



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

September 14, 2001

Honorable Vito A. Gagliardi, Sr.
Commissioner
New Jersey State Department of Education
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P.O. Box 500
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Honorable Christine Grant
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Dear Commissioner Gagliardi and Secretary Grant:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in New Jersey during the weeks of February 14, 2000 and September 25, 2000 for the purpose of assessing compliance in the implementation of the Individuals with Disabilities Education Act (IDEA) and assisting New Jersey in developing strategies to improve results for children with disabilities. OSEP also conducted a follow-up visit during the week of June 4, 2001 to specifically assess the State's compliance with the Special Conditions placed on NJSDE's FFY 1999 and FFY 2000 Part B grant awards. As a result of the follow-up visit OSEP determined that Special Conditions were no longer needed and did not impose Special Conditions on the FFY 2001 Part B grant award.

The IDEA Amendments of 1997 focus on "access to services" as well as "improving results for infants, toddlers, children and youth with disabilities." In the same way, OSEP's Continuous Improvement Monitoring Process is designed to focus Federal, State and local resources on improved results for children with disabilities and their families through a working partnership among OSEP, the New Jersey State Department of Education (NJSDE), the New Jersey Department of Health and Senior Services (NJDHSS) and parents and advocates in New Jersey. In conducting its review of New Jersey, OSEP applied the standards set forth in the IDEA 97 statute and in the Part C regulations (34 CFR Part 303) and Part B regulations (34 CFR Part 300).

A critical aspect of the Continuous Improvement Monitoring Process is collaboration between Steering Committees of broad-based constituencies, including representatives from NJSDE, NJDHSS and OSEP. The Steering Committees assessed the effectiveness of State systems in ensuring improved results for children with disabilities and protection of individual rights. In addition, the Steering Committees will be designing and coordinating implementation of concrete steps for improvement. Please see the Introduction to the Report for a more detailed description of this process in New Jersey, including representation on the Steering Committees.

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

OSEP's review placed a strong emphasis on those areas that are most closely associated with positive results for children with disabilities. In this review, OSEP clustered the Part B (services for children aged 3 through 21) requirements into four major areas: Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment, Secondary Transition and General Supervision. Part C (services for children aged birth through 2) requirements were clustered into five major areas: Child Find and Public Awareness, Family-Centered Systems of Services, Early Intervention Services in Natural Environments, Early Childhood Transition, and General Supervision. Components were identified by OSEP for each major area as a basis to review the State's performance through examination of State and local indicators.

The enclosed Report addresses strengths noted in New Jersey, areas that require corrective action because they represent noncompliance with the requirements of the IDEA, and technical assistance regarding improvement for best practice. Enclosed you will find an Executive Summary of the Report, an Introduction including background information, and a description of issues and findings.

The NJSDE and the NJDHSS have indicated that this Report will be shared with members of the Steering Committee, the State Interagency Coordinating Council, the State Advisory Panel, and members of the public. OSEP will work with your Steering Committees to develop corrective actions and improvement strategies to ensure improved results for children with disabilities.

Thank you for the assistance and cooperation provided by your staffs during our review. Throughout the course of the review, Ms. Barbara Gantwerk and Ms. Terry Harrison were responsive to OSEP's requests for information. They each provided access to necessary documentation that enabled OSEP staff to work in partnership with the Steering Committee to better understand New Jersey's systems for implementing the IDEA. An extraordinary effort was made by State staff to arrange the public input process during the Validation Planning week and, as a result of their efforts, OSEP obtained information from a large number of parents (including underrepresented groups), advocates, service providers, school and agency personnel, school and agency administrators, and special education unit administrators.

Thank you for your continued efforts toward the goal of achieving better results for infants, toddlers, children and youth with disabilities in New Jersey. Since the enactment of the IDEA and its predecessor, the Education of All Handicapped Children Act, one of the basic goals of the law, ensuring that children with disabilities are not excluded from school, has largely been achieved. Today, families can have a positive vision for their child's future.

While schools and agencies have made great progress, significant challenges remain. Now that children with disabilities are receiving services, the critical issue is to place greater emphasis on attaining better results. To that end, we look forward to working with you in partnership to continue to improve the lives of individuals with disabilities.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Barbara Gantwerk
Terry Harrison

OSEP Monitoring Report - New Jersey

EXECUTIVE SUMMARY

The attached Report contains the results of the first two steps (Validation Planning and Validation Data Collection) in the Office of Special Education Program's (OSEP) Continuous Improvement Monitoring of the Individuals with Disabilities Education Act (IDEA), Parts C and B, in the State of New Jersey during the weeks of February 14, 2000 and September 25, 2000. The process is designed to focus resources on improving results for infants, toddlers, children and youth with disabilities and their families through enhanced partnerships between the State agencies, OSEP, parents and advocates. The Validation Planning phase of the monitoring process included the completion of Self-Assessments by Part C and Part B, a series of public input meetings with guided discussions around core areas of IDEA, and the organization of two Steering Committees, one for Part C and another for Part B, that provided further comments on the status of implementation of IDEA. As part of the public input process, OSEP and the State made particular efforts to hold the public input meetings at locations and times when all stakeholders could attend. The Validation Data Collection phase included interviews with parents, students, agency administrators, local program and school administrators, service providers, teachers and service coordinators and reviews of children's records. Information obtained from these data sources was shared in one meeting conducted with the New Jersey Department of Health and Senior Services (DHSS) (Part C), and the New Jersey Department of Education (NJSDE) (Part B), representatives from the two Steering Committees, Part C regional staff, local superintendents, and advocates.

The report contains a detailed description of the process utilized to determine strengths, areas of noncompliance with IDEA, and suggestions for improved results in each of the core IDEA areas.

Early Intervention Services for Infants and Toddlers with Disabilities: Part C of IDEA

Strengths

OSEP observed the following strengths:

- Leadership of DHSS
- Regional Early Intervention Collaboratives
- Comprehensive System of Personnel Development
- Natural Environments Systems Change
- Special Child Health Services Registry
- Newborn Hearing Screening
- Autism Registry and Research
- Coordination of Child Find with Social Security Administration
- DHSS supports Family Initiatives

- Parents as Key Regional Staff
- Reporting Data to Promote Accountability
- Collaboration Between DHSS and NJDSE on Transition

Areas of Noncompliance

OSEP observed the following areas of noncompliance:

- Effective Oversight and Monitoring Not Implemented to Ensure Noncompliance is Identified and Corrective Actions Are Made
- Inadequate Documentation of Dissemination Practices
- Child Find Activities Not Coordinated
- Failure to Implement Service Coordination Responsibilities
- All Needed IFSP Services Are Not Identified and Provided
- Inadequate Identification of Family Supports and Services in IFSPs
- Steps in Transition Planning Not Included in IFSPs
- Transition of Children with Disabilities from Part C to Part B Is Ineffective

Education of Children and Youth with Disabilities: **Part B of IDEA**

Strengths

OSEP observed the following strengths:

- NJSDE's Core Curriculum Content Standards (CCCS)
- Participation of Students with Disabilities in Statewide Assessments
- Collaboration with the Statewide Parent Advocacy Network (SPAN) for Early Childhood Program Expectations - Standards of Quality
- Capacity Building Grants
- Comprehensive System of Personnel Development
- Whole School Reform
- Statewide Training/Technical Assistance Initiatives and Promising Local Practices
- Statewide Training/Technical Assistance Initiative to Enhance Local School District Practices in Meeting Secondary Transition Requirements
- Initiatives to Promote Meaningful Parent Involvement

Areas of Noncompliance

OSEP observed the following areas of noncompliance:

- State monitoring system is effective in identifying systemic noncompliance, but OSEP was unable at the time of the visit (September 2000) to determine the effectiveness of corrections ordered by NJSDE.¹
- Complaint Procedures Inadequate.²
- Lack of Alternate Statewide Assessments
- Removal – Lack of Placement in the Least Restrictive Environment, (a) Segregated Placement – Students with Behavioral Issues and (b) Impact of Administrative Practices on Placement
- Lack of Psychological Counseling Services as a Related Service
- Failure to Consider Extended School Year Services on an Individual Basis
- Denial of Related Services and Delays in Evaluations Due to Insufficient Supply of Personnel

¹ OSEP conducted a follow-up visit June 2001 and determined that NJSDE's new monitoring and enforcement system was effective in correcting noncompliance in local education agencies.

² NJSDE submitted revised complaint procedures, which are currently under review by OSEP.

New Jersey Monitoring Report
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INTRODUCTION

New Jersey is a geographically small, but densely populated state. It is the most urbanized State, but has no single very large city. Nearly eight million people make it the ninth largest state. The State's population is projected to grow steadily, but slowly, through the year 2010 to just over 8.5 million. The State's residents comprise over 400 different ethnic groups.

The State has sharp differences in wealth by region and community with some of the nation's wealthiest and poorest communities located in close proximity. Higher proportions of poorer residents are in the cities and in small rural communities.

Part C

The Department of Health and Senior Services (DHSS) is the Lead Agency for the State's Part C system, known as the New Jersey Early Intervention System. The DHSS contracts with four Regional Early Intervention Collaboratives that are responsible for local planning, development and implementation of the State system and for ensuring that families have sufficient voice and decision-making power to influence the early intervention system. These Collaboratives carry out functions such as: public awareness, child find, and personnel development, and ensure evaluations and IFSP development, monitor providers and service coordination units, and conduct needs assessments. County Special Child Health Services Case Management Units and sixty-six Early Intervention Program providers under contract with DHSS provide early intervention services.

The single point of referral to the early intervention system is county-based through the Special Child Health Services Case Management Units. In addition to providing initial and ongoing early intervention service coordination for eligible children, the SCHS-CMU provides case-management services for children (birth through 21) and their families identified through a State-mandated Special Child Health Services Registry.

With a total approximate budget of \$36,000,000 from Federal, State and local dollars, New Jersey's Early Intervention System served 4,743 infants and toddlers on December 1, 1999 (1.45 % of all infants and toddlers in the State).

Between the fall of 1995 and summer 1999, Rutgers, The State University of New Jersey, conducted a longitudinal statewide study of the New Jersey Early Intervention System. The longitudinal study provided the following information: families who participate in early intervention are comparable to the general population in New Jersey in terms of ethnicity, education and income. According to parental report, children are first referred to early intervention at the mean age of fifteen months with 9% of participants referred at birth, 34% before their first birthday, 35% from 1-2, and 20% from 2-3. The racial distribution of enrolled children was: 73% White, 17% African American, 17% Hispanic, and 10% other. English was not the primary language for ten percent of the families. It is important to note, however, that the racial and ethnic mix for New Jersey mothers, infants, and children is slightly more diverse than the overall population composition. In 1997, 17.5% of mothers delivering infants in New Jersey

were Hispanic, 73% were White, 18.6% African American, and 6.4% were Asian or Pacific Islander.

The Rutgers study reported that thirty-six percent of the primary caregivers are employed, versus 50% of families with children under three in the general population; of those employed, thirty-six percent use regular childcare for an average of 26 hours per week.

The percentage of enrolled children that meet both the Federal and State poverty levels was forty-two percent. Motor and communication delays were the most commonly reported special needs of children. Approximately one-third had siblings who also have a disability. More than 80% of children entered the early intervention program and remained enrolled until the child was 3; 5% left the system voluntarily before the child's third birthday.

Sixty-three percent of all enrolled children exited the New Jersey Early Intervention system into preschool special education in 1999-2000. Eleven percent exited to home, Head Start, and other early childhood programs.

Thirteen staff are assigned to the Early Intervention System under DHSS, with a combined full-time equivalent of 12.25. Staffing includes a Part C Coordinator, Projects Coordinator, Procedural Safeguards Coordinator, Coordinator of the Comprehensive System of Personnel Development, Program Officer, Contract Administrator, Analyst, Network Services Administrator, Management Information System Technician and clerical support.

From July 1, 1998 through December 31, 1999, there were three due process hearings, two mediations, and no Part C State complaints.

Part B

The New Jersey State Department of Education (NJSDE), Office of Special Education Programs, supports school districts to provide education programs for children and youth with disabilities ages 3 through 21. NJSDE staff provide training to school staff, district administrators, and others on important issues and current instructional practices; provide current information on State and federal laws relating to the education of students with disabilities; monitor districts' compliance with those laws; help resolve conflicts between school districts and families of students with disabilities; and provide additional technical assistance to school districts as needed.

The New Jersey statewide assessment system is emerging as a measure of all students' progress toward achieving and mastering the core curriculum content standards. High participation rates for children with disabilities on the statewide assessments were experienced during the 1999-2000 school year. The Elementary School Proficiency Assessments (ESPA) are administered in grades four and five and the Grade Eight Proficiency Assessment (GEPA) is administered in grade eight. Each eleventh and twelfth grade student is currently required to take and pass the High School Proficiency Test 11 (HSPT11) for graduation unless the student's IEP states that he or she is exempt. Students with and without disabilities will also be eligible to graduate if they pass the Special Review Assessment (SRA), an alternative assessment for the High School

Proficiency Test 11. The High School Proficiency Assessment will be aligned with the Core Curriculum Content Standards and replace the High School Proficiency Test 11.

A. Prior OSEP Monitoring – Part B (Note: OSEP did not monitor Part C before 1999).

Between 1993 and 1998, the U.S. Department of Education, Office of Special Education Programs (OSEP), conducted three onsite monitoring visits to New Jersey for the purpose of determining compliance with Part B of the Individuals with Disabilities Education Act (IDEA). These onsite visits were conducted in March 1993, December 1995 and June 1998. As a result of each visit, OSEP issued a monitoring report that included findings that serious noncompliance existed with respect to the provision of a free appropriate public education in the least restrictive environment for children with disabilities served in New Jersey. The areas of noncompliance that OSEP consistently identified included a lack of: general supervision, placement in the least restrictive environment, full continuum of placement options, participation with nondisabled peers, provision of extended school year services, transition statements in IEPs for secondary age students, and a failure to provide special education and related services.

During the 1998 visit, OSEP determined that the New Jersey Department of Education (NJSDE) had made progress in some previously identified areas of noncompliance. However NJSDE remained in noncompliance, most notably in its continued failure to exercise general supervisory authority over local education agencies across the state in ensuring that local education agencies correct identified deficiencies in a timely manner. As a result of this failure by the NJSDE serious deficiencies existed for a number of years thus impacting the delivery of services to children with disabilities. As a result of the 1998 visit the OSEP issued a Monitoring Report in February 1999 identifying the following areas of noncompliance:

General Supervision

- failure to implement an effective system for monitoring to identify and correct deficiencies in local school districts
- failure to implement and maintain consistent standards for County Supervisors of Child Study to follow in monitoring, correcting deficiencies, and providing technical assistance to local school districts and receiving schools
- failure to provide supervision, guidance and training to County Supervisors of Child Study

Placement in the Least Restrictive Environment

- failure to ensure that public agencies removed students from the regular education environment only when the nature or severity of the disability was such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily
- failure to ensure that the education placement of each child with a disability was based on his or her individualized education program (IEP)
- failure to ensure that each student with a disability was educated with nondisabled students, including participation in nonacademic and extracurricular services and activities, to the maximum extent appropriate to meet the needs of the student

- failure to ensure that for children placed in separate, self-contained settings, participation in nonacademic and extracurricular services and activities with non-disabled students was an individualized decision based upon an IEP

Free Appropriate Public Education

- failure of NJSDE's monitoring system to identify noncompliance with respect to the provision of extended school year services in any of the agencies monitored by NJSDE and visited by the OSEP
- failure of NJSDE's monitoring system to identify noncompliance with respect to the provision of counseling as a related service as a component of a free appropriate public education in any of agencies visited

Provision of Needed Transition Services

- failure to ensure compliance with the transition requirements

As a result of these findings of noncompliance, OSEP required that NJSDE take action to ensure that the State's long-standing, serious noncompliance was effectively and promptly corrected throughout the State and that NJSDE develop a comprehensive corrective action plan (CAP) with specific steps and timelines to ensure that within one year from the date of the Report (February 16, 1999) all deficiencies were fully corrected.

Based upon NJSDE's longstanding failure to exercise its general supervisory responsibility and ensure that public agencies within the State complied with Part B and that there was a high risk that systemic violations would continue unless changes took place in the State's implementation of Part B of IDEA, NJSDE was designated as a high-risk grantee and Special Conditions were imposed for FY 1999. NJSDE was directed to:

- carry out the Corrective Action Plan accepted by OSEP; and
- meet its general supervisory responsibility under 34 CFR §300.600 and demonstrate that its revised monitoring system is effective in identifying and ensuring the correction of noncompliance across the state in the provision of least restrictive environment (34 CFR §300.130 and 34 CFR §§300.550-556); needed transition services (34 CFR §300.347(b)); provision of psychological counseling as a related service, as needed, to benefit from special education (34 CFR §300.300 and §300.24(b)(9)) and that students receive extended school year services, if necessary, to receive a free appropriate public education (34 CFR §300.300 and 34 CFR §300.309).

As OSEP continued to monitor the NJSDE's progress toward addressing the Special Conditions imposed during FY 1999 and as NJSDE continued to work toward completing the required corrective action plan, OSEP determined that for the FY 2000 grant award, the State would continue to be subject to special conditions to secure compliance with the requirements of IDEA. Special Conditions for FY 2000 required that the NJSDE:

- take appropriate action, including any necessary enforcement actions, to ensure that, as soon as possible but no later than June 30, 2001, all public agencies correct noncompliance within the corrective action timelines prescribed by the NJSDE's monitoring reports;
- submit quarterly reports to the OSEP on October 20, 2000, January 19, 2001, April 20, 2001, and June 22, 2001 in which the NJSDE must: submit final monitoring reports and approved corrective action plans for each LEA monitored during 1999-2001; identify the public agencies that have not corrected noncompliance; and identify what enforcement action NJSDE has taken to ensure correction of noncompliance.

In the spring of 1999, the OSEP advised the NJSDE of the OSEP's intent to conduct an onsite visit to New Jersey during the week of September 25, 2000. The purpose of the visit was threefold: (1) verification of the status of implementation and effectiveness of the NJSDE in correcting the deficiencies noted in the OSEP's February 1999 Monitoring Report; (2) determination of NJSDE's ability to meet the Special Conditions imposed on NJSDE's IDEA Part B Grant awards for FY 1999 and 2000; and (3) verification and validation of issues identified by the NJSDE in its Self-Assessment (as part of the OSEP's Continuous Improvement Monitoring process) and input collected by OSEP from public input meetings conducted during the week of February 14, 2000 in New Jersey.

B. Validation Planning – Part B and Part C

Validation Planning began in the summer of 1999. In response to OSEP's Continuous Improvement Monitoring Process, NJSDE and DHSS proceeded to conduct a statewide self-assessment regarding the State's provision of early intervention services, special education and related services. The process began with the formation of a Steering Committee consisting of the primary stakeholders involved in early intervention services and special education within New Jersey. Each stakeholder organization was invited to send a representative to represent his/her constituency and be able to devote a substantial amount of time to this activity. OSEP provided a framework to guide the self-assessment process across cluster areas of both Part B and Part C (e.g., general supervision, free appropriate public education (FAPE), parent involvement, least restrictive environment (LRE), statewide assessment and personnel development). New Jersey adopted OSEP performance requirements and, with input from the State Steering Committee, refined the statewide indicators. A committee of State personnel developed a five-phase process to guide the steering committee in completing the statewide self-assessment. The process was implemented during a series of six full-day Steering Committee meetings, commencing in September 1999 and ending January 2000. The Steering Committee meetings were designed to actively engage all committee members and secure their diverse opinions and experiences. As described in the New Jersey Self-Assessment, the phases of this process included:

Phase I: Developing/Validating the Self-Assessment Core Document: Adoption of the OSEP cluster areas as the NJSDE's core self-assessment document.

Phase II: Reviewing the Perceived Current Status: Gathering a concise list of shared impressions of the Steering Committee for each cluster.

Phase III: Gathering Information: Identifying and obtaining quantitative and qualitative data.

Phase IV: Analyzing the Data: Reviewing and analyzing the available data and the Steering Committee's shared impressions.

Phase V: Generating a Report: A comprehensive and fair view of the current status of special education and early intervention services as reported by the New Jersey Office of Special Education Programs, the DHSS and their constituents.

The State designed the self-assessment process to incorporate the federal requirements, associated statewide indicators, the perceptions of the constituents as represented by the individual Steering Committee members, and the available data. The process resulted in an assessment of the State's current status in meeting the requirements of the Individuals with Disabilities Education Act as well as providing direction in the development of a State Improvement Plan.

The document generated as a result of this process contained the federal cluster areas of performance and the associated performance requirements; statewide indicators developed in collaboration with the Steering Committee; shared impressions of the Steering Committee; and data sources and analysis summaries.

