

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JULY 14, 1999

Mr. Clifford Allenby
Director
Department of Developmental Services
1600 Ninth Street
Sacramento, California 95814

Dear Mr. Allenby:

During the week of June 15, 1998, the Office of Special Education Programs (OSEP) of the U.S. Department of Education conducted a focused on-site monitoring review of the California Department of Developmental Services (DDS) implementation of Part C, formerly Part H, of the Individuals with Disabilities Education Act (Part C). OSEP's monitoring places strong emphasis on those requirements most closely associated with positive results for children with disabilities and their families. The purpose of the review was to determine whether DDS is meeting its responsibility to ensure that services for infants and toddlers with disabilities and their families are administered in a manner consistent with the requirements of Part C, particularly with regard to DDS' exercise of its general supervision responsibility and the provision of early intervention services. OSEP's monitoring revealed that DDS does not ensure compliance with all Part C requirements throughout the State. As further explained below and in the enclosed report, OSEP found serious deficiencies regarding DDS' general supervision of early intervention services to eligible children and their families.

In October 1993, the California Early Intervention Services Act (Title 14, Government Code Section 95000, *et seq.*) was passed to enable the State to implement the Federal requirements under Part C of IDEA. The Act required a two-year statewide evaluation of California's Early Start Program that was completed in July 1997 under contract with the American Institute for Research. The State-commissioned Early Start Program Evaluation Report, including findings of noncompliance with Part C requirements and recommendations for improvement of the State's system for early intervention, was submitted to OSEP in the Spring of 1998, and assisted OSEP in planning the focused monitoring visit. The Report noted many of the same findings that OSEP later identified in June 1998. In response to the Report, the State convened an Early Start Workgroup in July 1997 to identify and prioritize impact areas related to: 1) the Individualized Family Service Plan (IFSP) process; 2) models of service delivery; 3) personnel standards; 4) monitoring and supervision; 5) transition from Part C; 6) resolving interagency disputes; 7) funding and administration; 8) Family Resource Centers; and 9) child find and referral. However, OSEP is concerned that the State did not take immediate action to correct areas of non-compliance with Part C IDEA, as noted in the Report.

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I deeply concerned about the deficiencies described in the enclosed report that OSEP found regarding DDS' failure to: (1) monitor any providers of early intervention services other than the regional centers and to monitor regarding the *provision of all services*; (2) ensure that a comprehensive, *multidisciplinary* evaluation and assessment is completed for each eligible infant and toddler; (3) ensure that IFSPs that meet the requirements of §303.344 are completed for each eligible infant and toddler; and (4) ensure that eligible infants and toddlers receive the early intervention services which they need, *as determined by the IFSP team* and *without delay*. DDS must take immediate and effective corrective action to address the deficiencies noted in this report and to ensure compliance with all Part C requirements throughout the State.

Enclosure A to this letter describes OSEP's monitoring methodology and corrective action procedures and Enclosure B lists several commendable initiatives undertaken by DDS. Our findings and requirements for corrective actions are in Enclosure C.

At the exit meeting, which concluded OSEP's on-site visit, members of the OSEP monitoring team, Ms. Jacquelyn Twining-Martin, Ms. Ruth Ryder, Mr. Larry Ringer and Dr. Bobbi Stettner- Eaton, discussed the preliminary findings with you, members of your administrative staff, and members of the California Department of Education (CDE) staff. The OSEP team highlighted both the strengths of the system and concerns regarding DDS' supervision and administration of the State's Part C early intervention system.

I would like to thank you for the assistance and the cooperation that Mr. Flores, the Part C Coordinator for California at the time of the visit, his staff, and the DDS and CDE contractors provided during our review. Throughout the monitoring process, the staff was very responsive in providing information that enabled OSEP staff to acquire a better understanding of the implementation of Part C in California.

The Committee Report that accompanied the 1997 reauthorization of the IDEA, Public Law 105-17, underscored the importance of early intervention services for infants and toddlers with disabilities and reconfirmed our belief that it is in the best interest of these children, their families, schools, and society in general that services continue to be provided. We thank you for your efforts to improve early intervention services and results for the youngest of children with disabilities in California.

