



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

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Dear Ms. Hamamoto and Dr. Anderson:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in Hawaii from October 16 - 24, 2000 and the week of February 12, 2001 for the purpose of assessing compliance in the implementation of the Individuals with Disabilities Education Act (IDEA) and assisting your State in developing strategies to improve results for children with disabilities. 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 district resources on improved results for children with disabilities and their families through a working partnership among OSEP, the Hawaii Department of Education (HDE), the Hawaii Department of Health (HDOH), and parents and advocates in Hawaii.

A critical aspect of the Continuous Improvement Monitoring Process is collaboration between the Steering Committee of broad-based constituencies, including representatives from HDE, HDOH and OSEP. The Steering Committee assessed the effectiveness of State systems in ensuring improved results for children with disabilities and protection of individual rights. In addition, the Steering Committee 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 your State, including representation on the Steering Committees.

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

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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. OSEP reviewed components for each major area, through examination of State and district indicators, as the basis of reviewing the State's performance.

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

HDE and HDOH have indicated that this Report will be shared with members of the Steering Committee, the State Interagency Coordinating Council and the IDEA State Advisory Panel. OSEP will work with your Steering Committee to develop corrective actions and improvement strategies to ensure that the many areas of noncompliance are adequately addressed through Hawaii's Improvement Plan.

OSEP is concerned about the serious and systemic nature of the findings from the Part B monitoring that are included in this Report, many of which are also addressed under the Felix Consent Decree and has significant concerns about Hawaii's ability to resolve these issues.

This Report reflects OSEP's first monitoring review of Hawaii's Part C system. The report documents strengths of the program and suggestions to improve results for infants and toddlers with disabilities and their families. In addition, this Report documents significant areas of noncompliance that must be addressed by HDOH through an Improvement Plan.

Thank you for the assistance and cooperation provided by your staffs during our review. Throughout the course of the review, Ms. Debra Farmer and Ms. Sue Brown were responsive to OSEP's requests for information, and provided access to necessary documentation that enabled OSEP staff to work in partnership with the Steering Committee to better understand the State'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, agency administrators, and special education administrators. OSEP would also like to recognize the efforts that have taken place in Hawaii to improve results for children with disabilities and the strong commitment of State staff to continue these efforts.

Thank you for your continued efforts toward the goal of achieving better results for infants, toddlers, children and youth with disabilities in Hawaii. 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. 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,

Stephanie S. Lee  
Director  
Office of Special Education Programs

Enclosures

cc: Ms. Debra Farmer  
Ms. Sue Brown

## **EXECUTIVE SUMMARY**

### **Hawaii 2001**

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 B and C, in the State of Hawaii from October 16 through 24, 2000 and the week of February 12, 2001. The process is designed to focus resources on improving results for infants, toddlers, and children 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 a series of public input meetings with guided discussions around core areas of IDEA and the organization of the Steering Committees that provided further comments on the status of the implementation of IDEA. As part of the public input process, OSEP and the State made efforts to include multi-cultural and underrepresented populations. The Validation Data Collection phase included interviews with parents, agency administrators, district 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 a meeting attended by the Hawaii Department of Education, the Hawaii Department of Health, members of the State Interagency Coordinating Council and members of the Steering Committees.

The report includes a detailed description of the process utilized to collect data, and to determine strengths, areas of non-compliance with IDEA, and suggestions for improved results for children.

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

#### **Strengths**

OSEP observed the following strengths:

- Hawaii has many initiatives to encourage the identification of infants and toddlers in the State who are at-risk for developmental delays and those with developmental delays.
- Hawaii has many initiatives and programs in the State to support and include families in the process of making decisions about their young child's early intervention services needs.

#### **Suggestions for Improved Results for Infants and Toddlers with Disabilities**

OSEP provides the following suggestions for improved results for infants and toddlers with disabilities:

- Increase referrals from primary referral sources in the first year from birth, and increase the dissemination of public awareness materials from primary referral sources.
- Increase the use of family assessments to identify needed services for enhancing the development of infants and toddlers who are categorized as environmentally at-risk.

### **Areas of Noncompliance**

OSEP observed the following areas of non-compliance:

- HDOH does not provide adequate monitoring and supervision to enforce obligations and correct deficiencies.
- HDOH does not ensure that all infants and toddlers receive a comprehensive evaluation/assessment in all five developmental areas on a timely basis.
- IFSPs are not developed with required content.
- HDOH is not meeting its responsibility for ensuring the local education agency is notified of children who are approaching the age for transition, that timely transition meetings are held, and that transition plans are developed and implemented for each eligible child.

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

#### **Strengths**

OSEP observed the following strengths:

- The Special Parent Information Network provides assistance to parents in areas such as special education services and educational rights.
- Statewide and district based Community Children’s Councils have been established to promote strategies for working with families of children with disabilities.
- The HDE is increasing awareness of the community services available to families of children with disabilities and improving educational services to students with special needs through the Pihano Na Mamo Project.
- A software program to assist in the development of a career path for students with disabilities is used in some schools to promote the development of Individualized Education Plan (IEP) secondary transition goals and objectives.
- The School-To-Work Opportunities system initiative provides staff development that focuses on career curriculum and career exploration programs as well as teaching strategies.
- HDE’s proposed monitoring system appears to have the potential to identify, promote, and support best practices that ensure program effectiveness, enforce legal requirements and measure results of corrective actions.
- The Integrated Special Education Database System appears to have the potential to automate the record-keeping for all HDE processes involved in the evaluation, eligibility determinations, and servicing of students with disabilities.

#### **Suggestions for Improved Results for Children with Disabilities**

OSEP provides the following suggestions for improved results for children with disabilities:

- Establish a process to ensure that policies and procedures developed by the State that impact services to students with disabilities are made available to staff in schools.
- Provide training to school staff on effective strategies to encourage parent involvement in the IEP process.

- Promote a more effective utilization of HDE’s personnel development resources by providing onsite in-service training activities.
- Re-examine district services, especially in the remote areas of Hawaii, to determine whether districts are meeting their responsibility of providing services to preschool children with disabilities.
- Provide effective training and technical assistance to district staff by focusing on best practices designed to improve services to students with disabilities.

### **Areas of Noncompliance**

OSEP observed the following areas of non-compliance:

- HDE does not ensure that an adequate supply of qualified personnel is available to provide a Free Appropriate Public Education to children with disabilities.
- School districts do not always ensure that needed supports, services, accommodations and modifications are included in the IEP; that IEPs are consistently accessible to the regular education teachers, where appropriate; or that they are implemented in order for children with disabilities to be involved and progress in the general curriculum.
- School districts do not always ensure that children with disabilities are included in State and district wide assessment programs with appropriate accommodations and modifications.
- HDE did not complete implementation of the State’s alternate assessment.
- School districts do not always ensure that IEP teams include a statement of needed transition services in students’ IEPs beginning at age 16, or that needed transition services are implemented.
- School districts do not always invite other agencies that are likely to be responsible for providing or paying for needed transition services to IEP meetings, or take steps to obtain their input if they do not attend.
- HDE’s monitoring system, in place at the time of OSEP’s monitoring, was not effective in identifying and correcting noncompliance with the Part B requirements that focus on improved results for children with disabilities.
- HDE does not ensure that all Part B complaints are resolved within 60 days after the complaint is filed unless exceptional circumstances exist with regard to a specific complaint.
- HDE does not ensure that due process hearing decisions are reached within 45 days of the request for a hearing where the parties do not request extensions.

**HAWAII MONITORING REPORT**  
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# INTRODUCTION

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## **Administrative Structures and Children Served**

### **PART C**

The Hawaii Department of Health (“HDOH”) is appointed as the lead agency for the implementation of Part C of IDEA. HDOH as lead agency is administratively responsible for ensuring Part C services are provided to all eligible infants and toddlers in the State. Infants and toddlers in Hawaii are determined eligible if they are diagnosed as (1) developmentally delayed; (2) biologically at-risk (the State uses this term to define a “diagnosed condition” under 34 CFR §303.16(a)(2)); or (3) environmentally at-risk. Infants and toddlers who are biologically at-risk are defined by the State as having prenatal, perinatal, neonatal, or early developmental events suggestive of biological insults to the developing central nervous system, which increase the probability of delayed development. The State’s category of “biological risk” incorporates those who have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay. According to the State, the “biological risk” category includes but is not limited to the following categories:

#### **Biological At-Risk Categories**

- Down Syndrome
- Fetal Alcohol Syndrome
- AIDS
- moderate-severe asphyxia
- sensory impairments
- SGA (small gestational age)
- gestational ages under 32 weeks
- failure to thrive
- hearing loss resulting from chronic Otitis media
- infants born to mothers with diabetes, a history of substance abuse, or a history of mental illness
- Very low birth weight infants (1,500 grams or less).

#### **Environmental At-Risk Categories**

Infants and toddlers environmentally at-risk are defined as those with physical, social or economic factors, which may limit development. According to the State, Environmental risk includes, but is not limited to the following conditions:

#### **Environmental At-Risk Includes *One* of the Following Conditions**

- Parental age: less than 16 years
- Any existing physical, developmental, emotional, or psychiatric disability in a primary caregiver
- Child abuse and neglect of target child or siblings

**Environmental At-Risk Includes *Two* of the Following Conditions**

- Economically disadvantaged family
- Single Parent
- Incarceration of primary caregiver
- Parental age: 16-18 and less than high school education
- Low birth weight (1,500 to 2,500 grams)
- Presence of physical, developmental, emotional, or psychiatric disability in a sibling or any other family member in the home.

The HDOH provides services to Part C eligible children through three separate branches, divisions and sections.

- 1) Infants and toddlers with developmental delays, a single delay, and those who are biologically at-risk and their families, receive care coordination, and early intervention services from the Early Intervention Section, through the Children with Special Health Needs Branch, located in the Family Health Services Division. To ensure the provision of Part C Services, the HDOH contracts with sixteen public and private programs Statewide. These 16 contracted programs are funded through a combination of State early intervention and Federal Part C funds. The early intervention staff in the lead agency is comprised of 23 individuals with a Full Time Equivalent of 22.75. Staff includes supervisors, program consultants, analysts, a family support specialist, a council coordinator, a training coordinator, an insurance coordinator, an inclusion coordinator, a respite care coordinator, a data analyst, and clerical support personnel. At the time of OSEP's monitoring there were two vacancies.
- 2) Infants and toddlers and their families who are environmentally at-risk receive Part C services through the Perinatal Health Services Section of the Maternal and Child Health Branch, located in the Family Health Services Division. The Perinatal Health Services Section utilizes Statewide contracted programs with Healthy Start and Early Head Start to provide Part C services, including care coordination and home visiting services to eligible infants and toddlers who are environmentally at-risk and their families;
- 3) Eligible infants and toddlers who are diagnosed as medically fragile, and their families, receive care coordination and nursing services from the Public Health Nursing Branch, which is located in the Community Health Nursing Division.

Hawaii provided early intervention services to approximately 6.27% of their infants and toddlers in 1999. Approximately 48% of the total were children with developmental delays, which reflects a 28.5% increase in the identification of this population from the previous fiscal year.

**PART B**

Hawaii's Part B system is a unitary agency that includes seven school districts: Central, Hawaii, Honolulu, Kauai, Leeward, Maui, and Windward. The structure of the Hawaii State education agency differs from most other State education agencies in that the school districts are part of the

Hawaii Department of Education (HDE) and not separate local educational agencies or sub-grantees. Hawaii reported a total Part B 1999 child count for children with disabilities aged three through 21 of 20,551. Of these 1,646 children with disabilities were reported as falling into the three through five age category, and 18,905 children with disabilities fell into six through 21 age category.