Five public input meetings were held during the week of February 14, 2000 in East Orange, East Windsor and Sewell. Separate public input meetings were conducted for Parts C and B at each of these sites. Because of the potential for large numbers of participants, varied sites were selected so as to ensure the use of auditoriums for large group introductory remarks and the availability of rooms for conducting the group input meetings. Sign language interpreters and Spanish translators were provided for each meeting. More than 900 individuals participated in the public input meetings.

Discussions at the public input meetings centered around the nine cluster areas of IDEA identified by OSEP as leading to better results for infants, toddlers and children with disabilities. The Part B cluster areas are: Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment, Secondary Transition and General Supervision. The Part C cluster areas are Child Find and Public Awareness, Family Centered Systems of Services, Early Intervention Services in Natural Environments, Early Childhood Transition, and General Supervision.

The use of facilitators and notetakers for each session was critical to the success of the public input meetings. Steering Committee members took notes. After each session, facilitators conducted debriefings with NJSDE, DHSS and OSEP staff to determine whether or not the strategies used were effective in obtaining needed information about the State's systems of early intervention services and special education. New Jersey staff provided alternate formats for public input meeting participants to provide input. The state provided a form for child-specific complaint issues to be forwarded to the state staff responsible for investigating child-specific complaints and a second form for direct feedback to OSEP on systemic noncompliance issues.

Many participants took advantage of this alternate format to provide feedback. The participants' comments and the outcomes of the NJSDE's Self-Assessment were consistent.

C. Validation Data Collection

OSEP visited New Jersey during the week of September 25, 2000 for the purpose of:

- collecting data to verify the implementation and status of NJSDE's effectiveness in correcting the deficiencies noted in OSEP's February 1999 Monitoring Report;
- meeting the Special Conditions imposed by OSEP on New Jersey's FY 1999 and FY 2000 IDEA - Part B Grant award; and
- verifying and validating data gathered for Part C and Part B programs by New Jersey in its Self-Assessment and data collected by OSEP from public input meetings conducted during the week of February 14, 2000.

OSEP Part C Staff visited four counties located in three Regional Collaboratives: Essex County, Hudson County, Camden County, and Cumberland County. OSEP conducted interviews with personnel responsible for the implementation of Part C of IDEA, including local service providers, service coordinators, interagency collaborators and administrators. OSEP staff also interviewed groups of parents at each site. In Cumberland and Essex Counties, OSEP Part C and Part B Staff held interviews with personnel responsible for early childhood transition from both early intervention and local education agencies. Concurrent with interviews at the county level, OSEP conducted interviews with DHSS staff, Regional Collaborative staff, and members of the Interagency Coordinating Council. OSEP Part C and Part B staff also conducted interviews with DHSS and NJSDE staff responsible for early childhood transition.

OSEP Part B Staff visited a total of eight local education agencies: East Orange, Passaic, Wayne Township, Trenton, Hillsborough Township, Toms River, Vineland and Camden. The team also visited a model inclusion program in Metuchen. In these local education agencies, OSEP staff visited four elementary schools, three middle schools, six high schools and a preschool, covering a varied range of program options and disability categories. Concurrent with the visits to the schools, OSEP staff also conducted interviews with NJSDE staff in Trenton on key State systems, including State monitoring, complaint investigations, impartial due process hearings, mediation, comprehensive system of personnel development, and on early childhood and secondary transition, statewide assessments, parent involvement and the provision of a free appropriate public education in the least restrictive environment.

The OSEP team, led by Lois Taylor, consisted of the following individuals: Maral Taylor, New Jersey Part B State contact, and Part B team members Delores Barber, Michael Slade, Marie Mayor, Deborah Jennings, Sheila Friedman and Lena Mills; Sheryl Parkhurst, New Jersey Part C State contact and Part C team members Mary Louise Dirrigl, Alma McPherson, Jackie Twining-Martin and Rhonda Ingel. Ruth Ryder, Director of the Monitoring and State Improvement Planning Division, participated as a member of both teams.

D. OSEP Follow-up Visit – June 2001

OSEP conducted a follow-up onsite visit to New Jersey in June 2001 to verify the status of corrective actions taken by NJSDE as required by the special conditions identified in the OSEP FFY Part B 2000 grant awards. The special conditions required that NJSDE demonstrate that its revised monitoring system is effective in ensuring that all identified noncompliance, including any noncompliance previously identified by OSEP (OSEP's 1996 and 1999 New Jersey monitoring reports) regarding (a) placement of students with disabilities in unnecessarily restrictive placements; (b) denial of needed transition services, to assist youth with disabilities in making a successful transition from secondary education to post-secondary employment and education; (c) denial of needed psychological counseling services and extended school year services; and (d) lack of an effective system for monitoring that enables NJSDE to identify and correct deficiencies in local districts, resulting in ongoing noncompliance across the State.

OSEP visited four local districts, two of which had completed corrective action plans approved by NJSDE in March 2001. OSEP conducted file reviews and staff interviews in four school buildings (one elementary school, one middle school, and two high schools). OSEP also interviewed NJSDE monitoring staff team leaders for two State regional monitoring teams and met with the SEA director to discuss the status of NJSDE's progress toward meeting the OSEP FFY 2000 Part B grant award special conditions.

E. Improvement Planning

Through the collaborative efforts of NJSDE, DHSS, and the Steering Committees for Part B and Part C and OSEP, the State has begun to address some areas of improvement identified in the Self-Assessment document. NJSDE and DHSS in collaboration with major stakeholder groups consisting of the State Advisory Committee, the State Interagency Coordinating Council and others are developing a State Improvement Plan. As described in the Part B General Supervision Section of this report, NJSDE's improvement planning activities included a major re-structuring of its monitoring system for identifying and correcting noncompliance in all local education agencies to focus on improved results for children with disabilities. Throughout the improvement planning process, key stakeholder groups will provide input and review drafts of the improvement plan.

Approximately 60 days after the issuance of this report, OSEP will revisit New Jersey to work with the NJSDE and DHSS to finalize an improvement plan that will include targeted activities and methodologies, provision of technical assistance, projected timelines for completion, and methods to evaluate the impact on results for children and families.

I. PART C: GENERAL SUPERVISION

The State lead agency, DHSS, is responsible for developing and maintaining a statewide, comprehensive, coordinated, multidisciplinary, interagency early intervention system. Administration, supervision and monitoring of the early intervention system are essential to ensure that each eligible child and family receives the services needed to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay. Early intervention services are provided by a wide variety of public and private entities. Through supervision and monitoring, the State ensures that all agencies and individuals providing early intervention services meet the requirements of IDEA, whether or not they receive funds under Part C.

While each State must meet its general supervision and administration responsibilities, the State may determine how that will be accomplished. Mechanisms such as interagency agreements and/or contracts with other State-level or private agencies can serve as the vehicle for the lead agency's implementation of its monitoring responsibilities. The State's role in supervision and monitoring includes: (1) identifying areas in which implementation does not comply with Federal requirements; (2) providing assistance in correcting identified problems; and (3) as needed, using enforcing mechanisms to ensure correction of identified problems.

Validation Planning and Data Collection

Prior to OSEP's validation planning visit, the New Jersey Part C Steering Committee completed a Self-Assessment that identified several concerns related to the State's oversight of the early intervention system, such as: (1) a need for an increased number of personnel and other resources to implement the monitoring system; (2) a need to modify monitoring tools and process to ensure that all components of the Part C system are examined through monitoring; (3) a need to focus on analyzing and utilizing the regional monitoring information more effectively at the State level; (4) a need for increased resources for training and technical assistance to ensure personnel are adequately trained and retained; and (5) a need to ensure an adequate number of service coordination and speech pathology personnel.

Issues raised during the public forums mirrored many of those identified by the Self-Assessment. The public forum participants also stated the need for: (1) monitoring Individualized Family Service Plan (IFSP) timelines and implementation, particularly in high growth areas throughout the State; (2) training to address needs of certain early intervention disciplines, such as intervention for feeding disorders; and (3) improving collaboration between the Lead Agency and other State agencies, particularly agencies providing respite care.

OSEP reviewed and analyzed the data and identified the following strengths, areas of noncompliance, and suggestions for improved results for infants and toddlers and their families

A. STRENGTHS

1. Leadership of DHSS

Two years prior to OSEP's 2000 visit to the State, DHSS created an open, dynamic process to examine the strengths and weaknesses of the State's early intervention support system that resulted in a system improvement "blue-print" created by parents, advocacy groups, the State Interagency Coordinating Council, early intervention providers, case management units, and other State agencies. (This planning process is known as and identified in this report as the "Stakeholder Task Force".) The blueprint, containing 51 recommendations that were accepted and endorsed by DHSS, requires lead agency structural modifications, improved interagency collaboration, and additional resource allocation. Three Task Force groups continue to work on implementation strategies that will be crucial in addressing concerns and noncompliance practices outlined in OSEP's report as well as other initiatives recommended during the Stakeholder planning process.

2. Regional Early Intervention Collaboratives

DHSS has a structure in place to support significant activities that promote the implementation and enhancement of the early intervention system. Through contract mechanisms, DHSS supports four Regional Early Intervention Collaboratives that are responsible for local planning, development, and implementation of the early intervention system and for ensuring that families have a voice in decision-making on Regional Boards. Parents are also a part of paid staff in the Regions. The Stakeholder Task Force and the Steering Committee endorsed the regional system as an effective structure to support the growth and development of the early intervention system.

Although having a structure in place to implement the New Jersey early intervention system is a crucial element in the overall system, adjustments are needed to ensure compliance with Part C of IDEA as cited later in this Report.

3. Comprehensive System of Personnel Development

With exceptional attention to recruiting families to take part in training activities, approximately 40% of training activities involve family members as presenters or co-presenters. In addition, DHSS is continuously refining its personnel development activities based on local needs assessments, telephone calls from parents to the State's Procedural Safeguards Coordinator, and on-site reviews. For example, DHSS is launching a technical assistance package that contains materials and information that can be customized to the training needs of local programs to improve systems issues such as the IFSP process, data collection, interagency communication, serving children in natural environments, flexible scheduling and family-centered service delivery. Early intervention providers agree, through contract, to attend training and technical assistance activities scheduled by the DHSS so that local providers understand the practices and activities for which they are accountable.

DHSS widely disseminates questions and answers that emerge from the training activities to regional staff, State Interagency Coordinating Council, attendees and service coordination units to ensure common understanding.

4. Natural Environments Systems Change

DHSS led the State through a significant systems change to help ensure that early intervention services are provided in a variety of natural environment settings. OSEP observed that service coordinators and providers make great efforts to offer flexible scheduling for families, including evenings and weekends. In 1996, the State reported that 65% of services were provided in center-based programs for children with disabilities, 27% in homes, and 4% in community programs. December 1, 1998 data document that 82% of families were receiving services and supports in natural environments including home, childcare, and other programs designed for typically developing children. In one year, data showed an increase of 100 families receiving services and supports in childcare and other programs designed for typically developing children.

B. AREA OF NONCOMPLIANCE

1. Effective Oversight and Monitoring Not Implemented To Ensure Noncompliance Is Identified and Corrective Actions Are Made

Under Part C, each lead agency is responsible for the general administration and supervision of programs and activities receiving assistance (34 CFR §§303.501(a) and (b)(1)-(4)). To meet these requirements, DHSS must adopt and use proper methods of administering each program, including monitoring agencies, institutions, and organizations used by the State to carry out Part C, enforcing any obligations imposed on those agencies under Part C and its regulations, providing technical assistance, and correcting deficiencies. The State is obligated to monitor these programs and activities used to carry out Part C, whether or not they receive funds under Part C, to ensure the State complies with all requirements of Part C.

DHSS has not exercised its general supervisory authority to ensure compliance with the requirements of Part C. DHSS' failure to implement an effective system for monitoring that enables it to identify and to correct deficiencies has resulted in noncompliance across the State. OSEP's concerns regarding DHSS responsibilities in this area involve the implementation of a monitoring process that fails to identify noncompliance and failure to take steps to correct noncompliant practices.

Background

According to DHSS documents and interviews with DHSS staff, the following is the monitoring process that DHSS uses for Part C.

Each year, DHSS uses its oversight system to review all sixty-six early intervention providers and county case management units. The oversight system integrates compliance and program quality. The process includes record review, personnel standards verification, program observations, and interviews with parents, service coordinators, providers, and administrators,

and exit conference. Regional teams, comprised of parents, volunteer peer reviewers, regional executive directors, and as needed, State Part C staff, carry out the monitoring process. In addition, the Regions are responsible for auditing records to ensure accuracy of the December 1 report required by the U.S. Department of Education.

Early intervention contractors submit annual performance reports, self-evaluations and quality improvement plans that the Regional offices review. DHSS has aligned the self-evaluation and quality improvement plan with goals and indicators that the Stakeholder Task Force recommended as well as Part C requirements. In cases where the State identified areas of non-compliance through monitoring, the contractor submits a remediation plan that is incorporated in its annual improvement plan.

Technical assistance staff from the Regional offices participates in an exit conference at the completion of the on-site review so that the staff can offer immediate assistance to the program, as needed. The technical assistance staff follows up with the provider to ensure that the provider completes the required changes. In instances that correction has not occurred, the Regional Executive Director is responsible for following up with the provider. The State has contractual mechanisms, such as withholding of funds and withdrawal of contracts, to enforce corrective action by providers and case management units. In a few instances, after intense technical assistance from DHSS, some providers in recent years decided not to contract for provision of early intervention services because of their continuing inability to meet all the requirements of Part C.

DHSS staff stated that trends and concerns identified by monitoring teams are reported to their office through monthly meetings with the Regional staff and written quarterly reports, and communication via electronic mail. The State Part C staff told OSEP that noncompliance issues are then integrated into new policy directives and contracts. For example, DHSS instituted methods to ensure flexibility in contracts so that providers can obtain additional services or consultants to fill unanticipated needs quickly. OSEP reviewed documents and contracts that verified that changes are made in response to recommendations from the field. However, implementation of this procedure had not resulted in ensuring compliance at the time of OSEP's visit.

To provide additional oversight, DHSS disseminates News and Information memorandums and Question & Answer documents to all providers, regional staff and parents. DHSS also established an independent Procedural Safeguards office separate from the Part C program staff approximately two years before OSEP's visit. The Procedural Safeguards Coordinator participates in site visits with the State Part C staff on a case-by-case basis. See Section IV of this report for other information concerning the operations of the procedural safeguards unit.

(a) Current monitoring system does not identify all noncompliance issues.

OSEP found that the State's procedures described above are not effective in ensuring the identification of noncompliance with Part C. This is occurring, in part, due to lack of sufficient number of personnel to carry out annual monitoring functions, lack of training for monitoring teams, and lack of consistent data collection and analysis by monitoring teams in the regions

throughout the State. Although the Stakeholder Task Force and the Steering Committee completed a thorough analysis of the strengths and weakness of the New Jersey Early Intervention System, the task of identifying practices that result in noncompliance and identifying their underlying causes is a complex endeavor requiring ongoing attention and resource allocation.

OSEP reviewed State monitoring procedures and a sample of monitoring reports from the three Regions OSEP visited and found that many reports did not contain the violations of Part C that OSEP identified in the same Regions and discusses in other sections of this report. For example, two reports cited transition issues as the only non-compliance concern, whereas OSEP found the following deficiencies in each of these two regions: 1) IFSPs listed families' concerns, priorities and resources but did not include any outcomes or services to address the needs; 2) IFSPs were not individualized based on a child's needs; 3) Service coordinators did not carry out responsibilities required by Part C.

Two of four Regional Collaborative Directors reported to OSEP that monitoring over the previous year had been a daunting responsibility. Two highly populated Regions could not recruit volunteer peer monitors that are crucial to the staffing of the monitoring teams and no State Part C staff was available to assist. Moreover, one Regional Director reported that inconsistent membership on monitoring teams throughout each region often leads to inconsistent analysis and reporting of strengths and weaknesses of each program.

The Part C staff stated that they do not have enough personnel to implement the monitoring system as currently designed. The Steering Committee also reported that the State does not have adequate resources to complete and ensure consistent, comprehensive monitoring on an annual basis. The Part C staff reported that the State had already established a Stakeholder Committee to provide recommendations for revisions in monitoring procedures.

All Regional staff reported to OSEP that more training is needed to ensure greater consistency across monitoring teams and regions. Providers in one Region told OSEP they did not think the monitoring teams received enough training to carry out its responsibilities. The one-day training provided by DHSS was not adequate to ensure that all personnel could carry out the monitoring process effectively. One Regional Director pointed out that because the volunteer teams have so little training, it was difficult to use the data that are collected.

(b) State Supervision Methods Not Resulting in Corrections of Noncompliant Practices

OSEP found evidence that the State's oversight system is not effective in correcting problems that are having a negative impact on services for children and families. The problems stem, in part, from: (1) lack of staff resources leading to untimely reports, (2) inadequate monitoring reports that do not clearly articulate the specific nature of the noncompliance, (3) lack of resources to ensure corrective action steps are taken and timelines are followed to correct noncompliance, and (4) lack of effective mechanisms to ensure accountability.

In order to ensure accountability for Part C, DHSS renews contracts with early intervention providers based on the recommendations from the Regional staff. In theory, an early

intervention provider agrees to correct deficiencies in its annual contract as documented in its improvement plan. In practice, however, DHSS does not appear to have sufficient resources, including enough trained personnel, to provide timely guidance to providers about their quality improvement plans. In many instances, monitoring reports are either issued after the provider's contract renewal is signed or too late in the year for providers to implement a remediation strategy prior to contract renewals; therefore, contracts and quality improvement plans are approved that do not adequately address noncompliance problems.

Secondly, the Regional monitoring reports do not clearly identify the violation, the seriousness of deficient practices or the urgency to correct them. Consequently, the contractor proposes nonspecific corrective action plans and timelines. For example, DHSS cited one program for noncompliance as needing "a more detailed account of transition process". In OSEP's review of this report, it was unclear whether the problems related to holding the transition meeting with local education agencies or other IFSP transition requirements. The provider's response to correct the problem was not specific and contained no timelines for correction. OSEP found that noncompliance with transition procedures is resulting in ineffective transition for children and families throughout the State in accordance with §34 CFR 303.344(h) (steps in transition planning are not included on IFSPs) and §303.148(b)(2)(i) (transition of children from Part C to Part B is not effective). See Section V in this Report.

OSEP also found, in general, that quality improvement plans attempted to address all aspects of the early intervention system, rather than focusing on priorities for correcting noncompliant practices. Thus, the providers' resources and attention were diffused in many directions rather than a focus on activities to address noncompliance. Providers in one Region told OSEP that because the State monitoring process starts late in the year and they must wait 6 months for reports, they do not understand what the State expectations are from their monitoring review, prior to the time they submit an annual quality improvement plan. Moreover, they reported to OSEP that they did not think the State provided adequate feedback on their quality improvement plan.

DHSS primarily relies on the Regional staff to track noncompliance and monitor corrective actions. As stated earlier, the State Part C staff reported that lack of staff inhibits the State's ability to track corrective action completion. The Steering Committee reported that improvements are needed in the State's monitoring system so that the findings from regional monitoring reports are used more effectively to identify trends, influence State decision-making, provide technical assistance, and carry out corrective actions.

DHSS strongly believes that sharing of accountability across all levels is essential to the implementation of a truly effective statewide system of early intervention. Administrators at both the State and Regional Collaborative levels acknowledge that implementation of the system for shared accountability for compliance with Part C is not yet fully in place. One of the most critical factors is the current reluctance of a number of providers to self-report, without delay, accurate data regarding issues such as personnel shortages and gaps in personnel with specialized knowledge that affect timely delivery of services. DHSS is attempting to work closely with the Regional Collaboratives, the provider networks, parents and other stakeholders with the goal of

ensuring that accountability for early intervention services is effectively shared at all of these levels.

Prior to OSEP's visits, DHSS was already in the process of revising its monitoring procedures. A Stakeholder Quality Assurance Task Force is to provide recommendations for revisions in the system within three months after OSEP's visit. DHSS will need to evaluate the recommendations and be able to demonstrate how the new system will result in identification of noncompliance practices and effective corrective actions so that infants and toddlers with disabilities and their families receive all the services they need without delay.

C. SUGGESTIONS FOR IMPROVED RESULTS FOR INFANTS, TODDLERS AND THEIR FAMILIES

1. Disseminate Wisdom from the Field

OSEP noted that monitoring reports highlight local promising practices identified during the course of the State's monitoring process. OSEP suggests that DHSS develop a mechanism to disseminate information about exemplary program efforts as clear examples of how the system can work. This practice could result in recognition of local initiatives and assist other programs that could benefit from this information.