Our staff is available to provide technical assistance during any phase of the development and implementation of DDS' corrective actions. Please let me know if we can be of further assistance.

Sincerely,

Thomas Hehir
Director
Office of Special Education Programs

Enclosures

cc: Ms. Julie Ann Jackson

ENCLOSURE A

OSEP'S MONITORING METHODOLOGY

Pre-site Document Review: As in all States, OSEP used a multifaceted process to review the implementation of Part C in California. In addition to on-site visits to early intervention service providers, this process included review of: (1) the State's Part C application which sets out the State's statutes and regulations, policies and procedures, and interagency agreements that impact the provision of services to infants and toddlers with disabilities and their families; (2) the California Early Start Program Evaluation Report; (3) the State's Part C annual performance report; (4) the State's Part C Training and Technical Assistance Program Review documents; and (5) other correspondence, and telephone calls that OSEP received regarding the State's implementation of Part C. Prior to its visit to California, OSEP also requested and reviewed additional documentation related to the State's implementation of requirements for due process hearings, complaint resolution, and child count information.

Involvement of Parents and Advocates: During the on-site visit, OSEP conducted small group parent interviews in all of the regional centers visited. Parents and advocates were also involved in two focused outreach meetings that OSEP convened on the first day of the monitoring visit. Ms. Jacquelyn Twining-Martin, Dr. Bobbi Stettner-Eaton, and Mr. Larry Ringer met with 25 invited representatives from advocacy groups, parents, providers, and State and local agencies in Sacramento. Ms. Rhonda Ingel and Ms. Ellen Safranek met with representatives of similar constituencies in Anaheim. The purpose of each of the outreach meetings was to solicit comments from the participants in response to four questions, which guided OSEP's inquiry on the focused areas of the monitoring visit. OSEP also invited the groups to provide written comments and telephone input based upon their experiences with California's implementation of Part C of the IDEA.

Selection of Monitoring Issues and Sites to Visit: OSEP focuses its compliance review in all States on Federal requirements that are closely related to enhanced results for children and their families. Those requirements include an effective State monitoring system for the identification, and correction of non-compliance, including the use of enforcement when necessary. Other core requirements that OSEP reviewed in California included ensuring that all eligible children with disabilities receive the timely development and implementation of an IFSP.

Information that OSEP obtained from its review of relevant State data, interviews with State officials and consumers, review of State documents and the Part C Training and Technical Assistance Report, assisted OSEP in the identification of: (1) programs and regions to be visited for monitoring; (2) targeted areas on which to focus its onsite review; and (3) concerns and issues faced by families and other interested participants related to the implementation of the early intervention system in California.

OSEP interviewed DDS and CDE Early Start program liaisons, local program administrators, and providers and other Early Start managers that DDS and CDE invited from designated regional centers/Special Education Local Planning Areas. OSEP teams interviewed State and local provider executive staff, and State and local interagency collaborators, including CDE and representatives of the State Interagency Coordinating Council and reviewed relevant documentation. The teams visited and collected implementation data from early intervention programs operated by Regional Centers and Special Education Local Planning Areas. Ms. Sarah Willis, Ms. Ruth Ryder, and Ms. Ingel visited and collected implementation data at program sites in the southern part of the State. Ms. Twining-Martin, Ms. Ryder and Dr. Stettner-Eaton visited and collected additional implementation data in the north. Where appropriate, OSEP has included in Enclosure C data that it collected in the visits to providers that support or clarify its findings. OSEP has not used the name of any of the providers in Enclosure C; instead, the providers visited are identified only with designations such as “Provider A.”

