UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Honorable D. Kent King
Commissioner of Education
Missouri Department of Elementary & Secondary Education
205 Jefferson Street, 6th Floor
Jefferson City, MO 65102

NOV 14 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 B 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 Progress Reports submitted on December 7, 2004 and June 27, 2005. OSEP has set out its comments, analysis and determinations by cluster area.

Background

The conclusion of OSEP's January 18, 2005 FFY 2002 APR response letter required the State to include the following in the FFY 2003 APR:

1. With regard its responsibility to monitor to ensure that eligible youth with disabilities incarcerated in local city/county jails receive a free appropriate public education (FAPE), either: (a) documentation that DESE ensured that the 20 districts in which it found noncompliance in 2003-2004 corrected the noncompliance within one year of identification; or (b) its plan for ensuring correction by June 27, 2005.

2. A progress report showing that it had a proper method of identifying and correcting noncompliance in a timely manner, as required by 34 CFR §300.600 and 20 U. S. C. 1232d(b)(3).

3. With regard to the enforcement of corrective actions contained in complaint decisions: (a) an indication of the extent to which DESE was meeting its responsibility to ensure that noncompliance was corrected either within the time period established by DESE, or as soon as possible, but no later than one year from identification; and (b) a target for

correction of identified noncompliance consistent with DESE's responsibility to ensure that all noncompliance that it identifies is corrected within one year from identification.

4. Further data and analysis regarding regional shortages in special education personnel, and the impact of such shortages on the provision of FAPE to eligible children with disabilities.

5. Further analysis of the effectiveness of DESE's data collection procedures.

6. With respect to ensuring that each child found eligible for Part B services has an individualized education program (IEP) or individualized family service plan (IFSP) in effect by the child's third birthday (34 CFR §300.132(b)), either: (a) documentation that it ensured that public agencies corrected all of the identified noncompliance; or (b) the State's plan for ensuring correction.

7. With regard to affording parents the opportunity to provide information that would be used in the evaluation (34 CFR §§300.533-300.535) and ensuring that parents, and children with disabilities when appropriate, are involved in the evaluation and eligibility determination (34 CFR §§300.533(a)(1) and 300.534(a)(1)), either: (a) documentation that it ensured that public agencies corrected all of identified noncompliance; or (b) the State's plan for ensuring correction.

8. The results of its review of policies, procedures and practices used in the identification and placement of children with disabilities to ensure consistency with 34 CFR §300.755, and, if the data demonstrated noncompliance, a plan to ensure correction of the noncompliance.

9. As required by the APR instructions, suspension and expulsion rates for children with disabilities, as compared to nondisabled children or across local educational agencies (LEAs) in the State.

10. A progress report on its plan for correcting the identified noncompliance with respect to State and district-wide assessments, specifically the requirements that: (a) the State make available, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, information on the performance of children with disabilities on statewide assessments (34 CFR §300.139(a)); (b) the State ensures that all children with disabilities participate in statewide assessments and, if the IEP team determines that a child with a disability will not participate in a particular statewide assessment of student achievement (or part of an assessment), the child's IEP includes a statement of why the assessment is not appropriate for the child and how the child will be assessed (34 CFR §§300.138 and 300.347(a)(5)); (c) the State ensures that youth with disabilities in Division of Youth Services (DYS) facilities are included in general State and district-wide assessments (34 CFR §§300.138, 300.139, and 300.347(a)(5)); and (d) the State ensures that children with disabilities are included in districtwide assessments (34 CFR §§300.138, 300.139, and 300.347(a)(5)).

11. With respect to preschool outcomes, documentation of data, targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan.

OSEP's July 1, 2005 FFY 2005 Missouri Part B Grant Award letter imposed Special Conditions on the State's Part B Grant Awards related to compliance with 34 CFR §§300.138, 300.139, and 300.347(a)(5) as they apply to districtwide assessments. In the Special Conditions enclosure to that letter, OSEP included a detailed analysis of the status of the State's efforts to correct that noncompliance, and specified documentation that the State must submit by February 17, 2006 to demonstrate that it corrected that noncompliance. Therefore, OSEP is not addressing that area in this letter.

