UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

NOV 16 2006

Honorable Linda McCulloch
Superintendent of Public Instruction
Montana Office of Public Instruction
1227 11th Ave.
Helena, MT 59620-2501

Dear Superintendent McCulloch:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP) recent verification visit to Montana. As indicated in my letter to you of April 26, 2006, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under, Part B of the Individuals with Disabilities Education Act (IDEA). We conducted our visit to Montana during the week of September 11, 2006.

The purpose of our verification reviews of States is to determine how States use their general supervision, State-reported data collection, and statewide assessment systems to assess and improve State performance, and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

As part of the verification visit to the Montana Office of Public Instruction (OPI), OSEP staff met with you, Robert Runkel, Director of Special Education within OPI, and OPI staff members who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); (2) the collection and analysis of State-reported data; and (3) ensuring participation in, and the reporting of student performance on, statewide assessments. Prior to and during the visit, OSEP staff reviewed a number of documents, including the following: (1) the Montana Annual Performance Plan (APR) for FFY 2002, submitted to OSEP in March 2004; (2) the Montana APR for FFY 2003, submitted in March 2005; (3) the Montana State Performance Plan (SPP), submitted to OSEP in December 2005; (4) the Montana eligibility document submissions under Part B of IDEA for FFYs 2002 through 2005; (5) national special education data related to Montana's rankings for educational environments, dropout rates, and graduation rates; (6) the OPI complaint management log for 2005-2006 from which random files were selected for on-site review; (7) the OPI due process hearing log for 2005-2006 from which random files were selected for on-site review; (8) the 2005-2006 on-site monitoring logs from which

random files were selected for on-site review; (9) training and technical assistance information; (10) data and other information from the OPI website; and (11) other pertinent data sources.[1] Additionally, OSEP conducted a conference call on September 1, 2006, with members of Montana's Special Education Advisory Panel to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection, and statewide assessment.

Your presentation, and the information that Bob Runkel and his staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of the OPI systems for general supervision, data collection and reporting, and statewide assessment. Bob Runkel and his staff were fully engaged and readily available throughout the duration of the visit.

General Supervision

In reviewing the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (2) has identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State's ability to identify and correct noncompliance; (3) utilizes guidance, technical assistance, follow-up, and -- if necessary -- sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

Based on the information provided to OSEP during the verification visit, it appears that the State's general supervision system is reasonably designed to ensure the identification and timely correction of noncompliance. However, without collecting data at the local level, OSEP cannot determine whether the State's procedures are fully effective in identifying and correcting noncompliance. As stated in OSEP's February 27, 2006 letter in response to Montana's SPP, the State must report data in the General Supervision indicator of the APR due February 1, 2007 regarding correction of noncompliance for nonpriority areas.

Montana has implemented a structured, comprehensive, and integrated general supervision system that consists of the following components: local educational agency (LEA) policy and procedure review, compliance monitoring, focused intervention, due process/mediation/complaints, fiscal monitoring, and interagency agreements. When reviewing each LEA annual application, OPI reviews LEA policies and procedures for

[1] Documents reviewed as part of the verification process were not reviewed for legal sufficiency, but rather to inform OSEP's understanding of your State's systems.

consistency with State and Federal laws and regulations. The purpose of the compliance monitoring is to ensure that LEAs are implementing special education and related services in accordance with State and Federal regulations. Through its focused intervention system, OPI annually analyzes outcome and placement data to determine which districts will receive more directed assistance from the Division of Special Education staff, and then develops and implements strategies to improve student educational outcomes. The Legal Division of the OPI manages due process hearing requests, mediations, complaints, and resolutions, and maintains a tracking system to ensure that required timelines are met. OPI analyzes the data to determine if there are statewide issues that need to be addressed through provision of personnel training and technical assistance activities. OPI reported that the Divisions of Special Education and School Finance work collaboratively to ensure accurate accounting of IDEA Part B funds and that LEAs' expenditures are made in accordance with their project budgets. OPI implements procedures for those LEAs that are determined to be 'high risk' recipients of funds. Actions may include the withholding of funds and/or the provision of funds on a reimbursement basis. Finally, OPI has Interagency Agreements with other State agencies that provide educational services to children with disabilities to ensure the provision of FAPE. These agreements define the roles and responsibilities of the agencies, the financial responsibility for the provision of services, conditions and terms of reimbursements, and dispute resolution procedures.

