

April 17, 2012

Melody Musgrove, Ed.D, Director
Office of Special Education Programs
U.S. Department of Education
Potomac Center Plaza
Mail Stop 2600 Room 4129
550 12th Street SW
Washington, DC 20202

Dear Dr. Musgrove,

This letter is in response to the U.S. Department of Education's Office of Special Education Programs (OSEP) January 24, 2012 letter informing the Kansas Department of Health and Environment (KDHE) of the results from the August, 2011 Part C verification visit. In that letter OSEP identifies ten issues of noncompliance to be addressed in order to meet the requirements of Part C of the Individuals with Disabilities Education Act (IDEA).

The following provides information and assurances to address the issues outlined in the "Required Action/Next Steps outlined in the Kansas Part C 2011 Verification Letter – Enclosure". This response is organized by critical elements within the following sections of that enclosure, General Supervision, Data System and Fiscal System. Required documents are listed first and all assurances listed together at the end of this letter.

I. General Supervision System

Critical element 1: Identification of Noncompliance

- Enclosed with this letter KDHE provides a copy of its revised monitoring and procedures that reflects that written findings of noncompliance are generally issued less than three months from when noncompliance with a Part C requirement is identified and that all appropriate sources of information, including record reviews and audit findings, are used to identify noncompliance with the Part C requirements.
- Enclosed with this letter KDHE provides documentation from all findings issued for four months from September 2011 through December 2011 to demonstrate that the State has timely identified noncompliance based on all sources of information available to KDHE.

Critical element 2: Correction of Noncompliance

- Enclosed with this letter KDHE provides a copy of its revised monitoring procedures which indicate that when noncompliance is identified, the State verifies correction of noncompliance by obtaining updated/subsequent data that reflect 100% compliance in the succeeding time period to ensure that the early intervention services (EIS) program and/or provider is implementing the specific regulatory requirement.

Critical element 3: Dispute Resolution

- Enclosed with this letter KDHE provides OSEP with a signed copy of its MOA with the Kansas Department of Administrative Hearings that makes clear that hearing officers are available and trained to conduct due process hearings under Part C of IDEA.

Critical element 4: Improved Results and Functional Outcomes: No Action Required.

Critical element 5: Implementation of Grant Assurances

- KDHE submitted an assurance with the State's FFY 2012 grant application, stating its FFY 2010 local determinations were made based on all required factors, including:
 - Performance on compliance indicators
 - Whether data submitted by EIS programs are valid, reliable, and timely
 - Uncorrected noncompliance from other sources, and
 - Any audit findings
- KDHE submitted with its FFY 2012 grant application its methods under IDEA sections 637(a)(2) and 640 to ensure financial responsibility for the provision of Part C services.

II. Data System

Critical Element 1: Valid and Reliable Data

- KDHE confirms that its data for Indicators 8b and 8c in its FFY 2010 APR are valid and reliable and not based solely on the implementation of procedures. KDHE further confirms that the data system meets the requirements of IDEA sections 616, 618, 635(a)(14), and 642 and 34 CFR § 303.540.

Critical Element 2: Data Reflect Actual Practice and Performance: No Further Action Required

Critical Element 3: Integrate Data to Inform Improvement: No Further Action Required.

III. Fiscal System:

Critical Element 1: Timely Obligation and Liquidation of Funds: No Further Action Required

Critical Element 2: Allowable Use of IDEA Funds at the State Level

- Enclosed with this letter KDHE submits to OSEP its written policies and procedures used to document time and effort at the State level (including PARs and bi-annual payroll certifications) to ensure compliance with OMB Circular A-87, Appendix B, Paragraphs 8(h) (3) and (4).
- KDHE submits to OSEP, with its revised monitoring procedures, its written policies and procedures used to resolve audit findings in local EIS programs.

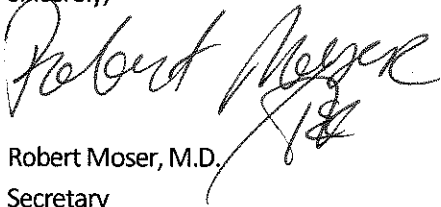
The Kansas Department of Health and Environment provides the documentation listed above and hereby assures that:

1. Written findings of noncompliance will be issued less than three months from when KDHE identifies noncompliance with a Part C requirement and all appropriate sources of information, including record reviews and audit issues, will be utilized to identify issues of noncompliance with the Part C requirements.

2. When noncompliance is identified, the State verifies correction of noncompliance by obtaining updated/subsequent data that reflect 100% compliance in the succeeding review time period to ensure that the EIS program or provider is implementing the specific regulatory requirement.
3. With the FFY 2011 APR due February 1, 2013, the State will include documentation from all findings issued for four months from September 2011 through December 2011 to demonstrate that the State has verified that each EIS program or provider is correctly implementing the specific regulatory requirements based on a review of updated data and that such updated/subsequent data reflect 100% compliance within a one year time period from the original finding.
4. KDHE will issue written decisions of findings of fact, as required by the State complaint procedures in 34 CFR §303.512.
5. With the FFY 2011 APR due February 1, 2013, KDHE will submit any documentation regarding any written complaints it receives during FFY 2011 and the resolution of those complaints, including a copy of the written decisions.
6. KDHE follows current dispute resolution policies and procedures, notwithstanding KAR 28-4-569, such that any party who wishes to request mediation may do so by submitting the request directly to KDHE at the State level and that such procedures are reflected in the State's prior written notice provided to parents under 34 CFR §303.403. Further, KDHE is in the process of amending KAR 28-4-569 to be in compliance.
7. KDHE has implemented the written policies and procedures to document time and effort at the State Level compliant with OMB Circular A-87, Appendix B, Paragraphs 8(h)(3) and (4).
8. KDHE has resolved the audit finding for the local EIS program in the audit report provided to OSEP on-site.

Thank you for the opportunity to clarify the issues raised as part of the verification visit in August, 2011. If you have further questions, please contact, Sarah Walters, Part C Coordinator- Kansas Infant Toddler Services at 785.296.2245 or swalters@kdheks.gov.

Sincerely,



Robert Moser, M.D.
Secretary

RM:SW

Enclosures

cc: Hillary Tabor, OSEP
Alma Mc Pherson, OSEP