General Supervision

Other: Youth with disabilities in city and county jails

OSEP's January 2005 letter required the State to submit either: (1) documentation that it ensured that the 20 districts in which it found noncompliance in 2003-2004 regarding its responsibility to monitor to ensure that eligible youth with disabilities incarcerated in local city/county jails receive FAPE corrected the noncompliance within one year of identification; or (2) its plan for ensuring correction by June 27, 2005.

DESE's Interim Progress Report dated November 30, 2004 provided data for monitoring activities conducted during the 2003-2004 school year. Those data indicated that DESE: (1) finalized interview questions regarding this issue and incorporated them into the interview packets for special education administrators and superintendents; (b) piloted the questions during 32 initial on-site reviews; and (c) determined 20 of those districts to be out of compliance. DESE further stated that it would conduct follow-up reviews during 2004-2005 to document correction of the noncompliance. The State also provided additional strategies that DESE would impose for districts demonstrating continued noncompliance.

On page 7 of the FFY 2003 APR, DESE reported that its Compliance staff was processing the follow-up reviews for the 20 districts found out of compliance during the 2003-2004 school year. DESE further reported that districts with on-site reviews continued to be interviewed regarding provision of services to youth with disabilities in city and county jails and that the results of the follow-up reviews would be included in DESE's final report to OSEP by June 27, 2005. Additionally, DESE reported that the special education child count collection was not revised to collect data regarding youth with disabilities held in city/county jails and that the revisions were "determined not to be required at this point since the current collection is based on a point in time and this population has high, mobility. These data will be collected through the Special Education Monitoring Self-Assessment (SEMSA) process."

In its June 27, 2005 Final Report on this issue, DESE reported that it implemented all of the activities needed to ensure that effective monitoring procedures were in place to determine whether a public agency had procedures in place to identify when youth under their jurisdictions were incarcerated in a local city or county jail, and to offer services for those youth. DESE also included a summary of monitoring activities that it implemented or planned to implement to continue to ensure compliance with this area. As part of its 2004-2005 monitoring activities, DESE reported that in the 16 districts in which it conducted on-site reviews and interviews with special education administrators and regular administrators, four districts did not have adequate

procedures in place for identification and/or provision of services to youth with disabilities incarcerated in local city/county jails. DESE reported that all of the four districts submitted corrective action plans assuring that they would have procedures in place within 12 months to ensure that they identify, and offer the provision of services to, students with disabilities under their jurisdiction incarcerated in local city/county jails. With the State Performance Plan (SPP), due December 2, 2005, or within 60 days of the date of this letter, DESE must report on the status of the corrective action plans for the four districts with identified noncompliance.

Identification and timely correction of noncompliance

OSEP's January 2005 letter required the State to provide a progress report showing that it had a proper method of identifying and correcting noncompliance in a timely manner, as required by 34 CFR §300.600 and 20 U. S. C. 1232d(b)(3). On page 5 of the FFY 2003 APR, data showed that, while correction of noncompliance improved from one year ago, not all districts with identified noncompliance were "cleared."[1] The State reported that in 2002-2003, DESE made findings of noncompliance in 94 of 100 public agencies monitored on-site and the noncompliance was cleared in 43 of them at the time of the FFY 2003 APR while 51 agencies still had outstanding noncompliance at the time of the FFY 2003 APR. In 2003-2004, DESE made findings of noncompliance in 106 of the 107 public agencies in which it conducted on-site monitored reviews, and by the time of the FFY 2003 APR, 26 agencies had cleared the noncompliance while 38 agencies had outstanding noncompliance (the State reported that 42 were not yet due at the time of the reporting). Indicator 15 in the SPP, due December 2, 2005, requires States to report on the extent to which they have ensured that LEAs corrected noncompliance identified in 2003-2004 within one year from identification. OSEP will review the data in the SPP, and determine whether the State needs to submit additional data by February 17, 2006.

Formal written complaints

OSEP's January 2005 letter required the State to provide, in a Progress Report within six months of the date of that letter, data and information regarding progress in the enforcement of corrective actions contained in complaint decisions by: (1) indicating the extent to which DESE was meeting its responsibility to ensure that noncompliance was corrected either within the time period established by DESE, or as soon as possible, but no later than one year from identification; and (2) establishing a target for correction of identified noncompliance consistent with DESE's responsibility to ensure that all noncompliance it identifies is corrected within one year from identification.