State special education staff indicated that each district has a superintendent who reports to the State superintendent, and two education specialists who report to the district superintendent. Special education is coordinated on a State-wide basis by the Special Needs Branch, which has direct responsibility for complaint management, due process hearings, monitoring, and Statewide technical assistance, but has no line authority over regular or special administrators or staff at the district level. The HDE special education office employs a special education director and 51 professional special education staff, and as of February 2001 had two vacancies. In addition, there are 13 support staff members for special education in the HDE. All employees hold full time positions. The education specialist for special education is responsible for coordinating special education instruction, and the education specialist for special services is responsible for coordinating evaluation and related services. Special education teachers report to the school principal rather than a special education administrator.

As reported by the State special education staff, pursuant to Hawaii State law, the Hawaii Department of Health is responsible for providing occupational therapy, physical therapy, school health services, and school mental health services as related services to students with disabilities, and for conducting initial evaluations and reevaluations for the purpose of determining the needs of students for such services. As further reported, the HDE has no authority over the Hawaii Department of Health staff to supervise or provide these evaluations and related services. Special education administrators at both the State and district levels have coordinating responsibility, but no supervisory authority for staff who provide special education and related services.

According to State special education officials, the State of Hawaii has been operating under the Felix Consent Decree since 1994. The Plaintiff class, as defined in the Felix Consent Decree, are described as all children and adolescents with disabilities residing in Hawaii, from birth to twenty years of age, who are eligible for and in need of education and mental health services but for whom programs, services, and placements are either unavailable, inadequate, or inappropriate because of a lack of continuum of services, programs, and placements.<sup>1</sup>

<sup>1</sup> The Office of the Auditor, in its January 2001 report, Follow up Review of the State's Efforts to Comply with the Felix Consent Decree: A Report to the Governor and the Legislature of the State of Hawaii, found that Hawaii does not have a working definition of the *Felix* class and proposes that the class include children age 0 to 20 who require special education **or** mental health services as a result of several disabling conditions and performance indicators. This definition varies from the definition HDE officials and Felix monitors provided to OSEP which states that membership includes those children with disabilities under IDEA and Section 504 who are in need of mental health services. School administrators, teachers and parents all expressed confusion over which children with disabilities under IDEA were eligible under Felix and which children were not eligible.

According to State special education staff, under the Felix Consent Decree, HDE is responsible for: 1) hiring and retaining qualified personnel; 2) purchasing appropriate services when needed; and 3) ensuring that personnel continue professional development and improve skills and knowledge in the areas of effective educational and therapeutic methods. Assessment of the implementation status of the consent decree, approved implementation plans and associated orders of the court, involved determining the consistency of instruction and related services for each child according to agreed-upon principles, and the State's compliance in completing agreed-upon tasks and activities intended to create system capacity.

### **Statewide Assessment Program**

As reported by State special education staff, Hawaii uses two Statewide assessments, the Stanford Achievement Test, ninth edition (SAT-9) and the Hawaii Content and Performance Standards II. The SAT-9 is a norm-referenced test that measures reading comprehension and math problem solving. It is administered in grades three, five, eight, and 10. The Hawaii Content and Performance Standards II is a standards-based assessment that is criterion referenced and measures student performance relative to the Hawaii Content and Performance Standards II in the areas of reading, writing, and math. It also is administered in grades three, five, eight, and 10. Hawaii policy permits students to be excused from participating in assessments for the following reasons: parent refusal, medically fragile, emotional distress, homebound, hospitalized, limited English proficient. According to State special education staff, as of February 2001 Hawaii's alternate assessment had not been implemented. The alternate assessment is designed to assess the same standards as general education assessments, and to collect alternate assessment data through a "body of evidence" approach, or Evidence Binder. Teachers would score the alternate assessments of their own students. Hawaii reported it would measure student performance (skill and competence level) as well as system performance (levels of staff support, variety of instructional settings and their appropriateness, and participation in general education settings) as part of their alternate assessment. Hawaii reported it would use these measures in reporting group performance of students who participate in the alternate assessment.

### **Validation Planning and Data Collection**

In preparation for the Validation Planning visit, the Office of Special Education Programs (OSEP) reviewed previous Part B monitoring results for Hawaii. An on-site monitoring review was conducted during the week of January 23, 1995 and the final report was issued on March 8, 1995. The report's findings of noncompliance addressed ensuring that: 1) if the purpose of an Individualized Education Program (IEP) meeting is the consideration of transition services for a student, the public agency invites to the meeting a representative of any other outside agency that is likely to be responsible for providing or paying for transition services; 2) parents receive a full explanation of all procedural safeguards available to parents under 34 CFR §§300.500, 300.502-300.515, and 300.562-300.569; and 3) HDE facilitates efforts to recruit, prepare, and retain qualified personnel. This is the initial OSEP monitoring of Part C in Hawaii and preparation involved review of the State's Part C application, Annual Performance Reports, and data reports.

In preparation for the OSEP Validation Planning visit, HDOH and HDE decided to establish separate Part C and Part B Steering Committees.

During the week of October 16, 2000, OSEP and the Steering Committees conducted six public meetings across the State to obtain information about issues and concerns about IDEA service delivery. Meetings were held in Oahu, Hilo, Kona, Kauai (through a downlink), Molokai, and Maui. Discussion for Part C addressed child find and public awareness, family-centered services, early intervention services in natural environments, transition from Part C to other appropriate services, and general supervision of Part C by the Hawaii Department of Health. For Part B, discussion centered on the provision of a free appropriate public education to children with disabilities from ages three through 21 in the least restrictive environment, parent involvement in special education decision-making, secondary transition for youth with disabilities from school to post-school activities, and general supervision of special education by HDE. At the beginning of the following week, the information from the public meetings was discussed with the Steering Committees to identify specific issues that OSEP could investigate. Recommendations for data collection strategies and site selection were discussed. OSEP staff reviewed and analyzed data and documents relevant to meeting the requirements of IDEA.

OSEP visited the State during the week of February 12, 2001 for the purpose of collecting additional data on the issues identified in Validation Planning. For Part C, OSEP visited programs in Hawaii, Maui, Oahu, and Kauai. For Part B, OSEP visited programs including preschool, elementary, middle, and secondary schools located in Hawaii, Kauai, Maui (including Molokai), and Oahu. OSEP presented preliminary results to the Steering Committee on Friday, February 16, 2001 and next steps were discussed which would begin the process of improvement planning.

## I. PART C: GENERAL SUPERVISION

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The State Lead Agency, HDOH, 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. The State is charged with supervising and monitoring all agencies and individuals providing early intervention services whether or not they receive funds under Part C.

Each State may determine how it will meet its general supervision and administration responsibilities. 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**

As a part of the Continuous Improvement Monitoring Process, HDOH submitted to OSEP a copy of the State's 1999 Self-assessment. The Self-assessment Committee was constituted of over forty representatives from the multiple agencies that provide services to infants and young children throughout the State. Committee members formed work groups according to their areas of interest and expertise, in each of the OSEP five cluster areas: General Supervision, Child Find and Public Awareness, Early Intervention Services in Natural Environments, Family Centered Services, and Transition. Each work group developed its own section of the Self-assessment, which the Committee at-large reviewed over several sessions. The Self-assessment Committee demonstrated strong support for and commitment to developing the Self-assessment. Throughout both of OSEP's onsite visits, the Self-assessment Committee continued its involvement in the Continuous Improvement Monitoring Process, with a goal toward improvement planning. The Self-assessment Committee provided an update to OSEP in September 2000, prior to the Validation Planning visit, outlining the efforts accomplished in meeting the identified needs in the State. The Self-assessment Committee's commitment to Part C eligible infants and toddlers in the State continues to be apparent. Moreover, OSEP recognizes the Committee as an asset to the State-wide early intervention system, which provides Part C services to all eligible infants and toddlers in Hawaii.

The Self-assessment identified areas of strength and concern in each of the five cluster areas. In the area of general supervision, the State identified the following strengths: (1) the development of a care coordination standard to assist with the issue of case overload; (2) the identification of personnel training needs; and (3) the use of quarterly monitoring reports to track the delivery of services by the State Early Intervention Program. The General Supervision section of the Self-assessment acknowledged that the State contracted purchase of service programs require annual

monitoring to ensure contractual requirements are met. However, the Self-assessment also identified a lack of available personnel to regularly monitor programs and an increase in reports for the Felix Monitoring Project, which has resulted in insufficient time and personnel to conduct intensive in-person program monitoring. As a result, HDOH has relied on the use of monthly reports and Felix “Benchmark” reports to meet the State Lead Agency’s administrative and supervisory requirements under Part C of IDEA. In addition to the Self-assessment, data collected by OSEP during Validation Planning confirmed the concerns identified in the Self-assessment. During Validation Planning, the State also confirmed for OSEP that only one formal complaint was received in 1999-2000. The State has since implemented a new system for logging complaints, and began this implementation in July 2000.

To further investigate the areas identified in the Self-assessment, OSEP addressed the question of General Supervision with those present at the Public Input sessions held during the process of Validation Planning. OSEP asked the following question during each of the public meetings: *“How is the State Lead Agency involved in assuring that appropriate services are provided to infants and toddlers with disabilities, e.g.: interagency coordination, monitoring, technical assistance, etc?”* In response to this question, parents, providers, program managers and service coordinators identified the following concerns: (1) the lack of available personnel training for therapists in the State; (2) the lack of a comprehensive Part C monitoring system, and; (3) training activities provided by the lead agency were not systemic.

As a part of the data collection process OSEP reviewed State and district policies and procedures, interviewed State Lead Agency officials, and also interviewed families, providers and managers at the district level.

#### **A. AREA OF NONCOMPLIANCE**

**The State Lead Agency has failed to employ proper methods of administering the Part C program including monitoring contracted programs used to provide Part C services, enforcing obligations and correcting deficiencies.**

Part C regulations at 34 CFR §303.501(a)(2) require that each lead agency be responsible for administering and supervising all programs and activities that the State uses in the implementation of a Statewide early intervention system, regardless of whether they receive Part C funds. This administration and supervision is to include the monitoring of programs and activities, enforcing obligations imposed under Part C of IDEA, providing technical assistance, if necessary, and correcting deficiencies identified through monitoring. OSEP finds the HDOH has not adopted and used 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.

HDOH identified in the Self-assessment that monitoring to ensure general administration and supervision of programs and activities for IDEA requirements under Part C last took place in 1998. Presently, the State Lead Agency collects data as a method of monitoring for compliance

with the Felix Consent Decree. HDOH utilizes a system of Felix “Benchmarking” to collect and summarize data on the timeliness of care coordination, eligibility evaluations, and Individualized Family Service Plan (IFSP) completion. Felix “Benchmarking” allows for a pass/fail system whereby HDOH determines *if* certain components have been addressed, but not the level of compliance with all Part C requirements. For example, the Felix “Benchmarking” system collects data on the number of IFSPs developed, but does not evaluate whether those IFSPs meet Part C requirements. In addition, the use of this pass/fail process does not allow HDOH to identify systemic issues for all areas of non-compliance, or to ensure the correction of deficiencies in the Statewide early intervention system. HDOH does not presently have an effective method in place to monitor the full spectrum of requirements under Part C.