The general supervision system is implemented collaboratively across the Special Education, Legal Services and School Finance Divisions. Cross-divisional meetings are held for staff to discuss issues and strategies for interventions that relate to findings through any of the above components of the general supervision system. As appropriate, other divisions such as Indian Education for All, Educational Opportunity and Equity and Accreditation meet collaboratively to review and assess LEAs and develop improvement planning strategies in order to coordinate efforts and resources.

OPI has reviewed its general supervision system to ensure that it is effective in implementing Part B requirements. OPI took actions to ensure that corrective actions imposed on LEAs could be corrected within the one-year time line. Compliance monitoring documents (i.e., record review form, students with unique concerns form) were revised to reflect the changes made as a result of IDEA 2004. OPI reorganized and now employs a full-time monitoring unit manager to oversee compliance monitoring and focused intervention. The pool of part-time "seasonal" personnel was expanded to assist OPI with both compliance monitoring and focused intervention activities. OPI also provided additional training activities for LEAs on IDEA 2004 requirements and expectations for documenting compliance.

Montana is developing an integrated, comprehensive general supervision system, called E-Grants. When fully functional, Montana expects that E-Grants will tie together Federal and State requirements, grant resources, fiscal management, and program improvement into one electronic system. It will allow LEAs to apply for

their Federal funds electronically. The system will include an improvement planning tool that incorporates Federal program performance indicators. LEAs will be able to view their own data to see whether they have met the State's performance target for particular indicators and to identify strategies and activities it will implement to address performance areas which have not met the State's target. LEAs will be able to update their improvement plans on an annual basis. The E-Grants system will also include a link to each LEA's special education policies and procedures.

Monitoring

OPI monitors LEAs on a five-year compliance monitoring cycle. Compliance monitoring is conducted through an on-site record review. OPI uses a case study method to evaluate whether the LEA is implementing special education policies and procedures consistent with the requirements under IDEA and State laws and rules. Prior to the on-site visit, the LEA is asked to complete a "unique concerns form." The "unique concerns form" helps identify children with disabilities in focus areas, such as transition from Part C to Part B, discipline, graduation, or extended school year. OPI attempts to select at least two records from every special education teacher in the LEA within these focus areas. OPI interviews teachers, related service providers, and administrators to clarify and verify information collected during the records review.

The number of staff and length of visit varies depending on the size of the LEA. OPI staff meets after the visit to review the data and identify systemic issues that will become the substance of a written report. When OPI identifies a specific instance of noncompliance that pertains to an individual student, it issues a confidential memorandum that directs the LEA to correct the noncompliance immediately.

When systemic noncompliance is identified through compliance monitoring, OPI staff develops a Corrective Action Plan (CAP) that becomes part of the written monitoring report that is sent to the district. The CAP establishes timelines, actions required to address the identified noncompliance, and evidence that needs to be provided to OPI to demonstrate the noncompliance has been corrected within one year of identification. In all cases, a CAP requires a response from the LEA or program to document changes in policy and/or procedure within a clearly defined timeframe. OSEP found through its review of OPI's monitoring log and a sample of monitoring files that corrective actions were completed within one year from the time noncompliance was identified.

The second component of Montana's monitoring system is focused intervention. It is the method Montana uses for selecting LEAs for participation in activities aimed at improving outcomes for all students. OPI uses five indicators to assess LEA data related to improving education results and functional outcomes for all students with disabilities. The five indicators are special education identification rate, graduation rate, dropout rate, educational environment data, and suspension/expulsion rates. Based on these performance indicators, LEAs identified for intervention work closely with the OPI staff to determine what factors contributed to low performance on an outcome measure,

develop and implement strategies to address the low performance, and/or revise the LEA's 5-year Comprehensive Education Plan for improvement.