2. Improve Interagency Communication and Coordination

DHSS in collaboration with New Jersey Departments of Human Services and Labor is developing an electronic management information system, One Ease E-Link. OSEP understands that this electronic networking has potential to provide DHSS with data about ongoing operations of the system, to provide information that can address continuous improvement as well as facilitate the linkage of children and families with a variety of agencies and services.

Based on interviews with State personnel, OSEP suggests that, in addition to building an electronic infrastructure, DHSS provide the leadership for promoting a "human infrastructure" whereby agencies participating in the One Ease E-Link system can become active participants in an interagency system that supports infants and toddlers with disabilities and their families.

3. System to Ensure Recruitment and Retention of Personnel

As noted in the "Strengths" section above, the State has plans and activities in place to provide in-service training and technical assistance to address systems issues, such as IFSP development. However, members of the Steering Committee, Service Delivery Task Force, parents, administrators and providers reported that the State needs to build the capacity to ensure recruitment of qualified personnel that have specialized knowledge and skills, particularly staff to address needs of children with hearing impairments, vision impairments and autism. Speech therapists are also in short supply. Administrators also report that new graduates do not have training in family-centered practices and working in natural environments. The administrators

and others suggested that having a structured mentor system would be helpful to support these new graduates.

Administrators, providers and parents also pointed out that it is critical to have a system in place to retain personnel. Administrators in one area reported to OSEP that staff need discipline-specific training geared to a more advanced level than is normally provided by the State's plan for a Comprehensive System of Personnel Development. Participants in public forums also confirmed the need for discipline-specific training.

DHSS staff reported that it and NJSDE had worked together, in the past, on a Higher Education Advisory Group that was charged with developing plans for recruitment and retention of personnel. Prior to OSEP's visit, NJSDE invited DHSS to participate in planning for an application to OSEP for a State Improvement Grant. State Improvement Grants are designed to address critical personnel shortages and in-service training needs.

OSEP encourages DHSS to continue to develop resources, cross-agency relationships, and innovative strategies to address these critical issues that could impact on positive outcomes for children and families.

II. PART C: CHILD FIND/PUBLIC AWARENESS

The needs of infants and toddlers with disabilities and their families are generally met through a variety of agencies. However, prior to the enactment of Part C of IDEA, there was little coordination or collaboration for service provision, and many families had difficulty locating and obtaining needed services. Searching for resources placed a great strain on families.

With the passage of Part C in 1986, Congress sought to ensure that all children needing services would be identified, evaluated, and served, especially those children who are typically underrepresented, (e.g., minority, low-income, inner-city, American Indian and rural populations) through an interagency, coordinated, multidisciplinary system of early intervention services.

Each State's early intervention system must include child find and public awareness activities that are coordinated and collaborated with all other child find efforts in the State. Part C recognizes the need for early referral and short timelines for evaluation because development occurs at a more rapid rate during the first three years of life than at any other age. Research in early brain development has demonstrated what early interventionists have known for years: that children begin to learn and develop from the moment of birth. Therefore, the facilitation of early learning and the provision of timely early intervention services to infants and toddlers with disabilities are critical.

Validation Planning and Validation Data Collection

Based on the Self-Assessment, the New Jersey Part C Steering Committee identified several needs and priorities related to public awareness and child find, such as need for: (1) standardized planning, selection, review and tracking of child find and public awareness materials to ensure linkages with the needs of target populations, (2) identifying gaps in public awareness materials in languages represented in the State, and (3) improved ongoing outreach to physicians and hospital personnel.

The public forums corroborated the Self-Assessment findings and added that: (1) physicians tend to adopt a "wait and see" response to parental concerns about their child's development; (2) physicians who are aware of the early intervention system may not understand the scope of services offered in the system; (3) early identification and referral of infants and toddlers with autism, hearing and visual impairments need to improve; (4) broader dissemination of public awareness materials to the general public needs to occur, and (5) increased public awareness activities are needed to reach non-English speaking families.

State data, however, do show that referrals to the early intervention program are increasing (e.g. from 1998 to 1999, an increase of 8%) despite a declining birth rate. The system receives over 6,000 referrals in a year and approximately 77% of these referrals are found eligible for early intervention. Contributing to this increased referral rate was the fact that one county, Camden, has done an exceptional job of recruiting service coordinators who represent the races, ethnicities, and cultures of the community and serve as ambassadors for the early intervention system.

OSEP reviewed and analyzed the data and identified the following strengths, areas of noncompliance, and suggestions for improved results for infants, toddlers and their families.

A. STRENGTHS

1. Special Child Health Services Registry

New Jersey is one of a handful of States nationwide that has a systemic linkage between its Special Child Health Services Registry and the provision of immediate case management services. This long-standing Registry includes mandated reporting of children born with certain established medical conditions and voluntary reporting of children with other special health care needs. As children are enrolled in the Registry, parents of registered children are contacted by letter and by personnel located in county case management units. This process ensures timely referrals to Part C service coordinators housed within the case management units. The central Registry is located within DHSS.

2. Newborn Hearing Screening

New Jersey is providing innovative programs to ensure that newborns at risk for hearing impairments are identified within the first three months of life. At the time of OSEP's visit, New Jersey had a Newborn Hearing Screening program that requires hearing screening of newborns at risk for hearing impairment. Approximately 42 percent of newborns are currently screened. However, by the year 2002, all birthing facilities will be required to screen all newborns electro-physiologically, prior to discharge or before the newborn is one month of age regardless of the presence or absence of risk factors.

3. Autism Registry and Research

The State is demonstrating a strong commitment to children with autism and their families. Just prior to OSEP's visit, the State Legislature and Governor created two initiatives to address increasing concern about meeting the needs of children with autism and their families. The goal of both initiatives is to enable analysis of the causes of autism and to plan for and provide appropriate services to children with autism and education for their families. One initiative is the creation of the Center of Excellence for Autism where basic and applied biomedical research, diagnosis and treatment for autism will take place. The other is the creation of a registry for autism within DHSS. This registry is to be organized similarly to the current Special Child Health Services Registry in that it will require professionals qualified to make the diagnosis of autism to register children with this diagnosis with DHSS.

4. Coordination of Child Find with Social Security Administration

DHSS has established an effective coordinated child find procedure with local Social Security Offices in that it receives monthly printouts from the Social Security Disability Determination Unit that identifies all children applying for Supplemental Security Income. The county case management staff provides outreach to all Supplemental Security Income applicants to ensure

that appropriate referrals are made to early intervention and other education and social service agencies.

Although child find activities are coordinated with local Social Security Offices, the implementation of an effective coordinated, interagency child find system is not yet in place as cited later in this Section.

B. AREAS OF NONCOMPLIANCE

1. Inadequate Documentation of Dissemination Practices

DHSS must have procedures in place to determine the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services to parents of infants and toddlers with disabilities. 34 CFR §303.321(d)(2)(iii). DHSS has not ensured that procedures are in place to determine the extent to which primary referral sources, particularly physicians, disseminate information to parents of infants and toddlers with disabilities about the availability of early intervention services.

State Part C staff acknowledged to OSEP that the State does not have effective procedures for determining the extent to which primary referral sources receive the information about the early intervention system or disseminate it to families. Service providers, service coordinators and parents in three Regions of the State, reported that information about early intervention services is not in physician's offices.

Many families throughout the State reported to OSEP that they did not obtain information about early intervention services from their physicians. Some families said they had to do their own research to obtain information about the early intervention system. The preponderance of these reports were from families who have children with developmental delays of unknown etiology, children suspected of having autism spectrum diagnoses, children born in nearby States and who are in the military.

In one Region that OSEP visited, parents, interagency representatives and providers stated that doctors need information about the benefits of the early intervention system for children and families. Parents reported that doctors take a "wait and see" approach even when parents express concern about their child's development. Participants in the public forums also reported that physicians need to have information about the importance of the early intervention program and the types of services the early intervention system provides. Service providers and service coordinators in one Region reported that families in certain socioeconomic categories are not referred to the early intervention system by physicians or others until their private insurance coverage for private services expires.

2. Child Find Activities Not Coordinated

DHSS, with the assistance of the State's Interagency Coordinating Council, must ensure that child find under Part C is coordinated with all other major efforts to locate and identify children

conducted by other State agencies responsible for administering the various education, health, and social service programs relevant to Part C. 34 CFR §303.321(c).

With the exception of the Social Security agencies (noted above in the “Strengths” section), DHSS has not ensured that all public agencies collaborate in child find activities. By not ensuring that infants and toddlers who may be eligible for Part C services are referred to the State’s early intervention program, DHSS may be denying eligible children and families the rights, protections, service coordination and services they would be entitled to receive under an IFSP.

The Part C staff stated that a coordinated child find system is not yet in place. The Steering Committee reported that improvements in coordinating child find activities with relevant agencies are needed. Other State interagency representatives reported that State health and social service agencies generally operate with minimal interagency coordination and implement their programs “in silos”. This group stated, however, that the DHSS Stakeholder initiative provided a strong foundation to begin the process of building interagency coordination.

All parents in one area told OSEP that they had not received information about the early intervention system from any social service agency with which they had had contact. Service providers in two Regions reported that coordination of child find activities is not occurring with health and social service programs implemented by the visiting nurses and the State agency responsible for foster care. Local interagency representatives, in one Region, stated that no procedures exist to ensure coordination of child find efforts with other agencies at the local level.

In three areas OSEP visited, service providers, service coordinators, parents and interagency representatives told OSEP that efforts to coordinate child find and outreach with doctors, and community and social service agencies that serve Hispanic and immigrant families, have not been effective. One member of the State interagency group told OSEP that anecdotal data indicate that Hispanic children are being referred to the early intervention system later than other groups. To address this concern, the Catholic Charities and the Parent Training Center are collaborating on a project to employ outreach workers for Hispanic communities and agencies to ensure timely referrals to early intervention and other programs. This State group also reported that effective, coordinated strategies are needed to provide outreach for families who recently immigrated to the U.S. through New Jersey cities.

Prior to OSEP’s visit, the State had initiated regional needs assessments to determine whether gaps existed between children enrolled in the early intervention program in comparison to the census, the Special Child Health Services Registry and other demographic data, including racial, ethnic, and cultural groups. DHSS hoped to use data from these studies to ensure a comprehensive, coordinated child find system. Although State data show that referrals to the early intervention program are increasing, data from one Regional report, available to OSEP at the time of the visit, indicated that outreach and coordination of child find with other agencies could have a positive impact on the early referral and identification of underrepresented groups within that Region.

The Lead Agency is implementing a variety of strategies to ensure that the child find system is reaching all audiences and is coordinated. Two State interagency agreements that define roles and responsibilities for child find were being reviewed by the relevant agencies at the time of OSEP's visit to the State. The State is developing a management information system that will provide feedback on gaps in referral sources so that child find activities can be targeted to relevant audiences. While this system is being developed, DHSS formed a workgroup with the NJSDE to identify and coordinate the various child find activities occurring throughout the State. The State Interagency Coordinating Council formed a workgroup to focus on the early identification of young children in New Jersey to include examination of ways to improve coordination across agencies to improve child find. DHSS plans to incorporate the activities and recommendations from the NJSDE, State Interagency Coordinating Council and the needs assessments of the four Collaboratives, so that a coordinated, targeted child find system is in place.

DHSS will need to evaluate the results of these steps and be able to demonstrate compliance with the requirements for the provision of a coordinated child find system to ensure the early referral of children needing early intervention services.

C. SUGGESTION FOR IMPROVED RESULTS FOR INFANTS, TODDLERS AND THEIR FAMILIES

Coordination with Newborn Hearing Screening, Staff from the Early Identification and Monitoring Program, and New Jersey's Center for Birth Defects Research and Prevention

The Service Delivery Task Force suggested that the Part C staff in DHSS work with staff responsible for the newborn hearing-screening program in DHSS to determine how to coordinate this program and referrals to early intervention prior to the 2002 implementation of universal newborn hearing-screening program. Experts in this field suggest that a neonate who is deaf looks and acts like any other baby and may go home from the hospital with an undetected hearing impairment or profound deafness if not screened in the hospital or shortly thereafter. In addition, studies have indicated that 30% of childhood hearing loss develops after the newborn period; therefore, periodic hearing screening may need to continue throughout early childhood.

Other relevant activities within DHSS, such as the newly formed work group to improve physicians' reporting to the Birth Defects registry (known as the Early Identification and Monitoring Program), and the Birth Defects Research project that has established (or is establishing) collaborative relationships with various hospitals and health facilities across the State, might have common goals and objectives with the Part C system, such as outreach and collaboration with physicians and hospitals. OSEP encourages the early intervention staff to collaborate with these activities wherever feasible so that a coordinated child find system can be improved and primary referral sources are informed about and make referrals to the early intervention system.

III. PART C: EARLY INTERVENTION SERVICES IN NATURAL ENVIRONMENTS

In creating the Part C legislation, Congress recognized the urgent need to ensure that all infants and toddlers with disabilities and their families receive early intervention services according to their individual needs. Three of the principals on which Part C was enacted include: (1) enhancing the child's developmental potential, (2) enhancing the capacity of families to meet the needs of their infant or toddler with disabilities, and (3) improving and expanding existing early intervention services being provided to children with disabilities and their families.

To assist families in this process, Congress also requires that each family be provided with a service coordinator, to act as a single point of contact for the family. The service coordinator ensures that the rights of children and families are provided, arranges for assessments and IFSP meetings, and facilitates the provision of needed services. The service coordinator coordinates required early intervention services, as well as medical and other services the child and the child's family may need. With a single point of contact, families are relieved of the burden of searching for essential services, negotiating with multiple agencies and trying to coordinate their own service needs.

Part C requires the development and implementation of an IFSP for each eligible child. The evaluation, assessment, and IFSP process is designed to ensure that appropriate evaluation and assessments of the unique needs of the child and of the family, related to enhancing the development of their child, are conducted in a timely manner. Parents are active members of the IFSP multidisciplinary team. The team must take into consideration all the information gleaned from the evaluation and child and family assessments, in determining the appropriate services to meet the child's needs.

The IFSP must also include a statement of the natural environments in which early intervention services will be provided for the child. Children with disabilities should receive services in community settings and places where normally-developing children would be found, so that they will not be denied opportunities that all children have – to be included in all aspects of our society. Since 1991, IDEA has required that infants and toddlers with disabilities receive early intervention services in natural environments. This requirement was further reinforced by the addition of a new requirement in 1997 that early intervention can occur in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment. In the event that early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment, the IFSP must include a justification of the extent, if any, to which their services will not be provided in a natural environment.

Validation Planning and Data Collection

The majority of the issues that emerged from both the State's Self-Assessment and the public forums require systemic changes in resource allocation for provision of services, recruitment and training of staff to meet the needs of children with autism, hearing impairments or vision impairments, IFSP team procedures, and training for and recruitment of service coordinators.

The Self-Assessment Report and public forum participants articulated that: (1) high caseloads of service coordinators inhibit their ability to carry out the duties required under Part C; (2) IFSPs are not developed based on individualized needs of infants, toddlers and families; (3) improved interagency collaboration is needed in order to ensure all needs and services are addressed in the IFSP process; and (4) the State has insufficient bilingual staff.

During interviews with service providers and administrators, OSEP learned that administrators in Camden County are employing creative mechanisms to retain qualified personnel. The administrator awards bonus points and monetary awards for staff to use for personal and professional development. The program generates funds for these awards by sponsoring training seminars conducted by nationally known experts that attract large audiences from many States.

A. AREAS OF NONCOMPLIANCE

1. Failure to Implement Service Coordination Responsibilities

Under 34 CFR §303.23(a) and (b), service coordinators are required to assist families in obtaining needed early intervention services, facilitate the timely delivery of available services, link the family to other available resources and continuously review and seek out appropriate services to benefit the development of each child.

DHSS has not ensured that service coordinators are performing their duties as set forth in 34 CFR §303.23 such that children and families receive the early intervention services in a timely manner in order to enhance the child's development. The lack of ongoing service coordination has resulted in lack of identification and provision of all needed services for children and families and lack of effective transition activities.

The Stakeholder Task Force and the Steering Committee reported that changes in the service coordination system, including lowering caseloads and providing training, must occur in order to ensure that all appropriate services are identified and received by eligible children and their families.

Families in all three Regions reported the service coordinators do not have adequate knowledge about the full range of services, nor the time to go out and learn about the resources that might be available. One family reported, "I don't know what my service coordinator's job is. She gives me pamphlets." Another family reported, "I have a couple of contacts per year." One service coordinator reported, "Families can, and do fall through the cracks. I would like to do more." In one Region, the service coordinators will call the providers to check on the status of the child rather than communicating directly with the family "because families are busy." One service coordinator administrator, whom also carries a caseload, reported that families do not have the support they need.

All three Regions reported that excessive service coordinator caseloads prevent service coordinators from carrying out their responsibilities under Part C. Service coordinators in two counties reported caseloads exceeding 100. One service provider stated that "service coordinators are always on the run." Families also reported that service coordinators have

caseloads that are too high. It is the therapists from whom families reported receiving support. Many families reported to OSEP that “therapists” do not have the time to be the service coordinator also.

The administrators in all three Regions agreed there are not enough service coordinators to carry out the responsibilities under Part C. Data OSEP reviewed from two Regions showed long-term vacancies in case management units. One DHSS monitoring report stated that one case management unit had had vacancies for one year. DHSS Special Child Health Services Case Management Unit supervisors reported that recruitment is hampered because of the competitive job market, salary levels and travel and flexible schedule-requirements in the State’s early intervention system. In some cases, agency-hiring practices appeared to hamper recruitment because these agencies restricted hiring to certain disciplines even though State Part C policies did not have these restrictions. In the three Regions, administrators reported that the quality of service coordination units vary across the State.

The service coordinators in the three Regions reported that lack of training and State policies are barriers to active, effective service coordination. Although State policies and procedures and guidelines do not place limitations on the amount of time a service coordinator interacts with families, service coordinators reported that contact with families is driven by their interpretation of State guidelines that only require service coordinators to meet with families two times per year; at six month and annual IFSP reviews.

2. All Needed IFSP Services Are Not Identified and Provided

34 CFR §303.344(d) requires that the IFSP include a statement of specific early intervention services necessary to meet the unique needs of the child and family to achieve the outcomes listed in the IFSP, including the frequency and intensity of delivering the service. Frequency and intensity are defined as the number of days or sessions that a service will be provided during each session, the length of time the service will be provided, and whether the service is provided on an individual basis or group basis. 34 CFR §303.344(d)(2)(i). The development of an IFSP is a planning process to assist the IFSP team, including parents, in making decisions about services, frequency, intensity, and duration of services on an individual basis to meet the child’s and family’s unique needs.

OSEP found that IFSP teams are not making individual decisions for IFSP services for all infants and toddlers with disabilities, based on the unique needs of each child and family. DHSS and Regional staff reported that they are concerned that individualized IFSPs are not being developed and that most children receive 2 hours per week of services at public expense regardless of whether they need more or fewer hours. State policy provides that a child and family are eligible for up to two hours of services per week at public expense. If a child or family needs services beyond the 2 hours at public expense, a fee may be charged for those services based on State financial eligibility determination procedures.

OSEP reviewed 34 records from three Regions around the State. All IFSPs indicated that services would be provided from 1-2 hours per week, total for all services. Regardless of the

severity or need, 2 hours per week was the maximum provided. None of the IFSPs provided for additional services paid for by parent fees.

The Steering Committee reported that “misunderstanding or misapplication” of the guideline that services based on need are identified on the IFSP results in “needed services not being included on the IFSP, inadequate investigation of other potential funding sources (such as private insurance), and/or denial of intensive services when needed.”

OSEP found inconsistencies regarding the families’ view of the IFSP process and State policy. In three of the four locations visited, families reported that infants and toddlers are eligible for only 2 hours of services per week under the Part C system in New Jersey. One parent indicated that her child was in need of additional speech therapy, but would not receive it because they “already receive 2 hours of services.” In one service area, 8 out of 9 parents reported that the service coordinator informed them to contact their insurance companies for additional services, but the service coordinator did not assist in this activity as required under Part C. Only in one location did the families report that infants and toddlers receive the services that are needed, although the IFSPs that were reviewed indicate they receive 1 to 2 hours of services per week.

Service Coordinators, service providers and local program administrators from all three Regions reported that almost all infants and toddlers eligible under Part C receive 2 hours per week at no cost to families, regardless of the severity of their disability and/or identified needs. Service providers report that it is difficult to explain to a family that they will only receive 2 hours of therapy a week at no cost, when they know the child would benefit from more. Administrators are in agreement that “all IFSPs seem to look alike.” Administrators in one Region reported that they are aware that service coordinators and providers are reluctant to “change the cookie cutter approach to frequency and duration for financial fears – who would pay?”