In Attachment 1 of the APR, the State reported that during the 2003-2004 reporting period, DESE: (1) received 154 complaints (nine of which were not investigated, were withdrawn, or lacked proper jurisdiction); and (2) issued decisions for 145 complaints, 122 of which were within the 60-calendar day timeline and 23 were beyond 60 days but with a documented extension. OSEP looks forward to reviewing the State's data in this area in the SPP.

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[1] The number "not cleared" was the number of districts with noncompliance that was not corrected as of the most recent follow-up review. Districts that received initial reviews during the 2003-2004 school year that were not yet due for follow-up reviews by the date on which the State submitted its FFY 2003 APR were not reflected in the number "not cleared."

On page 13 of the FFY 2003 APR, DESE acknowledged that, "some child complaint corrective actions continue to exceed timelines." On page 14, DESE provided a plan to address this issue, including tracking, technical assistance and, for persistent noncompliance, withholding of funds. OSEP has reviewed and accepts this plan. With the SPP, DESE should continue to report progress toward ensuring that corrective actions resulting from complaint investigations are completed in a timely manner. By 30 days following one year from the date of this letter, the State must submit a Final Report showing that it is ensuring that complaint decisions are implemented in a timely manner and that noncompliance identified in those decisions is corrected in a timely manner, but in no case more than one year from identification.

Mediation

In Attachment 1 of the FFY 2003 APR, the State reported that, during the 2003-2004 reporting period, it received 11 mediation requests related to hearing requests, and six resulted in mediation agreements. OSEP looks forward to reviewing the State's data regarding the percent of mediations that result in mediation agreements, in the SPP.

Due process hearings and reviews

In Attachment 1 of the FFY 2003 APR, the State reported that all 11 due process hearings held during the reporting period resulted in decisions issued within timelines extended under 34 CFR §300.511(c). OSEP looks forward to reviewing the State's data in this area in the SPP.

Personnel

OSEP's January 2005 letter directed the State to submit further data and analysis regarding regional shortages in special education personnel, and the impact of such shortages on the provision of FAPE to eligible children with disabilities. On page 15 of the FFY 2003 APR, the State reported data that indicated increasing numbers of special education personnel statewide, and that student/teacher ratios were reasonable for school age and early childhood special education. On page 16, the State reported that an increase in the number of appropriately certified cross-categorical teaching applicants may be helping to decrease vacancies in specific categorical disability areas. The State reported that the percentage of speech language specialist positions not filled increased from 8.5 percent during 2002-2003 to 25.5 percent during 2003-2004. It is important for the State to monitor to ensure that any vacancies do not result in a denial of services to which children with disabilities are entitled under Part B of IDEA.

Collection and timely reporting of accurate data

OSEP's January 2005 letter required the State to provide further analysis of the effectiveness of DESE's data collection procedures. On page 21 of the FFY 2003 APR, the State indicated that the accuracy of its data collection and reporting was assured through a variety of processes within the Division of Special Education. DESE summarized its methods for facilitating accurate reporting and data verification procedures. DESE reported that it worked with selected districts to assess and validate data collection and reporting methods during Winter 2005, and that it was implementing a student identification system in Spring 2005. DESE reported that as the student

identification system develops over the coming years, it expects to provide student-level data on a statewide basis, at which point it will develop a process of source document reviews to verify that data in the student-level collection is accurate. Additionally, DESE reported that it is in the process of converting the Special Education District Profile to a web-based application, which will result in districts and the public having access to more timely data reports. OSEP looks forward to reviewing the State's data in this area in the SPP.

Early Childhood Transition

OSEP's January 2005 letter required the State to provide either: (1) documentation that DESE ensured that public agencies corrected all of the noncompliance with the requirements of 34 CFR §§300.132(b); or (2) its plan for ensuring such correction, within one year of the date on which OSEP accepted the plan. On page 24 of the FFY 2003 APR, the State provided monitoring data for Part C transition showing that: (1) DESE made findings of noncompliance with the requirement to have an IEP in place by a child's third birthday in five of the 41 public agencies monitored during 2002-2003, and one of those five agencies had outstanding noncompliance after a follow-up review; and (2) DESE made findings of noncompliance with that requirement in seven of the 41 public agencies monitored during 2003-2004, and one of those seven agencies had outstanding noncompliance after a follow-up review. On page 24, DESE reported that, when noncompliance has not been corrected, procedures have been implemented that will result in all noncompliance being corrected or sanction procedures will be implemented. DESE reported that those procedures would be included in the June 2005 report to OSEP. Although the State did not provide that information in its June 2005 Progress Report, but reported in an e-mail message to OSEP dated October 25, 2005 that the two districts with outstanding noncompliance were cleared of the noncompliance by June 30, 2005. OSEP appreciates the State's efforts to ensure compliance with this area and looks forward to reviewing updated data in the SPP.

