



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

DECEMBER 31, 2002

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Department of Health and Human Services  
Harris Building, 3<sup>rd</sup> Floor  
100 South Grand Avenue  
Springfield, Illinois 62762

Superintendent Robert Schiller  
Illinois Board of Education  
100 North First Street  
Springfield, Illinois 62777

Dear Secretary Baker and Superintendent Schiller:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in Illinois during the weeks of October 15, 2001 and April 22, 2002 for the purpose of assessing compliance in the implementation of the Individuals with Disabilities Education Act (IDEA) and assisting Illinois 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 local resources on improved results for children with disabilities and their families through a working partnership among OSEP, the Illinois State Board of Education (ISBE), the Illinois Department of Human Services (DHS), and parents and advocates in Illinois. In conducting its review of Illinois, OSEP applied the standards set forth in the IDEA 97 statute and in the Part C regulations (34 CFR Part 303) and Part B regulations (34 CFR Part 300).

A critical aspect of the Continuous Improvement Monitoring Process is collaboration between a Steering Committee of broad-based constituencies, including representatives from ISBE and DHS 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 is 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 Illinois, including representation on the Steering Committee.

OSEP's review placed a strong emphasis on those areas that are most closely associated with positive results for children with disabilities and focused on specific issues for the State of Illinois. Based upon its review of the State's Self-Assessment and Improvement Plan, and other

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data available before the April 2002 visit, OSEP collected data as part of its focused on-site review regarding IDEA requirements in six clusters:

**Part C:** General Supervision, Early Intervention Services in Natural Environments, and Family-Centered System of Services<sup>1</sup>; and

**Part B:** General Supervision, Free Appropriate Public Education in the Least Restrictive Environment, and Secondary Transition.

OSEP identified components for each of these six clusters as a basis to review the State's performance through examination of State and local indicators. OSEP did not, as part of this focused on-site review, collect data regarding two additional Part C clusters (Comprehensive Child Find and Public Awareness, and Early Childhood Transition) and one additional Part B cluster (Parent Involvement).

The enclosed report includes an executive summary, an introduction, OSEP's findings of noncompliance, and suggestions for improved results. Although the State has corrected some of the noncompliance that OSEP identified in earlier monitoring reviews, OSEP is concerned that the State has not corrected much of the noncompliance that OSEP identified under both Part C and Part B in prior visits and reports. For example, in OSEP's 1998 and 1999 monitoring reviews of the State's Part C system, OSEP found that DHS was not fully meeting its responsibilities under Part C for monitoring and for service coordination. As shown in Sections I and II of this Report, OSEP found that DHS was not meeting those requirements in April 2002. Similarly, OSEP found in 1995 that ISBE was not ensuring that: (1) public agencies corrected noncompliance identified by ISBE; and (2) that all public agencies met the least restrictive environment requirements of Part B. As shown in Sections III and IV of this Report, OSEP, again, found in April 2002 that the State had noncompliance in the same areas as in earlier OSEP findings.

As part of the Continuous Improvement Monitoring Process, the State developed an Improvement Plan for Part C and Part B, based on the Self-Assessment that the State submitted to OSEP. The State submitted that Improvement Plan to OSEP on January 16, 2002. The State must: (1) review the Improvement Plan; and (2) submit to OSEP, within 60 days of the date of this Report, an amended Improvement Plan that includes any revisions in strategies, benchmarks, timelines, and evidence of change that are necessary to ensure that each of the findings of noncompliance in this Report will be corrected within one year from the date of OSEP's approval of the revised Improvement Plan. It is important that the State work with its Steering Committee in developing improvement strategies that will ensure improved results for children with disabilities and their families, and timely and effective correction of the noncompliance. OSEP will work with DHS, ISBE, and the Steering Committee to the support the State's improvement efforts.

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<sup>1</sup> OSEP has included information that it collected regarding Family-Centered System of Services in the finding regarding service coordination in Section II of this Report, and has not included a separate section in the Report to address the Family-Centered System of Services.

Public sharing of information and partnerships with diverse stakeholders are critical components of the Continuous Improvement Monitoring Process. Accordingly, ISBE and DHS have made the commitment to share this Report with members of the Steering Committee, the State Interagency Coordinating Council, the State Advisory Panel, and members of the public.

I want to thank you for the assistance and cooperation provided by your staffs during our review. Throughout the course of the review, Ms. Carolyn Cochran Kopel, Ms. Janet D. Gully, Dr. Christopher Koch, Dr. Anthony Sims, Mr. Jack Shook, and their staff members, collaborated closely with OSEP in preparing for the public input meetings and the on-site data collection. They were responsive to OSEP's requests for information, providing access to necessary documentation that enabled OSEP staff to work in partnership with the Steering Committee and better understand Illinois' systems for implementing the IDEA.

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

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

Sincerely,

Stephanie S. Lee  
Director  
Office of Special Education Programs

Enclosure

cc: Ms. Carolyn Cochran Kopel  
Dr. Christopher Koch  
Ms. Janet D. Gully  
Dr. Anthony Sims

# **OSEP Monitoring Report –Illinois**

## **EXECUTIVE SUMMARY**

This Report contains the results of the first two steps (Self-Assessment and Data Collection) in the Office of Special Education Program's (OSEP) Continuous Improvement Monitoring of the Individuals with Disabilities Education Act (IDEA), Parts C and B, in the State of Illinois during the weeks of October 15,2001 and April 22, 2002. The process is designed to focus resources on improving results for infants, toddlers, children, and youth with disabilities and their families through enhanced partnerships between the State agencies, OSEP, parents, and advocates.

The Self-Assessment phase of the monitoring process included the completion of a Self-Assessment of the State's Part C and Part B programs through a joint Steering Committee that provided information on the status of implementation of IDEA. Although the State did not conduct public input meetings in developing the Self-Assessment, the Illinois State Board of Education (ISBE), the Illinois Department of Human Services (DHS), and the U.S. Department of Education held joint public input meetings during the week of October 15,2001: The State made particular efforts to hold public input meetings at locations and times when stakeholders could attend.

The Data Collection phase included interviews with parents, students, agency administrators, local program and school administrators, service providers, teachers and service coordinators, and reviews of children's records. OSEP and the Rehabilitation Services Administration (RSA) staff held joint interviews at some locations. OSEP shared information regarding its preliminary findings with DHS in a conference call on May 3, 2002, and with ISBE in a conference call on May 2, 2002.

**Through these efforts, OSEP made the following findings:**

### **Part C:**

- DHS' monitoring procedures are not effective in identifying and ensuring the correction of all systemic noncompliance with the requirements of Part C.
- DHS has failed to ensure that infants and toddlers with disabilities and their families receive service coordination that meets Part C requirements.
- DHS has not ensured compliance with timelines for evaluation, assessment, and IFSP meetings.
- DHS did not ensure the content of each child's IFSP was determined by the IFSP meeting participants.