A key to these designations is provided as follows:

<u>Provider</u>	<u>Designation</u>
Southwest Special Education Planning Area	Provider A
Harbour Regional Center	Provider B
San Diego Regional Center	Provider C
San Diego Special Education Planning Area	Provider D
Valley Mountain Regional Center	Provider E
Sacramento Special Education Planning Area	Provider F
Alta Regional Center	Provider G

Enclosure C outlines the general corrective actions that DDS must take to begin immediate correction of the findings in the Enclosure. In order to support the development of a mutually agreeable corrective action plan that will correct the findings in Enclosure C and improve results for young children with disabilities, OSEP proposes that DDS representatives confer with OSEP staff to discuss the findings and the most effective methods for ensuring compliance and improving services and results for infants and toddlers with disabilities and their families in the State, and to agree upon specific corrective actions. We also invite a representative from the California Interagency Coordinating Council to participate in that discussion. The corrective action plan must be developed within 45 days of receipt of this report. Should DDS and OSEP fail to reach agreement within this 45-day period, OSEP will be obliged to develop the corrective action plan.

ENCLOSURE B

COMMENDABLE INITIATIVES

OSEP identified the following commendable DDS initiatives as part of the onsite review:

- 1. Family Resource Centers/Networks.** OSEP commends DDS for its leadership in establishing a system of family support services for California's families – the Family Resource Centers/Networks. These Centers promote continuous family-centered services and are effective in grassroots child find and referral activities. This Statewide initiative ensures ongoing family support for young children with disabilities and their families and caretakers within their local communities, and therefore, assists the formal service system with vital linkages to resources that are available and accessible.
- 2. Cultural Sensitivity.** DDS and Provider A have made concerted efforts to reach out to families who are culturally and linguistically diverse. A wide array of publications and other user-friendly materials are available in multiple languages, including Russian and Japanese. Packets of information about the IFSP process and parents' rights contain information in Spanish and other languages.

ENCLOSURE C

FINDINGS AND REQUIRED FOLLOW-UP

In order to begin immediate correction of the following findings, DDS must take the following general corrective actions:

1. DDS must disseminate OSEP's monitoring report to all public agencies and early intervention providers and direct them to determine whether they have complied with Part C requirements, as clarified by this document. DDS must issue a memorandum to further direct these agencies and providers to discontinue any noncompliant practices and implement procedures that are consistent with Part C, and submit documentation to DDS that they have implemented revised procedures that correct the cited deficiencies. DDS must submit this memorandum to OSEP for review within 30 days of the date of this report. Within 15 days of OSEP's approval of the memorandum, DDS must disseminate it to all agencies and early intervention providers throughout California; and

2. DDS must develop a corrective action plan, in conjunction with OSEP, the California Interagency Council on Early Intervention, and other appropriate partners, to address the deficiencies detailed in this report. The corrective action plan must be developed and submitted to this Office for approval within 45 days of DSS' receipt of this report and, upon OSEP's approval, be disseminated widely to inform the public of the actions being taken to address the findings. In addition, DDS must send to OSEP verification that the deficiencies have been corrected.

Section 1. Early Intervention Services

A. Determination of unique needs through evaluation and assessment

34 CFR §303.322 requires States to ensure the performance of a timely, comprehensive, multidisciplinary evaluation of each child, birth through age 2, referred for evaluation, and assessment activities related to each eligible child and the child's family. The evaluation and assessment process must be broad enough to capture complete information required in the IFSP concerning: (1) The child's present level of functioning in each of five developmental areas; and (2) the family's resources, priorities, and concerns related to the child's development. As required by 34 CFR §303.322(a)(1), each evaluation must be multidisciplinary, which, as defined at §303.17, means an evaluation that is conducted by two or more disciplines or professions.

Finding 1: Comprehensive, Multidisciplinary Evaluations and Assessments Not Completed for All Infants and Toddlers with Disabilities

OSEP finds that California's Part C system does not always: (1) conduct evaluations and assessments to identify the unique needs of infants and toddlers with disabilities (§303.322(b)); (2) complete evaluations and initial assessments within 45 days after it receives the referral (§303.322(e); and (3) ensure multidisciplinary evaluations are in accordance with (§303.322(a)(1), §303.17).

Participants in the OSEP focused outreach meetings stated that: (1) providers are not conducting comprehensive assessments or evaluations; (2) services are determined prior to the completion of the assessments in the five developmental domains; and (3) the Regional Centers determine eligibility without completing the required evaluations in the five developmental areas. Several participants also reported that evaluations are often conducted by one person, not a multidisciplinary team as required, and not in all five areas of development, including vision and hearing.