OPI maintains an electronic tracking system which tracks the dates of on-site monitoring, prescribed corrective action plans, and timelines imposed for correction of the noncompliance. OPI monitors and reports on timeliness. Monitoring team leaders assist LEAs to meet their obligations in a timely manner. Technical assistance is provided in a variety of ways and, is specific to the needs of the LEA. Technical assistance may include any or all of the following: provision of training to LEA staff by the OPI; follow-up on-site visits; telephone conferencing; and provision of guidance documents. In the unusual event that an LEA would refuse to implement required corrective actions, OPI would impose sanctions as permitted by its Administrative Rule 10.16.3121, which include denying the LEA, in whole or in part, Part B Federal funds, recommending to the State Board a change in accreditation status, or recommending that the State Board withhold State funds.

The OPI monitoring unit tracks three sets of information related to measuring the degree of noncompliance identified in each LEA throughout Montana: 1) the number of findings of noncompliance identified in individual student records for each Federal and State regulation monitored; 2) the number and type of complaints lodged with the legal unit; and 3) the composite score of five factors examined through focused intervention. The monitoring unit analyzes each of these data sets to identify and categorize systemic concerns, e.g., issues with evaluations or individualized education programs (IEP), and identifies trends within the categories. The Special Education Advisory Panel reviews this information and advises the monitoring unit on improvement activities, such as policy revisions or training, that are likely to resolve the concerns.

Complaint Management System

Montana operates a broad-based dispute resolution system for families of children with disabilities to access, which includes the complaint management system, operated within OPI, used to investigate and resolve formal complaints concerning individual and systemic violations of Part B requirements. This system tracks timelines for investigation and the timely issuance of reports. OSEP reviewed the four formal complaints that were filed with OPI in 2005 through 2006. OSEP was able to verify that the timelines for resolution of complaints were consistent with applicable provisions under 34 CFR §300.661.[2] OPI also implements an Early Assistance program that is effective in informally resolving issues before they become a formal complaint.

[2] At the time of the verification visit, the regulation in effect governing timelines for state complaints was 34 CFR §300.661. The regulation now in effect governing timelines for State complaints is found at 34 CFR §300.152.

Due Process Complaints

OPI uses a tracking system for assigning hearing officers and tracking timelines for resolution of due process hearing requests. OSEP reviewed the four formal due process hearing complaints that were filed with OPI in 2005 through 2006. OSEP verified that the timelines for resolution of due process hearings were consistent with applicable provisions under 34 CFR §300.511[3].

Collection of Data Under Section 618 of the IDEA

In reviewing the State's system for data collection and reporting under section 618 of the IDEA, OSEP collected information regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local and/or regional level do so accurately and in a manner that is consistent with the State's procedures, OSEP guidance, and section 618; (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) has addressed barriers to the implementation of procedures for data collection and reporting data under section 618 of the IDEA.

Section 618 data are currently collected through a web-based application. Approximately 96 percent of data reported in each data collection are reported through the web-based applications. Public school districts and schools, special education cooperatives, State-funded schools and residential treatment facilities log onto the application entering their data directly into the system. The data is transmitted directly to OPI and stored on-site in OPI's computers.

Part B Child Count, Personnel, Placement, Exiting, and Discipline Data are collected through several web-based applications. Although the applications are separate, OPI employs consistent data entry screens and file layouts across applications to assist users in acquiring familiarity with the applications. In addition, instruction manuals and training videos provide detailed information on how to use the applications and data definitions/criteria regarding the data that should be reported. OPI ensures that knowledgeable individuals are readily available to answer questions or help with problems that may arise in the data reporting process. These individuals have good working relationships with the LEAs in the State and are utilized frequently.