Interviews with program managers from the 16 contracted programs confirmed in all areas visited that HDOH is not meeting its administrative and supervisory responsibilities for monitoring the Statewide early intervention system for compliance with all of the Part C requirements of IDEA. All contract program managers interviewed reported that the State Lead Agency has not performed direct program monitoring in several years. Through interviews, OSEP confirmed that the State Lead Agency presently monitors their programs through the use of monthly and quarterly monitoring reports, which focus on data collection. HDOH provided OSEP with copies of the monthly and quarterly reports and the reporting protocol, which OSEP reviewed. These monthly and quarterly reports focus on enrollment data, number of referrals received, average daily attendance, number of individual evaluations performed, number of IFSPs developed, number of children transferred or transitioned, and the number of children receiving care coordination. The State tracks this data to determine patterns of service delivery. However, this tracking of service delivery is not sufficient to determine areas of non-compliance with Part C.

When asked how the lead agency ensured compliance, State Lead Agency officials stated that monthly meetings are held for program managers with the 16 contract programs funded to provide Part C services, and the Public Health Nursing Branch. During this meeting the State Lead Agency provides program managers with policy guidance and updates on the Part C program. This information is then “trickled down” to the district program level. Program managers interviewed confirmed in all areas that the State Lead Agency does answer questions and provides technical assistance when requested. This process is not sufficient, however, to meet the State’s supervisory responsibilities.

In addition to being required to monitor local contracting entities, the lead agency is required to ensure that all entities that implement any part of the Part C program, whether or not they receive Part C funds, are monitored for compliance. Program managers for Healthy Start and Early Head Start confirmed that the State Lead Agency had not monitored their programs for compliance with Part C requirements, nor had it requested monitoring coordination/information sharing.

OSEP finds that the efforts of HDOH to collect data on the district programs through the use of monthly and quarterly “monitoring reports” and monthly meetings is not sufficient to address systemic issues of non-compliance, or to correct deficiencies. Due to the fact HDOH is not presently conducting effective monitoring activities, has not identified any of the violations of

Part C identified in this report, and has not corrected any deficiencies as required by 34 CFR §303.501(b), OSEP finds the HDOH is unable to effectively enforce all the obligations imposed under Part C of IDEA, and to correct deficiencies that could be identified through monitoring.

## II. CHILD FIND AND PUBLIC AWARENESS

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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 H in 1986, now Part C, 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 Data Collection**

The Self-assessment identified strengths and concerns in each of the five cluster areas. In the area of Child Find and Public Awareness, the State's Self-assessment identified the following strengths: (1) Project Seek, a federally funded project, that works with primary care providers in the State identifies best strategies to encourage making referrals; (2) strong emphasis on the child's Medical Home<sup>2</sup> to foster the identification of potentially Part C eligible infants and toddlers in the community through routine developmental screenings; (3) Newborn Hearing Screening conducted on nearly 99% of all infants in the State; and (4) training to inform referring and collaborating agencies about early intervention services. In addition, the State's Self-assessment identified the following areas requiring improvement: (1) public awareness materials need to be updated and translated into other languages; (2) lower rate of referrals from primary referral sources; and (3) insufficient number of Care Coordinators, resulting in high caseloads.

OSEP addressed the topic of Child Find and Public Awareness with those present at the Public Input sessions held during the process of Validation Planning. OSEP asked the following question during each of the public meetings: *"Are there any barriers to the process of referring*

<sup>2</sup> As defined by the American Academy of Pediatrics, a medical home is an approach to providing health care services in a high-quality and cost-effective manner. Children and their families who have a medical home receive the care they need from a pediatrician or physician whom they trust. The pediatric health care professionals and parents act as partners to identify and access all needed medical and non-medical services to help children and their families achieve their maximum potential.

*infants and toddlers to the Early Intervention System, or in obtaining evaluations?”* In response to this question, parents, providers, program managers and service coordinators identified the following concerns: (1) the need for public awareness materials to be updated and translated into other languages; and (2) low rate of physician referrals. During the Validation Planning Visit, the Self-assessment Committee provided OSEP with copies of brochures and materials that had been translated since the identification of this need in the Self-assessment. OSEP recognizes the State’s effort in correcting an area requiring improvement, and commends the Self-assessment Committee for addressing this need.

States are required to evaluate infants and young children to determine eligibility and to assess to determine needed services. In the area of Child Find and Public Awareness, the Self-assessment identified the following concerns: (1) insufficient number of care coordinators to assist in the completion of evaluations and assessments; and, (2) personnel shortages which impact on the timely completion of evaluations for determination of eligibility and the delivery of services.

OSEP addressed the completion of Evaluations and Assessments during Validation Planning with the same question used to address Child Find and Public Awareness (see above.) Areas of inquiry concerning evaluations included personnel shortages, cultural and language barriers, and waiting lists. Providers, program managers, and families identified the following barriers to completing Evaluations and Assessments for infants and toddlers, which included: (1) children are not consistently evaluated in all five developmental areas; and (2) personnel shortages for Occupational, Speech and Physical Therapists cause delays in evaluations, resulting in children being placed on waiting lists.

To confirm the preliminary data surrounding identification and delays in evaluation identified in the State’s Self-assessment and during Validation Planning, OSEP collected data and information from a variety of sources. OSEP reviewed State and district policies and procedures, analyzed a sample of IFSPs from early intervention programs across the State, and interviewed State Lead Agency officials, families, providers and managers at the district level. With regard to Child Find and Public Awareness, the following conclusions were supported by families, providers and program managers at the district level in all areas: (1) general lack of awareness of early intervention services in the community; (2) physician delays in making referrals due to a ‘wait and see’ philosophy; and (3) the location of centralized intake on Oahu which may cause delays in referrals on the outer islands.

As a part of Validation Data Collection, OSEP reviewed the State Policies and Procedures surrounding Child Find and Evaluation and Assessment (refer to pages 31-32 of the FY-1998 Part C State Application). The written procedures include the review of current health records and medical history, and the evaluation of the infant or toddler’s present level of development in all five areas. Further, OSEP referenced the State’s eligibility criteria for infants and toddlers with a developmental delay and those biologically at-risk (refer to pages 13-16 of FY-1998 Part C State Application.) Eligibility for infants and toddlers with a developmental delay is to be determined by a multidisciplinary team, through the use of an evaluation and informed clinical opinion. Eligibility for infants and toddlers with a biological risk is determined based on a signed physician statement, indicating the medical condition is likely to lead to a developmental

delay. Eligibility for infants and toddlers environmentally at-risk is established through the documentation of risk factors by the interim Care Coordinator.

OSEP also interviewed program managers, care coordinators, therapists and parents about the processes used for referral, evaluation and assessment. Processes varied between the 16 contracted programs, the other early intervention service providers, and by location.

#### **A. AREA OF NONCOMPLIANCE**

**HDOH is not ensuring that all infants and toddlers in the State who are eligible for Part C services are evaluated in all five developmental areas on a timely basis.**

Part C regulations at 34 CFR §303.322 require that the State Lead Agency ensure the completion of a timely, comprehensive, multidisciplinary evaluation of each child referred, to determine the current levels of function, needs and services. Under 34 CFR §303.322(a)(2) and 34 CFR §303.322(c)(3) the lead agency is responsible for ensuring that local agencies evaluate and assess each child referred in all five developmental areas, regardless of whether the infant or toddler is referred for developmental delays or an established condition. Section 34 CFR §303.322(c) requires that the evaluation and initial assessment of the child be completed within 45 days of referral.

Through parent and provider interviews, State Lead Agency interviews and policy reviews, as well as IFSP reviews, OSEP found that infants and toddlers in the first, second and fourth islands visited are not evaluated in all five developmental areas (cognitive, physical, communication, social and emotional, and adaptive development) within 45 days. These infants and toddlers are only being evaluated in the area(s) of concern. Some of these infants and toddlers may be evaluated later in other developmental areas, but not within the time required. Other infants and toddlers may not ever be evaluated beyond the area(s) of concern. Families in the third island visited are being offered the choice of either a full or partial evaluation. On the fourth island, programs serving infants and toddlers classified as developmentally delayed provide infants and toddlers with a complete evaluation in all five developmental areas, but the young child may wait between two and four months for that evaluation.

OSEP noted in three of the five islands visited that children identified as biologically at-risk who might be expected to have multiple delays were not assessed in all five developmental areas to determine needed services. Instead, these infants and toddlers were screened (using the Infant Caregiver Monitoring Questionnaire (“ICMQ”)) and were referred for an evaluation solely in the area(s) of concern if they did not pass the screening.

Evaluating an infant or toddler solely in the area of concern does not allow for the identification of other potential developmental delays in other developmental areas, which can remain undetected. As a result, infants and toddlers may not receive all needed services on a timely basis. Through IFSP reviews, OSEP found that the IFSPs for some infants and toddlers had been amended to list a hearing impairment. If the infant or toddler had been evaluated in all five developmental areas initially, the hearing impairment may have been identified earlier.

OSEP finds that the HDOH is not meeting the requirement to fully evaluate all infants and toddlers within 45 days. The impact on infants and toddlers and their families is that complete IFSPs are not developed within a timely basis, and the delivery of services is delayed. This issue is further addressed in the Early Intervention Services in the Natural Environment section of this Report.

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

**1) The State should make efforts to increase referrals from primary referral sources in an infant's first year, and should increase the dissemination of public awareness materials.**

Part C Regulations at 34 CFR §303.321(d)(1) provide for a child find system that includes procedures for use by primary referral sources to refer a child to the appropriate public agency for an evaluation and assessment and, as appropriate, the provision of services.

Hawaii has many initiatives that encourage the early identification of infants and toddlers in the State who are at-risk for developmental delays and those with developmental delays, such as: (1) public awareness materials that are available in six languages; (2) several primary referral projects; (3) focus on the medical home; and (4) Newborn Hearing Screening. OSEP recognizes these ongoing efforts by the Hawaii Early Intervention Coordinating Council (HEICC) and HDOH to encourage referrals from primary referral sources. However, OSEP found in three of the five islands visited that there is limited availability of public awareness materials in these communities, as well as a lack of referrals from primary care providers.

In the first island visited, parents reported they did not have knowledge of early intervention services prior to referral. Parents also confirmed that physicians do not make timely referrals for evaluations due to a “wait and see” philosophy.

In the second island visited, providers and program managers confirmed that physicians believe children will outgrow their developmental delays and therefore do not make timely referrals. These providers and program managers also confirmed a lack of public awareness materials in the community due to a need to “keep up with the numbers they have.”

In the third island visited, parents, providers, and program managers all confirmed physicians either refer late, or do not make referrals for early intervention services. In addition, all agreed physician awareness of early intervention services need to be increased. Finally, all confirmed the availability of public awareness materials, and knowledge of early intervention services, are viewed as limited in local communities.

OSEP is particularly concerned about the second island visited, which seems to intentionally restrict the distribution of public awareness materials, due to an inability to provide services. As a part of Improvement Planning, OSEP recommends that HDOH focus on continuing the work to

increase early referrals by physicians and improve the process for the utilization of public awareness materials about the availability of Part C services in the State.

**2) The State should increase the use of family-centered assessments to enhance a family's capacity to meet the developmental needs of infants and toddlers who are categorized as environmentally at-risk.**

As a part of the Validation Data Collection process, OSEP reviewed the policies and procedures surrounding assessment, and the specific assessment tools used by the Hawaii Part C Early Intervention program to determine what methods and procedures are currently in place. OSEP confirmed that the program delivery model targeted to provide early intervention services to infants and toddlers and their families who are categorized as environmentally at-risk primarily identifies these young children shortly after birth, while still in the hospital. OSEP commends the Part C System for its strong efforts to integrate the resources available through each public agency in the State, but believes the Lead Agency could do more to assist these at-risk families to enhance their capacity to meet the developmental needs of their infants and toddlers.