Another factor that appears to limit the identification of all needed services by IFSP teams is lack of adequate personnel. One Regional Early Intervention Collaborative reported that 90% of the intervention administrators indicated difficulty with recruiting and retaining early intervention staff. Occupational, physical and speech therapy positions were the most difficult to fill. Respondents also indicated having difficulty locating providers who have experience working in early intervention. These administrators attributed recruitment and retention problems to low salaries, lack of a qualified pool of candidates, and travel requirements to ensure children are served in natural environments.

The Stakeholders Service Delivery Task Force reported that throughout the State there is a lack of trained interventionists who are skilled in working with children diagnosed with autism. Procedural Safeguards reports and parental contacts with OSEP corroborate that IFSP teams are not developing individualized IFSPs based on extensive needs of children with autism due to lack of staff experienced in working with children with autism. Staff shortages for children with hearing or visual impairments are occurring in certain areas of the State as reported by a State Task Force. OSEP has received telephone calls from advocates and parents of children with autism because they believed their children were not receiving the services they needed.

Regional staff reported to OSEP that they are trying to obtain back-up personnel from university internships to fill a temporary need. Another Region is in the process of developing a regional consulting pool to address personnel needs. DHSS has accepted the Service Delivery Task Force recommendations to address personnel shortages and inservice training. See related information under “State Supervision Methods Not Resulting in Corrections of Noncompliant Practices” in Section I of this report.

DHSS staff reported that it has provided numerous training and technical assistance opportunities for service providers, service coordinators, and administrators on the process for developing IFSPs. The State has also instituted a variety of strategies to ensure that teams are writing individualized IFSPs, such as asking teams to submit IFSPs for Regional review. However, at the time of OSEP’s visit to the State, DHSS had not developed an effective means to address this statewide problem. Subsequent to OSEP’s visit, DHSS held meetings in the four Regions to provide additional training on the appropriate procedures for developing IFSPs and distributed written guidance as well.

B. SUGGESTIONS FOR IMPROVED RESULTS FOR INFANTS, TODDLERS, AND THEIR FAMILIES

1. Addressing Ongoing Financial Support for the System

A Funding Task Force has convened as a result of the Stakeholder process. This 25 member group, comprised of parents, advocates, a university-based economist, and representatives from Medicaid, the State Treasury, State Administration and Management, Department of Human Services, and DHSS, is to provide recommendations about 1) disbursement of early intervention funds through competitive contractual arrangements, 2) methods to bill third party sources and 3) revising the current sliding fee scale in such a way as to place a cap on total family liability for payment of early intervention services. This workgroup is charged with developing recommendations by the end of 2001.

OSEP suggests that due to the pervasive and uncorrected issue of lack of individualized services on IFSPs that DHSS may need to develop interim plans for funding direct services based on child and family needs sooner, or provide more guidance and technical assistance to ensure children and families receive the services they need.

2. System of Child Evaluation and Assessment, Including Informed Clinical Opinion

DHSS is in the process of establishing regional evaluation teams to bring consistency to the eligibility and evaluation process throughout the State.

OSEP observed two aspects of the current evaluation process that might need additional guidance and attention during the piloting of the new system. These are: (1) Evaluation of a child’s vision and hearing prior to the IFSP meeting was not being consistently carried out across the State. (2) Multidisciplinary evaluation teams in two counties reported that they did not think that clinical opinion could be used as a separate basis for establishing eligibility in addition to tests and protocols. The use of informed clinical opinion is extremely important for identifying

infants and toddlers who have atypical developmental patterns and who might need early intervention services. One evaluation team reported that many children referred by the Visiting Nurse Association are initially found ineligible but are subsequently determined eligible for early intervention services at a later date in follow-up testing. The team stated that approximately 75% of the returning children are determined eligible for early intervention. A team in another area reported that approximately 5 out of every 50 referred children are determined eligible for early intervention in follow-up evaluations. However, because they do not have a formal tracking system, they could not report how many children did not return for follow-up evaluations. This area of the State has a highly diverse population and is home to many immigrant families who might not return for follow-up evaluations for a variety of reasons. The State Part C staff stated that they had provided guidance about the use of clinical opinion as a separate criterion in the past and told OSEP they would follow up in this matter so that the evaluation teams understood the State policy.

3. System to Support Language-Minority Families

OSEP reviewed many IFSPs and evaluations that were translated into Spanish. However, New Jersey has a highly diverse population of language minority citizens who speak Chinese, Japanese, Egyptian, Hindi/other Indian dialects, Russian, Hebrew/Yiddish and Portuguese. State data indicate that between 10-17% of the families enrolled in the system at any one time do not speak or understand English.

DHSS requires contractors to have staff or consultants who speak languages represented in their respective communities. OSEP observed that children's records did not document whether or not an interpreter was present during the child's evaluation or IFSP meeting even though families needed this service according to the information in the child's record. Evaluations and IFSP meetings must be conducted in the native language of the family, unless it is clearly not feasible to do so. 34 §§CFR 303.323(a), and 303.342(d)(1)(ii).

The State is undertaking measures to analyze the gaps, if any, between available staff and the language or mode of communication of families who require interpreter services for the duration of early intervention services. OSEP learned that in Hudson County, the DHSS Special Child Health Services Case Management Unit in Hudson County has recruited service coordinators who speak Spanish, Tagalong, Ibo, Yoruba, Hindi, Urdu, and Projabr. OSEP encourages DHSS to pursue analysis and ongoing monitoring to ensure that no community is excluded from access to the early intervention system.

4. Year-Round Services

During a 12-month period, fifteen of 44 early intervention provider agencies are closed between ten and twenty-two working days in addition to the 10 State holidays. The majority of remaining provider agencies [29] closed for only a few days, primarily during the recognized State holidays, if then. State contracts specify that providers are allowed to only close one week at a time and that provider closings cannot impact on the 45-day requirements for completion of evaluations and IFSP meetings. Case management units where service coordinators are housed are open 52 weeks per year.

DHSS needs to place a special emphasis in its monitoring activities to ensure that continuous services are provided to all children and families in all geographic areas throughout the State based on the individualized needs on IFSPs.

5. Assistive Technology

Early intervention providers in one Region reported that they are not aware of any funding for purchase of assistive technology support or devices. If a child and family need a communication board, the providers construct them. Families can also borrow positioning equipment. New Jersey data in the 2000 "Annual Report to Congress" reports that .85% of infants and toddlers enrolled in early intervention received assistive technology services in accordance with their IFSPs. Motor and communication delays were the most commonly reported special needs of children enrolled in New Jersey's early intervention program [according to the State's longitudinal study]. Because children with severe motor and communication delays might require assistive technology support, OSEP suggests that DHSS provide technical assistance for IFSP teams to ensure they are knowledgeable about State policies to access assistive technology support for children enrolled in early intervention. This is an area in which interagency collaboration is important to ensure sharing of costs and resources among appropriate State agencies.

IV. PART C: FAMILY-CENTERED SYSTEM OF SERVICES

Research has shown that improved outcomes for young children are most likely to occur when services are based on the premise that parents or primary caregivers are the most important factors influencing a child's development. Family-centered practices are those in which families are involved in all aspects of the decision-making, families' culture and values are respected, and families are provided with accurate and sufficient information to be able to make informed decisions. A family-centered approach keeps the focus on the developmental needs of the child, while including family concerns and needs in the decision-making process. Family-centered practices include establishing trust and rapport with families, and helping families develop skills to best meet their child's needs.

Parents and other family members are recognized as the linchpins of Part C. As such, States must include parents as an integral part of decision-making and service provision, from assessments through development of the IFSP, to transition activities before their child turns three. Parents bring a wealth of knowledge about their own child's and family's abilities and dreams for their future, as well as an understanding of the community in which they live.

In 1986, Part C of the IDEA was recognized as the first piece of Federal legislation to specifically focus attention on the needs of the family related to enhancing the development of children with disabilities. In enacting Part C, Congress acknowledged the need to support families and enhance their capacity to meet the needs of their infants and toddlers with disabilities. On the cutting edge of education legislation, Part C challenged systems of care to focus on the family as the unit of services, rather than the child. Viewing the child in the context of her/his family and the family in the context of their community, Congress created certain challenges for States as they designed and implemented a family-centered system of services.

Validation Planning and Data Collection

The Part C Self-Assessment noted a number of improvements that are needed to provide a Statewide family centered system of services, such as (1) need to establish a more uniform system of outreach activities by the Regional family support staff; (2) need for increased family support options, e.g. child care, respite care; (3) need to develop a uniform statewide method for gathering family satisfaction information on a regular basis (Currently local providers and regions conduct surveys but this information is not aggregated at the State level); and, (4) need for a significant increase in ongoing training for families, regarding such areas as procedural safeguards and IFSP procedures.

The public forum participants reported that: (1) consideration of family supports and services during the IFSP process needs to greatly improve; (2) the IFSP process is not well understood by most families; (3) fathers want to have greater opportunities to be included in IFSP decisions and services; (4) interagency collaboration is needed to promote development of family support services; and (5) the shift to services in natural environments has led to increased isolation of families.

During the data collection phase of OSEP's involvement with NJ, OSEP learned that one local early intervention provider, Virtua Memorial Hospital in Mt. Holly, has numerous and effective family support activities, including sibling education and support. This program offers innovative and varied family support opportunities that include support groups for fathers, sibling support, social gatherings for families, topical training (sign language, communication development, orientation to early intervention), a library story hour for all children in the community, play groups held in family homes or community locales, and informational workshops.

OSEP also learned that an "empowerment zone family support model" is supporting inner city families in Camden to participate in the early intervention system. Because inner city families often face seemingly insurmountable problems such as poor housing, lack of food and clothing, no transportation and limited access to basic medical care, early intervention providers and community agencies have formed a consortium to assist families and children in Camden. 83% of families who received early intervention services stayed involved with the early intervention system until their children exited at age 3. Prior to the formation of the consortium, approximately 20% of families stayed involved.

OSEP reviewed and analyzed the data and identified the following strengths, area of noncompliance, and suggestions for improved results for infants, toddlers and their families.

A. STRENGTHS

1. DHSS Supports Family Initiatives

DHSS makes consistent and extraordinary efforts to ensure that parents have input into all aspects of policy development and to provide financial support to parent sponsored organizations. The Chairperson of the State Interagency Coordinating Council must be a parent and all work groups must have at least one parent member. DHSS provides staff support to the Council to ensure parents have the support they need to fully participate. Early intervention contractors must set aside a portion of their annual funds so that families can attend and participate in training and advisory activities. Parents comprise at least 51% of the membership on the four Regional Collaborative boards and participate in oversight activities as volunteers, such as on-site monitoring.

Further, DHSS provides financial support for the Parent Training and Information Center to operate three projects: Project Care, Parent-to-Parent, and the New Jersey Chapter of Family Voices. Project Care, operated out of 11 county case management units throughout the State, provides support for families exiting the Part C system with fourteen paid parents. Parent-to-Parent is a telephone support service that matches trained volunteer parents with other parents with similar concerns. The New Jersey Chapter of Family Voices provides education, advocacy, and outreach to families of children with special health care needs.

2. Parents as Key Regional Staff

One aspect of the Regional Early Intervention Collaboratives' mission is to ensure that the early intervention system is responsive to local needs of families. At least one parent of a child with disabilities (Family Support Coordinator) is a paid staff member with responsibilities to develop and evaluate outreach activities, respond to phone inquiries from parents and disseminate information to parents. This Coordinator may also participate in monitoring.

3. Reporting Data to Promote Accountability

DHSS disseminates information to stakeholders, including parents, about challenges in the system, thus creating an open atmosphere that helps to promote continuous improvement and accountability at the state, regional and local levels. For example, in 1998, DHSS created a Procedural Safeguards Coordinator position to ensure that families have access to a due process system that is family friendly, impartial and designed to result in speedy resolution of inquiries and complaints. OSEP reviewed documents verifying that the Procedural Safeguards Coordinator, Part C staff, and Regional staff are directing their attention to issues that result from parent phone inquiries as well as informal and formal complaints. State staff is intervening with site visits and verbal and written guidance in instances that warrant this attention. DHSS widely disseminates quarterly reports outlining these activities to the State Interagency Coordinating Council, the New Jersey Parent Training and Information Center, the New Jersey Protection and Advocacy Organization, Mediators and Hearing Officers, Regional staff and early intervention providers.

B. AREA OF NONCOMPLIANCE

Inadequate Identification of Family Supports and Services in IFSPs

The IFSP results from a family-centered process of identifying child and family strengths and needs. The Part C regulations require that, with the concurrence of the family, a family directed assessment be conducted to determine the resources, priorities and concerns of the family and the identification of supports and services necessary to enhance the family's capacity to meet the developmental needs of the child. 34 CFR §303.322(d). Moreover, 34 CFR §303.344 (b) requires the IFSP to include, with family concurrence, a statement of the family's resources, priorities and concerns related to enhancing the development of the child. The IFSP must also include the specific early intervention services to meet the unique needs of the family and the outcomes to be achieved for the family. 34 CFR §303.344(c) and (d).

The family-centered approach envisioned by Part C emphasizes the identification, with family concurrence, of resources, priorities and concerns and services and supports necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability. This approach can include providing services to enhance the family's skills and knowledge about their child's condition; developing outcomes on the IFSP that are functional for the family (for example, facilitating the child's sleeping, eating, playing and communicating); supporting families to gain access to services that address their needs through community agencies and providing or referring families to social support networks.

OSEP finds that the State is not ensuring that, with the concurrence of the family, IFSPs include the services and supports necessary to enhance the family's capacity to meet the developmental needs of their child.

DHSS policies and procedures instruct teams to conduct a family assessment, with family consent, during the intake, evaluation and assessment process, and to ensure that, if family needs are identified, they are discussed at the IFSP meeting. In addition, DHSS provides training to all service coordinators and providers about the process for completing the IFSP form, including identification of family concerns, priorities, resources and needs as well as services and support. However, DHSS told OSEP that it did not have an effective mechanism to track Statewide gaps in the provision of family supports and services identified by IFSP participants as a required IFSP service or "other service". The State hopes to rectify this problem with the initiation of a management information system called "One Ease E-Link" that is under construction.

In spite of DHSS's guidance and training, 13 of the 34 IFSPs OSEP reviewed did not include any information regarding family's priorities, concerns, resources, services or supports, and their children's files did not include any indication that the families had been informed of and rejected the option to have a family assessment. In the other 21 IFSPs, OSEP did find families' concerns, priorities and resources, but the IFSP did not contain any outcomes or services to address the needs even though families requested parent support services. In a few records, OSEP noted progress notes indicating that referrals had been made to community resources, such as WIC and childcare.

Interviews with Regional and Part C staff as well as reviews of State monitoring reports corroborate OSEP's finding that family services and supports are not included on IFSPs linked to the family identified needs. The Steering Committee reported that family concerns and needs are not consistently identified throughout the State and when identified, not linked to IFSP services. The Stakeholder group, Steering Committee, and other State agencies reported to OSEP that a statewide system to provide family supports and services is not yet in place. These groups mentioned the need to have accessible resource directories and to develop respite services.

In three counties OSEP visited, staff reported that they are beginning to mobilize and network agencies to address the gaps in family supports and services. County interagency representatives in the fourth area reported to OSEP that they already had close working relationships with agencies that provide family support services and were linking families to these agencies. However, at the time of OSEP's visit, OSEP did not observe the outcomes of family support linkages in any of these areas because they were not documented in progress notes, or in IFSPs, or reported in parent interviews.

In three of the four areas OSEP visited, parents reported that they feel extremely isolated in their respective communities and do not know where to go to obtain family supports and services, such as respite, information and parent support. In one community, the families established a support group to fill the need. These families suggested that having a written compilation of family resources and a hotline to obtain answers to questions about their children with disabilities would be very useful. In one county, families told OSEP that supports such as parent-to-parent, literacy programs, parenting courses, parent/child playgroups and transportation

to the toy-lending library are not available. Only one parent OSEP interviewed reported that she was aware of the Parent-to Parent program although early intervention contractors are required to disseminate this information to families as a stipulation of their state contract.

DHSS agrees that improvements are needed in New Jersey's current system of family supports and services. Prior to OSEP's visit, DHSS initiated a number of strategies to address gaps in family supports and services. A Stakeholder Service Delivery Task Force, comprised of parents, providers and agencies, submitted specific recommendations with concomitant timelines to address gaps in the provision of family supports and services. These recommendations were endorsed by DHSS. DHSS required each county to submit a Family Support Plan containing objectives and strategies to mobilize agencies, parents and others to begin to address family resource needs. DHSS provided additional funding to support one full time Regional Family Support Coordinator to assist DHSS in developing and implementing a State plan to address gaps in family resources and services. This person will work with other Regional Family Support Coordinators so that consistent activities are implemented in each Region. The State Interagency Coordinating Council's Family Support Workgroup plans to hold parent education forums and to develop parent mentoring and parent leadership training.

DHSS will need to evaluate the results of these steps and be able to demonstrate compliance with the requirements for the provision of family supports and services based on the needs identified through the IFSP process.

C. SUGGESTIONS FOR IMPROVED RESULTS

1. Ensuring Parents Understand the Early Intervention System and their Rights

During the validation planning and validation data collection visits, many parents reported to OSEP that they did not understand how the early intervention system operates or who to call when they have questions about early intervention services. Many parents also stated that they were confused by the IFSP process and would have appreciated an orientation to the IFSP prior to their first IFSP meeting. Although each Region reported to OSEP that family satisfaction surveys are conducted, the families OSEP interviewed were not aware of the surveys and other mechanisms to provide feedback to the early intervention program. The Steering Committee reported a need for a significant increase in ongoing, accessible training for family members to ensure their equal partnership in the development of their child's IFSP. The fact that families are reporting a lack of understanding of the IFSP process may indicate that service coordinators are not able to provide family training and support and carry out all of their responsibilities under Part C. See Section III in this Report.

In a related matter, DHSS is re-instating a 3-hour parent-training program on procedural safeguards. This training is being initiated, in part, because of the inquiries and complaints the State is receiving from parents and findings from State monitoring. DHSS staff, in collaboration with the Parent Training and Information Center, plans to offer families 12 training sessions throughout the State.

OSEP suggests that the State continue to implement strategies to ensure that families have the information and training they need to be active participants in the early intervention system.

2. Promote Interagency and Broad-Based Plans for Family Supports and Services

As DHSS moves forward with initiatives to address the needs of families within the early intervention system, OSEP recommends that two key issues be considered and explored. The first relates to coordination between agencies. Since no one agency or organization can provide all the services families may need, interagency coordination and inter-organizational arrangements are critical to ensuring a family's access to supports and services, including respite services, child care, interpreters, and transportation. The Part C program was envisioned as a coordinated system of shared responsibility and shared resources.

The second issue relates to achieving a common understanding about the parameters of family supports and services in the State's early intervention system. Many providers, administrators, service coordinators, and agency personnel equated family supports with family support groups. Family supports and services in early intervention can also include the provision and mobilization of child learning opportunities in the family's community, parent training, and family/community resources that strengthen and support families who have children with disabilities. As one Regional staff person told OSEP, "The philosophy we need to impart to the staff is that we are here to help the family and child. Early intervention helps to empower the family and help them identify the supports that are long lasting."

V. PART C: EARLY CHILDHOOD TRANSITION

Congress included provisions to ensure that preschool or other appropriate services would be provided to eligible children leaving early intervention at age three. Transition is a multifaceted process to prepare the child and the child's family to leave early intervention services. Congress recognized the importance of coordination and cooperation between the educational agency and the early intervention system by requiring that a specific set of activities occur as part of a transition plan. Transition activities typically include: (1) identification of steps to be taken to prepare the child for changes in service delivery and to help the child adjust to a new setting, (2) preparation of the family (i.e., discussions, training, visitations), and (3) determination of other programs and services for which a child might be eligible. Transition planning for children who may be eligible for Part B preschool services must include scheduling a meeting, with approval of the family, among the lead agency, the educational agency and the family, at least 90 days (with parental permission up to six months) prior to the child's third birthday. Transition of children who are not eligible for special education also includes making reasonable efforts to convene a meeting to assist families in obtaining other appropriate community-based services. For all Part C children, States must review the child's program options for the period from the child's third birthday through the remainder of the school year and must establish a transition plan.