OPI ensures that data are valid by adopting the Federal definitions of data elements requested. Reporting entities are informed of the data definitions through training videos, official e-mails, and the instruction manuals and encouraged to report only data

[3] At the time of the verification visit, the regulation in effect governing timelines for due process hearings was 34 CFR §300.511. The regulation now in effect governing timelines for due process hearings is found at 34 CFR §300.515.

that meet the definitions. Further, a list of frequently asked questions and answers that provides additional information regarding which data should be submitted is available through resource lists, the OPI's Knowledge Database on the web, and in the instruction manual. Reporting agencies are notified as soon as possible when there is a change in a Federal definition, and the changes are highlighted in the instruction manual.

In order to ensure accuracy of the data submitted to OPI, the user is presented with fields that are prefilled. For example, within the Child Count application, each reporting agency is provided with a list of students from the prior year's Child Count, along with their reported educational placement, minus any students who exited. The list is updated by adding new students, removing students no longer in special education, and editing existing student records for accuracy. This method provides more consistent age, race, setting code and disability code reporting because it is not necessary for the reporting agency to enter a record already in the system. In addition, the software does not permit the user to submit certain incomplete data or data that contains mathematical errors.

As soon as the application closes, validation of the data begins. Reporting entities with missing or invalid data are contacted and errors are corrected. In all applications, manual checks of the data are conducted to detect anomalies such as blank fields and inconsistency between data elements (e.g., age and grade or age and placement data). Further, OPI uses the year-to-year change reports to compare data across multiple years to identify trends or to identify data that may be inaccurate. The use of trend data allows OPI to check the consistency of the data reported across multiple years and to work with reporting entities in resolving problems with the data. If data indicate a problem or an anomaly, OPI contacts the reporting agency to help resolve the issue.

After it has been validated, OPI submits the data to the Department via EDEN. Montana is one of a few States that have been cleared to submit 618 data through EDEN. OPI reported that it received an award in May 2006 for its work.

Currently, OPI uses 618 data to conduct trend analyses in assessing the State's performance in relation to the targets set in its State Performance Plan (SPP) and to report the results of that analysis in the State's Annual Performance Report. OPI also uses 618 data across multiple years in selecting LEAs for Focused Intervention, as described above. The results of the analysis of the 618 data, monitoring, due process/mediation and other data collected by OPI are used by OPI in collaboration with its Special Education Advisory Panel and Comprehensive State Personnel Development Council to develop strategies for improving student outcomes.

OPI is in the process of upgrading its data collection system. Montana has contracted with a vendor to develop a fully integrated student-level database system. This system will assign a unique student identifier to each student and will be used throughout the

State for reporting student information. The system will be fully integrated to include a school discipline component and a special education record system. The special education record system will have an electronic individualized education program (IEP) along with other forms and reports that are needed for the management of special education student records. LEAs will be required to use the IEP system and it is anticipated that by the 2008-09 school year, every student with an IEP will be in the system. Since data will be pulled directly from the student's IEP with this new system, and because it is an integrated student information system, OPI anticipates that the accuracy of 618 data will increase.

In OSEP's February 27, 2006 letter regarding Montana's SPP, OSEP found that the State had not provided data required under Indicators 1, 2, and 12. In the State's SPP, Montana indicated that it was developing an updated information management system that would be operational during the 2008 -2009 school year and would be unable to provide the required data until that time. As stated in OSEP's February 27, 2006 letter regarding Montana's SPP, the State must include both baseline data from FFY 2005 (July 1, 2004 through June 30, 2005) and progress data from FFY 2005 (July 1, 2005 through June 30, 2006) for indicators 1, 2, and 12 in its FFY 2005 APR for FFY. In addition, as stated in OSEP's February 27, 2006 letter, the State must include revised targets that address the accuracy of data in Indicator 20 of its FFY 2005 APR due February 1, 2007.

Accordingly, although OPI is taking steps to improve its data collection systems, OSEP cannot determine the effectiveness of the State's procedures to ensure the accuracy of State-reported data under IDEA section 618.