It is OSEP's recommendation that the Hawaii Part C Early Intervention Program use a comprehensive family-needs assessment with at-risk families, to determine not only social and welfare needs, but needs surrounding the family's ability to enhance their young child's development.

### **III. PART C: EARLY INTERVENTION SERVICES IN NATURAL ENVIRONMENTS**

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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 principles 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's responsibilities include assisting families in understanding and exercising their rights under Part C, arranging for assessments and IFSP meetings, and facilitating 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 typically developing children would be found, so that they will not be denied opportunities 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 satisfactorily achieved in a natural environment, the IFSP must include a justification of the extent, if any, to which the services will not be provided in a natural environment.

#### **Validation Planning and Data Collection**

In the area of Early Intervention Services in the Natural Environment, the State's Self-assessment identified the following: (1) families were not consistently involved in the development of their infant or toddler's IFSP; and, (2) there was a lack of sufficient care coordinators and providers to develop the IFSP and provide services. As a part of Validation Planning, OSEP asked the

following questions during the public input sessions across the State: *“Do all infants and toddlers and their families receive all the services they need, including service coordination? Where do children receive their services?”* Probes for environments where services are received included community settings, day care, home and the home of a close relative. In response to this question, participants reported the following: (1) inadequate supply of staff to complete evaluations and assessment within 45 days; (2) care coordinators carry high caseloads and need training in the provision of Early Intervention Services in Natural Environments; and (3) families receive services in segregated, self-contained settings. To examine the issues identified during Validation Planning, OSEP asked families, providers, care coordinators, and administrators about the process of developing IFSPs.

#### **A. AREAS OF NONCOMPLIANCE**

##### **IFSPs are not developed with required content.**

Part C regulations at 34 CFR §303.344(a) require that present levels of development be written into an IFSP in all five developmental areas, according to professionally objective criteria. Of the IFSPs reviewed from all islands visited, present levels of functioning are written in some developmental areas but not all developmental areas, and are most frequently omitted in gross motor and speech. In other cases, present levels of functioning are completed for all developmental levels, but are not adequate to determine needed services, or these statements are not based on professionally acceptable objective criteria, as required by 34 CFR §303.344(a)(2).

According to State Lead Agency officials, the Infant Caregiver Monitoring Questionnaire (ICMQ) is used to screen infants and toddlers upon intake, and further evaluations and assessments are needed to determine needed services. As reflected in Section II A of this Report, the State has not ensured that all infants and toddlers with disabilities receive a comprehensive, timely evaluation in all five developmental areas to determine current levels of functioning.

Many of the IFSPs reviewed from the five islands visited contained outcomes for completing evaluations and assessments after the 45-day timeline had elapsed. OSEP found this to be true even for infants and toddlers with established conditions. According to State Lead Agency officials, outcomes for assessments are put into the IFSP because the ICMQ is used to screen, and further assessment is required. Infants and toddlers in the fourth island visited are routinely assessed over a period of time, and the assessment is completed by the IFSP review at six months.

Part C regulations at 34 CFR §303.344 (d) require the IFSP to include a statement of early intervention services necessary to meet the unique needs of the child and the child’s family, to achieve outcomes identified on the IFSP. The statement of services must include a description of the frequency and intensity of services, including the number of days/sessions and the length of time the service will be provided during these sessions. For those IFSPs that OSEP examined, where needed services had been identified through evaluation and assessment, statements regarding frequency, intensity and method were included. However, because all infants and toddlers in Hawaii are not evaluated in all five developmental areas initially, a description of all

needed services is not identified, and therefore IFSPs are not complete. OSEP found in most areas visited, that services were provided prior to the completion of a comprehensive assessment. Federal regulations at 34 CFR §303.345(b)(1) allow an eligible child and the child's family to receive early intervention services prior to the completion of evaluation and assessment, if parental consent is obtained and an interim IFSP is developed. The regulations at 34 CFR §303.345(b)(2) require the interim IFSP to include the name of the service coordinator who will be responsible for implementation of the interim IFSP, in order to provide the services determined to be needed immediately by the child and the child's family. However, this does not absolve the State Lead Agency of its responsibility to complete the evaluation and assessment within 45 days, including the completion of an assessment of the child's present levels of functioning in all five developmental areas, and a family needs assessment.

In addition, Part C regulations at 34 CFR §303.344(h) require that the IFSPs include steps to support the transition of the child in accordance with 34 CFR §303.148. The transition steps in the IFSP must include: (1) transition to Part B preschool services to the extent appropriate or to other services that may be available, if appropriate; (2) training of the family on transition; (3) the procedures used to prepare the child to transition; and, (4) the transmission of information about the child, with parental consent.

OSEP's review of IFSPs found that in three of the five geographic areas visited, IFSPs of toddlers nearing transition age did not contain transition steps as required. Specifically, 80% of the IFSPs reviewed in three of the five islands visited were out of compliance with the transition requirements. In some cases, the forms were left blank or there were no transition steps in the IFSP. In others, the transition plan may have been completed and signed, but all of the required steps were not incorporated into the IFSP. For example, the name of the local education agency was left blank. This may indicate that the local education agency was not included in the process and would not have known the child was turning age three and could be in need of services. The effect of these examples on toddlers and their families is a delay in receiving needed transition services.

As a result of IFSP reviews and interviews conducted during the Validation Data Collection, OSEP concludes the HDOH is not meeting its responsibility for ensuring the development and implementation of IFSPs for each eligible child, in accordance with the requirements of Part C of IDEA.

## **IV. PART C: FAMILY-CENTERED SYSTEM OF SERVICES**

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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**

In the area of Family Centered Services, the State's Self-assessment identified the following: (1) outreach to families is considered a strength of the Hawaii Part C Early Intervention System; (2) most families report they have knowledge of their rights; (3) families are involved in the process of policy development and giving input related to the Felix Consent Decree; and (4) efforts are being made to increase the number of immigrants and non-English speakers that are served.

As a part of Validation Planning, OSEP asked the following question during the public input sessions across the State: *"How are families included and supported in the process of making decisions about their child's services? What family support services are available in your community?"* In response to this question, OSEP learned the following: (1) Early Head Start and Healthy Start programs offer home visits to infants and toddlers and their families who are diagnosed as at-risk; (2) care coordinator positions have been increased State-wide and more care coordinators have been hired to decrease high caseloads; (3) more programs are in place to assist families with hearing impaired children; and (4) Project Kako'o is being replicated in other parts of the State.

**STRENGTHS**

OSEP finds that Hawaii has many initiatives and programs in the State, such as Project Kako'o, to support and include families in the process of making decisions about their young child's early intervention services needs. HDOH as State Lead Agency continually attempts to address the social and cultural needs of Hawaii's large multicultural population.

As a result of the information gathered on the Family Centered Services component during Validation Planning, and as a part of the State's Self-assessment, OSEP elected not to focus on this component specifically during Validation Data Collection interviews.

## V. PART C: EARLY CHILDHOOD TRANSITION

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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**

In the area of Early Childhood Transition, the State's Self-assessment identified the following: (1) "transition planning needs to occur earlier to meet IDEA Part C requirements;" (2) "most families with children under two (80%) indicated that they had not yet discussed transition planning" and, (3) "Maui has isolated rural areas that may have a history of delayed transition, and Part B and Part C staff have met previously to discuss this need."

As a part of Validation Planning, OSEP asked the following question during the public input sessions across the State: *"By the child's third birthday, does transition planning result in the timely provision of needed supports and services to a child and child's family?"* Areas of inquiry around early childhood transition included the process for identification of appropriate services, informing the local education agency, and training for families on transition. In response to this question, OSEP learned the following: (1) children who are not eligible for Part B services have limited placement options; (2) families do not always feel supported during the transition process; and (3) children are often placed on waiting lists for evaluations to determine HDOE eligibility.

To confirm the issues identified during Validation Planning, OSEP asked families, providers, care coordinators and administrators about the process of developing transition plans, and the training that is provided to families on transition.

## **AREA OF NONCOMPLIANCE**

**HDOH is not meeting its responsibility for ensuring that the local education agency is notified of children who are approaching the age for transition, and for holding a transition meeting in accordance with the requirements of Part C of IDEA. HDOH is not ensuring that transition plans are developed and implemented in accordance with the requirements of Part C of IDEA.**

To confirm information reported in the Self-assessment and obtained through Validation Planning, as well as data collected from IFSP reviews, OSEP interviewed program managers and providers in all islands visited, and asked about the process used for early childhood transition. Interviews with program managers and providers on three islands visited confirm that programs do not know “when to invite Part B into the process” when the transition plan is developed. Further, Care Coordinators on the second island visited expressed a need for technical assistance in learning the protocol for transition from Part C to Part B services. Program managers on the fourth island visited stated that transition meetings are not held, and the Part B system staff is not invited to participate in the development of a transition plan.

As a part of Validation Data Collection, OSEP interviewed State Lead Agency officials to discuss procedures for early childhood transition. Officials from HDOH informed OSEP that new procedures are in place at HDOE and new HDOE staff was recently hired. However, the procedures for transition to Part B services may be different in different districts. HDOH officials also confirm the need for more technical assistance in this area so “Care Coordinators know whom to involve.”

Federal regulations at 34 CFR §303.148 require that the State Lead Agency notify the local educational agency for the area in which the child resides, that the child will shortly reach the age of eligibility for preschool services under Part B of the Act, as determined in accordance with State law. OSEP’s interviews with program managers and providers on three islands visited found HDOH is not meeting its responsibility for notifying the local education agency of children who will shortly reach the age of preschool eligibility. OSEP reviewed the Interagency Agreement in place for Early Childhood Transition between the HDOH and the HDOE. The agreement requires that Part C will inform the local education agency of the child and convene a meeting to discuss transition planning. However, individual meetings for each toddler are not being held to discuss transition to preschool or other appropriate services.

Part C requirements at 34 CFR §303.148(b) establish that for a child who may be eligible for Part B preschool services, with permission of the parent, a transition conference must be convened with the local education agency, the lead agency and the family at least 90 days prior to the child’s third birthday. For toddlers who are not Part B eligible, the lead agency must make reasonable efforts to convene a transition conference. OSEP held joint interviews with Part C and Early Childhood staff on three islands, and found on all three islands that the practice is not consistently adhered to regardless of Part B eligibility. In addition, IFSPs do not always contain

the required steps to support transition, as discussed in Section III A of this Report in the Early Intervention Services in the Natural Environments section.

OSEP finds the HDOH is not meeting its responsibility for ensuring the local education agency is notified of children who are approaching the age for early childhood transition, that meetings are held, and that transition plans are developed and implemented in accordance with the requirements of Part C of IDEA.

## VI. PART B: PARENT INVOLVEMENT

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A purpose of the IDEA Amendments of 1997 is to expand and promote opportunities for parents and school personnel to work in new partnerships. 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 achievement, improve parents' attitudes toward the school, and benefit school personnel as well.

### **Validation Planning and Validation Data Collection**

During the Validation Planning phase, OSEP gathered information from the State's Part B Self-assessment, public input meetings, and the Hawaii Part B Steering Committee. One of the focus questions asked at public input meetings was: "*How are parents involved in the education of their children with disabilities?*" OSEP reviewed additional data from advocacy groups and HDE. As a result, the following areas of concern were identified by the advocacy groups and public input participants: 1) parents need training, including training in the Individualized Education Plan (IEP) process and parental rights; 2) outreach is needed to address the needs of underrepresented parent populations including immigrant, bilingual, and illiterate parents and families of children with low incidence disabilities; 3) parents do not feel respected as members in IEP team deliberations, and feel that their input is ignored; 4) school staff bring completed IEPs to IEP meetings and do not include parent input; 5) public agencies schedule IEP meetings at the convenience of school staff, not at a time mutually agreeable to parents; and 6) parents must push to get services for their children, and those children whose parents do not push, are more likely to receive inadequate/inappropriate services.