Parent Involvement

OSEP's January 2005 letter required the State to provide either: (1) documentation that DESE ensured that public agencies corrected the noncompliance with the requirements of 34 CFR §§300.533-300.535; or (2) its plan for ensuring such correction.

On pages 34-36 of the FFY 2003 APR, the State provided data showing that, during the 2003-2004 school year, DESE found that: (1) nine of 101 agencies monitored were in noncompliance with the requirement that the parent be notified of the eligibility staffing, and DESE cleared all but one agency; (2) 18 of 101 agencies monitored were in noncompliance with requirements for the content of the notification related to informing parents that the purpose of the meeting was to determine eligibility, and DESE cleared all but one agency; (3) eight of 102 agencies monitored were in noncompliance with the requirement that the parents be included in the group determining eligibility, and DESE cleared all but one agency; (4) 12 of 101 agencies monitored were in noncompliance with the requirement that the parent be notified of the eligibility staffing when additional assessments were conducted, and DESE cleared all but two agencies; (5) 20 of 103 agencies monitored were in noncompliance with the requirement to inform parents that a purpose of the meeting was evaluation, and DESE cleared all but one agency; (6) 69 of 106 agencies monitored were in noncompliance with the requirement regarding prior written notice, and DESE cleared all but six agencies; (7) 25 of 106 agencies monitored were in noncompliance with the

requirement to inform parents of all purposes of the IEP meeting, and DESE cleared all but one agency; (8) 28 of 106 agencies monitored were in noncompliance with the requirement regarding a statement of how the child's progress on the IEP would be reported to the parent, and DESE cleared all but two agencies; (9) 25 of 106 agencies monitored were in noncompliance with the requirement that the progress report include the progress toward annual goals, and DESE cleared all but one agency; and (10) 35 of 106 agencies monitored were in noncompliance with the requirement for the progress report to address the likelihood of achievement of the annual goals by the end of the year, and DESE cleared all but two agencies.

DESE indicated that, where areas of noncompliance were not cleared, procedures were implemented that would result in all noncompliance being corrected or sanction procedures would be implemented. DESE indicated that it would report the results of these findings in its June 30, 2005 report to OSEP, but that report did not provide documentation that it corrected this noncompliance. In an e-mail to OSEP dated October 25, 2005, the State explained that in the FFY 2003 APR, it reported data for five indicators regarding parental involvement (State Indicators 101100, 101210, 102410, 103600, 103710) and that the findings of noncompliance for 2002-2003 and 2003-2004 represented a total of seven districts.[2] The State reported that all noncompliance in those seven districts was cleared as of June 20, 2005. Additionally, the State provided data for seven additional indicators (that are not requirements of 34 CFR §§300.533-300.535) in the FY 2003 APR that showed outstanding noncompliance in 20 agencies monitored in 2002-2003 and in 12 agencies monitored in 2003-2004. With the SPP, or within 60 days of the date of this letter, the State must provide data and analysis showing that it has ensured correction in the remaining noncompliant districts or describe the sanctions imposed for all of the indicators reported.

Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE)

Disproportionality

OSEP's January 2005 letter directed DESE to include the results of its review of policies, procedures and practices used in the identification and placement of children with disabilities to ensure consistency with 34 CFR §300.755, and, if the data demonstrated noncompliance, a plan to ensure correction of the noncompliance. Data in Attachment 2 of the FFY 2003 APR showed that Black children were 1.22 times more likely than all other children to receive special education and related services. On page 41 of the FY 2003 APR, DESE reported that, while this was not significant disproportionality, overrepresentation of Black children at the district level was part of the district-level analysis for monitoring. DESE further reported that underrepresentation was found for Hispanic, Asian and Native American children, but this underrepresentation was not a focus area, due to the small percentage of both children with disabilities and all children in these racial/ethnic categories in Missouri.