**Part B:**

- ISBE's monitoring procedures are not effective in identifying and ensuring the correction of all systemic noncompliance with the requirements of Part B.
- ISBE has not reported to the public regarding the performance of students with disabilities in the alternate assessment.
- ISBE has not ensured that all children with disabilities are educated in the least restrictive environment.
- ISBE has not ensured that children with behavioral or emotional disabilities are receiving all of the services that they need as part of a free appropriate public education, including psychological counseling services.

**Illinois Monitoring Report  
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## INTRODUCTION

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Illinois is the 24<sup>th</sup> largest state geographically. With nearly 12.5 million people, it is the sixth largest state based on population. Springfield is the capital and Chicago is the most populated city. Based on 2000 U.S. Census Bureau Data, 73.5% of Illinois' population is white (67.8%, white not of Hispanic/Latino origin), 15.1% is Black or African American, 0.2% is American Indian or Alaska native, and 3.4% is Asian. The Census data further show that 5.8% reported some other race and 1.9% reported two or more races. In addition to this racial information, the Census data show that the percentage reporting Hispanic or Latino origin was 12.3%.

### **A. Overview – Part C**

On January 1, 1998, the Governor designated the Illinois Department of Human Services (DHS) as the lead agency to administer the birth to three Early Intervention Program, Part C of the IDEA. Prior to that date, the Illinois State Board of Education was the lead agency. The Early Intervention Services System Act (P.A. 91-537) provides the framework for the State's implementation of the Part C Early Intervention Program. The Illinois Part C Early Intervention Program is administered locally through 25 regional system points of entry called Child & Family Connections. Child & Family Connections vary in administrative structure which include: ten administered by social service agencies; five administered by regional offices of education; three administered by early intervention programs; three administered by hospitals; three administered by health departments; and one administered by a Child Care Resource and Referral agency. The Child & Family Connections are responsible for: (1) coordination of child find; (2) eligibility determination; (3) IFSP development and service coordination activities; and (4) participation with DHS in local monitoring and quality assurance reviews. Some of the Child & Family Connections also provide direct service to infants and toddlers with disabilities and their families.

The Child & Family Connections serve approximately 14,000 children. Caseloads vary by Child & Family Connection, ranging from 170 children and families in the smallest to 1,270 children and families in the largest. There are approximately 4,900 early intervention providers in the State. This number has increased during the last 18 months. According to the April 30, 2002 Report to the General Assembly on the Early Intervention, as of end of March 2002, the Early Intervention Program served 1.86% of Illinois' children under age 3. This was an increase from 1.82% at the end of December 2001. Growth is expected to continue due to increased child-find activities.

An infant or toddler under 36 months of age is eligible to receive early intervention services in the State of Illinois if, according to informed clinical judgment: (1) the child has a 30% developmental delay; (2) the child has a physical or mental condition present that typically results in a developmental delay; or (3) the infant or toddler is at risk of having substantial developmental delays.

Under Illinois' procedures, an infant is eligible to receive Part C services as "at-risk," if a multidisciplinary team reaches consensus that a level of developmental delay is probable if early intervention services are not provided, because of one or more of the following circumstances:

1. medical diagnosis of a parent as having a severe disorder (as defined by the Diagnostic and Statistical Manual of Mental Disorders IV) or developmental delay;
2. current alcohol or substance abuse by the primary caregiver;
3. a primary caregiver is currently less than 15 years of age;
4. current homelessness of the child;
5. a chronic illness of the primary caregiver;
6. alcohol or substance abuse by the mother during pregnancy with the child;
7. a primary caregiver has a level of education equal to or less than 10<sup>th</sup> grade, unless that level is appropriate to the primary caregiver's age; or
8. documented abuse or neglect of the child, and the child has not been removed from the abuse or neglect circumstances.

DHS has, as part of its application for Part C funds, established a system of payments. Pursuant to this system of payments, DHS supplements funding for early intervention services through fees based on a sliding scale and the use of private insurance with parent consent.

### ***Marie O. v. Edgar***

The named plaintiffs in the federal class action lawsuit were four infants and toddlers with disabilities who were placed on waiting lists for early intervention services and their families. They brought suit on behalf of the class of eligible but unserved infants and sought declaratory and injunctive relief, asking the court to declare that Illinois' failure to provide all eligible infants with early intervention services under Part H (now Part C) was a violation of their rights under Part H. In 1996, the Federal District Court granted the plaintiffs declaratory and injunctive relief. The Court required the State, through its Governor and Superintendent of Education, to provide early intervention services to all eligible children with disabilities, and, in so doing, to comply with the mandatory aspects of Part H. In 1997, the 7<sup>th</sup> Circuit Court of Appeals upheld the District Court's decision. The order mandated specific steps in the areas of: (1) public awareness; (2) procedural safeguards; (3) child find; (4) evaluation and assessment; (5) IFSPs; (6) service coordination; (7) elimination of waiting lists; (8) data collection; (9) financial matters; and (10) personnel development.

### **B. Overview – Part B**

ISBE is responsible for the general supervision of the State's educational programs for children and youth with disabilities, ages 3 through 21. Illinois has approximately 900 school districts. Most large districts function as independent school districts and provide special education and

related services to all eligible children. Smaller districts combine their resources through joint agreements to provide services.

ISBE staff: (1) provide training to school staff, district administrators, and others on important issues and current instructional practices; (2) provide current information on State and federal laws relating to the education of students with disabilities; monitor districts' compliance with those laws; (3) help resolve conflicts between school districts and families of students with disabilities; and (4) provide additional technical assistance to school districts as needed. There have been several State-level changes within the past year, including the appointment of a new State Special Education Director, the appointment an interim State Superintendent, and later the appointment of a new State Superintendent.

***Corey H. et al. v. Bd. of Ed. of the City of Chicago and ISBE***

In May 1992, the named plaintiffs filed this class action lawsuit in federal court against Chicago Public Schools and ISBE on behalf of students with disabilities receiving special education services from Chicago Public Schools. The suit alleged that such students were not being educated in the least restrictive environment, in violation of federal law. A settlement between Chicago Public Schools and the plaintiffs was reached and approved in January 1998. The case against ISBE went to trial, with findings issued in February 1998 and a settlement finalized in June 1999. The findings of the court with regard to ISBE primarily focused on Least Restrictive Environment and general supervisory responsibilities.