As reported in HDE's Self-assessment, its Parent Involvement responsibilities include: 1) the advancement of parent involvement through training and information dissemination, and 2) active involvement of parents and youth with disabilities to promote appropriate services and transition services for children with disabilities and involvement in school-based improvement efforts. Concerns reported in the Self-assessment are: a) some key training components do not target families as audiences nor as co-trainers; b) there is a need to continue to identify other topics where families and HDE should work together to promote provision of services to students with disabilities; and c) there is a lack of information provided to families of unserved and/or under-served populations regarding training opportunities.

OSEP found in its 1995 monitoring report that HDE did not meet its responsibility to ensure that parents received a full explanation of procedural safeguards. Parents' rights notices given to parents at that time omitted or incompletely addressed certain procedural safeguards.

To investigate the concerns identified during the Validation Planning process OSEP: collected information from the review of children's records and State and district policies and procedures, and interviews of State personnel, district program administrators, teachers, and parents;

reviewed HDE's analysis of its Self-assessment and OSEP's 1995 HDE monitoring report to note previous findings; analyzed the data; and identified the following areas of strength and suggestion for improved results for children.

## **A. STRENGTHS**

### **1. Community Children's Council**

According to HDE's Self-assessment, the focus of monthly meetings sponsored by the Community Children's Council includes strategies for dealing with parent involvement. Statewide and district based Community Children's Councils were established five years ago under the Felix Consent Decree. Each council of providers and families of children with disabilities works together to create a system of care to meet the individual needs of each child. Parents determine the workshop topics and turnout has been very good with new parents attending. To promote parent attendance and participation, the council offers such activities as free dinners and free childcare.

### **2. Special Parent Information Network**

The Special Parent Information Network provides assistance to parents in areas such as special education services and educational rights. A quarterly newsletter contains articles on upcoming meetings and events addressing special education. A free subscription is available. This information network provides assistance that enables families to participate in the education of children and young adults with disabilities as well as the professionals who work with them. The information network also offers additional formats such as videotapes, audiotapes, websites, and telecommunications. The main informational material, a brochure entitled *Parent Guide to Partnership in Special Education*, explains parent and child rights in special education. This brochure has been translated into languages most commonly spoken in Hawaii.

### **3. Pihano Na Mamo Project**

The Pihano Na Mamo Project focuses on increasing awareness of the community services available to families with disabilities and improving educational services to students with special needs. Seventeen of the demonstration sites for the project have "parent involvers." The project's major goals target the promotion of services to students with disabilities through:

- utilizing pre-referral/mainstreaming strategies and inclusive supports to meet the needs of students within the regular school environments;
- encouraging the involvement of parents, families, and the community in education of students with disabilities; and
- providing culturally relevant and sensitive instructional strategies, materials, and experiences to Hawaiian students with special needs.

## **B. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN WITH DISABILITIES**

OSEP made the following observation about improving the provision of services to children with disabilities:

### **Parent involvement to promote improved programs and services for children with disabilities**

During OSEP interviews with 24 parents in three districts, OSEP received information regarding parent involvement in the provision of services to children with disabilities. Concerns noted by parents included: 1) lack of communication between school and home; and 2) participation in the development of IEPs.

#### *Lack of communication between school and home*

Parents reported to OSEP that communication between school and home depends on the particular teacher. They perceived that if teachers are not knowledgeable about notifying parents about meetings and rights, it does not happen. According to some educators interviewed, principals may receive information from HDE regarding special education issues that concern communication with parents, however the information is not passed on to teachers or parents.

#### *Development of IEPs*

Parents reported, through OSEP interviews, that IEP meetings do not necessarily promote parent involvement. The parents reported that because IEP meetings are held during the school day, teachers are unable to participate in the entire IEP meeting. This leaves limited time for parents to provide input or address teacher concerns. Some parents reported that IEPs are developed before meetings. They said that the completed IEPs are sent home to the parents after the meeting. These completed IEPs do not reflect the discussion or parent input nor do the signature blocks for participants reflect actual participant attendance. Although OSEP interviewed school staff, building administrators, and special education directors in five districts as well as reviewed 46 IEP files, OSEP was not able to substantiate the above information reported by parents interviewed.

HDE should consider establishing a process that will ensure new or revised policies and procedures developed by the State that impact communication between school personnel and parents of students with disabilities are made available to staff in schools. Also, HDE may consider providing training to school staff on effective strategies to encourage parent involvement in the IEP process. These methods can assist in promoting the partnerships between the school and parents.

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

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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. These services are provided, to the maximum extent appropriate, with children who do not have disabilities and, unless their IEP requires 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**

During the Validation Planning phase OSEP gathered information from the State’s Part B Self-assessment, public input meetings and the Part B State Steering Committee. Parents, educators, service providers, and other stakeholders throughout the State attended the public input meetings. Focus questions asked at the public input meetings included the following: “*Are students with disabilities receiving the special education and related services they need?*” “*How do students with disabilities participate with nondisabled students? Do all students, regardless of placement, have access to the same curriculum as their nondisabled peers?*” and “*By the child’s third birthday, does transition planning result in the timely provision of needed supports and services to a child and a child’s family?*” OSEP reviewed additional data from parent advocacy groups, HDE, and OSEP records. The following areas of concern were identified by OSEP through the public input process: 1) inadequate accommodations, modifications, and supports provided to children with disabilities in the general education setting; 2) shortage of related service providers, special education teachers, and educational assistants to provide a free appropriate public

education; 3) waiting list for special education and related services; 4) concerns about teacher re-certification requirements; 5) lack of certified teachers; 6) lack of continuum of placements for students with low incidence disabilities; 7) lack of child find for children in private schools who may be in need of special education and related services, particularly for preschool aged children; 8) school evaluation procedures cause delays in transition to preschool services; 9) evaluations only address eligibility, not a child's individualized instructional needs; 10) shortage of teaching supplies and materials; and 11) lack of funding for services.

HDE identified the following areas as promising practices through its Self-assessment process: 1) Aggressive recruitment and retention activities that should fill anticipated vacancies by 2002; 2) An alternative assessment program that was adopted in July 2000; and 3) Two preschool transition programs that have been established to enhance the opportunity for young children with disabilities to participate in school.

Many of the areas OSEP identified as areas of concern were also identified by HDE as areas of concern through its Self-assessment process. These areas of concern included: 1) a lack of trained personnel to implement school based services, especially in related services; 2) approximately 40% of special education teachers are uncertified; 3) a high turnover in special education teachers; 4) a lack of continuum of placement options for low incidence disabilities; 5) a lack of accommodations, modifications, and supports to enable students to be successful in general education settings; 6) a severe need for joint training of general education and special education teachers in teaching strategies, evaluation of student work, adaptations/modifications and supports; and 7) evaluations that focus on identification, rather than programming and instructional recommendations.

As reflected in its 1995 monitoring report, OSEP found that HDE did not meet its responsibility to ensure the provision of services to children with disabilities in the least restrictive environment through the facilitation of efforts among the State education agency and administrative districts, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel.

To investigate the concerns identified during the Validation Planning process OSEP: collected information from the review of children's records and State and district policies and procedures, and interviews of State personnel, district program administrators, teachers, and parents; reviewed HDE's analysis of its Self-assessment and OSEP's 1995 HDE monitoring report to note previous findings; analyzed the data; and identified the following areas of noncompliance, and suggestions for improved results for children.

## **A. AREAS OF NONCOMPLIANCE**

### **1. Failure to Provide a Free Appropriate Public Education to Children with Disabilities Because of Inadequate Supply of Qualified Personnel**

34 CFR §300.300 requires that a free appropriate public education be made available to all children with disabilities. According to 34 CFR §300.532(c)(ii), standardized tests administered

to a child must be done so by trained and knowledgeable personnel. In addition, 34 CFR §300.380(a)(2) requires that each State have a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified personnel, including special education and related services personnel, necessary to carry out the purposes of IDEA. Through interviews with administrators and teachers in four out of the six districts visited, OSEP found that HDE does not always ensure that children with disabilities receive the special education and related services they need. An inadequate supply of qualified and trained personnel has resulted in the provision of services based upon staff availability rather than the needs of the child and children with disabilities not receiving needed or appropriate services.

In one district, OSEP found insufficient personnel to meet the needs of all eligible children with disabilities resulting in services being determined by availability of the services provided instead of student need. Five special educators reported that due to a lack of adequate personnel to conduct assessments, required re-evaluations were not being completed in a timely manner. As a result of the lack of trained and knowledgeable personnel to administer re-evaluations, four special education teachers reported to OSEP that they are responsible for conducting the re-evaluations even though they do not have the necessary training or skills to conduct them. Two special educators, a principal, and special education director told OSEP that schools are told not to list an individual educational aide as a support in IEPs for any child with a disability even if the team determines that this service is necessary for the student to benefit from special education. They explained that available aides must be placed in classrooms to assist the teacher with all students. A speech and language therapist told OSEP that she only provides therapy based on the time she has available, which is one period per week, because of the size of her caseload.

Two building administrators and a special education director told OSEP that of the 13 special education positions in the district, nine are staffed with uncertified personnel. Although efforts are made to ensure that positions are staffed, the remote location causes many qualified staff to relocate to other areas. Three mental health providers and a social worker told OSEP that this high turnover results in many students with disabilities becoming frustrated. Often times, these students exhibit disruptive behaviors and are referred for evaluation to address the behavioral issues.

In a second district, two special education teachers reported that they had a special education teaching vacancy in their building. This vacancy was affecting services to children with disabilities because they were not able to give students all the services listed in their IEPs. A related service provider reported that his/her high caseload has resulted in him/her placing children in groups, rather than providing the individual services that some of them need. Again, the type of service that these children received was based upon the provider's availability, rather than students' needs.

In a third district, staff at all levels reported to OSEP that there are not enough qualified personnel because qualified teachers leave due to the low salary. For example, a building administrator said he had an excellent teacher for children with autism but that the teacher would not be returning because he could make \$15,000 more on the mainland. The principal stated that

the irony of this was that he would be sent to the mainland to recruit another teacher and it would cost the HDE, as much, or more, than if they would give the money to the teacher. Another special education teacher stated that he was the only teacher remaining out of 63 recruited with him seven years ago.

This district also has severe shortages in related service personnel that affect the ability of the district to meet children's needs. The lack of adequate personnel to meet the needs of children with disabilities is exacerbated by the fact that administrative procedures are not followed to ensure personnel are paid for services provided to children with disabilities. A special education teacher stated, and a district special education administrator confirmed, that the school currently did not have services requiring an occupational therapist because the therapist had not been paid for four months and refused to work. As a result, children were not receiving occupational therapy services in their IEPs. A related service provider and a special education teacher stated that speech services were limited, regardless of student need, because the therapist could only visit the school a maximum of once per week. For example, the special education teacher reported that one child with a disability, who was nonverbal and had high speech needs, was provided speech only once a week because of the therapist's availability. A district administrator confirmed that there were three vacancies for speech therapists and that children were not receiving the needed services as a result. A building administrator and two special education teachers stated that there were no funds to hire additional educational assistants needed to meet IEP goals and objectives.

In a fourth district, all school personnel acknowledged a shortage of qualified special education staff and related service personnel. All special education teachers reported that their students do not always get the IEP services or the time specified on the IEP to be successful. One district administrator explained that teacher workload impacted the school's ability to use certain educational strategies such as trans-disciplinary interventions and inclusive programs. A building administrator reported that 40% of the special education staff is not certified and there is not much incentive for staff to become certified teachers.

