UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Ms. Linda McCulloch
Superintendent of Public Instruction
Montana Office of Public Instruction
1227 11th Avenue
Helena, Montana 59620-2501

AUG -9 2005

Dear Superintendent McCulloch:

The purpose of this letter is to respond to Montana's March 28, 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. OSEP listed its comments by cluster area.

General Supervision

Identification and timely correction of noncompliance

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 1-5 of the FFY 2003 APR, the State provided data and analysis demonstrating that its system for maintaining general supervision over local educational agencies (LEAs) was effective in identifying and correcting noncompliance in a timely manner. The Montana Office of Public Instruction (OPI) indicated on page 5 of the APR, that it met all of its performance targets for the 2003-2004 school year. OPI reported on page 4, that it conducted 40 LEA, State-operated, and residential facility program monitoring reviews during 2003-2004. Corrective actions were issued for 25 of these programs because of identified noncompliance. OPI reported that analysis of data showed that corrective actions were completed 100 percent of the time within specific timelines. OPI also reported that it had begun Phase I of a Focused Intervention process, designed to analyze LEA performance based data related to performance indicators. OPI indicated that a review of data from due process hearings, mediations, and formal complaints for the past five years showed that all required timelines were met 100 percent of the time. OPI included strategies designed to maintain its performance in this area.

On pages 6-10 of the FFY 2003 APR, OPI identified systemic issues and remediation of those issues through analysis of its monitoring data, due process hearings, and complaints. Through a review of its compliance monitoring, OPI identified the complete documentation of a review of existing evaluation data and individualized education program (IEP) content as the two most significant systemic issues (page 7). OPI reported that it used this information to provide direct technical assistance to LEAs and guide its training to LEAs. The State has included strategies and benchmarks designed to ensure performance and compliance. OPI included strategies designed to maintain its performance in this area.

Dispute resolution – formal complaints, mediation, and due process hearings and reviews

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 11-12 of the FFY 2003 APR, OPI provided data indicating that complaint investigations, mediations, and due process hearings were completed in a timely manner. In school year 2003-2004, the State reported three formal written complaints submitted and three due process hearing requests. As noted above, OPI reported that it met its target of completing all complaint investigations, mediations, and due process hearings within required timelines 100 percent of the time (page 11). The State included strategies designed to maintain compliance in this area.

Personnel

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 13-19 of the FFY 2003 APR, OPI reported the status of obtaining and retaining sufficient special education personnel to meet the needs of children with disabilities in Montana. OPI provided a detailed analysis of its vacancy needs and the ease/difficulty that LEAs had in filling those positions. Consistent with the FFY 2002 APR, OPI concluded on page 15 that, "the baseline data shows that Montana continues to experience a large turnover in special education teachers and special education paraprofessionals that cannot be solely attributed to retirements." OPI reported that the largest number of personnel vacancies were for special education teachers (36 percent of all vacancies) and paraprofessionals (36 percent of all vacancies). In spite of the difficulty in recruiting and retaining qualified personnel, OPI indicated that LEAs continued to provide special education and related services to children with disabilities using qualified personnel through, for example, private contracts and a variety of teaching strategies." The State included strategies for each job title to address Montana's personnel needs.

Collection and timely reporting of accurate data

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 20-21 of the FFY 2003 APR, OPI reported that it has met timelines for reporting its section 618 data to OSEP 100 percent of the time over the past three years. OPI indicated that all special education data collections were available to reporting entities on-line through electronic web-based applications, including suspension/expulsion data that were submitted electronically for the first time in 2003-2004. OSEP looks forward to reviewing Montana's data in this area in the SPP.

Early Childhood Transition

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 22-24 of the FFY 2003 APR, OPI provided data and information collected through its Child Find system. The State included analysis of data from the monitoring of its LEAs over that past four years that demonstrated compliance, with only one exception, in this area (page 23). OPI also included a State goal to obtain better data by sharing child count data between Part C and Part B. OSEP will review Montana's data and analysis in achieving this goal in the SPP.

Parent Involvement

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 25-27 of the FFY 2003 APR, the State provided data and information indicating that parents of children with disabilities were effectively involved in special education programs for their children. On page 25, OPI reported a variety of efforts to ensure the involvement of parents, including Parents, Let's Unite for Kids (PLUK), collaboration with the parent training information (PTI) center, an Early Assistance Program to provide informal dispute resolution, and the employment, in some districts, of home school coordinators to facilitate communication between parents and the LEAs. The State included strategies and benchmarks designed to maintain performance and compliance in this area. OSEP looks forward to reviewing Montana's data in this area in the SPP.