As part of the Settlement Agreement, an Implementation Plan was developed by ISBE to carry out the requirements of the Agreement and monitor its progress. This plan, which was finalized in October 2001, specifies the following actions that ISBE must take. The agreement requires ISBE to employ sufficient staff, and to take all of the following actions within an eight-year period:

1. Revise its procedures for monitoring and enforcing Part B's least restrictive environment requirements in Chicago Public Schools. (These procedures must include objective measures of compliance and provide for reporting and collection of information.)
2. In cooperation with the plaintiffs and Chicago Public Schools, establish district-wide targets for the promotion of least restrictive environment in Chicago Public Schools and benchmarks leading to their attainment.
3. Issue a report of findings to the school, when monitoring identifies least restrictive environment violations or failure to meet the established targets; local school personnel and Chicago Public Schools must develop a corrective action plan within 45 calendar days.
4. Establish procedures for imposing sanctions if a school or Chicago Public Schools fails to implement the corrective action plans or fails to meet a target by the end of the corrective action timeframe.

5. Monitor 35 Chicago schools during the 2001-2002 school year, and 50 schools for each of the following years.
6. Revise the complaint management procedures to ensure that they are well known and easily accessible by Chicago Public Schools staff and parents.
7. Ensure that Chicago Public Schools has a comprehensive system of personnel development, which is designed to employ, train, and support regular and special education staff, paraprofessionals, administrators, and other staff to provide students with disabilities and education in the least restrictive environment.
8. Revise/redesign its teacher certification policies to provide for non-categorical certification and the provision of special education services to students with disabilities in the least restrictive environment.

### **C. Prior OSEP Monitoring – Part C**

During the week of March 2, 1998, OSEP conducted a targeted on-site monitoring review of DHS' implementation of Part C. The visit focused particularly on: (1) child find and public awareness activities; (2) provision of early intervention services to eligible children and their families in natural environments; (3) transition from Part C to preschool or other appropriate services at age three; and (4) DHS' administrative responsibilities for implementation of the statewide early intervention system.

OSEP's September 23, 1998 monitoring report identified findings in three areas: (1) service coordinators were not assisting parents in obtaining all needed services for eligible children and families; (2) the State had not ensured that early intervention services were individually determined and that needed services were included on the IFSP and provided; and (3) the lead agency had not fulfilled its obligation for the general administration, supervision and monitoring of programs and activities used by the State in the following areas – (a) confidentiality, (b) procedural safeguards (prior notice and native language), (c) policies related to payment for services and fees, and (d) supervision and monitoring of programs.

During the week September 27, 1999, OSEP conducted a follow-up monitoring review of the State's implementation of Part C. The purpose of the September 27, 1999 review was to determine the progress that the State had made in addressing the areas of noncompliance identified (i.e., service coordination, provision of early intervention services, and the lead agency's oversight responsibilities) in OSEP's September 23, 1998 report, as well as other areas of implementation. OSEP focused this inquiry on four critical areas of implementation: child find and public awareness; provision of early intervention services; transition from Part C to preschool or other appropriate services at age three; and the lead agency's administrative responsibilities for implementation of the Statewide system of early intervention services.

As documented in OSEP's May 22, 2000 monitoring report, OSEP determined that the State had addressed OSEP's 1998 findings regarding lack of personnel and lack of sufficient funds or other resources. OSEP found two areas of noncompliance that the State had failed to correct from the

1998 visit: (1) provision of service coordination; and (2) lack of individualized decisions by the IFSP meeting participants to determine needed early intervention services. In the area of supervision and monitoring, OSEP found that DHS had made progress since the 1998 visit, but made a finding related to the comprehensiveness of DHS' methods of monitoring. OSEP made additional findings, not addressed in the 1998 report, in the following areas: (1) lack of comprehensive evaluations and assessments, including family-directed assessments and (2) lack of appropriate transition planning.

#### **D. Prior OSEP Monitoring – Part B**

OSEP conducted an on-site monitoring review in Illinois during the week of May 1, 1995 for the purpose of determining compliance with Part B, and issued a monitoring report on February 26, 1996 that included findings that ISBE had failed to:

1. Implement an effective system for identifying and correcting noncompliance;
2. Resolve all signed written complaints;
3. Ensure that due process hearing and administrative review decisions were reached within Part B timelines, and were final unless appealed;
4. Ensure that public agencies removed students from the regular education environment only when the nature or severity of the disability was such that education in the regular education environment with the use of supplementary aids and services could not be achieved satisfactorily;
5. Ensure that a full continuum of alternative placements was available to meet the needs and implement the IEPs of children with disabilities;
6. Ensure that the educational placement of each child with a disability was determined at least annually;
7. Ensure that children with disabilities participated with nondisabled children in nonacademic and extracurricular activities to the maximum extent appropriate;
8. Ensure that needed special education and related services were included in the IEP and provided;
9. Ensure that each child with a disability received a full school day, unless the IEP team determined that a different arrangement was appropriate due to an individual child's needs;
10. Ensure that decisions regarding the provision of extended school year services were based on individual student needs;

11. Ensure that untimely initial evaluations did not result in delays in the provision of a free appropriate public education; and
12. Ensure that the IEPs of students aged 16 and older included a statement of needed transition services.

OSEP required that ISBE take action to ensure that the State's noncompliance was effectively and promptly corrected throughout the State and that ISBE develop a comprehensive corrective action plan with specific steps and timelines to ensure that all deficiencies were fully corrected. Included in the plan were components for personnel training, changes in forms and procedural documents, and on-site monitoring activities to verify compliance. ISBE made revisions to State procedures regarding all areas of noncompliance and incorporated the changes through a revised monitoring system and in State policies and procedures. ISBE issued a memorandum to notify all school districts, advocacy groups, parent organizations, and other State agencies of the findings and the required corrective actions. ISBE submitted written verification of correction to OSEP through quarterly status reports, copies of memoranda, and additional informal updates obtained through discussions with ISBE staff. ISBE submitted documentation that it had taken all of the required actions, and OSEP closed the corrective action plan in November 1997.

#### **E. Self-Assessment – Part C and Part B**

In response to OSEP's Continuous Improvement Monitoring Process, ISBE and DHS conducted a statewide joint self-assessment regarding the State's provision of early intervention services, special education and related services. OSEP provided a framework to guide the self-assessment process across cluster areas of both Part C and Part B.

The joint self-assessment process started in July 2000, with the formation of an interagency taskforce representing the two State agencies responsible for Part B and Part C of IDEA and an external Steering Committee. The Steering Committee consisted of parents, special educators, general educators and administrators, private providers, state agency personnel and representatives from professional organizations, institutions of higher education, the State Advisory Council on the Education of Individuals with Disabilities, the Illinois Interagency Council on Early Intervention, and the Illinois Department of Corrections. This group of 55 individuals met three times (in August, October, and December 2000). At the August 31, 2000 meeting, the Steering Committee identified subcommittees that collectively address the nine OSEP-identified cluster areas. Each stakeholder chose a subcommittee, based on his or her preference, experience, and expertise.