Validation Planning and Data Collection

The Self-Assessment reported that consistent application and implementation of the transition process is not yet fully realized. Areas needing improvement include: (1) regional monitoring findings related to transition are not reported to the State in a timely fashion; (2) transition planning conferences are not consistently convened in a timely manner throughout the State; (3) activities to support the child and family in transition are not included in the IFSPs; and (4) training for non-English speaking families about transition is needed. The public forum participants corroborated the Self-Assessment report findings and added that Local Education Agencies often have separate procedures for transition and this can lead to a breakdown during transition because the Part C system may not be knowledgeable of the Local Education Agencies' procedures.

A. STRENGTH

Collaboration between DHSS and NJSDE

DHSS and NJSDE staff has built an effective collaborative working relationship to improve transition practices throughout the State. For example, staff from both agencies co-present at training events about transition. Networking between the Regional technical assistance staff and Regional preschool special education staff is occurring. A Transition Task Force comprised of parents, advocacy organizations, local education agencies, early intervention providers, Head Start, and State staff worked over two years to produce a family information booklet "Welcome to Transition." The early intervention community and parents reported that this booklet is an extremely useful information tool. More collaboration between the agencies is needed, however, to ensure timely transitions to Part B. (See noncompliance, #2, below.)

B. AREAS OF NON-COMPLIANCE

1. Steps in Transition Planning Not Included on IFSPs

Each IFSP must include steps to be taken to support the transition of the child to preschool special education services or other services, as appropriate. 34 CFR §303.344(h). The steps must include procedures to prepare the child for changes in service delivery, including steps to help the child adjust to and function in a new setting. The regulations also require that IFSPs include steps for discussions with, and training of, parents regarding future placements and other matters related to the child's transition.

DHSS has not ensured that transition planning is implemented for each child and family according to Part C requirements. A system to ensure that children and families are prepared for transition in accordance with their IFSP is not yet in place.

In three counties, service providers, service coordinators, parents, interagency representatives, and administrators reported that steps to prepare the child for their next preschool environment are not delineated on IFSPs. OSEP's review of thirty-four records confirmed that IFSPs do not include these steps. Regional staff stated that the early intervention providers and service coordinators do not have an adequate knowledge of the preschool special education service system or other community services so that individualized preparation for the child's next early childhood program can be implemented.

DHSS and Regional staff stated that training and technical assistance for transition focuses on the procedures for transition and not on the preparation of the child and family. According to State and regional staff, "we need to focus on the art of doing transition" that includes meaningful, individualized preparation of the child and family.

Although the "*Welcome to Transition*" booklet provides excellent general guidance for families, having general information available is not a substitute for information to support a family based on their unique circumstances; therefore, the IFSP team needs to develop unique steps outlined on each IFSP to ensure that families have the support and education they need to make transition smooth and effective. DHSS has plans in place to provide system-wide training and technical assistance to families regarding transition.

2. Transition of Children with Disabilities from Part C to Part B Is Ineffective

Part C requires that children with disabilities exiting Part C experience a smooth and effective transition to Part B, if eligible. Under Part C, §303.148(b)(2)(i) requires, in the case of a child who may be eligible for preschool services under Part B of the Act, with the approval of the child's family, that a conference be convened with the lead agency, the family and the local education agency, at least 90 days before the child is eligible for preschool services to discuss the services the child may receive. OSEP found through a interviews with parents, Part C and B administrators, service coordinators, and service providers that DHSS has not ensured that children and families are experiencing a smooth and effective transition to Part B because

transition planning conferences are not held at least 90 days before the child is eligible for preschool services.

In all four counties visited for Part C, OSEP found that procedures were not in place to involve local education agency personnel in the preschool transition process, including the 90-day transition planning conference. Service coordinators, parents, service providers, interagency representatives, administrators, and regional staff confirmed problems with transition during interviews with OSEP. For example, service coordinators in one county stated that they did not know the names of the school district personnel who should be invited to the 90-day transition planning meeting nor did they know who in their agency was responsible for sending an invitation to the local education agencies to attend a transition meeting; therefore, local education agencies could not participate in planning meetings. In another county, service coordinators reported that, although they sent notices to the school districts about the transition planning meeting, they did not follow up to ensure that school personnel could attend the meetings; therefore, meetings were held without having required personnel and transition planning was delayed. In one area OSEP visited, 6 of the 12 local education agencies did not, although invited, participate in the 90-day transition meeting.

Service coordinators and service providers in one county reported that they believed the varying procedures of each local education agency for transition process inhibit the smooth transition from Part B to Part C. Service coordinators, administrators and regional staff reported that service coordinators have to try to learn each district's specific transition procedures, and, in at least one county, service coordinators must learn the procedures for 72 different local education agencies in order to facilitate transition. For example, one local education agency requires families to travel to the school district to register their child before the transition meeting could take place, while others did not have this requirement.

OSEP found that differences in personnel schedules also resulted in lack of local education agencies' involvement in transition planning meetings. In one county, the Part C program generally tried to schedule transition meetings in the evenings or weekends to accommodate the families' work schedules and, although they invited the school district personnel to the meeting, the school district staff did not have the same flexibility to attend meetings in the evenings or weekends. As a result, school officials could not attend the transition meetings.

State Part C exit data from 1998 and 1999 are one indicator that timely transitions are not occurring prior to the child's third birthday. In these two years, 31% and 26% respectively of the children exiting Part C were awaiting final determinations for special education services at age 3. It is highly likely that a proportion of the children who exited the Part C program and who were awaiting final determinations for special education services would be eligible for special education services at age 3, based on historical trends relayed by the NJ Part C staff, that 80% to 90% of the children exiting Part C qualify for Part B.

DHSS and NJSDE staff acknowledged that, although they believed the State is making significant improvements in the transition between early intervention programs and special education through State-initiated communication and joint technical assistance activities, smooth transitions for children and families from Part C to Part B in all areas of the State are not

occurring. The State staff believed that local “idiosyncrasies” in transition procedures inhibit effective transition. At the time of OSEP’s visit, both DHSS and NJSDE were monitoring local transition processes but did not share their findings or improvement plans with each other.

DHSS and NJSDE staff reported to OSEP that they hope to develop methods to conduct joint on-site monitoring activities so that both State agencies, together, could provide guidance to local early intervention programs and school districts. DHSS and NJSDE staff also expressed a need to develop a mechanism to track referrals from Part C to B to ensure that smooth transitions are occurring.

C. SUGGESTIONS FOR IMPROVED RESULTS

1. Transition Systems Development

As a result of OSEP’s discussions with both DHSS and NJSDE about transition, OSEP suggests that outcomes of transition could be strengthened by: 1) disseminating the transition procedures outlined in DHSS’ and NJSDE’s Interagency Agreement, when finalized; 2) identifying and disseminating the local contacts responsible for transition in the local Part C and Part B systems; 3) sharing outcomes of monitoring visits; 4) establishing a tracking system to notify the local education agencies of the number of children expected to be referred to special education; 5) developing mechanisms to ensure that families understand transition procedures and have information about special education services and community services, and 6) establishing guidelines in collaboration with NJSDE to streamline the eligibility determination process between early intervention and special education.

2. Family Information

The “*Welcome to Transition*” family information booklet is available in English only. OSEP suggests that the State consider alternative methods for disseminating the information contained in this document to ensure that all families in early intervention have access to this important information.

VI. PART B: GENERAL SUPERVISION

The IDEA assigns responsibility to state education agencies for ensuring that its requirements are met and that all educational programs for children with disabilities, including all such programs administered by any other state or local agency, are under the general supervision of individuals in the state who are responsible for educational programs for children with disabilities and that these programs meet the educational standards of the state educational agency. State support and involvement at the local level are critical to the successful implementation of the provisions of the IDEA. To carry out their responsibilities, states provide dispute resolution mechanisms (mediation, complaint resolution and due process), monitor the implementation of state and federal statutes and regulations, establish standards for personnel development and certification as well as educational programs, and provide technical assistance and training across the state. Effective general supervision promotes positive student outcomes by promoting appropriate educational services to children with disabilities, ensuring the successful and timely correction of identified deficiencies, and providing personnel who work with children with disabilities the knowledge, skills and abilities necessary to carry out their assigned responsibilities.

Validation Planning and Data Collection

Prior OSEP Monitoring

During OSEP's 1993 review of NJSDE's compliance with the IDEA, OSEP found that NJSDE had not exercised its general supervisory authority over programs providing special education and related services to children with disabilities. Specifically, the NJSDE's monitoring system failed to include methods to monitor for implementation of many Part B requirements, particularly those related to the placement of children with disabilities in the least restrictive environment, provision of a free appropriate public education, and confidentiality of student records. OSEP also found that NJSDE had not conducted comprehensive monitoring in some local education agencies for a number of years. OSEP required NJSDE to revise its monitoring procedures to address all Part B requirements, to ensure correction of all identified deficiencies in all public agencies visited by OSEP, and to conduct training for teachers and administrators in areas where deficient practices were identified.

A follow-up visit by OSEP in 1995 revealed that NJSDE had revised its monitoring procedures to include all the federal requirements identified in the 1993 review and had conducted extensive training and monitoring of most of the agencies previously visited by OSEP in an effort to ensure correction of all identified deficiencies. However, OSEP found that even though NJSDE had revised its monitoring system and completed extensive training, NJSDE had failed to ensure that all public agencies correctly implemented federal Part B requirements in the areas of placement in the least restrictive environment, provision of a free appropriate public education and provision of transition services. As a result of this review, OSEP required NJSDE to conduct additional program reviews in these areas, conduct an analysis of the resultant data and follow-up as necessary.

In 1998, OSEP conducted a second follow-up visit in three counties and went onsite to three local education agencies and a receiving school. As a result of this visit, OSEP found, in each

local education agency, continued noncompliance in each of the areas targeted for follow-up investigation: placement of students with disabilities in the least restrictive environment, provision of a free appropriate public education (provision of appropriate related services and extended school year services) and provision of secondary transition services. While OSEP made findings of noncompliance in the specific local education agencies visited at this time, OSEP noted NJSDE's continued failure to exercise its general supervisory authority over local education agencies across the state. OSEP's concern centered around NJSDE's administrative structure as well as the organization and implementation of its monitoring process.

In the area of General Supervision OSEP found that NJSDE failed to: (1) implement an effective monitoring system that enabled NJSDE to identify noncompliance and in those instances where noncompliance was cited, to effectively correct deficiencies in local education agencies; (2) implement and maintain consistent standards for County Supervisors of Child Study to follow in monitoring, correcting deficiencies and providing technical assistance to local education agencies and receiving schools; and (3) provide supervision, guidance and training to County Supervisors of Child Study. These State employees reported to the Division of Field Services and not the New Jersey Office of Special Education Programs, even though many of the functions they served such as monitoring and providing technical assistance to correct deficiencies related directly to NJSDE's general supervisory responsibility.

OSEP Required Correction: As part of the 1999 Report to address NJSDE's inability to exercise its general supervisory responsibility, OSEP required NJSDE to ensure that: (1) the monitoring system would be effective in identifying noncompliance throughout the State regarding all Part B requirements; (2) any noncompliance identified through monitoring would be effectively and promptly corrected; (3) when necessary because of uncorrected noncompliance by public agencies, including noncompliance identified through monitoring, NJSDE would take prompt and effective enforcement action; (4) personnel responsible for monitoring and ensuring the correction of identified noncompliance would be provided adequate training, guidance and supervision; and (5) NJSDE would identify any limitations on, or barriers to, NJSDE's implementation of necessary enforcement procedures and include any changes necessary to enable NJSDE to take enforcement actions and the timelines for completing those steps.

NJSDE Corrective Actions Taken

I. Revised Monitoring System

A. Process: To address the issue of an ineffective monitoring system, NJSDE took immediate steps following the 1999 OSEP report, to create an entirely new monitoring system and monitoring instrument that addressed all state and federal statutory and regulatory requirements. Instead of the previously used "single topic" approach on a five year cycle, the new system was designed to collect data across fifteen (15) areas: General Provisions (policies and procedures); Free Appropriate Public Education; Procedural Safeguards; Location, Referral and Identification of Children with Disabilities; Protection in Evaluation Procedures; Reevaluation; Eligibility; Individualized Education Program; Least Restrictive Environment; Secondary Transition and Transition from Part C to Part B; Discipline Statewide Assessment; Graduation; Program

Services; and Student Records. Together these fifteen (15) areas incorporated the requirements of the New Jersey Administrative Code (NJAC 6A:14) and the Individuals with Disabilities Education Act, as amended in 1997. The new process required that the State monitors conducting onsite visits use a variety of strategies and data sources to obtain a complete and comprehensive picture of the status of compliance in each local education agency. This comprehensive assessment of compliance included student record reviews; interviews with school personnel responsible for developing and implementing individualized education programs; interviews with parents; consideration of the number and types of complaints and due process hearing requests filed against the local education agency; previous NJSDE monitoring findings of noncompliance and status of correction of those deficiencies; a State-generated information profile of the district that identified problematic areas of noncompliance such as overrepresentation of minority students placed in special education; elevated numbers of students placed in segregated classrooms or out of district placements; and patterns of placement by disability category, etc. For the first time, NJSDE also conducted public focus groups prior to each onsite visit.

B. Monitoring Cycle: NJSDE revised the monitoring cycle to examine every local education agency in a comprehensive manner over a six-year cycle. For the first year of the new cycle, NJSDE took a two-prong approach for the 1999-2000 school year of: (1) piloting the new monitoring instrument and onsite review process and (2) requiring local education agencies that would be monitored during the 2000-2001 school year to complete a self-assessment. NJSDE identified twenty-five local education agencies for onsite monitoring with the new monitoring instrument and thirty-five other local education agencies to participate in a self-assessment of their ability to comply with state and federal special education statutes and regulations. Together, these sixty (60) local education agencies represent 43% of the total population of children with disabilities served in New Jersey.

For the 2000-2001 school year, the thirty-five local education agencies that completed the self-assessment during the 1999-2000 school year are scheduled to be monitored. A total of one hundred seventeen new local education agencies will complete the self-assessment process. Based on the experience with the self-assessment process for the 35 local education agencies in 1999-2000, NJSDE is modifying its approach in how the upcoming 117 local education agencies will participate in the completion of the self-assessment. NJSDE is scheduling an orientation to the process, including local education agencies that have completed the process; scheduling meetings with the directors of special education and local education agency steering committee members; meeting to review current local education agency documentation and identification of areas of need; discussing how to develop activities for identified areas of need; and developing strategies for completion of the self-assessment.

C. Monitoring Team: Instead of the single-person monitor (County Supervisor of Child Study) used in the previous monitoring system, NJSDE's new system has three multi-person monitoring teams each composed of four individuals, with a team leader assigned the responsibility of coordination of the process and report writing. These three teams are located in East Orange, Edison and Sewell and report directly to the NJSDE Program Accountability Unit manager in Trenton.

D. Monitoring Report: NJSDE redesigned the format for monitoring reports to clearly detail each area of compliance; each area of noncompliance, required corrections; and where necessary, directed sanctions such as the immediate provision of compensatory services, changes in administrative structure, staff training and revision of policies and procedures. In order to address noncompliance, each local education agency is directed to develop an improvement plan (corrective action plan) that outlines what steps the local education agency is going to take to address the identified noncompliance. As part of this improvement plan, the local education agency must: (1) identify compliance activities; (2) identify personnel responsible for ensuring progress; (3) specify projected dates for completion; and (4) denote documentation of activities. NJSDE further increased systemic accountability for compliance by issuing the report through the County Superintendent of Schools and advising the local district's Chief School Administrator and Board of Education of noncompliance and expected correction. For monitoring reports generated during the 2000-2001 cycle, NJSDE will also add an oversight statement that describes the type and level of oversight NJSDE will be placing on the local education agency in order for the local education agency to effectively address noncompliance in a timely manner.

II. Organizational Structure:

In order to address OSEP's 1998 finding (described in the 1999 Report) of a lack of supervisory control over the State staff (County Supervisors of Child Study) responsible for monitoring and correcting deficiencies, NJSDE assumed dual supervision over this staff with the Division of Field Services. NJSDE also redefined the role of the County Supervisors of Child Study to: (1) reviewing and approving local education agency applications; (2) monitoring receiving school districts; and (3) providing technical assistance to parents and local education agencies. NJSDE also created a Program Accountability Unit that utilizes an integrated approach to the oversight of complaint investigations and compliance monitoring. The unit employs twelve monitors and four complaint investigators who report directly to the manager of this unit. This integrated approach allows NJSDE to ensure that data obtained from complaint investigations and complaint decisions are integrated into the scope of monitoring each district. A computerized complaint and due process hearing database enables the complaint staff the opportunity to provide relevant data to the monitors regarding the types of issues, areas of noncompliance and required corrective actions that each local education agency is addressing as the result of complaint investigations and/or due process hearing decisions. This information is factored into the monitoring onsite visit and, if the issues remain problematic, becomes part of the corrective action required by the monitoring report. The information is also used to designate a local education agency as a high-risk grantee.

III. Enforcement

To address OSEP's 1999 required corrective action regarding enforcement of monitoring report findings of noncompliance and required corrective actions, NJSDE examined its existing enforcement activities (denial of an application for entitlement funds; redirection of entitlement funds; discontinuation of regular distribution of entitlement funds; withholding of entitlement funds; withholding of State funds; referral to the Office of the Attorney General to initiate the issuance of a show cause order and referral to the Office of Compliance for further action) and

implemented additional enforcement options when it is determined that a local education agency fails to correct identified areas of noncompliance. These additional enforcement options include:

- High Risk designation: A determination made by the NJSDE Office of Special Education Programs and the Division of Field Services for local education agencies that have demonstrated longstanding pervasive noncompliance and who have been unable to complete effective corrective action plans. The criteria used to make this designation include: (1) consistent failure to implement corrective actions required by the NJSDE; (2) significant LRE noncompliance findings from NJSDE's 1998-99 monitoring review and (3) lack of an organizational structure to effect systemic change. Of the twenty-five local education agencies monitored in 1999-2000, NJSDE designated fifteen as high risk. Of the thirty-five local education agencies completing the NJSDE self-assessment in 1999-2000, NJSDE has identified six as high risk. As a result of this designation, NJSDE will provide close oversight of these local education agencies and their efforts to come into compliance, including (a) biweekly meetings with the local education agency special education director, (b) assignment of individual monitors to verify status of correction and (c) solicitation of feedback from parents regarding the verification of correction and implementation.
- Targeted Reviews. Focused monitoring reviews based on feedback from parents and advocates that required corrections have either not been effective or implemented.
- Directed Corrections: A variety of directed corrections, including assignment of a task force with direct oversight to oversee corrective actions; State appointment of an interim superintendent; withholding funds; applying special conditions to IDEA funds; directing the provision of compensatory services to individual/groups of students; and requiring changes in local education agency administrative structures.
- Reporting Noncompliance: To ensure an increased awareness of local systemic noncompliance, NJSDE is now issuing monitoring reports through the County Superintendent's office under the County Superintendent's signature and requiring that the results of the monitoring report be reported to the County Board of Education.

IV. Model IEP

In an effort to provide technical assistance to local education agencies and reduce noncompliance in meeting State and Federal requirements regarding the development and implementation of the Individualized Education Program, the NJSDE created a model IEP format. The format: (1) guided the discussions of IEP teams in developing the contents of the IEP, paying attention to the decision-making process for determining placement in the least restrictive environment, determining the need for extended school year services, and completing the secondary transition requirements; and (2) meets all state and federal regulations to ensure that all local education agencies meet required regulations. Although the IEP is a model document and its use is voluntary on the part of the local education agencies, the NJSDE notes improved compliance results in local education agencies that adopted this model as their IEP format.