Service coordinators in Provider B told OSEP that they develop the initial IFSP without conducting an evaluation or assessments, and stated: "You don't need an assessment to know what babies need." "Referral comes from a hospital and if the baby has a syndrome, we won't do an assessment," and "If we have a diagnosis, we know what to expect and will do evaluations/assessments within six months." The Early Start Program Evaluation Report states that, "some children are being evaluated for eligibility and are receiving services indefinitely without a comprehensive assessment in the required five developmental areas." OSEP also found through record review and interviews, that vision and hearing evaluations and assessments were conducted in Providers A, B, and C only for infants and toddlers with previously documented sensory deficits.

In addition, a review of children's records in Providers A, B, and C indicated that, while the initial meeting to develop the IFSP occurred within 45 days from the date of referral, the required evaluations and assessments had not been completed within the required time period. OSEP found that where evaluations and assessments had not been completed, providers included statements in IFSPs such as "continue to pursue evaluations" or "will be evaluated for functioning levels/recommendations as to services needed." None of the records included documentation of exceptional circumstances that made it impossible to complete the evaluations and assessments within 45 days.

OSEP's review of records in Providers B and C also confirmed the practice described in the State-commissioned Early Start Program Evaluation Report, that evaluations and assessments are not multidisciplinary. Several records OSEP reviewed indicated that only one discipline (e.g., occupational therapy or physical therapy) completed the entire evaluation and assessment for some children, rather than at least two disciplines, as required by 34 CFR §303.17 and 303.322(a)(1).

B. Development of the IFSP

Part C emphasizes the inherent role of families as the driving force in the identification of their strengths and needs, as well as those services required to enhance the development of their child. The development of an IFSP is a planning process that supports and builds on the family's capacity to enhance the development of their child and promotes families and providers working together to identify and mobilize formal and informal community resources. This process facilitates *ongoing* opportunities to expand community relationships and a common knowledge base about individual child needs and strengths.

34 CFR §303.344 requires States to ensure that each eligible infant or toddler has an IFSP that contains specific information about the child's present levels of development, the outcomes expected to be achieved for the child and the child's family, and the criteria, procedures, and timelines used to determine progress. The IFSP must also include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes and indicate: (1) the frequency, intensity, and method; (2) the natural environments in which the services will be provided; and (3) the payment arrangements. Each IFSP must be implemented as soon as possible after the IFSP meeting and contain the projected dates for initiation of the early intervention services (§303.344(f)).

Finding 2: IFSPs do not Include All Required Components

As discussed below, OSEP finds that DDS has not ensured that IFSPs include all required content.

The Early Start Program Evaluation Report documents concerns regarding the variability in the content of the IFSP across the State. The Report shows that the extent to which IFSPs contained all required components was not consistent from region to region and concluded that the adequacy of the content was often determined by the design of the IFSP form used by local providers. The Report also notes that IFSPs were less comprehensive for children and families for whom English was a second language.

A review of DDS monitoring reports indicated that the DDS had identified concerns regarding IFSP formats in Provider A and Provider B because all of the required components were not on the forms. OSEP examined revised IFSP forms in Provider A and B during this monitoring trip

and found that they *continue to lack* required components and instructions for providers. Furthermore, in Provider A, OSEP reviewed completed IFSPs and found that they all lacked: (1) present levels of functioning; (2) family concerns, priorities, and resources; (3) duration; (4) location; and (5) a list of the early intervention services to be provided to the child.

In Provider B, the completed IFSPs that OSEP reviewed included listed services, strategies and activities consistent with §303.344(c), but did not include the location or method as required by §303.344(d)(i) and (iii). None of the completed IFSPs reviewed in Providers A, B, C, and D included required information relating to the provision of early intervention services in natural environments, as required under §303.344(d)(ii).

C. Barriers to Implementation of the IFSP

34 CFR §§303.340 - 303.346 require the Lead Agency to ensure that the services for each eligible child are determined by the IFSP team, based on evaluations and assessments conducted by a multidisciplinary team of qualified providers.