## **2. Failure to Provide Supports and Services, Accommodations and Modifications for Children with Disabilities to be Successful in the Regular Education Classroom**

34 CFR §300.342(b) requires that a child's IEP is accessible to each regular education teacher who is responsible for the implementation of the IEP and that the teacher is informed of the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. 34 CFR §300.346(d) requires that the regular education teacher of a child with a disability participate in assisting the IEP team in determining the supplementary aids and services, program modifications or supports for school personnel that will be provided for the child. 34 CFR §300.347(a)(3)(ii) requires that the IEP contain a statement of the supplementary aids and services and of the program modifications or supports for school personnel that will be provided for the child to be involved and progress in the general curriculum. In addition, 34 CFR §300.550(b)(2) requires that each public agency ensure that special classes, separate schooling or other removal of children with disabilities from the regular educational environment 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.

In four out of six districts visited, OSEP found that there is a lack of support for general education teachers to ensure that students with disabilities are successful in the general curriculum. OSEP also found that, in cases where program modifications and supports were included in the IEP, the general education teachers were not aware of their responsibilities to implement them in order to ensure the students' involvement and progress in the general curriculum. In addition, in some cases, needed supplementary aids and services and program modifications and supports were included in the IEP only after the services were available to the student.

In one district, two general education teachers and one special education teacher reported that special education teachers develop all of the supplementary aids and services and program modifications and supports for school personnel outside of the IEP process and give them to the general education teachers who do not provide any input into their development. A building administrator in a high school visited by OSEP stated that the lack of support for general education teachers was a major barrier to providing services to students with disabilities in the least restrictive environment. A general education teacher stated that the system is not effective in ensuring that students with disabilities receive supplementary aids and services and program modifications and supports for school personnel that they need to be successful in the general curriculum. The teachers reported that the case manager provides general education teachers with a list of supports, accommodations and modifications that students with disabilities need to progress in the general curriculum, but there is never any discussion or monitoring by the case manager to ensure that the students are getting the listed supports, accommodations and program modifications. Furthermore, due to confidentiality restrictions that are not part of federal requirements but, rather, are set by the school administration for accessing the files of students with disabilities, only special education teachers can view the special education records, thereby limiting access to information important to assist general education teachers in providing program modifications and supports and ensuring that students with disabilities receive needed supplementary aids and services. Both general education teachers added that there are not enough supports for general education teachers to ensure that the child is involved and progresses in the general curriculum.

In a second district, six general and special education teachers and two building administrators reported that there is no coordination between special education and general education teachers. Needed supplementary aids and services and program modifications and supports for school personnel for students with disabilities are not provided in the general education classroom. The result is that students with disabilities must be successful in the general education classroom without supplementary aids and services or program modifications and supports, or be pulled out to receive special education services in a segregated setting. Based on interviews with two special education teachers, three regular education teachers, and two administrators, appropriate supplementary aids and services identified in IEPs are not provided for students to be successful in regular education classes.

In a third district, four general education teachers reported that they were unaware of which students in their classes were students with disabilities and what accommodations, modifications and supports were in their IEPs. In many cases, these teachers reported that they were unaware of the students' goals, objectives, accommodations, modifications, and supports until the end of the first semester after they had already failed classes. In addition, two building administrators and two special educators stated that the general education teachers need training on inclusion and using accommodations, modifications, and supports in the classroom. Providing effective staff development is a constant challenge because of the high staff turnover rate.

In a fourth district, three regular education and three special education teachers reported that the lack of training for general education teachers in accommodations, modifications, and supplementary aides and services was negatively affecting the ability of special education students to function in a regular education setting. Staff development in these areas had not been provided.

### **3. Inadequate Opportunity for Children with Disabilities to be Involved and Progress in the General Curriculum**

A public agency is required to provide special education and related services that meet the unique needs of each child with a disability. 34 CFR §300.26(b)(3) defines specially designed instruction as adapting the content, methodology, or delivery of instruction to address the unique needs of the child that result from the child's disability; and to ensure access of the child to the general curriculum, so that he or she can meet the educational standards that apply to all children. 34 CFR §300.347 requires that the content of the IEP include how the child's disability affects the child's involvement and progress in the general curriculum, a statement of annual goals related to meeting the child's needs that result from the child's disability to enable the child to be involved and progress in the general curriculum, and a statement of modifications or supports for school personnel that will be provided for the child to be involved and progress in the general curriculum.

OSEP found through interviews with special education and general education teachers, and building and district administrators, that children with disabilities, especially those in substantially separate placements, did not have access to the general curriculum. OSEP found in two out of six districts visited, that removal of children with disabilities from the general education environment impacts children with disabilities by limiting their ability to be involved in and progress in the general curriculum, and potentially to function in a less restrictive setting.

Two district administrators in one district stated that the general curriculum is based on new State content standards. Children with low incidence disabilities are taught a community-based/functional curriculum that was developed prior to the new HDE standards and are not aligned with the new standards. Three special education teachers in one school confirmed that students with disabilities in pullout classes or substantially separate settings do not have a curriculum that is aligned with the general education curriculum.

In a second district, special education teachers stated that there is no established curriculum for students with disabilities in self-contained classrooms. Students with disabilities in self-contained classes do not follow the general curriculum. The result is that students with disabilities may not have the future opportunity to participate in the general curriculum with nondisabled peers because they have not been taught content required to be successful in the general curriculum.

#### **4. Lack of Participation For Students With Disabilities in District and Statewide Assessments**

34 CFR §300.138 requires that children with disabilities be included in general State and district-wide assessment programs, with appropriate accommodations and modifications in administration, if necessary. In addition, the State must develop guidelines and alternate assessments for those children who cannot participate in Statewide assessments, and conduct those assessments by July 1, 2000. In implementing the requirements of 34 CFR §300.138, HDE is required to make available and report to the public information on the number of children participating in regular and alternate assessments, and the performance results on alternate assessments (See 34 CFR §300.139).

OSEP found that, although HDE had developed and trained some district personnel on administering alternate assessments and modifications and accommodations to regular assessments, HDE had not effectively ensured that the requirements in 34 CFR §§300.138-300.139 were being implemented. HDE had not yet conducted the alternate assessment when OSEP visited in February of 2001. HDE officials explained that alternate assessment procedures and guidelines were developed, training was conducted, and data collection on student performance in the third grade was planned for the 2000-2001 school year. However, full implementation and reporting on the number of children taking the alternate assessment and their performance results were a year behind the schedule required under Part B. HDE officials explained that the reason for the delay was that the earlier version of the alternate assessment, which took time to develop, was rejected because it was not aligned with the State's performance standards. Extra time was needed to develop the alternate assessment, which is now aligned with Hawaii's Content Performance Standards.

Students with disabilities in the four districts did not always have the opportunity to participate in regular assessments with appropriate modifications and accommodations or alternate assessments because of inconsistent implementation of HDE's Statewide assessment procedures. In one district, all staff interviewed reported confusion about how Statewide assessments, including alternate assessments, were to be administered. Three special education teachers who had training from HDE indicated that they were unsure of reporting requirements. As a result, these children's performance was not reported as required by 34 CFR §300.139(a).

In a second district, two building administrators, one who is responsible for the district coordination of Statewide assessment, reported that low functioning students were exempt from the testing. None of the special education teachers interviewed in this district, who would be

responsible for implementing the alternate assessment, understood the process for conducting alternate assessments.

In a third district, several teachers had received training from HDE on alternate assessments. However, they expressed a limited understanding of who would take the alternate assessment, procedures for administering an alternate assessment, and reporting scores. For example, a special education building administrator stated that some teachers went for training but they were still unsure of permissible adaptations and who would be eligible to take the test. Another special education teacher reported that the basis for exempting students with disabilities from taking the test is whether the child with a disability attends a regular class, not the child's ability to take the test. Another special education teacher reported that there is no alternate test for students with disabilities who are exempted.

In a fourth district, all staff interviewed were aware that HDE had developed procedures for alternate assessments but stated that they had not received training and were unsure what procedures should be used.

## **B. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN**

### **1. Improving In-service Training Through District Onsite Activities**

Personnel at all levels in school districts that OSEP visited expressed the need for more effective utilization of HDE resources, especially for training activities. For example, in one district, a principal and two district administrators reported that only 19 of the 42 special educator positions assigned to a school OSEP visited were certified. This creates a need for major training activities. The problem that staff reported with receiving adequate training is that most activities are conducted in Honolulu. This is expensive and limits the number of teachers and staff from the districts that can participate. Students are affected because staff is gone from the classroom for longer periods of time to travel to Honolulu. Other school staff stated that State resource staff seldom come to their island and, therefore, have no knowledge about the needs and environment of the schools. District personnel suggested that State staff conduct the majority of the workshop and training activities on the individual islands rather than have school staff come to them in Honolulu.

### **2. Provision of Services to Preschool Children Entering Part B**

Under Part B, HDE is required to ensure that eligible children with disabilities receive a free appropriate public education in the least restrictive environment at age three. OSEP was informed that in some of the remote island sites, placement options were limited and preschool children with disabilities were not always being identified and served. For example, two building administrators and a special education teacher reported that parents and children receiving Part C services were responsible for going to the elementary school, when their children turned three, to pick up the forms necessary to make an initial referral for special education services. School officials expressed concern that eligible children were not receiving preschool services because parents did not always follow through with the referral.

In two districts, preschool programs were typically housed in elementary schools. These programs tended to be self-contained with some limited opportunities for integration through Headstart. In other instances, preschool programs had to be located in elementary schools that were not at capacity and distant from children's homes. The result is that parents are reluctant to have their children transported relatively long distances and opt out of receiving special education services. It is suggested the HDE reexamine district services, especially in the remote areas of Hawaii, to determine if districts are able to meet their responsibility of providing services to preschool children with disabilities.

## VIII. PART B: SECONDARY TRANSITION

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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 percent for youth in the general population. The Study identifies several factors that were associated with post-school success in obtaining employment and earning higher wages for youth with disabilities. These 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 specifies 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. 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 best meet those needs.

### **Validation Planning and Data Collection**

During the Validation Planning phase, OSEP gathered information from Hawaii's Part B Self-assessment, public input meetings, and the Hawaii Part B Steering Committee. Focus questions asked at public input meetings included the following: *"Describe the planning process that takes place for students aged 14 and older to ensure a successful transition to work, independent living, or additional education services (e.g. college, technical school)? Are students receiving the services needed?"* OSEP examined additional data from parent advocacy groups and HDE records. The following areas of concern were identified: 1) transition plans are not always implemented; 2) students with disabilities are not always receiving the job readiness skills required for admission to the State's vocation and rehabilitation program; 3) staff is not available or do not have the training required to identify linkages to other agencies and programs; and 4) parents must have knowledge of and request transition services before they are identified or provided.

HDE's Self-assessment in the area of secondary transition is based on the Steering Committee's review of the State monitoring reports, the Vocational Rehabilitation work-study program, the Hawaii Vocation Education Preparation Program, Goodwill, and other Federally funded programs such as the Ocean of Potentiality which targets youths with disabilities in Hawaii to prepare them for careers in science, math, engineering and technology. According to the Self-assessment, there appears to be an increase in the participation of students and agencies in the transition planning process and numerous commendations at the district, school, class, and student levels for the provision of transition services. As reported in the Self-assessment, partnerships have been established with institutions of higher education, the Departments of Vocational Rehabilitation, and Labor and Industrial Relations to promote the provision of transition services to students with disabilities.