NJSDE Self-Assessment and Public Input Process

NJSDE identified the following areas as needing improvement through its self-assessment process and report:

- Monitoring: failure to identify systemic noncompliance; failure to follow-up on systemic noncompliance; and failure to utilize results of complaints and hearings in identifying noncompliance through monitoring
- Personnel Shortages and Training: lack of training for special education teachers in the general curriculum; lack of training for regular education teachers in special education; lack of trained specialists to provide related services statewide (counseling, speech, teachers of the handicapped, educational interpreters, teachers of the blind and visually impaired, support staff); and lack of personnel prepared to work collaboratively with each other and parents.
- Statewide Assessments: exclusion of children with disabilities from participation in statewide and district-wide assessments.
- Appropriate Evaluations: lack of qualified personnel to conduct evaluations in the student's native language; failure to consider or include information from parents and teachers; and lack of availability of test materials in other languages.
- Access to the General Curriculum: children with disabilities who are removed from regular classrooms do not have access to the general curriculum; children with disabilities placed in the general education setting without appropriate modifications, accommodations, supplementary aids and supports do not make satisfactory progress and may be placed in more restrictive settings; and curriculum for students placed in out-of-district programs is inconsistent with LEA curriculum standards.
- Transition from Part C Early Intervention Programs to Part B: failure to implement transition from Part C to Part B in a timely manner, resulting in programs not being initiated by the child's third birthday; lack of cooperation between early intervention providers and LEA staff in effecting a smooth transition; and lack of availability of preschool programs with typical peers.
- Parent Involvement: failure to provide parents information and involve parents in the decision-making process related to the least restrictive environment, extended school year services, secondary transition, general curriculum, New Jersey core curriculum content standards and procedural safeguards.
- Public Input Meetings: Input from the public input meetings resulted in participants identifying the following issues: lack of effective State system of monitoring and enforcement; ineffective system for enforcing complaint and due process decisions; lack of qualified trained special education and regular education personnel; Child Study Teams making decisions outside IEP process; lack of full continuum of placement options, including appropriate pre-school options; lack of appropriate supports, modifications and

accommodations; lack of participation in statewide assessments; gaps in services for children served in Abbott Districts³; lack of access to the general curriculum; provision of related services based on availability of services and not on individual needs; failure to provide related services and extended school year services; failure to provide counseling based on the IEP; lack of smooth and effective transition from Part C to Part B services; lack of information to parents regarding procedural safeguards, secondary transition, access to general education; lack of secondary transition planning; secondary school staff lack information about transition requirements; and lack of linkages with adult service providers.

A. AREAS OF STRENGTH

1. Core Curriculum Content Standards: NJSDE has established the Core Curriculum Content Standards (CCCS) as the standard of accomplishment for all New Jersey students. The Core Curriculum Content Standards represent what all New Jersey students, including those with disabilities, are expected to know and be able to accomplish by graduation. There are standards established in seven content areas including: language arts literacy, mathematics, science, social studies, health/physical education, visual and performing arts and world languages. There is a set of cross content workplace readiness standards that must be integrated into all of the content areas. Each content area contains a list of descriptive statements for each standard and cumulative progress indicators that serve as benchmarks for what a student should be able to do relative to the standard by the end of grades 4, 8 and 12. Local education agencies must develop curricula based on the core curriculum content standards in accordance with state regulations. Individual student achievement of the standards is measured through the statewide assessment system.

The general education curriculum for all New Jersey students must be based on the core curriculum content standards. All students, including those with disabilities, must be working in the general curriculum. In recognition of a small group of children with severe cognitive disabilities, for whom the standards would need to be modified, NJSDE developed a subset of the general core curriculum content standards focused on those standards that are more relevant to the needs of this population. This set of standards, Core Curriculum Content Standards for Students with Severe Disabilities (CCSSD), will be the basis for the development of individualized education programs (IEPs) for students with disabilities.

To assist teachers with the implementation of the core curriculum content standards, curriculum frameworks were developed by the Office of Standards and Professional Development and teachers across the state. The frameworks list specific instructional activities for cumulative progress indicators in the standards. The frameworks contain model learning activities for grades K-4, 5-6, 7-8, 9-12. In order to foster instruction in the core curriculum content standards for students with disabilities, instructional adaptations were developed and included in the curriculum frameworks for each of the content areas. Training is being provided on effective instructional strategies and the development of IEPs that align with the core curriculum content standards. NJSDE is encouraging the use of these frameworks and adaptations in schools to ensure that students with disabilities are receiving instruction in the core curriculum content

³ Abbott Districts are districts for which a court order determined that preschool services would be provided for 3 and 4 year old children.

standards through the general education curriculum. NJSDE is also monitoring this alignment when reviewing IEPs as part of a monitoring review.

2. Participation of Students with Disabilities in Statewide Assessments: As noted in the next part of the General Supervision section of this Report, NJSDE has not yet developed an alternate statewide assessment for students with disabilities who do not participate in the statewide assessment system. However, a review of statistical data reported by NJSDE⁴ on the participation rates for students with disabilities statewide on the 1999 and 2000 Elementary School Proficiency Assessment (ESPA) and the Grade Eight Proficiency Assessment (GEPA) demonstrates a high rate of participation.

| STATEWIDE PARTICIPATION RATES FOR STUDENTS WITH DISABILITIES ON STATEWIDE ASSESSMENTS | | | | |
|--|---|---|---|---|
| | ESPA 1999 Participation Rate | ESPA 2000 Participation Rate | GEPA 1999 Participation Rate | GEPA 2000 Participation Rate |
| Language Arts Literacy | 91% | 95% | 91% | 89% |
| Math | 92% | 96% | 90% | 91% |
| Science | 92% | 96% | Not operational in 1999 | 91% |

New Jersey requires that all students with IEPs take the High School Proficiency Test 11 (HSPT 11), which is required for graduation, unless the IEP specifies exemption. A student may take the Special Review Assessment as the alternative assessment to the HSPT11.

The New Jersey statewide assessment system is emerging as a measure of all students' progress toward achieving and mastering the core curriculum content standards. The Elementary School Proficiency Assessments (ESPA) are administered in grades four and five and the Grade Eight Proficiency Assessment (GEPA) is administered in grade eight. In 1999, the Elementary School Proficiency Assessments measured the progress of fourth graders in language arts literacy, math and science. The Grade Eight Proficiency Assessment measured language arts literacy and math. Additional content areas will be added annually. Each eleventh and twelfth grade student is currently required to take and pass the High School Proficiency Test 11 (HSPT11) for graduation unless the student's IEP states that he or she is exempt. Students with and without disabilities will also be eligible to graduate if they pass the Special Review Assessment (SRA), an alternative assessment for the High School Proficiency Test 11. The Special Review Assessment measures the same knowledge and skills as the High School Proficiency Test 11 but through a different format. In 1999-2000, the freshman class will be required to pass the High School Proficiency Assessment (HSPA) in their junior or senior year. The High School Proficiency Assessment will be aligned with the Core Curriculum Content Standards and replace the High School Proficiency Test 11.

⁴ December 1999 New Jersey State Department of Education Office of Special Education Programs, Biennial Performance Report 1997-1999

NJSDE, Office of Assessment, Office of Standards and Professional Development, and the Office of Special Education Programs have worked collaboratively to involve students with disabilities in the core curriculum content standards through the general education curriculum and to increase the performance of students with disabilities in the statewide assessment system. In addition to the core curriculum content standards and frameworks previously described, the Office of Assessment along with teachers from across the state developed directories of test specifications for each subject area for each Statewide assessment. The directories list the knowledge and skills tested and include sample items in order for teachers to see the types of questions and tasks included as well as the level of difficulty of the test items. Directories were disseminated to directors of special education in local education agencies to ensure that they are available to special education personnel. Local district personnel have been instructed to use the information provided in these directories for preparation for IEP meetings in making decisions about participation in statewide assessments. Statewide training has also been conducted regarding decisions for determining whether or not the student will participate in statewide assessments in the development of the IEP, selection of accommodations and their relationship to instruction and federal and state regulations. As a result of these efforts, high participation rates for children with disabilities on the statewide assessments were experienced during the 1999-2000 school year.

The New Jersey Administrative Code has been amended to include criteria for the participation of students with disabilities in the statewide assessments. Students must participate in the general Statewide assessments unless the IEP team determines the student has not been instructed in any of the knowledge and skills tested in a subject area and that the student would not be able to complete any of the types of items on the assessment.

3. Collaboration with State Parent Advocacy Network: NJSDE collaborated with the Statewide Parent Advocacy Network (SPAN) to co-produce an Inclusion Newsletter and Secondary Transition Newsletter focused on topical issues related to these two areas.

4. Early Childhood Program Expectations – Standards of Quality: In September 1999, Commissioner of Education, David C. Hespe appointed a task force of early childhood experts from across the state and charged the task force with developing early childhood education program expectations/standards for New Jersey's early childhood program. The document resulting from the work of this task force and subsequent public comment provided a foundation for early childhood educators on which to create developmentally appropriate learning environments. The intent of the implementation of these expectations/standards is to support and prepare young children including children with disabilities to meet New Jersey's core curriculum content standards when they enter kindergarten.

5. Capacity Building Grants: In September 2000, NJSDE issued a grant application entitled Local Capacity Building and Improvement Project for Special Education – Least Restrictive Environment. The purpose of this grant program will be to assist eligible local education agencies in building capacity for educating an increased number of students with disabilities, ages 5-21, in general education programs, by adopting the inclusive practices and program components of administrative leadership, building level support systems, and individualized program modifications and supports. NJSDE has earmarked \$4 million for this grant to enable

school districts to change their placement patterns and successfully transition a targeted number of students with disabilities from separate special education programs and/or facilities to general education programs with appropriate supports and services. The grant application process is open to 67 local education agencies identified by NJSDE. These local education agencies have a total resident enrollment of 1,000 or greater and a special education placement pattern of students with disabilities placed in separate special education settings that is six percent or greater. The funds received by selected local education agencies are available for an 18-month period so that appropriate supports and staff can be established to initiate systemic change within the following school year. A minimum of fourteen grant awards is anticipated.

6. Comprehensive System of Personnel Development (CSPD): The New Jersey Office of Special Education Programs has integrated its Comprehensive System of Personnel Development with other professional development plans and activities related to New Jersey's Strategic Plan for Systemic Improvement of Education in New Jersey. NJSDE has: (1) conducted three needs assessments (Survey of Professional Development Needs, NJDOE Self-Assessment, Needs Assessment in Special Education Personnel); (2) amended the New Jersey Administrative Code 6A:14 to strengthen local education agencies' responsibilities for identifying and meeting the inservice training needs for professional and paraprofessional staff who provide special education, general education or related services; (3) identified the critical personnel shortages and areas where there are currently no standards and programs to train qualified personnel; (4) applied for a federally funded state improvement grant; and (5) collaborated with agencies, organizations and local education agencies regarding the planning and implementation of NJSDE's personnel development activities.

7. Whole School Reform: In an effort to ensure that students with disabilities are represented in all State reform efforts, NJSDE's Office of Special Education Programs collaborated with its State partners to effectively utilize the resources available in the state to secure buy-in from major stakeholders at all levels, both intra- and inter- departmentally, regionally and county. These efforts are demonstrated by the collaboration with the Office of Assessments and Office of Standards and Professional Development previously noted to: (1) develop an alternate assessment; (2) collaborate with Safe and Drug Free Schools to develop a web site capable of collecting suspension/expulsion data on all students, including those with disabilities; and (3) collaborate with the Office of School Choice to monitor placement of students with disabilities in charter schools.

B. AREAS OF NONCOMPLIANCE

During OSEP's September 2000 monitoring visit, OSEP sought to determine the:

- effectiveness of the NJSDE's revised monitoring system in identifying systemic noncompliance in the areas identified in OSEP's 1999 monitoring report and fiscal years 1999 and 2000 Special Conditions: least restrictive environment, provision of extended school year services, provision of counseling as a related service and provision of secondary transition) and
- existence of systemic noncompliance identified in New Jersey's self-assessment and in public input meetings conducted by OSEP in the areas of statewide assessments; appropriate

evaluations (qualified examiners and evaluations conducted in the student's native language); access to the general curriculum; transition from Part C (early intervention programs) to Part B (preschool); and parent involvement.

In each of the areas noted above, OSEP monitoring teams conducted (a) student record reviews; (b) interviews with school personnel; interviews with students and parents in two local education agencies; (c) interviews with local education agency administrators responsible for services to children with disabilities in the agency; (d) reviews of placement data for placement of children with disabilities in the least restrictive environment; and (e) interviews with Part C and B staff responsible for smooth and effective transition from Part C to Part B. OSEP staff also conducted extensive interviews with NJSDE agency staff in Trenton regarding these same areas. OSEP's findings are as follows:

1. The state monitoring system is effective in identifying systemic noncompliance, but OSEP was unable at the time of the visit (September 2000) to determine the effectiveness of corrections ordered by NJSDE.

OSEP was able to determine the effectiveness of NJSDE's revised monitoring system in identifying systemic noncompliance as a result of two activities: (a) OSEP's onsite monitoring of eight local education agencies (see sections of this report related to a provision of a free appropriate public education in the least restrictive environment, including transition from Part C to Part B; secondary transition; and parent involvement) and (b) a comprehensive review of NJSDE's monitoring reports issued for the twenty-five local education agencies monitored by NJSDE during the 1999-2000 school year.

| Results of NJSDE 1999-2000 Monitoring of 25 local education agencies (LEAs) related to OSEP Findings and Special Conditions⁵ | | | | |
|--|---|--|--|--|
| Total number of LEAs with 10-15 areas of noncompliance ⁶ | Total number of LEAs found noncompliant with <u>least restrictive environment</u> | Total number of LEAs found noncompliant with <u>provision of extended school year services</u> | Total number of LEAs found noncompliant with <u>provision of counseling as a related service</u> | Total number of LEAs found noncompliant with <u>provision of secondary transition services</u> |
| 23 | 25 | 25 | 10 | 25 |

Since NJSDE requires that local education agencies submit corrective action plans within 45 days of receipt of the State's monitoring report and since many of the agencies visited by OSEP were in the process of either developing their plans, submitting their improvement plans, receiving approval of the plans by NJSDE or beginning implementation of corrections, OSEP was unable to determine the effectiveness of the corrections ordered by NJSDE.

⁵ Areas identified by OSEP in the 1999 Monitoring Report and subsequent Special Conditions to the FYs 1999 and 2000 grant awards: least restrictive environment, provision of extended school year services, provision of psychological counseling as a related service and secondary transition.

⁶ NJSDE monitors fifteen areas that reflect the requirements of New Jersey Administrative Code 6A:14 and the Individuals with Disabilities Education Act.

OSEP's June 2001 Follow-Up Visit

OSEP conducted a follow-up visit in June 2001 for the purpose of determining NJSDE's effectiveness in ensuring correction of noncompliance identified in local education agencies as described in the FY 2000 Special Conditions. OSEP found evidence of change in the manner that the State exercises its general supervision responsibilities. Specifically, OSEP found NJSDE demonstrated (a) a comprehensive system to identify and correct noncompliance; (b) a raised level of accountability by local school district administrators and staff; (c) an ability to link SEA technical assistance to monitoring and LEA improvement planning activities in a comprehensive, results-oriented manner; (d) a results-oriented improvement planning process; and (e) an ability to identify specific problem areas and address the problems through funding initiatives.

2. Complaint Procedures are Ineffective: OSEP reviewed NJSDE complaint and due process logs and complaint procedures in place at the time of the visit. From a review of the logs available onsite, OSEP determined that at the time of OSEP's visit NJSDE is currently meeting the 60-day timeline for rendering complaint decisions and the 45-day timeline for due process hearing decisions. Although OSEP determined that for a period before July 1, 2000, the SEA was unable to meet the 60-day complaint timeline due to a personnel shortage of complaint investigators, NJSDE is now meeting that deadline utilizing three investigators. The SEA is attempting to fill a vacancy for a fourth investigator. On July 1, 2000, the role of the complaint investigator was changed to include not only investigations but also tracking of corrective actions related to complaint decision findings and advising monitoring staff of complaint investigations and outcomes in districts to be monitored.

As set forth in 34 CFR §§300.660-662, NJSDE is required to have written procedures for resolving any written signed complaint, including a complaint filed by an organization or individual from another State. OSEP's review found that NJSDE's Complaint Investigation Policy and Procedures limit the definition of a complaint more narrowly than Part B and do not include all of the provisions required by the regulations implementing IDEA '97. NJSDE staff informed OSEP during the on-site visit that NJSDE was in the process of revising and updating its complaint procedures and that they would subsequently be forwarded to OSEP for review and approval.⁷

NJSDE's procedures in effect at the time of the OSEP September 2000 visit require the investigation of written signed complaints "of substance" regarding the provision of special education and related services under state and federal laws. Those procedures include no criteria for determining whether a particular complaint is one "of substance". Part B requires NJSDE to resolve any timely complaint that includes a statement that a public agency has violated a requirement of Part B and the facts on which the statement is based. Part B requires that NJSDE resolve any written signed complaint that includes a statement that a public agency has violated a requirement of Part B, and the facts on which the statement is based, and alleges a violation that occurred not more than one year prior to the date that the complaint is received unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date the

⁷ NJSDE provided revised complaint procedures on February 8, 2001.

complaint is received. Part B does not permit a state to decline to resolve such a complaint because it is not “of substance.”

NJSDE’s complaint procedures also provide that complaints identify a “specific” state or federal law or regulation that has been violated. Complaints that are determined not to have substantive issues are returned to the complainant as outside the jurisdiction of NJSDE. OSEP’s review of 7 complaints that were “returned” to the complainant for lack of substance revealed that 6 of these were legitimate complaints that met the requirements of Part B and should have been investigated by NJSDE. These complaints included allegations related to child find, confidentiality of educational records, lack of educational continuum, free appropriate public education, physical abuse, failure to follow an IEP and three different allegations of failure to follow Part B disciplinary requirements.

NJSDE’s complaint procedures lack any requirements for: 1) resolving complaints by an organization or individual from another State; 2) resolving any issues in a complaint that are not part of an ongoing due process hearing; and, 3) resolving complaints alleging a public agency’s failure to implement a due process decision. Furthermore, NJSDE’s complaint procedures do not provide that: (1) the complainant have an opportunity to submit additional information either orally or in writing about the allegations in the complaint; (2) NJSDE must review all relevant information and make an independent determination as to whether the public agency is violating a requirement of Part B; and (3) NJSDE must issue a written decision to the complainant that addresses each allegation in the complaint and contains the findings of fact and conclusions and reasons for the State’s final conclusion. NJSDE’s procedures still provide that complainants may “appeal” the findings and conclusions of the final report to the United States Department of Education’s Secretary. The final Part B regulations published on March 12, 1999 eliminated the Secretarial Review process, and therefore this provision should be removed from NJSDE’s procedures.

34 CFR §300.660(b) requires NJSDE, in resolving a complaint in which it has found a failure to provide appropriate services, to address the remediation of the denial of those services and the appropriate future provision of services for all children with disabilities. NJSDE’s written decisions did not always address the remediation of findings of a denial of services as required by §300.660(b)(1). In fact, in a majority of the complaints reviewed by OSEP, when a denial of services to a child with disability was found, NJSDE used a similar statement in each letter of findings. This statement merely requires the public agency to develop a corrective action plan that identifies the procedures it will follow to ensure the violation will not recur. Examples of denials of service included a child who had 3 years without an assistive technology evaluation, despite a hearing officer’s decision requiring it; a child without any services for 4 months despite a valid IEP; and four children who were without computers required by their IEPs for one and a half years. No compensatory education or other remediation of these denials of services was required by NJSDE’s letters of findings.

In September 2000, NJSDE implemented a computerized complaint tracking system that allows a weekly tracking of the status of corrections concerning complaint decisions issued. The system allows NJSDE to track patterns of issues across local and state levels. In the enforcement of complaint decisions, NJSDE has increased its enforcement actions in a more direct ways. For

example, NJSDE has ordered local education agencies to reconvene IEP meetings for specific students based on individual complaint; required the provision of compensatory services and purchase of assistive technology equipment for specific students; and ordered the placement of students in out-of-state facilities at district expense.

3. Lack of Alternate Statewide Assessment: Even though the participation rate of students with disabilities in the statewide assessment system is increasing (as noted in the previous part of the General Supervision section of this Report), the State lacks an alternate statewide assessment for students with disabilities who do not participate in the statewide assessment system. NJSDE is currently working to develop an alternate assessment. A request for proposal has been disseminated for the construction of an alternate assessment based on the Core Curriculum Content Standards for Students with Severe Disabilities through the Office of Assessments. NJSDE anticipates that the assessment will be piloted during the 2001-2002 school year. At the time of OSEP's visit, and at the present, NJSDE is using the goals and objectives in the student's IEP as the alternate assessment for the child, but is not reporting on the performance of children with disabilities who use this form of alternate assessment rather than participating in the regular statewide assessment.⁸ This is inconsistent with §300.139(a)(2)(ii).