The Steering Committee included the following findings in the Self-Assessment, which the State submitted to OSEP in December 2000:

#### **Self-Assessment Findings – Part C**

**General Supervision:** (1) DHS was not monitoring for compliance with all of Part C requirements; (2) DHS had no process to ensure correction for areas of non-compliance that were identified; and (3) Cornerstone, the DHS data system, was not capable of providing the

necessary information to ensure that all eligible infants and toddlers are identified, located and evaluated.

**Comprehensive Public Awareness and Child-Find System:** (1) Improvements in child find materials, outreach efforts and personnel training were needed; and (2) Improved efforts were needed in the area of identifying family needs.

**Early Intervention Services in Natural Environments:** (1) Infants and toddlers were waiting for timely evaluations in certain areas of the State; (2) Service coordination caseloads were increasing; and (3) IFSPs were developed without all required and appropriate participants present.

**Early Childhood Transition:** (1) DHS was not able to determine whether transition planning meetings were occurring between Part C, Part B and parents; and (2) DHS was not able to determine if children were receiving appropriate services upon their third birthday.

### **Self-Assessment Findings - Part B**

**General Supervision:** (1) ISBE did not analyze complaint and mediation system data; (2) ISBE was not taking effective action to address persistent deficiencies at the district level; (3) ISBE did not have a statewide system to identify or respond to systemic issues of district noncompliance; and (4) The State funding formula provided financial incentives to place students in private programs;

**Free Appropriate Public Education in the Least Restrictive Environment:** (1) There were chronic and severe shortages in special education and related services personnel; (2) Not all personnel had appropriate certification or adequate training; (3) There were no performance indicators written specifically for children with disabilities to ensure progress in the educational accountability system; (4) Graduation rates for students with disabilities were low;<sup>2</sup> (5) Most students with mental retardation were educated in restrictive settings, with little progress in serving students with mental retardation in the least restrictive environment since 1995; (6) Illinois identified students with emotional/behavioral disabilities at a rate higher than the national average and was twice as likely to place these students in separate public facilities than the national average; (7) Illinois was classifying a higher percentage of Black students with emotional/behavioral disabilities than the national average; and (8) In all categories, students with IEPs were suspended at disproportionately higher rates than their non-disabled peers.

### **F. Public Input**

Although the State did not conduct public input meetings prior to submitting its Self-Assessment to OSEP in December 2000, ISBE and DHS later held public input meetings during the week of October 15, 2001 in Chicago, Naperville, Moline, Effingham, Carbondale, Collinsville, Bloomington, and Springfield. OSEP staff attended the forums in Chicago, Naperville,

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<sup>2</sup> OSEP note: The percentage of students with disabilities exiting who did so with a diploma was 57% for 1997-1998, 60% for 1998-1999, 56% for 1999-2000, and 66% for 2000-2001.

Collinsville, Bloomington, and Springfield. Approximately 475 total participants attended the Part B and Part C sessions. The purpose of the meetings was to receive public input on the effectiveness of Illinois' systems for early intervention and special education services for infants, toddlers, children and youths with disabilities. Each meeting began with a presentation on the purpose of the forums and their role in the monitoring of Illinois by OSEP. Following that introduction, participants separated into a Part C group and a Part B group to provide information about services in Illinois. Discussions at the public input meetings centered around the nine cluster areas identified by OSEP as leading to better results for infants, toddlers and children with disabilities.

The State used facilitators and note takers at each session. Participants were provided with e-mail addresses of ISBE, DHS and OSEP staff, so that they could provide additional input after the public meetings. Many participants took advantage of this option and addressed specific issues during the weeks following the sessions. On October 19, 2001, OSEP, ISBE and DHS staff met with the Steering Committee to review and summarize the input from around the State.

### **Part C Public Input**

**Referral & Evaluation Process:** Participants recognized that education targeting physicians and hospital staff was important to appropriate and timely referrals. Suggestions to improve education were offered. It was also suggested that changes to the EI system may be contributing to the lack of understanding of the referral process. Service gaps, access to providers and quality assurance issues were identified as barriers to obtaining evaluations. Recommendations and suggestions were offered to address the concerns.

**Provision of Early Intervention Services:** Participants generated a number of comments on new policies and procedures, including the use of insurance and the implementation of the quality enhancement process. It was suggested that improved communication to both parents and providers, would improve the lack of understanding of the proposed changes.

**IFSP Development & Family Supports:** Participants expressed concern regarding the lack of attendance by providers at the IFSP meetings and the reliance on the dispute process to address concerns about the quality enhancement process. It was noted that high service coordinator caseloads was a barrier to the provision of family support and it was suggested that providers and Child & Family Connections provide additional support to families. The lack of family support is a concern in the rural areas of the State.

**Transition Planning:** Participants reported that eligible children do not have an IEP in place at age three. Suggestions were offered to better prepare families and the system for transitioning children at age three.

**General Supervision:** Participants acknowledged that the State strives to ensure infants and toddlers receive appropriate services. The Steering Committee identified issues relating to funding, caseloads, and "under trained" providers as problems, and indicated that the State is more "reactive than pro-active."

**Procedural Safeguards:** Participants acknowledged that Child & Family Connection agencies are making sure that families know about their rights during intake and IFSP development, although they suggested that families may need additional information regarding the dispute process to fully understand it.

**Quality Enhancement Process:** Participants challenged the quality enhancement process. Concerns raised involve inconsistency across the state, lack of parent involvement, restrictions and delays in services, its negative impact on the IFSP development process (prescribing instead of advising) and the application of guidelines as maximums.

## **Part B Public Input**

**General Supervision:** Parents reported that districts were not adhering to mediation agreements, agreements were not being monitored by ISBE, and that there are no sanctions imposed on districts for noncompliance.

**Free Appropriate Public Education In The Least Restrictive Environment:** Parents reported that: (1) a continuum of services is not available and that placement decisions are made based on program location; (2) some students are in school for shortened days; (3) high school students are not getting the supports and services they need to exit school with job training; (4) parents are not getting information about adult services; (5) special education classrooms are located in segregated areas of the school buildings; (6) public agencies moved special education program sites on a yearly basis, requiring some students with disabilities to change schools every year; and (7) the placement decision for some children with disabilities was not determined, based on the unique needs of the children, by a group that included the parents; rather, administrators for cooperatives were determining placement, based on the location of programs within districts.

**Secondary Transition:** Parents reported that: (1) students are not involved in transition activities, (2) transition services are not always included in IEPs, (3) transition coordinators do not understand their roles, and (4) other agencies are not involved in transition activities.

Following the week of public input sessions, ISBE posted a detailed summary of the Part B sessions on its website: <http://www.isbe.state.il.us/spec-ed/>.

OSEP staff participated in a phone conference on April 19, 2002 with the Illinois State Special Education Advisory Council. During the call, council members shared the following state-level concerns: funding shortages, legal challenges of Corey H. court case, and shortage of qualified teachers. The council members also identified the following barriers Illinois faces in addressing statewide concerns: inadequate staffing for ISBE and the impact on the State's ability to provide effective supervision of the districts; unavailability of teachers for professional development; and ineffective coordination between state agencies. The Council expressed their approval of the Illinois Improvement Plan and the efforts currently underway to implement it.