34 CFR §§303.344(f), 303.520(c), and 303.525 require DDS to ensure that: (1) those early intervention services to which the parent has consented are provided as soon as possible after the IFSP is completed; and (2) no service to which an individual child is entitled is delayed or denied because of disputes between agencies regarding financial responsibilities.

34 CFR §303.527(b) requires States to ensure that Part C funds are not used to pay for services which are the fiscal responsibility of other public or private sources. While Part C is the payor of last resort, §303.527(b)(1) provides that Part C funds may be used to pay the provider of services, if necessary to prevent a delay in the timely provision of services to an eligible child or the child's family, pending reimbursement from the agency or entity that has ultimate responsibility for the payment.

As explained below in findings 3 and 4, the manner in which the regional centers use purchase of service committees results in: (1) infants and toddlers with disabilities and their families not receiving the services they need, *as determined by the IFSP team*; and (2) illegal delays in the provision of services set forth in IFSPs.

Finding 3: Early Intervention Services Determined by the Purchase of Service Committee, rather than the IFSP Team

Administrators, service coordinators, and individual service providers in five of the seven providers visited, informed OSEP that purchase of service committees, rather than the IFSP team, determine the services each child and family will receive. Purchase of service committees, part of the regional centers' administrative structures, function as the financial review team in the area

of service requests and operate outside the IFSP process.

OSEP reviewed procedures used by the regional centers to implement Part C requirements, with a focus on procedures for providing IFSP services. OSEP found the following inconsistencies with Part C requirements: (1) Provider C's purchase of service form indicates that the actual approval of services is *based on the availability of funds* (rather than on the unique needs of the infant or toddler); and (2) Provider G's procedure states that funding for a vendor service is discontinued if the child does not make progress, and as a result the service identified on the IFSP is no longer provided (without an IFSP team determination that the service is no longer needed).

Administrators in Providers A, B, C and F, and service providers in Providers A, C, and E, told OSEP that the IFSP team does not have ultimate authority to determine services for each child and family. They informed OSEP that each regional center's purchase of service committee in each of the providers approves, denies or reduces services that are identified in the IFSP for some children. A service provider in Provider C reported that regional center service guidelines are used to determine if and how often services will be provided rather than decisions made by the IFSP team as required by law. Core staff on purchase of service committees meet twice a month to approve, defer, deny or reduce recommended services. In Provider B, services and supports may be purchased for a consumer only when it has been determined by the purchase of service committee (rather than an IFSP team), that such services will accomplish all, or any part, of a child's IFSP. In Provider F, an administrator told OSEP that the purchase of service committee operates as a decision-making body between the IFSP meeting where services are initially identified, and the approval for payment, and confirmed that parents do not attend purchase of service committee meetings.

Under Part C, the IFSP team must include parents, qualified providers who have evaluated and assessed the child, other service providers, and the service coordinator. 34 CFR §303.343. By law, these individuals are the decision-making group with the responsibility and authority to determine the services needed to meet those needs at that point in time based upon evaluation and assessment. The decisions regarding the early intervention services to be provided to an infant or toddler with disabilities and his or her family may be made only by the IFSP team.

Data supporting this Statewide issue are also documented in the Early Start Program Evaluation Report. The regional centers' purchase of services committees use an authorization procedure that effectively *replaces* IFSP team decisions which are based on individualized needs. Based on data obtained from parent interviews, written correspondence from advocates, telephone communications and complaints received by OSEP, OSEP found that IFSP teams do not meet again, after purchase of service committees deny or reduce services initially identified by IFSP teams. Administrators, service providers, and parents in Providers B and C informed OSEP that some infants and toddlers with disabilities do not receive all of the services that they need, as determined by the IFSP team, because the purchase of service committee denies or reduces

services set forth in the IFSP.

Finding 4: Delay in the Provision of Early Intervention Services

As discussed below, OSEP finds that because there is no appropriate payment or reimbursement procedure to ensure that children receive services in a timely manner, the provision of early intervention services to some children and families is inappropriately delayed.