⁸ Statewide assessments: Elementary School Proficiency Assessment (ESPA), Grade Eight Proficiency Assessment (GEPA) and the High School Proficiency Test 11 (HSPT11)

VII. PART B: FREE APPROPRIATE PUBLIC EDUCATION IN THE LEAST RESTRICTIVE ENVIRONMENT

The provision of a free appropriate public education in the least restrictive environment is the foundation of IDEA. The provisions of the statute and regulations (evaluation, IEP, parent and student involvement, transition, participation in large-scale assessment, eligibility and placement decisions, service provision, etc.) exist to achieve this single purpose. It means that children with disabilities receive educational services at no cost to their parents, and that the services provided meet their unique learning needs. Children with disabilities are educated, to the maximum extent appropriate, with children who do not have disabilities and, unless their IEPs require some other arrangement, in the school they would attend if they did not have a disability. Any removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The IDEA '97 Committee Reports of the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Education and the Workforce emphasized that too many students with disabilities are failing courses and dropping out of school. Those reports noted that almost twice as many children with disabilities drop out as compared to children without disabilities. They expressed a further concern about the continued inappropriate placement of children from minority backgrounds and children with limited English proficiency in special education. The Committees stated their intention that “once a child has been identified as being eligible for special education, the connection between special education and related services and the child’s opportunity to experience and benefit from the general education curriculum should be strengthened. The majority of children identified as eligible for special education and related services are capable of participating in the general education curriculum to varying degrees with some adaptations and modifications. This provision is intended to ensure that children’s special education and related services are in addition to and are affected by the general education curriculum, not separate from it.”

Validation Planning and Data Collection

Prior Monitoring

OSEP’s 1999 Monitoring Report of New Jersey identified three areas of noncompliance in the provision of a free appropriate public education in the least restrictive environment:

1. Placement in the Least Restrictive Environment: (a) NJSDE did not ensure that students with disabilities are placed in the least restrictive environment, including that removal of student with disabilities from the regular education environment occurs only if the child’s education cannot be achieved satisfactorily in regular classes with the use of supplementary aids and services; (b) NJSDE did not ensure that students with disabilities participate with nondisabled students in both academic and nonacademic activities to the maximum extent appropriate; and (c) NJSDE’s monitoring system did not identify systemic noncompliance with respect to placement of students with disabilities in the least restrictive environment.

2. Related Services: NJSDE did not ensure that: (a) psychological counseling as a related service was provided if students with disabilities needed that service to benefit from special education; (b) students with disabilities were receiving a “standard” amount of time for counseling services and, thus, IEPs were not individualized; (c) IEPs did not contain goals and objectives that addressed the needs necessitating related services; and (d) the State’s monitoring system identified noncompliance with respect to related services.

3. Extended School Year Services: NJSDE failed to identify noncompliance for the requirements of extended school year services.

In response to the 1999 OSEP monitoring report, OSEP required NJSDE to implement a corrective action plan addressing the following requirements:

1. Complete a program review to verify requirements for the least restrictive environment provisions
2. Schedule and complete follow-up visits to verify the implementation of corrective action plans in all local education agencies found to be noncompliant.
3. Prepare a statewide analysis of the results of the on-site visits regarding the least restrictive environment provisions
4. Based on the results of the on-site visits, NJSDE must propose to OSEP and implement follow-up reviews
5. Prepare an analysis of its program review system and provide modifications to its system based on this analysis.
6. Conduct on-going training for child study supervisors, special education administrators in receiving programs, special education teachers, and regular education teachers regarding the requirements for least restrictive environments.
7. Conduct on-site program review visits to receiving programs and verify the implementation of corrective action plans in all local education agencies found to be noncompliant.

NJSDE Corrective Actions Taken

In response to the 1999 OSEP report, NJSDE developed the following corrective actions related to IDEA provisions addressing student placement in the least restrictive environment:

- Directed the four local education agencies in which OSEP found noncompliance to develop corrective action plans to immediately address all areas of noncompliance
- Included these four local education agencies in the State’s pilot year of the new self-assessment based monitoring system
- Issued a statewide policy statement regarding regulatory requirements and the State’s position on placement of students with disabilities in the least restrictive environment
- Provided technical assistance to twenty-eight local education agencies identified in the Abbot Decision regarding the creation of preschool programs with a focus on increasing regular education placement options for preschool children with disabilities
- Conducted statewide training for local education agency administrators

- Developed a model IEP format that provides local education agencies with a clear process for making individual determinations regarding placement decisions and a way to document that individualized decision-making process in the IEP
- Published an inclusion newsletter to disseminate best practices information to parents and educators
- Instituted significant regulatory changes to increase the opportunity for preschool children with disabilities to be placed in regular education settings
- Focused capacity building funds on the State's goal of increasing the number of students with disabilities who are educated in general education programs with appropriate supports and services

NJSDE Self-Assessment

The Statewide Special Education Self-Assessment Report addressed the extent to which students with disabilities receive a free appropriate public education in the least restrictive environment, which promote high standards. The Report identified six strengths: (1) training and technical assistance are focused on promoting a decision-making process for placing student with disabilities in general education programs with appropriate program modifications and supports; (2) NJSDE is collaborating with other agencies in the provision of a variety of training activities and information dissemination, such as the Inclusion Newsletter, in collaboration with the State Parent Advocacy Network (SPAN), focusing on the least restrictive environment; (3) NJSDE disseminated a comprehensive and positively received policy paper addressing the topic of placement in the least restrictive environment; (4) the NJSDE efforts appear to be influencing an expanded continuum of placement options; (5) the NJSDE monitoring of local school districts is more stringent; and (6) revision of the funding formula has removed incentives for placing students in separate programs.

The Self-Assessment Report also identified areas or opportunities for improvement: (1) many districts do not have in-district placement options for children with more significant disabilities, especially children with challenging behaviors; (2) school administrative leadership does not always facilitate placement in the least restrictive environment; (3) the use of non-traditional supports and strategies to facilitate the inclusion of students with disabilities is often not considered; (4) recommendations are often made based on what is available instead of what is needed; (5) not enough different inclusive models are being implemented for replication; (6) rationale for restrictive placements is not always well documented; (7) children of minority/race ethnicity or children who speak languages other than English are disproportionately placed in the most separate settings; (8) there is a lack of appropriate in-class support, accessible facilities and related services within general education; and (9) separate classes, pull-out services and out-of-district placements are the rule not the exception.

A. AREA OF STRENGTH

Statewide Training/Technical Assistance Initiatives and Local Promising Practices

NJSDE has designed and implemented statewide initiatives to enhance local capacity to provide greater placement options for students with disabilities, thereby increasing opportunities for

students to be served in the least restrictive environment. The initiatives include: (1) training in the 28 Abbott Districts to address placement of preschool children; (2) using capacity building funds (\$4.5 million) for grants to 67 local districts with the highest number of restrictive placements to address reduction of restrictive placements; (3) collaborating with the New York University Equity Assistance Center in response to the memorandum of understanding between NJSDE and the Regional Office for Civil Rights, U.S. Department of Education, to address the issue of overrepresentation of minority students in restrictive placements; (4) collaborating with the Developmental Disability Council in presenting an Inclusion Institute in ten local education districts; (5) conducting biweekly oversight of progress in high risk districts; and (6) instituting targeted reviews of local education districts as a result of complaint investigations and monitoring findings.

In addition, OSEP visited a local program at Metuchen High School in the Metuchen School District that demonstrated practices that the State believed to evidence exemplary services for students with disabilities in the least restrictive environment. The New Jersey Developmental Disabilities Council also recognized the Metuchen High School program for its exemplary inclusion practices. The foundation of the school's inclusion program is the philosophy that all children belong in the school, with goals toward not only providing quality special education services, but to increasing the acceptance of people with disabilities among the entire school and community. The school has taken proactive steps to increase the collaboration among regular and special education teachers and parents. The school has approached inclusion in a manner that has promoted the confidence of regular education teachers in meeting the special affective, intellectual and psychological needs of students with disabilities, especially students who are emotionally disturbed and behaviorally challenged. OSEP concurs with NJSDE that the program is promising and suggests the State continue to encourage other districts to replicate this model.

B. AREAS OF NONCOMPLIANCE

1. Removal

(a) Lack of Placement in the Least Restrictive Environment

34 CFR §300.550 requires each public agency to ensure that, to the extent appropriate, children with disabilities are educated with children who are not disabled. Placement in special classes, separate schooling or other removal of children with disabilities from the regular educational environment may occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. The services and placement needed by each child with a disability to receive a free appropriate public education must be based on the child's unique needs and not on the category of the child's disability.

In OSEP's previous monitoring reports, OSEP found that the NJSDE did not ensure that students with disabilities were placed in the least restrictive environment. Further, NJSDE failed to ensure that students with disabilities were removed from the regular education environment only when the child's education could not be achieved satisfactorily in regular classes with the use of supplementary aids and services. Previous reports also indicated that for children with

disabilities in self-contained classes and separate schools, participation in nonacademic and extracurricular services and activities with nondisabled peers was not an individualized decision based upon an IEP. New Jersey revised the State's monitoring system (based on fifteen areas, one of which is least restrictive environment) and began using the revised monitoring system during the 1999-2000 school year. NJSDE made findings related to placing students in the least restrictive environment in all eight local education agencies visited by OSEP in 2000.

OSEP found in 2000 that many children with disabilities are now placed in less restrictive placements than they were at the time of OSEP's 1998 visit. OSEP's 1999 Report indicated that in one school district, all students classified as "educable or trainable mentally retarded" were placed in separate segregated settings. Although OSEP notes that these students have now been placed in a regular high school building and have the potential for increased interaction with nondisabled peers, OSEP observed and educators confirmed that the students remain in self-contained classrooms in one isolated section of the high school building. In another district, an administrator confirmed that many of the students with multiple disabilities have returned to the district from out of district placements. Through interviews with teachers and administrators OSEP found that students who returned from these placements tended to be placed in self-contained settings and moved, as a group, from class to class limiting interaction with nondisabled peers. Decisions for removal of these students from regular education classes continued to be based on other factors, including the category of their disability rather than on their individual needs. OSEP also interviewed local school-based and districtwide staff who administer the Families and Children Early Education Services (F.A.C.E.S.) preschool program in the Vineland School District and the school reform program at Rafael Codero Molina School in the Camden School District, two programs which demonstrated innovative approaches to providing a free appropriate public education in the least restrictive environment for students with disabilities. However, OSEP confirmed through interviews with teachers and administrators in all districts visited by OSEP that students are not, in all cases, placed in the least restrictive environment.

OSEP Follow-Up Visit in 2001

In four of the districts visited by OSEP in June, 2001 two of the districts had corrected noncompliance in the area of least restrictive environment and the other two districts were in the process of beginning implementation of their corrective action plans approved by NJSDE in March 2001. New Jersey is providing direct oversight and targeted technical assistance in these two districts to ensure effective correction of noncompliance in the area of least restrictive environment.

(b) Segregated Placement – Students with Behavioral Issues

34 CFR §300.346(a)(2)(i) requires that the IEP team, in the case of a child whose behavior impedes his or her learning or that of others, consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address the behavior.

OSEP found that in the case of children, whose behavior impedes their learning or that of others, the IEP team did not consider strategies, including positive behavioral interventions, strategies

and supports to address the behavior. For example, in seven of the eight local education agencies visited by OSEP, special education directors, special education teachers, child study team members and school psychologists stated they were unaware of the requirements of §300.346(a)(2)(ii), and that they did not include the required consideration as part of the IEP process. They specifically stated they did not understand how to develop appropriate behavior intervention plans in all seven of the eight districts. Further, in one local education agency, regular education teachers reported behavior issues to be the primary barrier to having more students in their regular education classrooms. In another local education agency, school personnel confirmed that the “Proactive Behavior Management Plan” contained in several students’ IEPs was “merely a check off identifying target behaviors.” Several administrators in this district acknowledged that the behavior intervention plans were not developed through the IEP process. The behavior plans were not based on an evaluation or assessment of the individual student’s needs. This issue had been identified in an earlier state monitoring report and was being addressed in the local education agency’s corrective action plan. In a third local education agency, teachers were not aware of IDEA requirements concerning behavior intervention strategies. Teachers believed the child study team had the responsibility to implement behavior intervention plans.

When OSEP asked interviewees in eight local education agencies to identify the barriers to placing students with disabilities in regular education classes, many special and regular education teachers, child study team members and administrators agreed that “behavior is the number one barrier.” They further explained that class sizes are smaller for students in self-contained placements and special education teachers are trained to address the challenging behaviors of these students. They reported that regular education teachers, in particular, need training in classroom management to address the special needs of this population. In one of the local education agencies, the administrator stated, “Massive training for teachers is needed. These individuals are not adequately prepared to address behavioral issues.” An administrator in a second local education agency reported that Child Study Team members are “inclined to place students with behavior management issues in out-of-district placements.” In a third local education agency, a building administrator and a special education teacher both agreed that students are placed in self-contained classes for behavioral reasons. They felt that some of these students were socially maladjusted rather than emotionally disturbed. There was misunderstanding of requirements that the IEP team consider positive behavioral interventions and strategies when a student’s behavior impedes his or her learning or that of others.

As described in the finding below regarding the provision of related services, OSEP found that regular education facilities are not equipped with adequate supports and services, such as psychological counseling services, to allow students with emotional disturbances to remain in the schools where they would normally attend or to return to these locations in a timely manner. In addition, administrators and teachers stated they were unaware of IDEA requirements concerning the provisions related to functional behavioral assessments and the development and implementation of behavior intervention plans.

(c) Impact of Administrative Practices on Placement

Teachers and administrators identified four administrative practices that led to placing students in more restrictive environments: (1) class grouping, (2) limitations on class size and lack of space (3) lack of communication between IEP teams and class schedulers, and (4) the misunderstanding about New Jersey rules and regulations regarding the use of the co-teaching model.

At schools in three local education agencies, students with disabilities were grouped together for scheduling purposes throughout the day even though many of their teachers stated these students, based on the educators observation and assessment of the students, would have been successful in regular education classrooms with nondisabled students for music, art, and physical education subjects. In these local education agencies, school personnel stated that scheduling students with disabilities in groups was a means of integration because students moved among a variety of classrooms. They further explained the students were instructed by regular education teachers and walked in the hallways between classes with nondisabled peers. Administrators in these local education agencies reported to OSEP that the students stayed together throughout the day and did not have classes with nondisabled peers and that no individualized placement decisions were made about the individual members of these groups. Although this type of grouping did not allow students with disabilities the same opportunities for instruction in regular education classes (including extracurricular and nonacademic instruction), the administrators believed this arrangement provided students with disabilities increased opportunities for socialization in the hallways with nondisabled students. The IEPs reviewed by OSEP in the three local education agencies stated the students would be in regular education classes such as music and physical education. However, while regular education teachers taught these students music and physical education, students with disabilities remained in the same segregated group throughout the day.

Educators in all eight local education agencies stated that lack of space and administrative limitations on class size were among the reasons for placing students in a more restrictive environment. In five local education agencies at the high school level, educational personnel who develop class schedules make decisions about appropriate courses where students are to be placed without considering the special needs of individual students with disabilities. When placing students with disabilities in elective courses, there is no communication mechanism between the school class scheduler and the IEP team to ensure a free appropriate public education in the least restrictive environment. For example, in one local education agency, a student's course of study for the current school year indicated the student was taking Algebra II. The special education teacher was surprised to learn in an interview with OSEP staff that the student was enrolled in Algebra II because the student had not taken Algebra I. In a second local education agency, a student was enrolled in drafting as an elective because that was the course that had space for the student when the scheduler compiled the school's schedule. The student had a disability that severely impaired his ability to perform drafting assignments. The teachers said the student was not likely to receive a passing grade during the first quarter. The teachers also said they had not been informed about accommodations and modifications to assist the student to be more successful in the class. In these instances, class size, space, and availability of seats were reported to be the primary factors for determining in which classes students with disabilities are placed. In one of these local education agencies, four special education teachers

reported that the IEP teams are not empowered to make decisions about the extent to which a child will be educated with nondisabled children. The IEP team does not have input into the decision-making process for individual class assignments. If a class is full, a student will not receive the opportunity to participate in a regular education class even when the IEP states the least restrictive environment would be a regular education class. In addition to the preceding administrative practices, other factors were identified, including insufficient resources such as supplies and equipment, parent choice, and attitudes of school personnel.

In one local education agency, there was a misunderstanding among educators about the use of co-teaching and in-class support. Teachers from this local education agency believed that the New Jersey State law prohibited high schools from using the co-teaching model. NJSDE's monitoring report of this local education agency stated that the co-teaching model had the potential to greatly decrease the number of students who are served in segregated special education classes.

2. Lack of Psychological Counseling Services as a Related Service

34 CFR §300.300(a)(3)(i) requires that services provided to children with disabilities address all of the child's identified special education and related services needs. Public agencies must provide psychological counseling to each child with a disability who requires that related service to benefit from special education. 34 CFR §300.24(b)(9)

When compared to previous monitoring visits in New Jersey, OSEP found evidence in some local education agencies of increased availability of psychological counseling services for children with disabilities. However, in six of the local education agencies visited by OSEP in 2000, special education teachers, regular education teachers, special education directors, building administrators and child study team members continue to report that psychological counseling services were not provided in all cases for children who needed the services to benefit from special education. (New Jersey revised the State's monitoring system (based on fifteen areas, one of which is psychological services as a related service) and began using the revised monitoring system during the 1999-2000 school year. NJSDE made findings related to providing psychological services as a related service in these six local education agencies).

In one local education agency, two special education teachers reported that counseling services as set forth in the IEP were not provided due to the absence of adequate staff. The guidance counselor was available only one day per week. Only three of the nine students in the school who had psychological counseling services written into their IEPs received services. Six students who needed the services were unable to receive them. In another local education agency, the IEPs for several students classified as emotionally disturbed stated that these students were receiving 15 minutes of psychological counseling two to four times per month. When queried about the frequency and duration of this service, teachers reported that this determination was an administrative decision based on the availability of qualified staff, rather than the individual needs of each child.

In another local education agency three child study team members reported that students are referred to the local mental health clinic for counseling even if they needed psychological

counseling to benefit from special education. The building administrator in this local education agency said the school provides the parents with a list of outside resources but “it is up to the parents to get the services.” If a therapist is recommended and the parent does not follow through, the principal will talk to the parent and will require the parent to make an appointment for psychological services in lieu of suspension.

In three additional local education agencies, educators, parents and child study team members said the provision of psychological services are provided by agencies other than the school and at the parents’ expense. In one of these local education agencies, six child study team members, two counselors, seven special education teachers, and the special education director stated that counseling services are not obtained through the IEP regardless of student need. Child study team members referred parents to community resources. One counselor reported that parents were asked to use their insurance to seek mental health counseling. A school psychologist in this local education agency said counseling was identified as a need in a student’s re-evaluation but was not discussed at the IEP meeting because the “floodgates” would open if psychological counseling was offered as a related service. In another local education agency, special and regular education teachers said when students needed psychological services to benefit from special education, the parents were referred to outside agencies and that guidance counselors would work with students on an emergency, crisis situation. In another local education agency, the child study team members said psychological services, when needed, were obtained providers were not evident through interviews with teachers, child study team member outside the school. Linkages with outside psychologists, and guidance counselors.

During the review of student files by OSEP, one of the files showed that a student with an emotional impairment would require psychological counseling in order to benefit from special education. However, during interviews with school staff, teachers said the student was not receiving psychological counseling services. OSEP also reviewed the student’s transcript to note the student’s progress in the general curriculum. The transcript indicated failure in 80-90% of classes over a two-year period. Two regular education teachers told OSEP that the student had exhibited many behavioral problems during the previous school year and the teachers saw a continuing need to focus on possible strategies to improve the student’s emotional condition in the present school year. When OSEP asked the child study team at what point the IEP team would consider appropriate psychological counseling to meet the needs of this specific student, the child study team members said that, although the school has a school psychologist on staff who could potentially provide the individual counseling services to meet this child’s needs, the psychologist is unable to do so because of a high caseload and other duties that preclude the appropriate provision of psychological counseling to this child. Child study team members further stated that the school district was not required to pay for the services from an outside agency because school staff was qualified to provide the services.

OSEP Follow-Up Visit in 2001

In the four districts visited by OSEP in June, 2001, one district did not have a finding in the area of psychological services as a related service, one of the districts had corrected noncompliance in the area of psychological services as a related service and the other two districts were in the process of beginning implementation of their corrective action plans approved by NJSDE in

March 2001. New Jersey is providing direct oversight and targeted technical assistance in these two districts to ensure effective correction of noncompliance in the area of psychological services as a related service.

3. Failure to Consider Extended School Year Services on an Individual Basis

34 CFR §300.300 requires that a free appropriate public education be made available to all children with disabilities. In addition, 34 CFR §300.309 requires that extended school year services (ESY) be provided in accordance with an appropriate IEP that meets Part B requirements if necessary to provide a free appropriate public education for a particular child.

New Jersey revised the State's monitoring system (based on fifteen areas, one of which is extended school year services) and began using the revised monitoring system during the 1999-2000 school year. NJSDE made findings related to extended school year services in all eight local education agencies visited by OSEP in 2000.