## **G. Improvement Planning**

Through the collaborative efforts of ISBE, DHS, the Steering Committee members and OSEP, the State developed an Improvement Plan and jointly submitted Parts B and C to OSEP on January 16, 2002. The Part C portion of the plan consists of desired outcomes in the areas of General Supervision, Child Find - Public Awareness, Early Intervention in Natural Environments, Family Centered Services and Early Childhood Transition. The Part B portion of the plan is structured around five goal areas. Included in the plan is a re-structuring of the ISBE monitoring system for identifying and correcting noncompliance in all local districts. The other four areas focus on LRE, graduation/dropout rates, performance on statewide assessments and parent involvement.

The State has posted the Improvement Plan (Parts B and C) at the ISBE website: <http://www.isbe.state.il.us/spec-ed/>. Following the issuance of this report, OSEP will assist the State in addressing additional areas of non-compliance in the Improvement Plan. In addition, timelines for evaluating and reporting of progress on correcting areas of noncompliance will be determined.

## **H. Data Collection – Part C and Part B**

During the week of April 22, 2002, OSEP conducted a focused, onsite monitoring review of Illinois under Part B and Part C of the IDEA.

OSEP visited six Child & Family Connections for the purpose of monitoring the State's administration of the early intervention system and the impact of the State's administration on local practice in the delivery of early intervention services. The six Child & Family Connections visited were:

- Batavia Child & Family Connection #4
- Arlington Heights Child & Family Connection #6
- Chicago Child & Family Connection #10
- Bloomington Child & Family Connection #16
- Effingham Child & Family Connection #20
- Swansea Child & Family Connection #21

For each Child & Family Connection, OSEP completed record reviews and interviews. The data collection process targeted the following areas: (1) service coordination; (2) timely completion of evaluation, assessment, and IFSP development; (3) development of an IFSP; (4) family supports and services; and (5) general supervision by DHS. OSEP conducted interviews with family members, early intervention providers, service coordinators, interagency collaborators, administrators, members of the Quality Enhancement teams at each of the Child & Family Connections, and State staff in Springfield.

OSEP Part B Staff visited a total of seven local education agencies in six locations:

- Kankakee
- Northern Suburban Special Education District
- Springfield
- Four Rivers/Jacksonville
- East St. Louis District
- Carbondale Elementary
- Carbondale High School

In these local education agencies, OSEP staff visited four elementary schools, three middle schools, six high schools, and a preschool, covering a varied range of program options and disability categories. OSEP conducted joint interviews with the Rehabilitation Services Administration (RSA) at three of the high schools. OSEP collected data in these school districts in the areas of placement in the least restrictive environment, participation in the general curriculum, provision of psychological counseling, participation in statewide assessments, and secondary transition.

Concurrent with the visits to the schools, OSEP staff also conducted interviews with ISBE staff from both the Springfield and Chicago offices on key State systems, including State monitoring, complaint investigations, impartial due process hearings, mediation, comprehensive system of personnel development, secondary transition, statewide assessments, the State funding formula, and the provision of a free appropriate public education in the least restrictive environment.

## I. PART C: GENERAL SUPERVISION

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

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

The Lead Agency is responsible for the general administration and supervision of programs and activities receiving assistance under Part C (34 CFR §303.501(a) and (b)(1)-(4)). To meet these requirements, DHS must adopt and use proper methods of administering each program, including: (1) monitoring agencies, institutions, and organizations used by the State to carry out Part C, whether or not they receive Part C funds; (2) enforcing any obligations imposed on those agencies under Part C; providing technical assistance; and (3) correcting deficiencies that are identified through monitoring.

### *Prior OSEP Findings Regarding The Lead Agency's Monitoring System*

As set forth in OSEP's September 23, 1998 Illinois Part C monitoring report, OSEP found in March 1998 that DHS was not meeting its monitoring responsibilities under Part C. Specifically, OSEP found that the documents used by the Comprehensive Quality Review System contained inaccuracies or policies inconsistent with Part C.

During the week of September 27, 1999, OSEP conducted a follow-up monitoring review of DHS to determine the extent to which the State had corrected the noncompliance documented in OSEP's 1998 report. OSEP found that the State had made progress in the area of supervision and monitoring since the 1998 visit, but, as stated in the May 2000 report, OSEP found in 1999 that DHS' monitoring procedures did not include a mechanism to monitor the extent to which service coordinators and service providers were meeting their responsibilities under Part C, and failed to monitor all entities and individuals providing early intervention services.

### ***Self-Assessment Findings Regarding DHS' Monitoring System***

The Steering Committee found that: (1) DHS was not monitoring for compliance with all Part C requirements; (2) DHS had no process to ensure correction for areas of non-compliance that were identified; and (3) Cornerstone, the DHS data system, was not capable of providing the necessary information to ensure that all eligible infants and toddlers are identified, located and evaluated.

### ***OSEP's 2002 Findings Regarding DHS' Monitoring System***

#### **Areas of Noncompliance**

##### **1. Failure to Identify Noncompliance and to Monitor all Entities Implementing Part C**

Staff from the Bureau of Early Intervention and the Office of Technical Assistance and Monitoring jointly conducted monitoring reviews of the 25 Child & Family Connections in May and June 2001, which were the most recent reviews at the time of the OSEP visit.<sup>3</sup> Staff from the Office of Technical Assistance and Monitoring wrote the reports, and the format and content of these reports varied from one Office of Technical Assistance and Monitoring region to another.

DHS informed OSEP that DHS's reports did not include findings regarding issues like service coordination and the process used to develop IFSPs because the monitoring procedures included very little interview inquiries that would allow DHS to make such findings. OSEP reviewed the DHS reports for the six Child & Family Connections that OSEP visited. OSEP confirmed that although, as detailed in Section II of this Report, OSEP found significant systemic noncompliance with Part C's service coordination requirements in four of the six Child & Family Connections that it reviewed as part of its April 2002 visit, DHS did not find any noncompliance with those requirements when it monitored those same Child & Family Connections in May and June 2001.

Further, DHS informed OSEP that it had monitored only the Child & Family Connections, and has not monitored compliance by agencies and individuals that provide early intervention services other than service coordination. OSEP had made this same finding in its May 2000 Illinois Part C Monitoring Report.