In California, the regional centers contract with local public and private vendors for the provision of the majority of early intervention services. The regional centers are responsible for service coordination and evaluation and assessment. Regional centers are charged by DDS with looking first at outside payment sources for early intervention services before using State funds and then coordinating service provision supported by effective funding mechanisms. Since the majority of services for eligible infants and toddlers are provided through contract with private providers, the smooth operation of the funding system with respect to potential resources is essential. In a July 1996 letter to the State of Pennsylvania, OSEP stated that States might establish prior authorization for certain services, costs, or other components in the provision of early intervention services under certain circumstances, but that the use of prior authorization procedures cannot result in violations of Part C requirements, including delays in services.

In the Early Start Program Evaluation Report, parents' responses to a family survey expressed frustration with the practice of requiring private insurance denial or approval for funding from another agency before services could begin. The Report states that families reported an average wait of over three weeks for services to start after the initial IFSP meeting, with a range of 0 to 24 weeks. The study did not examine the extent to which delays in services were occurring or the specific barriers to beginning services "as soon as possible" after an IFSP meeting in accordance with §303.344(f). However, the Report recommended this area for investigation by the State.

Two of the questions OSEP asked during the focused outreach meetings on June 15, 1998 were, "Do sources of payment impact timely delivery of early intervention services?" and "Are some services delayed or even denied to children or their families because of these payment issues?" Participants in the focused outreach meetings stated that there was no mechanism to secure reimbursement at the local level, thus delaying the timely provision of services. A participant in the outreach meetings summarized payment issues by stating that "No agency is motivated to step in, use other funds in the interim, before services are provided." Meeting participants described not only delays, but also denials of needed services when there were disputes over which agency was fiscally responsible for a service. Outreach meeting participants also reported that the payor of last resort provision of Part C is often an impediment to service delivery because of the State's lack of a reimbursement mechanism. This impediment to service delivery results in eligible

children and their families in California literally waiting until a payor is identified before providing early intervention services, however long it takes.

Participants at the OSEP outreach meetings reported that delays of three months or more occur, while awaiting the purchase of service committee's decision to pay for a particular service(s) listed on children's IFSP. Across the seven sites that OSEP visited, interviews with administrators, local service providers, parents, and service coordinators, confirmed that it was common practice for the regional center to obtain purchase of service committee and /or written private insurance denial or approval for funding before finalizing the IFSP or initiating services, with an average delay of three months in providing services to eligible children and families. Providers also expressed concerns over delays in getting services started due to payment approval procedures.

OSEP learned in interviews with regional administrators and service coordinators, and reviews of IFSPs in Providers A and B, that families experience significant delays in the provision of services, waiting for approval of a payment source(s). Under Part C, disputes over payment or other issues must not cause interruptions or delays in the provision of entitled services. An administrator in Provider A told OSEP that infants and toddlers wait longer than 45 days for assistive technology devices, such as hearing aids, while the agency is attempting to obtain a funding source.

In an effort to better understand this issue, OSEP reviewed a draft of Provider C's local interagency agreement, in addition to conducting interviews with parents, service coordinators, providers and advocates. Provider C's agreement states that regional centers are the payor of last resort after all other public and private sources have been reviewed to determine if a referral needs to be made to another payment source. The agreement also states that referrals may include, but not be limited to California Children's Services, or private insurance providers that may have responsibility for payment. While the agreement includes procedures that may be used to secure funding resources outside of the early intervention system, as permitted under Part C, it does not address the requirement that services not be delayed.

An administrator in Provider C informed OSEP that all generic (e.g., Medicaid, private insurance) payment sources must be exhausted before the purchase of service committee will approve services. A service coordinator in Provider C told OSEP that she submits the purchase of service request to her supervisor, who takes it to the purchase of services committee, who approves, defers or denies the request. This process results in delays of services anywhere from three to six months.