DESE reported that, after reviewing its statewide data, it was clear that the most significant areas of disproportionality were overrepresentation of Black children in special education and in the disability categories of mental retardation (MR), emotional disturbance (ED) and specific learning

[2] There appears to be a discrepancy in the number of districts with noncompliance. OSEP counted eight districts with outstanding noncompliance for 2002-2003 and 2003-2004.

disabilities (LD), in self-contained placements (outside the regular classroom more than 60 percent of the time), and in separate facilities.[3] DESE reported that other areas of disproportionality existed, but were either in racial/ethnic categories that represented less than three percent of Missouri's child population or were in low-incidence disability or placement categories.

On page 42 of the FFY 2003 APR, the State indicated that its effort to address disproportionality fell under two areas: (1) technical assistance; and (2) corrective action. With regard to technical assistance, the State reported that, when special education consultants are working in districts with identified disproportionality, data analysis is required to include examination of the identified disproportionality and the policies, procedures and practices used in the identification and placement of children with disabilities to ensure consistency with the Part B regulations. If the review of data indicates a need for revisions or additional training, DESE will use its State Improvement Grant to provide professional development. Additionally, efforts and effects for those districts (result of review, what revisions, if any were made) would be tracked. On pages 42-43, the State indicated that eight districts with identified disproportionality are currently working with special education consultants and nine districts that were completing SEMSAs during 2004-2005 would be asked to complete the disproportionality survey and return it along with the other SEMSA information. DESE indicated that disproportionality information included in the SEMSAs would be used as a factor in determining which districts would receive an on-site monitoring review. OSEP has reviewed and accepts these strategies and looks forward to reviewing the State's SPP, due December 2, 2005.

With regard to the corrective action taken, the State's monitoring data on page 43 of the FFY 2003 APR showed that two of six districts monitored were found out of compliance and that the noncompliance was being addressed through corrective action plans. The State explained that one of those agencies had an enrollment that was 95% White, and the agency had subsequently closed, so "any significant disproportionality disappeared." The State reported that in the other district, all principals had been trained in various special education topics, including eligibility and that a compliance supervisor is working with the district to address disproportionality issues with them. DESE reported that corrective actions would include reviewing and, if necessary, revising policies and procedures in regards to identification and placement of students with disabilities.

The SPP instructions establish two new indicators in this area (#9 and #10), for which States must provide baseline data in the FFY 2005 APR, due February 1, 2007. The State should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the State's plan for collecting these data, in the SPP.

Graduation and drop-out rates

On page 46 of the FFY 2003 APR, data indicated that graduation rates for students with disabilities decreased from 69.9% in 2003 to 69.8% in 2004, and the gap between graduation rates of students with and without disabilities increased from 14.1% to 15.3%. The State reported monitoring data showing that in 2003-2004, 22 of 82 districts reviewed were not meeting the

[3] "Separate facilities" includes public and private residential facilities, public and private schools for children with disabilities, and home/hospital environments.

performance standards for increasing the percentage of students who graduated with a regular diploma and 23 of 86 districts reviewed were not meeting performance standards for decreasing the percentage of students who dropped out. The State also reported that the drop-out percentage increased for all students from 3.4% to 3.9%, but remained at 5.4% for students with disabilities. On page 48, data showed that the highest percentage of drop-outs were students with LD and ED.[4] DESE indicated that, given the large number of LD drop-outs and the high propensity for students with ED to drop-out, LD and ED drop-outs were areas of review for districts identified for focused monitoring in 2004-2005. DESE stated that districts were required to submit assurance statements regarding implementation of a plan designed to address low performance.

Suspension and expulsion rates

OSEP's January 2005 letter directed the State to include data and analysis required by the APR instructions, regarding suspension and expulsion rates for children with disabilities compared to nondisabled children or across LEAs in the State. On page 52 of the FFY 2003 APR data showed that children with disabilities made up 26.8 percent of overall disciplinary incidents. The data further showed that the highest number of incidents resulting in disciplinary action involved children with ED and LD; however, DESE indicated that these numbers were decreasing over the years. On page 53, data showed that Black children were being disciplined at a disproportionate rate for both children with disabilities and all children. Differences were also seen in the types of removals. For example, White children with disabilities were more likely to receive short-term suspensions, while Black children with disabilities were more likely to receive longer suspensions. On page 54, the data showed that in 2002-2003, DESE monitored 85 districts and found 15 (17.6%) were not meeting performance standards for decreasing the percentage of suspension and expulsion rates for children with disabilities and making them more comparable to those for all students. In 2003-2004, DESE monitored 87 districts and found that 18 (20.7%) were not meeting the performance standards.