While NJSDE reissued a policy bulletin regarding the provision of extended school year services and developed and disseminated a model IEP form to include the consideration of extended school year services at annual IEP meetings, in four of the eight local education agencies visited by OSEP, the consideration of extended school year services was not made on individual basis. One of the districts had no mechanism in place to ensure that each child with a disability who is in need of extended year services is identified and provided services based on his or her IEP. In three of the local education agencies, special education teachers were not familiar with the criteria for determining whether a child is eligible for extended year services. In one local education agency, the extended school year service was regular summer school if the parent requested the service. These local education agencies were cited by NJSDE as being out of compliance with the requirement concerning extended school year services.

In another local education agency, three special education teachers stated the locally developed set of twelve criteria to qualify students for extended year services was too restrictive because a student had to meet eight of the twelve criteria for extended year services even when children needed the services to benefit from special education. The twelve criteria are: (1) parent request, (2) severe socialization difficulty, (3) evidencing significant cognitive delay, (4) in need of direct speech/language therapy, (5) displays autistic behavior, (6) self-help skills are poor, (7) evidence that student skills would significantly regress, (8) behaviors are such that students require strict behavior programming, (9) in need of direct occupational therapy services, (10) in need of direct physical therapy services, (11) teacher recommendation, and (12) child study team recommendation. While none of the twelve criteria is inconsistent with Part B requirements, a public agency may not deny extended school year services to a child who needs such services as part of a free appropriate public education because the child does not meet at least eight of those twelve criteria. Although the special education director in this local education agency reported the twelve criteria were only to serve as a guide when considering extended year services, the teachers' understanding was that eight of the twelve criteria had to be met before extended year services were provided. When the OSEP reviewed the information on the district's IEP form, the IEP form confirmed the teachers' understanding. The state monitor accompanying OSEP agreed this was a problem and stated there would be activities to address this issue because the

state had identified extended school year services as an issue in a previous monitoring report in the local education agency. Part B does not permit a public agency to deny extended school year services to a student because the student does not meet eight of twelve district criteria.

OSEP Follow-Up Visit in 2001

In four of the districts visited by OSEP in June, 2001 two of the districts had corrected noncompliance in the area of extended school year services and the other two districts were in the process of beginning implementation of their corrective action plans approved by NJSDE in March 2001. New Jersey is providing direct oversight and targeted technical assistance in these two districts to ensure effective correction of noncompliance in the area of extended school year services.

4. Denial of Related Services and Delays in Evaluation Due to an Insufficient Supply of Personnel

The IDEA regulations at 34 CFR §300.300(a) require that children with disabilities be provided services that address all of the child's identified special education and related services needs. In addition, 34 CFR §300.381 requires that each State must analyze State and local needs for professional development for personnel to serve children with disabilities.

OSEP found evidence of an inadequate supply of personnel in seven local education agencies. In one local education agency, the special education director told OSEP that there were ten students with disabilities whose IEPs specify that they were to receive speech services. However, the local education agency was not providing the speech and language services because the local education agency had been unable to hire speech and language pathologists due to personnel shortages in the state.

In a second local education agency, special education teachers and the special education director stated there were personnel shortages in the area of speech therapy. The local education agency had three vacancies. The impact of the vacancies prohibited students from receiving services specified in their IEPs for the first three weeks of the 2000-2001 school year. In a third local education agency the Child Study Team reported critical personnel shortages for speech and language pathologists. The special education director in the local education agency confirmed that shortages in the areas of speech and language pathologists and special education teachers were critical. The director had requested a waiver from the state so that personnel would be able to fill these positions on an emergency or temporary basis. The severe shortage of speech and language pathologists impacted the delivery of services in accordance with students' IEPs. In the same local education agency a building administrator stated there was a shortage of speech and language pathologists and certified special education resource teachers. Students were not receiving services identified in their IEPs. In a fourth district the special education director reported there was a shortage of speech therapists. While all students were receiving services, the frequency and the duration of the services were reduced from those specified in the IEP.

In two large urban local education agencies and one rural local education agency, OSEP found that the lack of qualified examiners delayed initial evaluations and re-evaluations of students

whose first language was not English. The directors of special education in the local education agencies confirmed that there is a shortage of qualified examiners for students whose first language is Spanish and who have limited English proficiency. One of the directors also identified vacancies in the positions of school psychologist, learning consultant (a member of the child study team), speech and language pathologist, occupational therapist and physical therapist.

C. SUGGESTIONS FOR IMPROVED RESULTS

1. Providing a continuum options for preschool aged children

Among local education agencies visited by OSEP, special education directors stated that, in general, the state has limited public options for preschoolers, thus, making it difficult to serve preschoolers with disabilities in a regular education preschool classroom. One of the directors identified a major impediment as the lack of coordination between private preschools serving children with developmental delays and the local education agency's small early childhood program. Even in Abbott districts⁹, where NJSDE has provided additional funding for districts to provide publicly funded preschool programs, preschool children with disabilities in several of the Abbott districts still have limited access to regular preschool programs. In one of the large urban Abbott districts visited by OSEP four-year-old preschoolers without disabilities attended full-day pre-kindergarten while four-year-olds with disabilities only had available half-day programs. NJSDE must continue its collaboration with the Abbott School District Office to optimize opportunities for children with disabilities to interact with and be educated with their nondisabled preschool peers.

2. Increasing Participation of IEP Team Members in IEP Decision-Making Process

In New Jersey, the composition of the IEP team includes members of the local education agency's child study team. The child study team is composed of school psychologists, learning disabilities teacher consultants and school social workers. These individuals have a variety of responsibilities that impact on identification, development of the IEP, and the placements of students with disabilities. In all districts, interviews with school personnel suggested that child study team members make most of the decisions related to students' instruction and placement. Teachers in all local education agencies explained that they have very little input into these decisions. Participants at IEP team meetings such as parents, special education teachers, regular education teachers and others serving on the IEP team who are not child study team members, look to the child study team as the "expert" members of the team. Additionally, these individuals said they often deferred to the child study team member regarding appropriate placement for the child. NJSDE must continue to provide technical assistance to IEP team members to ensure that all participants are equally represented at the IEP team meeting and that decisions made at the IEP meeting are representative of all meeting participants, including but not limited to child

⁹ Abbott districts include 28 poor urban school districts that were litigants in a longstanding court case (Abbott v Burke) regarding school funding inequities. Abbott districts receive additional school funds and are required to implement urban education reform initiatives (Whole School Reform) to ensure that public school children, including students with disabilities and limited English proficient students from the poorer urban school districts receive the educational entitlements guaranteed them by the Constitution and to meet the requirements of the decision of the New Jersey Supreme court in Abbott v Burke, decided May 21, 1998.

study team members (i.e. learning disability teacher consultant, school psychologist, social worker).

3. Contracting for Speech Therapy

Educators, especially Directors of Special Education, in all districts identified the shortage of speech and language pathologists as a hindrance to timely provision of speech services. This concern was discussed in the section of the report addressing the adequacy of qualified staff. In four local education agencies educators further identified a part of this shortage to be caused by a state prohibition of direct local education agency contracts with speech pathologists. NJSDE confirmed this prohibition. The educators felt the law prevented their districts from providing speech services in accordance with students' IEPs. OSEP recommends that the NJSDE review this concern and, if the law is determined to be an impediment to providing speech services to students with disabilities who need such services to benefit from special education, take appropriate action to correct the effect of the law.

4. More Opportunities for Use of In-Class Support and Team Teaching/Co-Teaching Models

In-class support is a resource placement option that allows for increased opportunities for students with disabilities to receive services in regular class settings. With this option, students receive their instruction in the regular education class rather than being pulled out of the classroom for instruction. Teachers in four local education agencies said more students with disabilities would be served in less restrictive environments if in-class support was more widely available. An administrator in one local education agency confirmed that efforts are being made to expand the in-class support option for students in self-contained settings. Personnel reported in a second local education agency that in-class support for students at the elementary and middle school levels had been expanded. Teachers and administrators in three districts indicated they had successfully implemented co-teaching models that created additional opportunities for students with disabilities to participate in the general education classroom. With this option, a regular and a special education teacher are assigned to a class full time. Regular education teachers indicated a need for increased use of co-teaching/team teaching models. They felt that having a second teacher in class for the entire day would have numerous benefits including behavior control, which was identified in this section of this Report as the major barrier for not having more students placed in regular education classrooms.

5. Improving Transition from Part C to Part B Programs

Part C and Part B staff reported inadequate coordination and communication between Part B and C personnel and State staff as significant impediments to a smooth early childhood transition. The need for better communication and collaboration has been identified at the State level by both Part C and Part B personnel and state staff are identifying new procedures to ensure better transition for children who are moving from Part C services to Part B services. OSEP recognizes the efforts now underway at the State level to address the coordination and communication between Part C and Part B personnel in ensuring the smooth early transition from early

intervention services to preschool programs and encourages NJSDE to finalize the interagency agreement between NJSDE and DHSS.

VIII. SECONDARY TRANSITION

The National Longitudinal Transition Study states that the rate of competitive employment for youth with disabilities out of school for three to five years was 57 percent, compared to an employment rate of 69% for youth in the general population.¹⁰ The study identifies several factors that were associated with post-school success in obtaining employment and earning higher wages for youth with disabilities. These factors include completing high school, spending more time in regular education, and taking vocational education in secondary school. The study also shows that post-school success is associated with youth who had a transition plan in high school that specified an outcome, such as employment, as a goal. The secondary transition requirements of IDEA focus on the active involvement of students in transition planning, consideration of students' preferences and interests by the IEP team, and the reflection, in the IEP, of a coordinated set of activities within an outcome-oriented process which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation. Through parent and student involvement, along with the involvement of all agencies that can provide transition services, student needs can be appropriately identified and services provided that can best meet those needs.

NJSDE's 1999 Biennial Performance Report submitted to OSEP for the period of 1997-1999 states that the graduation rate for special education students was virtually the same for general education (97%) and special education students (96%) for the 1997-98 school. Thirty percent of students in special education who graduated passed either the High School Proficiency Assessment or the Special Review Assessment. Data were unavailable for 1999.

NJSDE has the responsibility of ensuring the provision of secondary transition services, either as special education when provided as specially designed instruction, or as a related service, if required to assist a student with a disability to benefit from special education. Transition services are essential supports to assist students with disabilities secure the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

In a recent U.S. Department of Education- funded secondary transition implementation study in three states, onsite interviews were conducted with administrators, policy makers, and stakeholders considered by nationally recognized experts in transition policies and practices.¹¹ Seven common themes related to the successful implementation of transition policies were identified: (1) creating an environment (both within and outside the public agency) conducive to implementation of transition policies and practices; (2) using a direct policy approach to create changes related to transition; (3) sharing leadership; (4) engaging in substantive collaboration around governance and practice; (5) building capacity for long-lasting change; (6) linking

¹⁰ Blackorby, J. and Wagner, M. (1996). Longitudinal Postschool Outcomes of Youth with Disabilities: Findings from the National Longitudinal Transition Study. *Exceptional Children*.

¹¹ In these studies, success is defined as substantial progress in implementing the transition requirements of IDEA as judged by a national panel of experts. For a more complete description of this process, see Furney, Hasazi, and Destefano (1997) and (1998).

transition to other restructuring efforts; and (7) using results of research and evaluation to enhance policy and practice.

Validation Planning and Data Collection

Prior Monitoring

OSEP made findings of noncompliance in 1994 to 1998 that IEPs did not include statements of needed transition services. The corrective action plans required NJSDE to ensure compliance with §300.346(b)(1) (now §300.347(b)(1)).

The corrective action plan included in the 1999 OSEP Monitoring Report required NJSDE to develop and implement a plan, with detailed steps and timelines, that would ensure that, within one year from the date of the Report, beginning no later than age 16 and at a younger age, if determined appropriate, each student's IEP includes a statement of the needed transition services as defined in 34 CFR §300.18. The plan required NJSDE to include the procedures used and provide documentation to OSEP that the corrective actions had been taken.

NJSDE Self-Assessment

The NJSDE Self-Assessment Report included accomplishments related to secondary transition: (1) providing technical services to transitioning students; (2) implementing transition initiatives; (3) increased awareness, dissemination of information, and resources, development of guidelines and technical assistance document development due to the transition systems change grant; (4) student involvement in their own transition planning; (5) SEA monitoring of transition planning and outcomes; and (6) students placed in private schools are prepared for independent living, etc.

The Steering Committee highlighted several areas in need of improvement including: increased student participation in transition planning; (2) student preparation to participate in transition planning and decision-making; (3) standardized competencies for transition coordinators; (4) need to utilize community resources to complement learning; (5) increase community participation in transition planning to facilitate improved post-school outcomes; (6) provision of vocational assessments; and (7) parent and student education regarding rights as they relate to transition services.

State and public agency level initiatives were underway during the September 2000 OSEP monitoring visit, with evidence of positive impact on seven of eight of the local education agencies visited by OSEP. These initiatives, along with the new monitoring system and the self-assessment, have translated into overall improved practices with regard to secondary transition. The self-assessment indicated that it is noteworthy that students under the authority of the NJSDE receive instruction in the core curriculum standards and receive regular high school diplomas upon successful completion of their program. NJSDE embraces the premise that students with disabilities who are involved in and progress in the general curriculum are more likely to have positive postsecondary outcomes.

A. AREA OF STRENGTH

NJSDE Statewide Training/Technical Assistance Initiative to Enhance Local School District Practices in Meeting Secondary Transition Requirements

NJSDE has provided extensive systemic technical assistance to public agencies and has demonstrated potential promising practices in meeting the requirements of transition services such as the development of a statewide Transition Coordinator Network; the development of the School to Careers Program (with a Comprehensive Career and Planning program option; and conducting six statewide Student Leadership Conferences on Self-determination. NJSDE is co-sponsoring a new Secondary Transition Newsletter with the New Jersey Statewide Parent Advocacy Network (SPAN). Future projects include developing a transition web site and conducting a transition outcome study.

Collaborative efforts with the State Learning Resource Centers to provide training to high-risk public agencies were reported by the State.¹² Monthly meetings, with local Special Education Directors, School-to-Work and Human Services Administrators, augment the state's efforts to analyze all documents regarding policy and procedural requirements impacting the provision of transition services. A state model IEP containing transition planning has been a byproduct of such meetings. The model IEP also incorporates the transfer of rights requirements into the document to ensure that this new IDEA requirement is met.

B. SUGGESTION FOR IMPROVED RESULTS

Effective Technical Assistance and Training for Parents, Students, Educators and Agency Personnel

As defined at §300.29, transition services means a coordinated set of activities for a student with a disability that is designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The services are based on the individual student's needs, taking into account his or her preferences and interests and includes: instruction; related services; community experiences; and the development of employment and other post-school adult living objectives.

OSEP observed varying factors and levels of implementation that impeded local education agencies' ability to effectively implement the transition requirements. Although NJSDE extensive training has been provided by the state at the administrative level, a major contributor to the disparate practices and implementation of the transition requirements is that technical assistance and training are needed at the practitioner level. Other factors found by OSEP that impede the local agency's ability to implement the transition requirements, included a lack of parent, student and agency participation, especially those agencies that may be responsible for providing or paying for transition services. The failure of the public agency to design a coordinated set of activities within an outcome oriented-process undermines one of the primary

¹² During OSEP's follow-up visit (June 2001), OSEP saw evidence of the impact of NJSDE's extensive technical assistance efforts in creating positive secondary and post-secondary outcomes for youth with disabilities.

purposes of the IDEA, “to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living”.

As suggested in the OSEP funded three-State implementation study, state and local level agencies should create an environment conducive to implementing transition requirements through capacity-building activities including inter-professional in-service and pre-service development opportunities for educators and adult services providers; summer institutes; conferences for students (especially focusing on developing self-advocacy skills), parents and educators (emphasizing empowerment through providing opportunities and resources to learn about and implement innovative transition practices and services); and promoting more systemic changes across agencies.

In those local education agencies where ineffective implementation of the transition requirements persists, OSEP encourages NJSDE to assist local education agencies in adopting the State’s IEP transition forms for developing IEPs where transition is the subject of the meeting. Additionally, the recently released publication, IDEA ’97 Transition Requirements: A Guide for States, Districts, Schools, Universities and Families, offers a set of suggested activities before, during, and after the IEP meeting which may assist practitioners develop transition plans for students with disabilities to assure positive postsecondary outcomes.¹³ Model forms and other supporting documents are included in the guide for consideration.

As noted in the General Supervision section of this Report (Section VI), Section 612(a)(14) of IDEA, which incorporates a portion of section 653, indicates that each state must develop strategies that it will use to address the identified needs for in-service and pre-service preparation to ensure that all personnel who work with children with disabilities (including professional and paraprofessional personnel who provide special education, general education, related services or early intervention services) have the skills and knowledge necessary to meet the needs of children with disabilities. This plan must include a description of how the state will provide joint training to parents along with special education, related services and general education personnel. NJSDE must continue to provide technical assistance and training in the development of and implementation of transition requirements in the IEPs of eligible youth with disabilities, including opportunities to increase knowledge of school personnel, parents and youth with disabilities.

OSEP Follow-Up Visit in 2001

In four of the districts visited by OSEP in June, 2001 two of the districts had corrected noncompliance in the area of secondary transition and the other two districts were in the process of beginning implementation of their corrective action plans approved by NJSDE in March 2001. New Jersey is providing direct oversight and targeted technical assistance in these two districts to ensure effective correction of noncompliance in the area of secondary transition.

¹³ Storms, J., O’Leary, E., and Williams, J. (May, 2000). The Individuals with Disabilities Education Act of 1997 Transition Requirements: A Guide for States, Districts, Schools, Universities and Families. Minneapolis, Minnesota: National Transition Network

IX. PARENT INVOLVEMENT

A purpose of the IDEA Amendments of 1997 is to expand and promote opportunities for parents and school personnel to work in a new partnership at the State and local levels. Parents must now have an opportunity to participate in meetings with respect to the identification, evaluation and educational placement of their child, and the provision of a free appropriate public education to their child. Parental involvement has long been recognized as an important indicator of a school's success and parent involvement has positive effects on children's attitudes and social behavior. Partnerships positively impact student achievement, improve parents' attitudes towards school and benefit school personnel as well.

Validation Planning and Data Collection

NJSDE Self-Assessment

The January 2000 NJSDE Self-Assessment Report incorporated results from several surveys that were conducted with parents to gauge the level of satisfaction and extent of participation in their child's special education program and the manner in which information was provided. The three State standards to be used by the Steering Committee regarding public agency's performance requirements for parent involvement are (1) parent involvement is advanced through training and information dissemination to parents, youth with disabilities and staff; (2) appropriate services, including transition services are received by children with disabilities when parents and youth with disabilities area actively involved; and (3) programs and services for children with disabilities are improved because parents are actively in program improvement activities. The following information reflects the issues identified by the Steering Committee regarding local IDEA implementation activities: (1) failure to provide notices and meeting invitations in languages other than English and explanation of parent rights to parents is inadequate; (2) IEPs lack information on transition planning and involvement of parent and student in the process; (3) no discussions at IEP meetings of Core Curriculum Content Standards and how children with disabilities will master the standards; (4) parents not given sufficient notice of IEP meetings; (5) full range of supports and accommodations not considered at IEP; (6) failure to discuss/consider ESY; (7) failure to provide parents with evaluation reports; (8) failure to advise of mediation, complaint procedures and due process; (9) failure to provide copy of IEP; (10) no discussion on general education classroom placement; (11) lack of formal mechanisms to involve parents in improvement initiatives; (12) parents lack of supports and training in special education decision-making process; (13) parents experience difficulty accessing training; and (14) parents unaware of existing resources.

A. AREA OF STRENGTH

Initiatives to Promote Meaningful Parent Involvement

NJSDE initiatives and/or improvements with regards to parent involvement were in response to the issues identified in its self-assessment and program monitoring activities. These initiatives include: (1) revising the parent's rights handbook (PRISE) which is translated in 10 different languages; (2) increasing parent membership and training opportunities in Learning Resource

Center networks; (3) NJSDE sponsored joint training opportunities for parents and professionals; and (4) completing parent surveys and technical assistance and information dissemination efforts to parents.

B. SUGGESTION FOR IMPROVED RESULTS

Training and Information for Parents

NJSDE should continue to foster increased involvement from parents through state initiatives such as the Learning Resource Center Network that provide resources and workshops for parents; parent involvement in the development of the New Jersey Parent Rights in Special Education (PRISE) handbook; collaboration with the New Jersey Statewide Parent Advocacy Network (SPAN) and the New Jersey Coalition for Inclusive Education (NJCIE) on an inclusion newsletter. Such initiatives serve to provide a user-friendly forum for ensuring parent involvement.

The State's Self-Assessment has highlighted areas in need of improvement. As local education agencies address these areas, local practices should begin to move into compliance.