OSEP learned from an administrator in Provider D that approval decisions from the regional center often result in delays or reduction in service provision. The administrator informed OSEP that the approval process for payment from the regional center for services on an IFSP often results in delays or reduction in the frequency or intensity of service provision from what was decided by the IFSP team. An administrator in Provider C informed OSEP that the purchase of service committee, as required by the regional center, must exhaust all generic payment sources before approving services regardless of the length of time involved. As a result of this inadequate reimbursement mechanism, the provision of needed services to eligible infants and toddlers and their families are delayed.

Section II. State General Administration and Supervision

34 CFR §303.501 requires that all programs and activities used to implement the statewide early intervention system are consistent with Part C of IDEA, regardless of whether the entity receives Part C funds. Each State is required to adopt and use proper methods of administering the program, including: (1) monitoring agencies, institutions and organizations used by the State to provide early intervention services; (2) enforcing the Part C obligations imposed on those entities; (3) providing technical assistance if necessary; and (4) correcting deficiencies that are identified through monitoring. As part of its general supervision responsibility, the State lead agency must ensure that all policies (e.g., State statutes, regulations, Governor's order, directives, or other written documents that represent the State's position on this program (see 34 CFR §303.20) are consistent with 34 CFR Part 303.

Finding 5: DDS Has Not Implemented a Monitoring System to Identify and Ensure the Correction of Noncompliance

As discussed below, DDS has not fulfilled its obligation for the general supervision, administration, and monitoring of programs and activities used by the State, whether or not they receive assistance under Part C to implement the Statewide system of early intervention services. OSEP found that DDS does not: (a) monitor to ensure that all providers of Part C services meet Part C requirements; and (b) ensure correction where it identifies non-compliance.

a. DDS is Not Monitoring to Ensure That All Providers of Part C Services Meet Part C Requirements

OSEP learned from State monitoring reports and interviews with DDS staff and providers, that DDS only monitors its regional centers, and that neither DDS nor the regional centers monitor their local contracted vendors for implementation of Part C requirements. California's 21 regional centers contract with local vendors to provide direct early intervention services such as occupational therapy, speech therapy, nursing, family training, counseling and home visits, and nutrition for nearly 17,000 children and their families who were receiving Part C services as of December 1, 1997. Regional centers do not, in most cases, provide direct early intervention

programs or services. Therefore, when DDS monitors its early intervention system, it only monitors the regional centers (which enables DDS to monitor only for service coordination, evaluation and assessment, and fiscal issues), and a random selection of IFSPs for meeting content requirements under §303.344. Because DDS does not monitor the organizations that provide direct services, DDS is not able to determine through its monitoring whether services are provided consistent with Part C.

Parents and advocates told OSEP in outreach meetings that DDS has not used effective methods of supervising and monitoring its providers to ensure that early intervention services are provided in a timely manner. DDS staff confirmed that elements of the current monitoring system are not sufficiently sensitive or comprehensive to identify deficiencies, and that monitoring methods and procedures for follow-up on deficiencies could be improved.

b. Ineffective Methods of Correction

OSEP found some of the identified deficiencies had not been corrected. Thus, DDS did not follow-up adequately with the regional centers to determine if violations of Part C had been corrected.

Prior to this monitoring visit, OSEP reviewed the most recent DDS monitoring reports, (“Training and Technical Assistance Report”), dated 1996 and 1997, from each of the regional centers /Special Education Planning Areas OSEP visited. Based on this review, OSEP found that Provider B did not correct DDS’ findings of missing IFSP content, such as frequency and intensity of services, outcomes and methods, and delays in service provision due to personnel shortages. In Provider A, DDS found that IFSPs did not include present levels of performance that address all five developmental areas, family assessment information, child’s health and development information, and a transition plan, although DDS had earlier made the same finding. OSEP reviewed completed IFSPs in Providers A, B, and C, and found that, notwithstanding DDS’ earlier findings of noncompliance regarding these requirements, they all lacked: (1) present levels of functioning; (2) family concerns, priorities, and resources; (3) duration; (4) location; and (5) a list of the early intervention services to be provided to the child. DDS had also found that Providers A and C did not conduct multidisciplinary evaluation and assessments in the five developmental areas. As discussed in Finding 1 in Section I of this Report, OSEP found that these providers had not corrected this deficiency by the time of OSEP’s June 1998 visit.