On page 56 of the FFY 2003 APR the State indicated that the special education consultants would provide assistance to districts, as needed, and that its effort to address discrepancies in rates of long-term suspension/expulsions fell under two areas: (1) technical assistance; and (2) corrective action. With respect to technical assistance, the State indicated that, when special education consultants worked in districts with identified discrepancies in the area of long-term suspension, data analysis was required to include examination of discipline policies, procedures and practices. DESE indicated that, if the review of data indicated a need for revisions or additional training, it would use State Improvement Grant money to provide professional development. Additionally, efforts and effects (result of review, what revisions, if any were made) would be tracked. As part of the SEMSA, DESE reported that districts with discipline rates for children with disabilities that were twice the rates for children without disabilities will be asked for additional documentation or, if selected for on-site monitoring reviews during 2004-2005, a review of the policies, procedures, and practices will be conducted as part of the review.

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[4] The State explained that the data did not include children served by the Missouri Department of Corrections, DYS, and State-Operated Programs.

The State reported that it would continue on-going monitoring. As part of the on-site reviews for districts with discipline rates for children with disabilities that were twice the rates for children without disabilities, monitoring interviews will address the districts' suspensions/expulsion data and discipline policies and practices. DESE also indicated that corrective actions would include reviewing and, if necessary, revising policies, practices and procedures regarding discipline, as well as mandatory staff training.

OSEP appreciates DESE's response to this issue and looks forward to reviewing updated data regarding the State's progress in the SPP, due December 2, 2005. In preparation for the submission of data for indicator #4 of the SPP, the State should carefully consider its current data collection against the requirements related to this indicator in the SPP packet to ensure that data will be responsive to those requirements.

The SPP instructions establish a new indicator in this area (#4B), for which States must provide baseline data in the FFY 2005 APR, due February 1, 2007. The State should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the State's plan for collecting this data, in the SPP.

Statewide and districtwide assessment

OSEP's January 2005 letter directed DESE to provide a progress report on its plan for correcting the identified noncompliance with regard to statewide and districtwide assessments. On page 61 of the FFY 2003 APR, DESE reported participation rates for children with disabilities, combined, for the Missouri Assessment Program (MAP) and Missouri Assessment Program – Alternate (MAP-A). For math, grades 4, 8 and 10 demonstrated 97.7 percent, 97.1 percent and 95.3 percent participation. For communication arts, grades 3, 7 and 11 demonstrated 97.4 percent, 96.9 percent and 96.6 percent participation.

On pages 58-60 of the FFY 2003 APR, DESE reported performance data for children with and without disabilities on the MAP and MAP-A. In communication arts, the percentages of children with disabilities meeting the State proficiency goal was as follows (the State proficiency goal follows the percent): (1) 8.5 (18.4) (2002); (2) 8.9 (19.4) (2003); and (3) 10.5 (20.4) (2004). For children without disabilities, for the same years, the percentages were as follows: (1) 30.7; (2) 29.7; and (3) 29.9. In math, the percentages of children with disabilities meeting the State proficiency goal in communication arts was as follows (the State proficiency goal follows the percent): (1) 7.3 (8.3) (2002); (2) 8.1 (9.3) (2003); and (3) 9.0 (10.3) (2004). For children without disabilities, for the same years, the percentages were as follows: (1) 21.1; (2) 21.3; and (3) 22.9.

On page 61 of the FFY 2003 APR, DESE reported that it began assigning achievement levels for children with disabilities taking the MAP-A in 2003-2004. Prior to that, each goal addressed in the student's portfolio was rated individually and progress toward each goal was reported. In 2004, the MAP-A was assessed at grades 4, 8 and 11. It was previously assessed at ages 9, 13 and 17. Due to this change, students were not required to participate if they had participated in one of the previous two years. Also, in 2004, the MAP-A was not required for grades 3, 7 and 10. Alternate assessments are being developed that will correspond to all MAP assessments by 2006.

As noted above, issues relating to statewide and districtwide assessment are addressed in Special Conditions attached to Missouri's FFY 2005 Grant Awards under Part B of the IDEA.