As reflected in its 1995 monitoring report, OSEP found that HDE did not meet its responsibility to ensure that: all required participants, including the outside agency representative likely to be responsible for providing or paying for transition services, are invited to attend and participate in the IEP meetings for children with disabilities age 16 or older.

To investigate the concerns identified during the Validation Planning process, OSEP: collected information from the review of children's records, from State and district policies and procedures and from interviews of State personnel, district program administrators, teachers, and parents; reviewed HDE's analysis of its Self-assessment and OSEP's 1995 HDE monitoring report to note previous findings; analyzed the data; and identified the following areas of strengths, and areas of noncompliance.

## **A. STRENGTHS**

### **1. Career Pathways Software**

A software program to assist in the development of a career path for students with disabilities is used in some schools to promote the IEP secondary transition goals and objectives. This process begins when the student enters seventh grade and at the end of the eighth grade a meeting is held with the students' parents in order to identify courses needed by the student during his/her 9-12<sup>th</sup> grade years in order to promote the selected career path.

### **2. School-To-Work Opportunities**

This State-level initiative has produced the following resources:

- Staff development opportunities focusing on career curriculum, career exploration programs, and school-to-work teaching strategies; and
- A school-to-Work resource guide that provides information on a collaboration project between various State departments and HDE. This guide also addresses school-to-work transition and school to adult life transition. A bookmark outlining the rights of students upon reaching the age of majority is included in the guide.

## **B. AREAS OF NONCOMPLIANCE**

### **1. Failure to Include Statement of Needed Transition Services Beginning at Age 16 (or younger if appropriate)**

34 CFR §300.347 (b) (2) requires that, for each student beginning at age 16 (or younger, if determined appropriate by the IEP team), the IEP must include a statement of needed transition services for the student. OSEP found that due to the lack of personnel and/or availability of services, transition services were not always addressed in the IEP for these students.

In one district, special educators and administrators reported to OSEP that schools have access to a software program to assist in the development of a career path for students with disabilities. However, when the transition coordinator position became vacant, the software program was not utilized. School counselors and special education teachers assigned to meet student transition needs using the software were unable to do so because of their other, primary responsibilities. As

a result, students did not receive needed transition services. In this district, transition goals and objectives in the IEP had not been addressed for over a year.

In another district, OSEP was told that transition services are not included in IEPs unless they are available, regardless of student needs. Transition services to address daily living skills were the services most often unavailable. Two special education teachers reported that transition goals and objectives to address daily living skills were not listed in the IEP until “we have that option available. As we are able to get a service outside the school, we put those services as goals and objectives in the IEP.” The teachers went on to explain that, “The transition coordinator told us that if we put the goals and objectives in the IEP, then the district must ensure that the services are provided.” Also, transition services to prepare students to move to integrated employment were not always available for students who need those services. Four special education teachers stated that although transition goals and objectives can be written in the IEP, the staff is unable to carry out the goals and objectives due to a lack of sufficient personnel and work placements and experiences for students.

## **2. Lack of Participation of Agency Representatives in Transition Planning**

To facilitate the student’s movement to post-school activities, the public agency must invite a representative of any agency that is likely to be providing or paying for any of the transition services for the student to the IEP meeting to participate in the planning of transition services. If the representative does not attend, the public agency shall take other steps to obtain the participation of the agency in the transition planning process. (See 34 CFR §300.344(b)).

Consistent with OSEP’s previous monitoring finding from 1995, OSEP found that representatives of agencies that were likely to be responsible for providing or paying for transition services, were not, in all cases, invited to attend meetings where transition services would be considered. HDE’s district transition coordinators are responsible for ensuring that representatives of agencies that are likely to be responsible for providing or paying for transition services are invited to attend IEP meetings. OSEP reviewed seven IEPs, in one district, that addressed transition services provided by an outside agency. Six of the seven files documented that the Department of Vocational Rehabilitation would be contacted to address needed transition services from an outside agency; however, these contacts were not made by the school staff to ensure that the representatives would be invited to attend the meeting where transition services were discussed. In two of the districts visited where there are no transition coordinators, special education teachers were assigned the responsibility for arranging IEP meetings with the required outside agency to address needed transition services. Five special education teachers reported that they are held responsible for contacting the agencies and are provided with a list of contact agencies that can provide transition linkages for students. However, they stated that because of their teaching obligations, they were unable to follow through to ensure agency representation at the meetings.

OSEP also found that districts do not take additional steps to ensure the participation of outside agencies in the planning of transition services when they do not attend IEP meetings where transition services will be discussed and the provision of transition services will be the

responsibility of the outside agency. In two districts, seven special education teachers and an administrator reported that representatives from outside agencies rarely come to IEP meetings when invited or provide input in other ways because of time constraints and scheduling. As a result of this practice, needed transition services, that are to be provided by outside agencies, are not addressed on the IEP.

## **IX. PART B: GENERAL SUPERVISION**

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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 agency in the State, 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. 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. 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**

In order to evaluate issues that may impact Part B special education programs in Hawaii, OSEP reviewed its 1995 onsite monitoring report of HDE's implementation of Part B of the Individuals with Disabilities Education Act (Part B). The report found that HDE did not consistently meet its responsibility to ensure that: 1) a representative of any other outside agency that is likely to be responsible for providing or paying for transition services was invited to IEP meetings where transition services for a student was considered; 2) parents received a full explanation of all procedural safeguards available to them under Part B; and 3) that HDE facilitated efforts to recruit, prepare, and retain qualified personnel.

During the Validation Planning phase, OSEP also gathered information from HDE's Part B Self-assessment, the Part B State Steering Committee, and public input meetings. Parents, educators, service providers, and other stakeholders throughout Hawaii attended public input meetings. One focus question asked during the public input meetings was: "*How is HDE involved in assuring that appropriate services are provided to students with disabilities, e.g., monitoring, training, technical assistance?*" OSEP reviewed additional data from parent advocacy groups and HDE personnel, and OSEP records. Based on this information, OSEP identified the following areas of concern: 1) lack of interagency coordination leading to delays in the provision of appropriate services; 2) lack of general supervision of out-of-district placements and State operated programs; 3) complaint investigation and due process hearing timelines are not met; 4) the complaint management system is not effective in identifying systemic issues; 5) suspension/expulsion data is incomplete; 6) drop out rates are disproportionately high for students in special education as compared to general education students; 7) guidance on policies and procedures is inconsistent; 8) HDE's organizational structures and decision-making process are seen as a barrier to timely delivery of appropriate services; 9) not all districts are implementing the requirements of IDEA '97; and 10) Statewide initiatives are not always implemented at the school level.

HDE's Self-assessment focused on the following areas: 1) monitoring and compliance mechanisms; 2) interagency coordination; 3) provision of services to children in adult and juvenile correctional facilities; and 4) out-of-district placements. According to the Self-assessment, parents are informed of their procedural safeguards. HDE identified the need to improve its system for coordinating various data collection activities and using available data in reform efforts, i.e., incorporating data from complaint investigations and due process hearing decisions into the monitoring decision-making process. HDE's Self-assessment also indicated that complaint investigations and due process hearings exceed required timelines and that out-of-district placements needed to be monitored. HDE's Self-assessment indicated that efforts to strengthen interagency coordination, including determination of fiscal responsibility needs to be ongoing. Results of a parent survey conducted by the Learning Disabilities Association of Hawaii revealed that 30% of respondents feel that such issues as payment disputes result in a lack of provision of services in a timely manner. Timely provision of services remains a compliance concern. In order to provide more information to parents and teachers regarding memoranda of agreements between the Department of Health and the Department of Education, guides were being written which will list responsibilities for each Department. HDE's parent survey revealed that 30% of the parent respondents believed that their children were receiving appropriate special education services as compared to 39.5% of the parents who believed that the appropriate services were not provided. Finally, HDE's Self-assessment points out that out-of-school youth with disabilities in juvenile and adult correctional facilities are referred for evaluation, provided mental health services, and are represented by surrogate parents. Transition plans are in place and included in an exit or parole plan.

To investigate the issues identified through the Validation Planning process, OSEP collected data from school districts across Hawaii, interviewed parent groups, and obtained information at HDE's administrative office relative to HDE's responsibility to ensure that all education programs for children with disabilities meet both Part B requirements and State education standards. Analysis of the data collected resulted in identification of the following areas of strength, areas of noncompliance and suggestion for improvement.

## **A. STRENGTHS**

### **1. Development of a Continuous Improvement Monitoring Process**

Hawaii's newly developed monitoring system, *Hawaii State Special Education Collaborative Monitoring: A Continuous Improvement Process of Monitoring and Accountability* is intended to "identify, promote, and support best practices, ensure program effectiveness and enforce legal requirements and measure results of corrective actions." The new monitoring system is intended to balance process (procedural compliance) and outcomes (improved student results). Therefore, it purports to test how well individual students are doing and evaluate the student's support system, as well as determine compliance with IDEA '97 and requirements under Chapter 56 of Hawaii's Administrative Rules including all such requirements that are linked to positive student outcomes. Transition to the new monitoring system is still in progress with the major emphasis on aligning HDE's special education monitoring with HDE's accountability plan (the Standards

Implementation Design (SID) System). This proposed monitoring system has the potential to incorporate into one system, compliance monitoring and improved results for children with disabilities within the context of Hawaii's standards-based education reform.

## **2. Development of the Integrated Special Education System (ISPED) Database**

The Hawaii State Legislature approved funding for the development of an integrated database system, ISPED, to track each student's case from intake through the evaluation of services needed, the services provided, reporting and the management of appeals. In its Self-assessment, HDE identified the need to coordinate various data collection activities including complaint and due process hearing decisions with its compliance monitoring system to effectively carry out its general supervisory responsibilities. This database has the potential to enhance HDE's general supervision over all educational programs for children with disabilities in the State, including ensuring that those programs meet the requirements of IDEA. The system is comprised of six processing modules that include request for assistance, evaluation, eligibility, IEP generation, services and due process. Each of these modules facilitates data collection from multiple participants and minimizes redundancy. This system has the potential to automate the record keeping for all Department processes involved in evaluation, eligibility determinations, and service provision to special education students.

## **B. AREAS OF NONCOMPLIANCE**

### **1. Lack of Effective Methods for Identifying and Correcting Deficiencies in Programs Providing Services to Children With Disabilities**

34 CFR §300.600(a)(2) requires States to ensure that each educational program for children with disabilities administered within the State is under the general supervision of the persons responsible for educational programs for children with disabilities. One method that the State must utilize to ensure its general supervision over educational programs to children with disabilities is the effective utilization of a monitoring system. Based on data from OSEP's Validation Planning and Validation Data Collection visits, OSEP finds that HDE has not yet implemented a monitoring system that is effective in identifying and correcting noncompliance with all Part B requirements that are linked to positive student outcomes. OSEP found limitations with both HDE's Compliance Monitoring Review and Felix Monitoring, for ensuring that certain requirements under Part B linked to positive student outcomes, are met. HDE Officials stated that HDE's Compliance Monitoring Review focus on procedural compliance did not ensure effective school practices and improved student results. State officials also expressed concerns to OSEP about the comprehensiveness of the Felix Monitoring system, which evaluates system effectiveness and student performance, for general supervision purposes. Further, OSEP confirmed that information from Felix Monitoring and data from due process hearings and complaints were not integrated into the State's monitoring of Part B<sup>3</sup>.

<sup>3</sup> HDE included in its self-assessment a statement that findings from complaint investigations and due process hearings were not "routinely" incorporated into their monitoring system, and that "steps were being taken toward that end."