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<sup>3</sup> Prior to June 1, 2001, the Bureau of Early Intervention was housed in DHS' Division of Community Health and Prevention (DCHP), which included 31 other programs. (Effective June 1, 2001, the Bureau was moved to DHS' Office of the Associate Secretary, where it is now housed.) Within the Division of Community Health and Prevention, the Office of Technical Assistance and Monitoring (TAM) was responsible for all 32 categorical programs, including the State's Part C early intervention program. One of the five Technical Assistance and Monitoring regional administrators was responsible for early intervention monitoring. Although the Bureau of Early Intervention had input into the monitoring instruments, the Office of Technical Assistance and Monitoring patterned the early intervention monitoring after its monitoring for the other 31 programs, and so there were significant limits on the monitoring process.

## **2. Failure to Ensure Correction of Identified Noncompliance**

Each Child & Family Connection provided a written response during the summer of 2001 to the DHS findings in the agency's monitoring report, in which it explained the steps that it would take to correct the identified issues. With the exception of one Child & Family Connection, DHS had not, at the time of OSEP's April 2002 visit: (1) provided any written response to the submissions from the Child & Family Connections; or (2) collected any data or documentation as to whether each Child & Family Connection had corrected identified noncompliance.

The Cornerstone data system was not in effect until 2000. Before then, the only implementation data that DHS had were payment data from the Central Billing Office. Although Cornerstone went into effect in Spring 2000, it was not until November 2001 that Early Intervention had meaningful access to the data; before that, the Bureau needed to make a separate data request each time it wanted access to data and made very little use of the data. DHS did not use the Cornerstone data as part of the monitoring reviews in May and June 2001.

As discussed in Section II of this report, DHS data have shown clearly for more than a year that none of the 25 Child & Family Connections were meeting the 45 day timeline for completing evaluations and assessments and holding an IFSP meeting. Further, DHS found noncompliance with that requirement when it monitored five of the six agencies in 2001. However, as of the time of OSEP's April 2002 visit, noncompliance persisted in all six Child & Family Connections that OSEP visited.

OSEP found in both 1998 and 1999 that the State was failing to meet Part C's service coordination requirements. OSEP found such noncompliance in four of the six Child & Family Connections that OSEP visited in 2002, showing that DHS has failed to correct noncompliance after repeated OSEP reports of noncompliance.

### ***Steps That DHS Is Taking To Make Its Monitoring And Administration Of Part C Effective***

During OSEP's April 2002 visit, DHS informed OSEP that it has instituted several initiatives to improve its monitoring procedures for Part C, and to improve compliance and results for infants and toddlers with disabilities.

DHS has developed a series of measures of program performance and shared them with Child & Family Connections and other stakeholders. DHS anticipates that the measures will assist it in learning more about the customers that it serves, inform basic policy making, and measure performance of the system and of individual Child & Family Connections.

DHS reports that it will include the performance measures in its contract with each Child & Family Connection, and use the data for each measure to evaluate each Child & Family Connection and the Statewide system, and to set goals to improve services. In January 2002, DHS reviewed with each Child & Family Connection its performance data, in preparation of implementing the performance contracting system.

In October 2002, DHS began to publish data regarding how each of the 25 Child & Family Connections ranks on a number of the variables. DHS is publishing these data and the rankings by providing the information to the State Interagency Coordinating Council and the 25 Child & Family Connections, and by posting the information on its web-site (<http://www.dhs.state.il.us>). In addition, DHS will begin calculating the amount of State funds each Child & Family Connection will receive, based on its performance on the key variables, using fiscal incentives to reward high-performing Child & Family Connections and penalties for low-performing Child & Family Connections.

An additional initiative is the ongoing development of a comprehensive system of self-assessment, review, analysis and continuous improvement. The continuous improvement process begins with a self-assessment of local system implementation. In April 2002, DHS informed OSEP that the Child & Family Connections would begin the self-assessment process in July 2002. Each Child & Family Connection will use the above-mentioned performance data as the baseline for its local self-assessment. The DHS procedures require each Child & Family Connection to identify local strengths, and resources and barriers that support or impede progress toward the achievement of identified outcomes for eligible infants and toddlers and their families. One third of the 25 Child & Family Connections will receive on-site monitoring visit each year, with the first round of on-site monitoring visits beginning in October 2002.

## II. 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 principals on which Part C was enacted include: (1) enhancing the child's developmental potential, (2) enhancing the capacity of families to meet the needs of their infant or toddler with disabilities, and (3) improving and expanding existing early intervention services being provided to children with disabilities and their families. To assist families in this process, Congress also requires that each family be provided with a service coordinator, to act as a single point of contact for the family. The service coordinator ensures that the rights of children and families are provided, arranges for assessments and IFSP meetings, and facilitates the provision of needed services. The service coordinator coordinates required early intervention services, as well as medical and other services the child and the child's family may need. With a single point of contact, families are relieved of the burden of searching for essential services, negotiating with multiple agencies and trying to coordinate their own service needs.

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

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

### **Areas of Noncompliance**

#### **1. DHS has failed to ensure that infants and toddlers with disabilities and their families receive service coordination that meets Part C requirements.**

The Part C regulations require, at 34 CFR §303.23(a)(2), that DHS ensure that each eligible infant and toddler with a disability and the child's family have a service coordinator who is

responsible for “(i) Coordinating all services across agency lines; and (ii) Serving as the single point of contact in helping parents to obtain the services and assistance they need.”

34 CFR §303.23(a)(3) further provides that: “Service coordination is an active, ongoing process that involves--(i) Assisting parents of eligible children in gaining access to the early intervention services and other services identified in the individualized family service plan; (ii) Coordinating the provision of early intervention services and other services (such as medical services for other than diagnostic and evaluation purposes) that the child needs or is being provided; (iii) Facilitating the timely delivery of available services; and (iv) Continuously seeking the appropriate services and situations necessary to benefit the development of each child being served for the duration of the child's eligibility.”

34 CFR §303.23(b) further requires that: “Service coordination activities include—(1) Coordinating the performance of evaluations and assessments; (2) Facilitating and participating in the development, review, and evaluation of individualized family service plans; (3) Assisting families in identifying available service providers; (4) Coordinating and monitoring the delivery of available services; (5) Informing families of the availability of advocacy services; (6) Coordinating with medical and health providers; and (7) Facilitating the development of a transition plan to preschool services, if appropriate.”

The service coordinator for each eligible child and family must be a person who has demonstrated knowledge and understanding about eligible infants and toddlers, Part C statutory and regulatory requirements, the nature and scope of services available under the State’s early intervention program, the system of payments for services in the State and other pertinent information. 34 CFR §303.23(d).

As detailed below, the State has not ensured that service coordinators meet all of their responsibilities under Part C, including their responsibilities to coordinate and monitor the provision of early intervention services.

### ***Prior OSEP Findings Regarding Service Coordination***

As set forth in OSEP’s September 23, 1998 Illinois Part C monitoring report, OSEP found in March 1998 that the State was not meeting its service coordination responsibilities under 34 CFR §303.22. Specifically, OSEP found that service coordinators were not assisting parents in obtaining all needed services for eligible infants, toddlers and their families.