By February 17, 2006, the State must submit a Final Report showing that: (1) it makes available, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, information on the performance of children with disabilities on statewide assessments pursuant to 34 CFR §§300.138 and 300.347(a)(5); (2) the State ensures that all children with disabilities participate in statewide assessments and, if the IEP team determines that a child with a disability will not participate in a particular statewide assessment of student achievement (or part of an assessment), the child's IEP includes a statement of why the assessment is not appropriate for the child and how the child will be assessed pursuant to 34 CFR §§300.138, 300.139, and 300.347(a)(5); (3) the State ensures that youth with disabilities in DYS facilities are included in general State and district-wide assessments pursuant to 34 CFR §§300.138, 300.139, and 300.347(a)(5)); and (4) the State ensures that children with disabilities are included in districtwide assessments.

Least restrictive environment

On page 75 of the FY 2003 APR, the State's analysis of its placement data showed that, for the school-aged population, the percentage of children with disabilities placed outside the regular classroom less than 21 percent of the day was increasing, while more restrictive placements were decreasing. The data on page 71 showed that for 2003-2004 the percentage of students educated outside the regular class less than 21 percent of the time in Missouri was 56.75 percent, while the national average was 49.87 percent, and the percentage of students educated outside the regular class more than 60 percent of the time in Missouri was 11.41 percent, while the national average was 18.53 percent. Data on page 74 regarding children with disabilities, aged 3-5, were comparable to national data, with the exception of the part-time early childhood/part-time early childhood special education environment. Those data (7.84 percent) showed that Missouri ranked lower than national average of 16.37 percent. The data showed the national average for itinerant services outside the home categories was 10.4 percent, while Missouri's average was higher at 18.92 percent. DESE set targets for educating children, aged 3-5, in more inclusive settings and noted that, beginning in 2004-2005, corrective actions would require staff to attend LRE training, when appropriate. On page 79 of the FFY 2003 APR, DESE indicated that placement decisions and the use of the least restrictive environment continue to be emphasized in a variety of ways, including through performance calls, focused monitoring reviews, and professional development modules. OSEP appreciates the State's work in this area and looks forward to reviewing updated data in the SPP.

Preschool outcomes

OSEP's January 2005 letter required the State to provide documentation of preschool outcomes data with targets for improved performance and strategies to achieve those targets for this area, or a plan to collect the data, including a detailed timeline of the activities necessary to implement that plan. Under the Government Performance and Results Act of 1993, 31 U.S.C. 1116, the effectiveness of the IDEA section 619 program is being measured based on the extent to which early language/communication, pre-reading, and social-emotional skills of preschool children with disabilities receiving special education and related services are improving. On page 81 of the FFY

2003 APR, the State did not provide OSEP with any new data in response to this performance indicator but reported that data are limited due to sampling methodology of the assessment instrument used prior to and including the 2003-2004 school year. The State indicated that the Fall 2004 results were not available at the time of the FFY 2003 APR and that the administration of this instrument would be expanded in 2004-2005 to include assessment of all children exiting early childhood special education.

The SPP instructions establish a new indicator in this area (# 7), for which States must provide entry data in the FFY 2005 APR, due February 1, 2007. Absence of this information at that time will be considered in OSEP's annual determination of the status of the State's performance and compliance required under §616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the State's plan to collect this data, in the SPP.

Secondary Transition

On pages 84-93 of the FFY 2003 APR, the State provided data on its efforts to collect secondary outcomes data. On page 86, the State reported that six months post-graduation, for 2003 graduates, of all students, 38.7 percent were in a four-year colleges, compared with 12.6 percent of students with disabilities; 26.8 percent of all students were in two-year colleges compared with 23.4 percent of students with disabilities; 3.4 percent of all students were in the military compared with 3.3 percent of students with disabilities; and 19.3 percent of all students were employed compared with 38.2 percent of students with disabilities.