Statewide Assessment

In reviewing the State's system for statewide assessment, OSEP collected information regarding a number of elements, including whether the State: (1) establishes procedures for statewide assessment that meet the participation, alternate assessment, and reporting requirements of Part B, including ensuring the participation of all students, including students with disabilities, and the provision of appropriate accommodations; (2) provides clear guidance and training to public agencies regarding those procedures and requirements; (3) monitors local implementation of those procedures and requirements; and (4) reports on the performance of children with disabilities on those assessments, in a manner consistent with those requirements. In order to better understand Montana's system for statewide assessment, your staff described for OSEP how the alternate assessment is aligned with grade-appropriate content standards.

OSEP has determined, through its review of the State's written procedures for statewide assessments and the State's reports to the public and the Secretary on the participation and performance of children with disabilities on such assessments, that those procedures, and those reports are consistent with Part B requirements. OSEP

cannot, however, without also collecting data at the local level, determine whether all public agencies in the State implement the State's procedures in a manner that is consistent with Part B.

The Montana Comprehensive Assessment System (MontCAS) consists of two parts. The Iowa Tests of Basic Skills and the Iowa Test of Educational Development are norm-referenced tests (NRT) used to test students in grades 4, 8, and 11 in language arts, reading, math, social studies, and science. The Criterion-Referenced Test (CRT) is the second part of the MontCAS. It is aligned with State standards and is given in grades 3 through 8 and 10 in reading and math. The CRT is relatively new, and used to report for No Child Left Behind (NCLB) and calculate Adequate Yearly Progress.

MontCAS does not permit parents to waive the statewide assessment for their children. All students enrolled in Montana Board of Education accredited schools are required to participate in MontCAS. IEP teams determine whether a student needs any accommodations, and the assessments are administered according to accommodations in the IEP.

Both the CRT and the NRT have alternative formats for students with disabilities who cannot take the regular statewide assessments, with or without accommodations or modifications. The CRT-Alt is an evidenced-based instrument that has a performance-based structure for rating student performance. The level of expected skill sets is not the same as the standard CRT although it is aligned with State standards. The NRT-Alt is based on a rating scale obtained through teachers' observations. The NRT-Alt measures the same content areas as the State standards.

OPI provides extensive guidance and training for administering the MontCAS. A test coordinator is designated for each LEA. The test coordinator training includes information on participation options, eligibility for alternate assessments, test administration with accommodations, and alternate test administration. Training is also provided to directors of special education and special education and general education teachers.

Additional training and technical assistance is provided for the Alternate Assessment Scales. Documents with specific information are referenced in training and are online. A PowerPoint training CD was sent to all LEAs and schools for test coordinator training and for test coordinators to use in their training of test administrators. OPI also provides an online assessment newsletter and staff that are available by phone for consultation.

IEP teams are responsible for individually determining whether children participate in all or portions of the regular statewide assessment (with or without accommodations), as well as determining if an alternate assessment is appropriate for individual students with disabilities. Compliance with the requirements for statewide assessment

procedures is verified through record reviews in OPI's cyclical compliance monitoring. In addition, OPI monitors participation rates by comparing test participation to enrollment numbers. LEAs are required to submit enrollment numbers by subgroup, including students with disabilities, to OPI.

OPI reports aggregated and disaggregated test results for students with disabilities on both the CRT and NRT with the same frequency and with the same detail as it reports on the assessment of nondisabled students as required by section 612(a)(16)(D) of IDEA. This information can be found on OPI's website. Individual student performance, including performance of students with disabilities taking the alternate assessment, is reported to parents through the LEAs.

Conclusion

We appreciate the cooperation and assistance provided by your staff during our visit. We were especially impressed with the coordination and cooperation between various offices and programs within OPI that seemed to be a reflection of the hard work and skill demonstrated by Mr. Runkel and his staff. We look forward to collaborating with Montana as you continue to work to improve results for children with disabilities and their families.

Sincerely,

Patricia J. Guard for

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

cc: Bob Runkel
Director of Special Education