OSEP conducted a follow-up monitoring visit in September 1999 to determine the extent to which the State had corrected the noncompliance documented in OSEP’s 1998 report. As detailed in OSEP’s May 2002 report, OSEP found that the State had not corrected the noncompliance regarding service coordination. OSEP found that service coordinators were typically not: (1) coordinating services across agency lines; (2) coordinating medical and health services; and (3) preparing children and their families for transition out of Part C.

### ***Self-Assessment Finding Regarding Service Coordination***

The Steering Committee found that there were “increased service coordination caseloads,” but did not include conclusions in the self-assessment regarding the impact of the increased caseload on the provision of service coordination.

### ***OSEP’s 2002 Findings Of Noncompliance Regarding Service Coordination***

OSEP found in April 2002 that the State continues in its failure to ensure that each eligible child and family receives service coordination that meets Part C requirements. As detailed below, service coordinators and others, in four of the six Child & Family Connections that OSEP visited, reported that service coordinators were not able to provide all services that Part C requires.

At 34 CFR §303.23(b)(4), the Part C regulations specify that the required service coordination activities include, “coordinating and monitoring the delivery of available services.”<sup>4</sup> Service coordinators in one Child & Family Connection informed OSEP that they are not able to monitor the provision of early intervention services, and that they cannot “keep up with their service coordination caseloads.” They further stated that caseloads are currently too high for them to maintain adequate contact with the families they serve. They explained that they do not have enough time to call each family even once a month, and that this makes it impossible for them to have adequate family contact. They also stated that they are not able to meet families’ needs for family support services. They explained they “do not have the time to obtain family services because of caseloads,” and that, regardless of need, family support services would not be included on the IFSP. The Child & Family Connection manager and the manager’s supervisor concurred that with the high, and increasing, caseloads, it is very difficult for the service coordinators to meet their service coordination responsibilities. They further stated that there is not enough staff to address unexpected problems like illnesses or jury duty, and they were amazed that turnover among service coordinators is not worse.

The service coordinators in a second Child & Family Connection informed OSEP that, due to their high caseloads, they must rely on families asking them for assistance, rather than providing ongoing coordination and monitoring of the early intervention services, as required by 34 CFR §303.23(b)(4). In order to ensure adequate family contact, this agency has established a standard of at least one contact per month with each family. However, given their large caseloads and other demands, they were not able to meet even this minimal standard. (DHS data show that the caseloads in this Child & Family Connection are among the very highest in the State.)

Service providers who attend IFSP meetings in this Child & Family Connection informed OSEP that “family supports and services were discussed only if the parent brings it up; the service coordinator does not bring up family needs.” Two administrators told OSEP that, “family

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<sup>4</sup> In addressing the requirements of §303.23(b)(4), the State regulation states that the service coordinator will “*assist the family in* monitoring” service provision. This is not consistent with §303.23(d)(4), which provides that the service coordinator is responsible for “coordinating and monitoring the delivery of available services,” and not merely for assisting the family in such coordination and monitoring. DHS has provided OSEP with a written assurance that it will revise its regulation to make it consistent with Part C.

supports are ignored” in the development of IFSPs. Service coordinators told OSEP that, regardless of family needs, a very low percentage of families are offered family supports and services in initial IFSP meetings.

Service coordinators in a third Child & Family Connection informed OSEP that, due to their high caseloads, they do not always have time to conduct the 6-month review of the IFSP, as required by 34 CFR §303.342(b).<sup>5</sup> The Child & Family Connection administrator concurred. The service coordinators also stated that they spend the vast majority of their time completing paperwork, rather than supporting families in the early intervention process. An administrator for this Child & Family Connection stated that it is “totally unrealistic to serve families with double or triple the paperwork and the quality of family services is hampered.” Another stated that, due to paperwork burdens, they “lose family contact.” The service coordinators told OSEP that due to the high caseloads and paperwork demands, they often must rely on families and providers to “monitor services and call them when there is a problem,” rather than the service coordinators being able to meet their responsibility to monitor the delivery of services (as required by 34 CFR §303.23(b)(4)).

Service coordinators in a fourth Child & Family Connection informed OSEP that they do not have time to fulfill all of their responsibilities as service coordinators because the caseloads are “overwhelming.” They also stated that they need more training. None had received training regarding the paperwork requirements relating to the Quality Enhancement Team process, and they needed training on this process and service coordination in general. All of the service providers interviewed in this Child & Family Connection told OSEP that service coordination is “only a paperwork process, rather than guiding parents through the early intervention process.” Two parents informed OSEP that, because of the lack of service coordination, it has been necessary for them to coordinate their own services. Another stated that the family had received no family supports. The service coordinators, Child & Family Connection manager, and DHS State liaison for the Child & Family Connection all described unique challenges presented by the large geographic, mostly rural, area that the Child & Family Connection’s service coordinators must cover.

As discussed in Section I of this report, in 2001 when DHS monitored the four Child & Family Connections in which OSEP made service coordination findings, DHS did not make any service coordination findings. DHS is revising its monitoring procedures, and has begun tracking service coordination caseloads in the 25 Child & Family Connections, and ranking and publishing those caseload numbers.

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<sup>5</sup> The Part C regulations require, at 34 CFR §303.342(b), that, “(1) A review of the IFSP for a child and the child's family must be conducted every six months, or more frequently if conditions warrant, or if the family requests such a review. The purpose of the periodic review is to determine--(i) The degree to which progress toward achieving the outcomes is being made; and (ii) Whether modification or revision of the outcomes or services is necessary. (2) The review may be carried out by a meeting or by another means that is acceptable to the parents and other participants.” 34 CFR §303.23(b)(2) requires the service coordinator to facilitate the review of the IFSP.

## **2. DHS has not ensured compliance with timelines for evaluation, assessment, and IFSP meetings.**

Part C requires, at 34 CFR §303.321(e), that, within 45 days after it receives a referral, the public agency must complete the evaluation and assessment and hold an IFSP meeting. In order to meet the requirements of 34 CFR §303.321(e), DHS requires and monitors for compliance with the State requirement that the initial IFSP be completed within 45 days.<sup>6</sup>

As described below, the State is not meeting these requirements.

### ***Self-Assessment Finding Regarding Timely Evaluations***

The Steering Committee found that infants and toddlers were not receiving timely evaluations in certain areas of the State.

### ***Prior OSEP Findings***

As part of the finding on evaluations in its May 2000 report, OSEP reported that the State was not completing evaluations in all required developmental areas until after the development of the initial IFSP.

### ***OSEP's 2002 Findings***

During the April 2002 visit, DHS provided OSEP with data regarding compliance with the 45-day timeline for the State, and for each of the 25 Child & Family Connections. Those data showed that none of the 25 Child & Family Connections were in compliance with that timeline.