On page 87 of the FFY 2003 APR, the State reported noncompliance data that included districts that did not correct noncompliance as of the most recent follow-up review. Monitoring data showed that for several monitoring indicators in the area of secondary transition, noncompliance persisted in some districts for more than one year. On pages 87-89, the State provided data showing that, during 2003-2004, DESE found that: (1) 30 of 95 agencies monitored were in noncompliance with the requirement regarding a statement of transition service needs (by age 14) addressing anticipated post-secondary goals or career choices and all but three districts corrected the noncompliance as of the most recent follow-up review; (2) 47 of 95 agencies monitored were in noncompliance with requirement for a statement of transition services needs (by age 14), including courses of study and all but seven districts corrected the noncompliance as of the most recent follow-up review; (3) 30 of 81 agencies monitored were in noncompliance with the requirement for a statement of the needed transition services (by age 16), representing a coordinated set of activities, written activities or goals and consideration of students' needs, preferences and interests,[5] and all but five districts corrected the noncompliance as of the most recent follow-up review; and (4) 21 of 96 agencies monitored were in noncompliance with the requirement regarding inviting students to attend IEP meetings if a purpose was the consideration of transition and all but two districts corrected the noncompliance as of the most recent follow-up review. DESE reported that it was implementing corrective procedures to assist districts in

[5] Effective July 1, 2005, §614(d)(1)(A)(i)(VIII) of IDEA 2004 required that *beginning not later than the first IEP to be in effect when the child is 16*, and updated annually thereafter, the IEP contain: (1) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and (2) the transition services (including courses of study) needed to assist the child in reaching those goals.

achieving compliance in this area, or that sanctions would be imposed if necessary. DESE also reported that secondary transition has been identified as a systemic issue and was selected as a priority area for improvement planning and focused monitoring efforts.

The SPP instructions establish two new indicators in this area (#13 and #14), for which States must provide baseline data in the FFY 2005 APR, due February 1, 2007 (#13) and in the FFY 2006 APR due February 1, 2008 (#14). The State should carefully review the instructions to the SPP in developing its plans for this collection. OSEP looks forward to reviewing the State's plan for collecting this data, in the SPP. With the SPP, DESE should include monitoring data demonstrating that identified noncompliance with transition requirements are corrected within one year of identification.

Conclusion

With the SPP, due December 2, 2005, or within 60 days of the date of this letter, DESE must:

1. Report on the status of the corrective action plans for the four districts with noncompliance with respect to the provision of services to youth with disabilities incarcerated in local city/county jails.

2. As required by Indicator 15 in the SPP, report on the extent to which it has ensured that LEAs corrected noncompliance identified in 2003-2004 within one year from identification. OSEP will review the data in the SPP, and determine whether the State needs to submit additional data by February 17, 2006.

3. Continue to report progress toward ensuring that corrective actions resulting from complaint investigations are completed in a timely manner. By 30 days following one year from the date of this letter, the State must submit a Final Report showing that it is ensuring that complaint decisions are implemented in a timely manner and that noncompliance identified in those decisions is corrected in a timely manner, but in no case more than one year from identification.

4. Provide data and analysis showing that it ensured correction in the noncompliant agencies regarding parent involvement or describe the sanctions imposed.

By February 17, 2006, DESE must submit a final report, demonstrating full compliance with the following requirements:

1. 34 CFR §300.300. FAPE is provided to eligible children with disabilities, in spite of regional shortages in special education personnel.

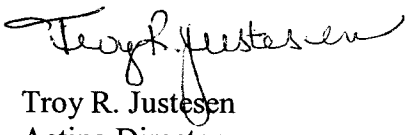
2. 34 CFR §§300.138, 300.139, 300.347(a)(5): (a) it makes available, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, information on the performance of children with disabilities on statewide assessments pursuant to 34 CFR §§300.138 and 300.347(a)(5); (b) the State ensures that all children with disabilities participate in statewide assessments and, if the IEP team determines that a child with a disability will not participate in a particular

statewide assessment of student achievement (or part of an assessment), the child's IEP includes a statement of why the assessment is not appropriate for the child and how the child will be assessed pursuant to 34 CFR §§300.138, 300.139, and 300.347(a)(5); (c) the State ensures that youth with disabilities in DYS facilities are included in general State and district-wide assessments pursuant to 34 CFR §§300.138, 300.139, and 300.347(a)(5)); and (d) the State ensures that children with disabilities are included in districtwide assessments.

IDEA 2004, §616, requires each State to submit a State Performance Plan (SPP) that measures performance on monitoring priorities and indicators established by the Department. 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 work in your State and looks forward to collaborating with you as you continue to improve results for children and youth with disabilities and their families. If you have questions, please contact Angela McCaskill at (202) 245-7435.

Sincerely,



Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Melodie Friedebach