*Background and Description of Monitoring System in Hawaii*

As described in the Introduction to this report, Hawaii has been functioning under the U.S. District Court Felix Consent Decree since 1994. This has significantly affected the focus and allocation of resources for all educational programs across the State. At the time of OSEP's visit, Hawaii reported that it monitored compliance with Part B requirements through two parallel monitoring systems: 1) the Felix Monitoring required under the Felix Consent Decree for Felix class members; and 2) the Compliance Monitoring Review administered through HDE's Special Education Section. Felix Monitoring is described as a performance-based system designed to evaluate system-wide change and assess program outcomes in order to achieve full compliance with IDEA, Section 504 of the Rehabilitation Act, and the Felix Consent Decree. Compliance is assessed based on quantitative indicators of performance such as the percentage of students with disabilities suspended compared to general education students, percentage of certified special education teachers, and over and under-representation of students with disabilities by ethnicity, as well as qualitative outcomes to determine whether there is evidence that the system is performing on behalf of each student. The qualitative review, called Service Testing, assesses the quality of services and programs being provided to determine if school activities and programs are meeting sampled children's needs with positive results, and if teachers and providers are working in a coordinated manner to deliver agreed upon services.

HDE's Special Education Section implemented the Compliance Monitoring Review system through a contract provider in order to assess district compliance with procedural requirements of Part B, for the years 1997 through 2000. At the time of OSEP's visit, HDE had completed its three-year monitoring cycle for all seven districts using this process. The process included a self-review by administrators and teachers. Monitors reviewed randomly selected student files and interviewed teachers and other district-level special education staff. Information from interviews and parent surveys was reported back to the district as feedback in the form of commendations and recommendations, but was not used to make or support compliance determinations. Compliance determinations were based solely on file reviews, and corrective actions were designed to address missing file information. An HDE official, responsible for compliance monitoring, informed OSEP that the reviews addressed all the requirements of IDEA as amended in 1997, as of February of 2000.

OSEP reviewed HDE's monitoring system to assess its effectiveness in ensuring compliance with certain Part B requirements linked to positive student outcomes for students with disabilities who were not members of the Felix class. According to State education officials, students with disabilities outside the Felix class represent more than half of the total population of children with disabilities in Hawaii. At the time of OSEP's visit, approximately 9,500 were members of the Felix class and 23,000 were IDEA eligible. OSEP was informed through public input that the Felix Consent Decree affected all children with disabilities to some degree even those who were not members of the Felix class, through its impact on overall system effectiveness. Therefore, OSEP selected districts that HDE monitored using the Compliance Monitoring Review and complexes<sup>4</sup> that were evaluated through Felix Monitoring to determine if Hawaii's monitoring

<sup>4</sup> A complex is composed of a high school and the intermediate/ middle and elementary schools that feed into it.

system was effective in identifying and correcting noncompliance with Part B requirements. OSEP reviewed 70 files of students with disabilities who were not Felix class members, visited 18 schools in 6 districts and interviewed special education and general education teachers, related services providers and building and district administrators on those files. Children with disabilities who were not members of the Felix class were selected to ensure that HDE was able to identify and correct noncompliance with Part B requirements for IDEA eligible children, even if the children were not members of the Felix class.

As mentioned in Section VII of this Report, during OSEP's monitoring, HDE officials expressed, through the Self-assessment and in interviews with OSEP, a keen awareness of the many areas in which they are not meeting the identified needs of students with disabilities and compliance with Part B requirements linked to positive student outcomes that they have failed to correct. Systemic issues affecting compliance and positive results for students with disabilities were well documented in reports to the Felix Court Monitor at the time of OSEP's monitoring, and understood by Department officials throughout the education system in Hawaii. Primary among the issues was the chronic shortage of qualified personnel. Hawaii has dedicated substantial resources and has put forth impressive human effort over the course of the Felix Consent decree to address this problem, including rigorous recruitment activities both on and off the island, and yet personnel issues still account for the many areas of noncompliance OSEP identified.

For example, OSEP found that in four districts, students were either not receiving the services in their IEPs because of insufficient numbers of qualified staff to implement the IEPs, or did not have a statement of needed services in their IEPs because the services were unavailable. (See Section VII and Section VIII of this Report.) HDE's Compliance Monitoring did not find that special education and related services were not provided according to student IEPs, and although HDE identified noncompliance in all four of these districts because files had "missing statements of related services to be provided to the child or on behalf of the child," the recommended correction for the finding was to provide in-service training on the new requirements of IDEA '97. One of the districts included a complex that OSEP visited which at the time, had achieved provisional compliance under the Felix monitoring process. The Felix monitoring report for this complex included a statement of the need to continue to improve the percentage of certified teachers in the schools. HDE officials and local administrators interviewed by OSEP cited the litigious environment of the special education system and non-competitive salaries as barriers to teacher recruitment, and distance and isolation as barriers to retaining teachers recruited from the mainland.

As discussed in Section VIII of this Report, OSEP found that districts did not always take steps to obtain the participation of another agency that is likely to be responsible for providing or paying for transition services that was invited to send a representative to the IEP meeting. OSEP identified this issue in a complex that had achieved full compliance under Felix. Further, HDE's Compliance Monitoring Review did not identify this issue. In two districts where OSEP found that they do not always invite a representative of any agency likely to be responsible for providing or paying for transition, the complexes that OSEP visited in these districts failed to obtain compliance under Felix. HDE did not identify this issue through its Compliance Monitoring Review process in one of the districts. Although HDE identified this issue in the

second district, and received the district's corrective action plan in May of 2000, the issue was not corrected by the time of OSEP's visit. OSEP also found that IEPs did not always contain statements of needed transition services. Both complexes that OSEP visited in this district required a "total revisit" under the Felix system because they did not meet Felix compliance standards. Although HDE had identified noncompliance with this requirement in the same district and ordered corrective actions, a State education official explained that HDE did not plan to follow-up when the district failed to submit a corrective action plan in February of 2001, because the district had so many requirements to meet under Felix. HDE officials explained that continuing noncompliance with these requirements is the result of an inadequate supply of qualified personnel.

OSEP also found that HDE did not always follow-up to ensure implementation of corrective actions. Participants in the public input meetings consistently told OSEP that HDE did not follow-up with districts to ensure implementation of corrective actions. An HDE official responsible for monitoring explained to OSEP that districts must address monitoring report recommendations by submitting an improvement plan within two months of receiving the monitoring report. For example, as a result of HDE's monitoring report in one district, the district submitted a plan with three goals to support compliance, including training sessions, tools for documenting compliance, and monitoring strategies. Activities are verified through training calendars, sign-in sheets and form development. HDE does not conduct follow-up monitoring to make sure that these activities once implemented, result in compliance and improved results for students with disabilities.

## **2. Decisions in Complaint Investigations Not Resolved Within Timelines or Enforced**

Consistent with 34 CFR §300.600, HDE is required to ensure that each educational program for children with disabilities in the State is under the general supervision of the State education agency. One mechanism to ensure HDE's general supervision is the complaint management system. Sections 300.660 through 300.662 require HDE to adopt written procedures for resolving any complaint that alleges a violation of Part B and that a written decision is issued within 60-days from the date a complaint is filed. OSEP found through interviews with HDE personnel and a review of HDE records that HDE was unable to demonstrate that it had an effective complaint management system.

OSEP was informed that prior to July 2000, the Felix Complaints Resolution Office handled Part B complaints. In the Self-assessment, HDE officials reported to OSEP that complaints addressed through the Felix Complaints Office did not meet Part B requirements. For example, under this system, corrective actions were not required and 60-day timelines for resolving complaints were not being met. Although HDE's Special Education Section began managing Part B complaints in July 1, 2000, HDE was unable to demonstrate that complaints were being resolved in a timely manner. Complaint specialists with HDE stated that there were still problems with resolving complaints within the 60-day timeline because written decisions were delayed awaiting approval of the format, and problems in meeting the timeframe for getting reports to the Superintendent for signature. At the time of OSEP's visit, officials in HDE's Special Education Section were required to complete the investigation and report within 45 days in order to allow 15 days for the

Superintendent to receive and sign the reports. They explained that this timeline was difficult to meet because of the monitors' multiple assignments.

HDE officials reported to OSEP that the most frequent State complaints they receive are that services and accommodations in the IEP are not provided. Regardless, steps were not taken to ensure that corrective actions ordered as a result of State complaint investigations were implemented. HDE officials explained that the Felix Complaints Resolution Office which managed a majority of the Part B complaints made recommendations to school districts to resolve the complaints and made follow-up calls, but did not require them to take corrective action when appropriate.

### **3. Decisions in Due Process Hearings Not Reached Within 45 Days and No Mechanism for Enforcement**

As set forth under 34 CFR §300.511, HDE must ensure that no later than 45 days after the receipt of a request for a hearing, a final decision is reached and a copy of the decision is mailed to each of the parties, although a hearing officer may grant specific extensions of time beyond 45 days at the request of either party. In addition, 34 CFR §300.600 requires that HDE ensure that due process hearing decisions are implemented.

OSEP finds that HDE did not ensure that hearing decisions were reached within 45 days from the receipt of request. OSEP analyzed due process hearing logs provided by HDE over a two-year time period, from 1998 to 2000. Of 221 requests for hearings over this period 94 exceeded the 45-day timeline, and did not have specific extensions of the timeline. Decisions rendered beyond the 45-day timeline in these cases were seen at 150 days, 166 days, 211 and 250 days. One case, still pending on the date the log was printed had already exceeded the timeline by 10 months. Several cases pending at the time the log was printed already exceeded 100 days past the due date. In another case, it was one year before a decision was issued, with no extension. Many of the cases that exceeded the 45-day timeline showed pre-hearing conferences and hearings scheduled for dates that were already beyond the 45 days.

OSEP also finds that HDE has no method of monitoring the implementation of due process hearing decisions and takes no action to ensure that due process hearing decisions are implemented. HDE officials reported to OSEP that while a system was being developed to follow-up on hearing decisions in order to monitor their enforcement, it was not a current practice.

## **C. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN WITH DISABILITIES**

### **Training and Technical Assistance**

A basic component of the State education agency's general supervisory responsibility over all educational programs for children with disabilities in the State, includes not just monitoring, and enforcement when noncompliance is not corrected, but also effective technical assistance that

focuses on best practice designed to improve the substantive content and results of special education.

As presented in Section VII of this Report, OSEP found that all personnel who work with children with disabilities did not always have the skills and knowledge necessary to meet their needs. Administrators and teachers reported that they have limited access to inservice training. HDE officials explained that barriers to inservice training include funding cuts in staff development, lack of support from building principals, and insufficient funds to pay substitute teachers to cover classes while teachers attend training. Building administrators and teachers from one district reported to OSEP that they are unable to access training sites because most training is conducted on Oahu and travel is prohibitive because of cost and time. HDE informed OSEP that memos on the Part B regulations were sent to all districts and schools, and training on Hawaii's Chapter 56 regulations was conducted in all districts. However, as demonstrated in Section VII of the Report, OSEP still found that teachers and administrators were either unaware of their responsibilities or did not know how to implement needed accommodations and modifications for students with disabilities to be successful in regular education settings, or to provide students with disabilities placed in self-contained classrooms, instruction in the general education curriculum. OSEP also found that although most school personnel were aware that an alternate assessment existed, they were unclear about guidelines for participation, and procedures for administration and scoring.

OSEP recommends that HDE with its Steering Committee review the barriers that result in the training issues described above, and develop strategies to overcome them. OSEP also encourages HDE to continue to increase the capacity of educators in meeting the needs of children with disabilities through support from Hawaii's State Improvement Grant Program.