ensure correction with one year of OSEP's acceptance of the plan.

Conclusion

As noted above, with the SPP, due December 2, 2005, the State must provide:

1. Data and analysis in response to Indicator #9 demonstrating timely correction of State-identified noncompliance within one year of identification under 34 CFR §303.501(b)(4). OSEP will review these data and analysis and respond to DESE at a later date.

2. Updated correction data regarding the percentage of eligible children who received an initial assessment and evaluation and for whom an initial IFSP meeting was convened within 45 days of referral (as required by 34 CFR §§303.321(e)(2), 303.322(e)(1) and 303.342(a)), broken down by Single Point of Entry (SPOE), covering the time period January 2005 through the most recent data available to Missouri. If the data are available, Missouri must also provide the reasons for delays, broken down by SPOE. OSEP will review these data and determine what additional actions will be required. In

[3] Section 637(a)(9)(A)9ii)(II) of the IDEA Amendments of 2004 changed the transition conference timeline from "not more than 6 months" to "not more than 9 months" before the child is eligible for preschool services (i.e., before the child's 3rd birthday).

addition, in the SPP, the State must ensure that its targets for this and other compliance indicators are 100%.

3. Data regarding compliance with the provision of timely Part C services (in Indicator #1), and early childhood transition requirements (in Indicator #8) in 34 CFR §303.148(b)(2)(i). If the data indicate noncompliance, DESE must include a plan, with strategies, proposed evidence of change, targets and timelines, designed to ensure compliance within one year of OSEP's acceptance of the plan.

IDEA 2004, Section 616, requires each State to submit an SPP that measures performance on monitoring priorities and indicators established by the U.S. Department of Education. These priorities and indicators are, for the most part, the same as clusters and probes in the APR. OSEP encourages the State to carefully consider the comments in this letter as it prepares its SPP, due December 2, 2005.

OSEP recognizes that the APR and its related activities represent only a portion of the Part C work in your State, and we look forward to collaborating with you as you continue to improve results for infants and toddlers with disabilities and their families. If you have questions, please contact your OSEP Part C State Contact, Barbara Route, at (202) 245-7510.

Sincerely,

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Deborah U. Parsons