



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
OFFICE OF SPECIAL EDUCATION PROGRAMS

DIRECTOR

**May 21, 2024**

By Email

Honorable Charlie Brereton  
Director  
Montana Department of Public Health and Human Services  
111 North Sanders, Room 301  
P.O. Box 4210  
Helena, Montana 59604  
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Dear Director Brereton:

The purpose of this letter is to provide an update on the status of the findings and corrective actions identified by the U.S. Department of Education's (the Department's) Office of Special Education Programs (OSEP) reported in the Differentiated Monitoring and Support (DMS) monitoring report to the Montana Department of Public Health and Human Services (DPHHS) on January 24, 2023.

Based upon OSEP's analysis of the revised fiscal policies and procedures and evidence submitted by DPHHS on January 24 and March 1, 2024, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP's January 24, 2023, monitoring report. The chart, included in this letter, summarizes the monitoring priorities and outcomes, OSEP's analysis, and status of finding(s) based on the evidence received from DPHHS.

OSEP appreciates the State's continued efforts to improve the implementation of IDEA Part C and the development and implementation of a reasonably designed general supervision system which ensures compliance and improving results for infants and toddlers with disabilities. OSEP notes that having a consistent and transparent system for identifying and correcting noncompliance, particularly noncompliance that impacts the delivery of early intervention services in accordance with individualized family service plans, and dispute resolutions systems that protect the rights of parents, are essential elements to ensuring improved results for infants and toddlers with disabilities. If you have any questions, please contact your OSEP State Lead, Vinetta Freeman at [vinetta.freeman@ed.gov](mailto:vinetta.freeman@ed.gov).

Sincerely,

Valerie C. Williams

cc: Part C Coordinator

## SUMMARY OF MONITORING PRIORITIES AND OUTCOMES

MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/ REQUIRED ACTIONS/STATUS
<b>Monitoring and Improvement</b> 1.1 OSEP finds that DPHSS does not have a system reasonably designed to monitor its early intervention services (EIS) providers to ensure compliance with IDEA Part C requirements, such as timely service provision to ensure there are no waitlists for services, as required under IDEA 34 C.F.R. §§ 303.120(a) and 303.700.	<b>Policies and Procedures</b> —within 90 days of the date of the DMS monitoring report the State must submit to OSEP:  Updated policies and procedures documenting its process for monitoring its EIS providers on key IDEA Part C requirements such as ensuring timely individualized family service plan (IFSP) service provision requirements based on a review of child records and all other relevant available data (once the State has resolved its data finding below). These policies must reflect that all services (not just service coordination) that are identified on the IFSP must be timely initiated and provided.	On June 26, 2023, the State submitted to OSEP updated policies and procedures documenting its process for monitoring its EIS providers on key IDEA Part C requirements such as ensuring timely IFSP service provision requirements based on a review of child records and all other relevant available data.  Based upon analysis of the State submitted evidence, OSEP has determined that the State has taken the necessary steps to address and resolve the policy and procedure required corrective action outlined in OSEP’s January 24, 2023, monitoring report. The State submitted documents include information on the steps the State takes to validate data, delineates the monitoring process of SPP/APR indicators versus the comprehensive monitoring process, and lists priority indicators that cover essential IDEA Part C requirements, including timely IFSP service.  No further action needed at this time.	<b>CLOSED</b>
	<b>Evidence of Implementation</b> —as soon as possible, but no later than one year from the date of the DMS monitoring report:  The State lead agency (LA) must submit evidence that all five EIS providers were monitored for IDEA Part C requirements, including timely service provision and, if a finding was issued, a copy of the monitoring report which	On January 24 and March 6, 2024, the State submitted evidence to OSEP demonstrating that all five EIS providers were monitored for IDEA Part C requirements, including timely service provision and, if a finding was issued, a copy of the monitoring report which identified the findings of noncompliance with IDEA Part C requirements, and included the one-year timeline for correction.	<b>CLOSED</b>

MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/ REQUIRED ACTIONS/STATUS
	identifies the findings of noncompliance with IDEA Part C requirements, and include the one-year timeline for correction.	Based upon analysis of the State submitted evidence, OSEP has determined that the State monitoring tools are reasonably designed to ensure compliance with IDEA Part C requirements. Specifically, the State submitted evidence demonstrated how the State is able to document reviews of sample files on various components, such as multidisciplinary evaluation, timely provision of services, dispute resolution, and outline the patterns, trends, and non-compliance findings identified during monitoring reviews.  No further action needed at this time.	
<b>Data</b> 1.2 OSEP finds that DPHSS does not have a system reasonably designed to collect valid and reliable data as needed to report annually to the Secretary under 34 C.F.R § 303.702(b)(2) on three of the indicators established by the Secretary for the State performance plans, as required under IDEA 34 C.F.R. §§ 303.124, 303.224, and 303.701(c).	<b>Policies and Procedures</b> —within 90 days of the date of the DMS monitoring report the State must submit to OSEP:  The procedures the State uses to verify the SPP/APR data for Indicators C-1, C-2 and C-7 that are submitted by its EIS providers to the LA as required under IDEA sections 616 and 618 (as modified by IDEA section 642) and 34 C.F.R. §§ 303.124, 303.224, 303.701(c), and 303.720 through 303.724.	On June 26, 2023, the State submitted to OSEP the procedures the State uses to verify the SPP/APR data for Indicators C-1, C-2 and C-7 that are submitted by its EIS providers to the LA as required under IDEA sections 616 and 618 (as modified by IDEA section 642) and 34 C.F.R. §§ 303.124, 303.224, 303.701(c), and 303.720 through 303.724.  Based on OSEP’s review of the State submitted documents, OSEP has determined that the State has taken the necessary steps to address and resolve the policy and procedure required corrective action outlined in OSEP’s January 24, 2023, monitoring report. The documents include information on the State’s methodology for selecting, reviewing, and validating data from its data system. Moreover, the State’s evidence included an outline of the data validation process for SPP/APR Indicators C-1, C-2, and C-7.	<b>CLOSED</b>

MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/ REQUIRED ACTIONS/STATUS
		No further action needed at this time.	
	<p><b>Evidence of Implementation</b>—as soon as possible, but no later than one year from the date of the DMS monitoring report:</p> <p>The State will provide with its Federal fiscal year (FFY) 2022 SPP/APR an explanation of how its data for Indicators C-1, C-2, and C-7 are valid and reliable and reflect the measurement. The explanation should include a discussion of the methodology used by the State to verify the validity and reliability of the data for C-1 (the percentage of infants and toddlers with IFSPs who receive all EIS on their IFSPs in a timely manner); C-2 (the percentage of infants and toddlers with IFSPs who primarily receive early intervention services in the home or community-based settings); and C-7 (the percentage of infants and toddlers with IFSPs for whom an evaluation and initial assessment and an initial IFSP meeting were conducted within Part C’s 45-day timeline).</p>	<p>On January 24, 2024, the State provided to OSEP with its FFY 2022 SPP/APR, an explanation of how its data for Indicators C-1, C-2, and C-7 are valid and reliable and reflect the measurement. The explanation included a discussion of the methodology used by the State to verify the validity and reliability of the data for C-1, C-2, and C-7.</p> <p>Additionally, the State provided evidence for each indicator, pulled after the State’s monitoring visits, indicating that the EIS providers’ sample data demonstrated 100 percent compliance.</p> <p>No further action needed at this time.</p>	<b>CLOSED</b>
<p><b>Fiscal</b></p> <p>3.1 OSEP finds that DPHSS does not have a general supervision system reasonably designed to monitor its EIS providers to ensure fiscal compliance</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <p>Revised fiscal monitoring policies and procedures to ensure that the LA has a system in place to identify and verify the correction of noncompliance (such as</p>	<p>On January 24, 2024, the State submitted to OSEP revised fiscal monitoring policies and procedures to ensure that the LA has a system in place to identify and verify the correction of noncompliance (such as coordination of all available funding sources and payor of last resort) as soon as possible and in no case later than one year after the LA's notification of the</p>	<b>CLOSED</b>

MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/ REQUIRED ACTIONS/STATUS
<p>with IDEA Part C, as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b). Specifically, the DPHSS monitoring system is not reasonably designed to identify and verify correction of fiscal noncompliance.</p>	<p>coordination of all available funding sources and payor of last resort) as soon as possible and in no case later than one year after the LA's notification of the noncompliance as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b).</p>	<p>noncompliance as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b).</p> <p>The State updated their fiscal monitoring policies and procedures, to include a list of the policies used in fiscal monitoring and the fiscal requirement(s) each document covers. The three policies provided to OSEP cover different aspects of fiscal oversight of the EIS providers' use of IDEA Part C funds.</p> <p>No further action needed at this time.</p>	
	<p><b>Evidence of Implementation</b>—as soon as possible, but no later than one year from the date of the DMS monitoring report, the State must submit to OSEP:</p> <p>Evidence of the State's implementation of its fiscal monitoring policies and procedures such as, notification letters, monitoring reports, letters of findings, examples of fiscal finding close-out and verification of correction, or other supporting documentation demonstrating oversight of the State's fiscal monitoring as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b).</p>	<p>On January 24, 2024, the State provided to OSEP evidence of the State's implementation of its fiscal monitoring policies and procedures such as, notification letters, monitoring reports, letters of findings, examples of fiscal finding close-out and verification of correction, or other supporting documentation demonstrating oversight of the State's fiscal monitoring as required under 34 C.F.R. §§ 303.120(a)(1) and (2) and 303.700(a) and (b).</p> <p>The State submitted evidence demonstrated that the State conducts fiscal monitoring and oversight of the EIS providers system of payments.</p> <p>No further action needed at this time.</p>	<b>CLOSED</b>
<p><b>Fiscal</b></p> <p>3.2 OSEP finds that DPHHS has failed to monitor its EIS providers for compliance as required under</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <p>Revised fiscal monitoring policies that demonstrate how the LA will provide</p>	<p>On June 26, 2023, the State submitted to OSEP revised fiscal monitoring policies that demonstrate how the LA will provide oversight of the State's system of payments as required under 34 C.F.R. §§ 303.120(a), 303.520, and</p>	<b>CLOSED</b>

MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/ REQUIRED ACTIONS/STATUS
<p>34 C.F.R. § 303.120(a) for the statewide system of payments policy requirements in 34 C.F.R. §§ 303.520 and 303.521.</p>	<p>oversight of the State’s system of payments as required under 34 C.F.R. §§ 303.120(a), 303.520, and 303.521.</p>	<p>303.521.</p> <p>Based upon analysis of the State’s revised fiscal monitoring policies, OSEP has determined that the State has taken the necessary steps to address and resolve the policy and procedure required corrective action outlined in OSEP’s January 24, 2023, monitoring report. The State’s policy outlines how the State will monitor the use of public benefits and private insurance, query and review data related to payor sources, and review documentation demonstrating how consideration is given to funding sources.</p> <p>No further action needed at this time.</p>	
	<p><b>Evidence of Implementation</b>—as soon as possible, but no later than one year from the date of the DMS monitoring report:</p> <p>Evidence of the State’s system of payments practices such as, the process for evaluating the payor source, evidence of training to EIS providers, access to insurance, interim payments, or other supporting documentation demonstrating oversight of the State’s system of payments as required under 34 C.F.R. §§ 303.120(a), 303.520, and 303.521. In addition, the State must provide evidence that families have been provided a copy of the State’s system of payments policy and have consented, as appropriate, for the use of public and/or private insurance.</p>	<p>On January 24 and March 6, 2024, the State submitted to OSEP evidence of the State’s system of payments practices such as, the process for evaluating the payor source, evidence of training to EIS providers, access to insurance, interim payments, or other supporting documentation demonstrating oversight of the State’s system of payments as required under 34 C.F.R. §§ 303.120(a), 303.520, and 303.521. In addition, the State must provide evidence that families have been provided a copy of the State’s system of payments policy and have consented, as appropriate, for the use of public and/or private insurance.</p> <p>The State submitted documents demonstrated that the State conducts fiscal monitoring, uses monitoring tools reasonably designed to identify noncompliance, and issues findings as</p>	<p><b>CLOSED</b></p>

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		<p>applicable. Specifically, the monitoring documents include nine indicators (e.g., Coordination of resources, Payor of last resort, consent to billing private insurance, etc.) used to review children’s records to ensure compliance with IDEA Part C.</p> <p>No further action needed at this time.</p>	
<p><b>Fiscal</b></p> <p>3.3 OSEP finds that DPHHS does not have procedures and practices that are reasonably designed to ensure the appropriate use of IDEA Part C funds as required under 34 C.F.R. §§ 303.120(a) and 303.205, and the OMB Uniform Guidance in 2 C.F.R. Part 200.</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <p>Revised fiscal monitoring policies and procedures that demonstrate how the LA will provide oversight of the EIS providers use of IDEA Part C funds (including internal controls) as required under 34 C.F.R. §§ 303.120(a) and 303.205, and the OMB Uniform Guidance in 2 C.F.R. Part 200.</p>	<p>On January 24, 2024, the State submitted to OSEP revised fiscal monitoring policies and procedures that demonstrate how the LA will provide oversight of the EIS providers use of IDEA Part C funds (including internal controls) as required under 34 C.F.R. §§ 303.120(a) and 303.205, and the OMB Uniform Guidance in 2 C.F.R. Part 200.</p> <p>The State updated their fiscal monitoring policies and procedures, to include a list of the policies used in fiscal monitoring and the fiscal requirement(s) each document covers. The three policies cover different aspects of fiscal oversight of the EIS providers' use of IDEA Part C funds. Additionally, the State has updated and added the applicable citations from IDEA Part C and OMB Uniform Guidance in 2 C.F.R. Part 200 to their State fiscal monitoring policies.</p> <p>No further action needed at this time.</p>	<b>CLOSED</b>
	<p><b>Evidence of Implementation</b>—as soon as possible, but no later than one year from the date of the DMS monitoring report:</p>	<p>On January 24, 2024, the State submitted to OSEP evidence of the State’s monitoring of its EIS providers use of IDEA Part C funds such as, fiscal monitoring reports, and local EIS provider budgets, and fiscal data system</p>	<b>CLOSED</b>

MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/ REQUIRED ACTIONS/STATUS
	Evidence of the State’s monitoring of its EIS providers use of IDEA Part C funds such as, fiscal monitoring reports, and local EIS provider budgets, and fiscal data system procedures/screenshots, demonstrating the system’s capacity for oversight of Federal IDEA Part C funds.	procedures/screenshots, demonstrating the system’s capacity for oversight of Federal IDEA Part C funds.  The State submitted documentation, demonstrate that the State’s updated processes are reasonably designed to provide oversight for oversight of Federal IDEA Part C funds.  No further action needed at this time.	
<b>Dispute Resolution</b> 4.1 OSEP finds that Montana Milestones’ State complaint policies and procedures are inconsistent with 34 C.F.R. § 303.434(a). Specifically, publicly available documents indicate that families must engage in an informal process prior to filing a formal State complaint.	<b>Policies and Procedures</b> —within 90 days of the date of the DMS monitoring report the State must submit to OSEP: 1. For State complaints: a. Revised procedural safeguards documents to ensure compliance with Part C requirements regarding complaints, under 34 C.F.R. § 303.434(a); b. A copy of the memo sent to all EIS providers explaining the revised complaint procedures; and c. A training schedule for its EIS providers on implementing the revised Montana Milestones complaint procedures.	On June 26, 2023, the State submitted to OSEP for State complaints, revised procedural safeguards documents to ensure compliance with Part C requirements regarding complaints, under 34 C.F.R. § 303.434(a); a copy of the memo sent to all EIS providers explaining the revised complaint procedures; and a training schedule for its EIS providers on implementing the revised Montana Milestones complaint procedures.  Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s January 24, 2023, monitoring report.  No further action needed at this time.	<b>CLOSED</b>
<b>Dispute Resolution</b> 4.2 OSEP finds that the State does not maintain a list of trained mediators as required	<b>Policies and Procedures</b> —within 90 days of the date of the DMS monitoring report the State must submit to OSEP: 1. For qualified mediators:	On June 26, 2023, the State submitted to OSEP for qualified mediators, policies and procedures that detail the State’s training activities and assurance that their mediators are knowledgeable on the Part C IDEA regulations relating to the provision of early intervention	<b>CLOSED</b>

MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/ REQUIRED ACTIONS/STATUS
under 34 C.F.R. § 303.431(a)(2).	<ul style="list-style-type: none"> <li>a. Policies and procedures that detail the State’s training activities and assurance that their mediators are knowledgeable on the Part C IDEA regulations relating to the provision of early intervention services; and</li> <li>b. A list of individuals who are qualified mediators in the State and available on a random, rotational, or other impartial basis.</li> </ul>	<p>services; and a list of individuals who are qualified mediators in the State and available on a random, rotational, or other impartial basis.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s January 24, 2023, monitoring report.</p> <p>No further action needed at this time.</p>	
<p><b>Dispute Resolution</b></p> <p>4.3 OSEP finds that the State does not ensure hearing officers possess knowledge of IDEA Part C consistent with 34 C.F.R. § 303.435(a).</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of the DMS monitoring report the State must submit to OSEP:</p> <ul style="list-style-type: none"> <li>1. For hearing officers: <ul style="list-style-type: none"> <li>a. Policies and procedures that demonstrate that the State trains its hearing officers on IDEA Part C requirements and the early intervention services available to infants and toddlers with disabilities and their families; and</li> <li>b. Policies and procedures that demonstrate that the State ensures its hearing officers listen to the presentation of relevant viewpoints about the due process complaint, will examine all information relevant to the issues, will seek to reach a timely resolution of due process</li> </ul> </li> </ul>	<p>On June 26, 2023, the State submitted to OSEP for hearing officers, policies and procedures that demonstrate that the State trains its hearing officers on IDEA Part C requirements and the early intervention services available to infants and toddlers with disabilities and their families; and policies and procedures that demonstrate that the State ensures its hearing officers listen to the presentation of relevant viewpoints about the due process complaint, will examine all information relevant to the issues, will seek to reach a timely resolution of due process complaints and provide a record of the proceedings, including a written decision to the LA and parties involved in the due process hearing.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective</p>	<b>CLOSED</b>

MONITORING COMPONENT & FINDING	REQUIRED ACTIONS	OSEP ANALYSIS AND COMMENTS	NEXT STEPS/ REQUIRED ACTIONS/STATUS
	complaints and provide a record of the proceedings, including a written decision to the LA and parties involved in the due process hearing.	actions outlined in OSEP's January 24, 2023, monitoring report.  No further action needed at this time.	