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

Disproportionality

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 28-50 of the FFY 2003 APR, Montana reported and analyzed the data regarding the race/ethnicity of children with disabilities in various educational environments and disability categories relative to the State's general school enrollment. In addition, OPI analyzed trend data at the LEA level regarding the disproportionate identification or placement of children with disabilities. Through the analysis of its data, OPI concluded that Montana's risk ratios were below designated cut-offs. OPI indicated, on page 49, that any LEAs identified with significant disproportionality would participate in its Focused Intervention activities because of their "high risk" designation. OSEP looks forward to reviewing Montana's data in this area in the SPP.

Graduation and drop-out rates

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 51-67 of the FFY 2003 APR, Montana reported data and analysis of graduation and drop-out data for children with disabilities relative to the State's general school population. OPI was able to compare graduation and drop-out rates for the 2002-2003 school years. OPI concluded on page 55 of the APR that the graduation rates for students with disabilities for the 2003-2004 school year

continued to be slightly lower (6.8 percent) than the graduation rate for students without disabilities. On page 61, OPI concluded that the drop-out rate for students with disabilities remained the same as the previous year at 3.9 percent. OPI noted some problems with different collection times and definitional problems that could cause problems making comparisons between the general and special education population. OPI noted a goal toward improving its data collection system, as well as strategies for improving its graduation and drop-out rates. OSEP looks forward to reviewing Montana's data in this area in the SPP.

Suspension and expulsion

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 68-72 of the FFY 2003 APR, OPI reported its data on suspensions and expulsions of children with disabilities. OPI reported that its system for collecting this data was in its third year and that it was now able to make comparisons using the 2002-2003 school year as the base year. On page 70, OPI indicated that suspensions for more than ten days in a school year and expulsions for both children with and without disabilities decreased. For the 2003-2004 school year OPI reported, on page 70, that the unduplicated count of children with disabilities suspended for more than ten days in a school year, or expelled, was 8 percent for children with disabilities, compared to 20.22 percent to children without disabilities. OPI presented a plan to maintain its performance in this area.

Statewide and districtwide assessments

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 73-77 of the FFY 2003 APR, OPI reported on the participation and performance of children with disabilities on Montana's large-scale assessment system, including its alternate assessment. OPI reported that the 2003-2004 school year was the first year that data was available for Montana's large-scale assessment. Although an analysis of trends was not possible because OPI had results for only one year, OPI concluded on page 76 that there remained a large gap between the performance of children with and without disabilities. Also on page 76, OPI reported that an analysis of enrollment and participation data during the testing window indicated no significant discrepancies for either the regular assessment or the alternate. OPI presented goals to improve the performance of children with disabilities. OSEP looks forward to reviewing Montana's data in this area in the SPP.

Least restrictive environment

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 78-81 of the FFY 2003 APR, Montana reported on its progress in educating students with disabilities in the least restrictive environment. OPI reported on page 79, that nearly 88 percent of all children with disabilities were educated with nondisabled peers for 40 percent or more of their school day. It also reported on page 79, that of the 40 entities monitored during the 2003-2004 school year, none were cited for noncompliance in the this area. OPI provided strategies to maintain its

performance in this area. OSEP looks forward to reviewing the resulting data and its analysis in the SPP.

Preschool performance outcomes

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 82-83 of the FFY 2003 APR, OPI reported that it was not able to provide data in this area because it was a new data collection requirement. OPI reported that it met its targets by beginning work on how the data might be collected, how to implement the procedures, and what data collection methods would be the most effective. The SPP instructions establish a new indicator in this area, for which States must provide baseline data in the FFY 2005 APR due February 1, 2007. Failure to provide that information at that time will have consequences for OSEP's annual determination on the status of the State's performance and compliance required under section 616(d) of the IDEA. The State should carefully review the instructions to the SPP in developing its plans for this collection.

Secondary Transition

OSEP did not identify noncompliance in this area in the FFY 2002 APR. On pages 84-88 of the FFY 2003 APR, Montana reported on the progress of its goal for students with disabilities to make successful school to adult transitions. OPI reported on the activities that have been initiated around secondary transition and reported monitoring data from LEAs. OPI's analysis of that data on page 85, demonstrated that LEAs were "substantially in compliance" with Part B transition requirements and the State made significant progress in its preparation of students with disabilities for secondary transition. The State included strategies and benchmarks designed to maintain compliance and progress in this area. OSEP looks forward to reviewing Montana's data in this area in the SPP.

Conclusion

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 will be, for the most part, similar to 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 Dr. Ken Kienas at (202) 245-7621.

Sincerely,

Troy R. Justesen
Acting Director
Office of Special Education Programs

cc: Mr. Robert Runkel