The data for February and March 2002 show that the average number of days to complete the evaluation, assessment and IFSP was 73.5 for February and 65.4 days for the month of March. (DHS collects monitoring and cornerstone data only regarding the date on which the Child & Family Connection completes the initial IFSP, rather than the date on which an initial IFSP meeting is held.)

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<sup>6</sup> Although Part C does not require that the initial IFSP be *completed* within 45 calendar days from referral, *Illinois State regulations* require, at 500.70, that the Child & Family Connection complete the evaluation and assessment in all five developmental areas, and *complete* the development of the initial IFSP within 45 calendar days from referral.

The following is a summary of the data that DHS provided to OSEP during OSEP's April 2002 visit, for the six Child & Family Connections that OSEP visited:

<b>DHS DATA REGARDING TIMELINES FOR COMPLETION OF EVALUATION, ASSESSMENT, AND INITIAL IFSP</b>					
	<b>Data Element</b>	<b>March 02</b>	<b>February 02</b>	<b>June 01</b>	<b>FY 02 through March 02</b>
<b>State</b>	<b>% of intake<sup>7</sup> past 45 days</b>	<b>32.7</b>	<b>33.6</b>	<b>35.5</b>	
	<b>% of intake past 90 days</b>	<b>8.5</b>	<b>13.5</b>		
	<b>Intake to initial IFSP average days</b>	<b>65.4</b>	<b>73.5</b>		<b>72.3</b>
<b>CFC A</b>	<b>% of intake past 45 days</b>	<b>34.6</b>	<b>32.1</b>		
	<b>% of intake past 90 days</b>	<b>6.8</b>	<b>12.8</b>	<b>55.1</b>	
	<b>Intake to initial IFSP ave. days</b>	<b>70.3</b>	<b>85.46</b>		<b>91.58</b>
<b>CFC B</b>	<b>% of intake past 45 days</b>	<b>47.8</b>	<b>50.8</b>	<b>29.7</b>	
	<b>% of intake past 90 days</b>	<b>19.4</b>	<b>26.2</b>		
	<b>Intake to initial IFSP average days</b>	<b>87.53</b>	<b>98.96</b>		<b>96.36</b>
<b>CFC C</b>	<b>% of intake past 45 days</b>	<b>38.8</b>	<b>38.5</b>	<b>56.6</b>	
	<b>% of intake past 90 days</b>	<b>6.0</b>	<b>9.9</b>		
	<b>Intake to initial IFSP average days</b>	<b>90.31</b>	<b>84.00</b>		<b>100.86</b>
<b>CFC D</b>	<b>% of intake past 45 days</b>	<b>31.5</b>	<b>27.4</b>	<b>27.2</b>	
	<b>% of intake past 90 days</b>	<b>6.3</b>	<b>6.2</b>		
	<b>Intake to initial IFSP average days</b>	<b>62.00</b>	<b>83.09</b>		<b>68.60</b>
<b>CFC E</b>	<b>% of intake past 45 days</b>	<b>31.6</b>	<b>17.8</b>	<b>19.4</b>	
	<b>% of intake past 90 days</b>	<b>0.0</b>	<b>5.6</b>		
	<b>Intake to initial IFSP average days</b>	<b>59.38</b>	<b>71.50</b>		<b>61.33</b>
<b>CFC F</b>	<b>% of intake past 45 days</b>	<b>14.6</b>	<b>10.4</b>	<b>28.8</b>	
	<b>% of intake past 90 days</b>	<b>0.8</b>	<b>1.0</b>		
	<b>Intake to initial IFSP average days</b>	<b>54.32</b>	<b>58.16</b>		<b>55.85</b>

These data show that the Child and Family Connections are not meeting the required 45-day timeline. As indicated in the table above, the March data showed that 32.7% of IFSPs were completed more than 45 days after referral, and 8.5% were completed more than 90 days after referral.

Since the April 2002 visit, DHS has continued to provide OSEP with data regarding compliance with the 45-day timeline for the State. Although data through July 2002 show continuing noncompliance, they also document significant improvement in recent months. (As of July 2002, DHS had decreased, to 20.8%, the percentage of initial IFSPs completed more than 45 days after referral, and to 4.5% the percentage completed more than 90 days after referral.)

DHS personnel and staff in the six Child & Family Connections that OSEP visited acknowledged these significant delays, and DHS found noncompliance in 2001 with the 45-day State timeline for completing evaluations and assessments and developing an initial IFSP in five of the six agencies that OSEP visited in 2002. DHS personnel, and staff in the six Child & Family Connections that OSEP visited, attributed the delays to a range of factors, including: (1) difficulty in contacting families (especially in rural or high poverty areas); (2) service

<sup>7</sup> As used in DHS' data and this table, the term "intake" means completion of initial evaluation, assessment, and IFSP.

coordinator caseloads; (3) the Quality Enhancement Team process; (4) insurance issues; and (5) delays by providers in completing evaluations.

As discussed above, DHS has instituted a system to focus on data collection and analysis. In October 2002, DHS began publishing detailed data regarding how each of the Child & Family Connections ranks on a number of indicators, including a number of indicators regarding the extent of compliance with the 45-day timeline. In addition, beginning with State fiscal year 2003, DHS will apply a system of incentive payments and penalty adjustments in calculating the amount of State funds that each Child & Family Connection receives. The following incentive payments and penalty adjustments focus on improving compliance with the 45-day timeline:

1. A 2% incentive grant to: (a) each of the 12 Child & Family Connections with the lowest percentages of cases in intake over 45 days over the most recently completed six-month period; and (b) each of the 12 Child & Family Connections with the highest rates of IFSP completion within 45 days over the most recently completed six-month period; and
2. A 2% reduction of the quarterly based payment to: (a) any Child & Family Connection that exceeds the following percentages of cases in intake for more than 90 days, over the most recently completed quarter: (i) 15% for the first quarterly adjustment; (ii) 10% for the second adjustment; and (iii) 5% for the third; and (b) to any Child & Family Connection that fails to complete the following percentages of new initial IFSPs within 45 days during the six-month period for which a quarter's basic payment is calculated: (i) 10% for the first quarterly payment; (ii) 20% for the second adjustment; and (iii) 30% for the third.

### **3. DHS did not ensure that the IFSP team determined the content of each child's IFSP.**

The Part C regulations require, at 34 CFR §303.344(d)(1), that the IFSP include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in 34 CFR §303.344(c). A team that includes the participants specified at 34 CFR §303.343 must, in a meeting pursuant to 34 CFR §303.342, develop all of the content of each child's IFSP, including the statement of specific early intervention services. The content of the IFSP must be based on result of the evaluation and assessment process and must identify the unique strengths and needs of the child and the needs, priorities, concerns, and resources of the family. The IFSP must also identify services appropriate to meet those needs of the child using appropriate evaluation and assessment methods conducted by qualified personnel. See 34 CFR §§303.322(c)(3)(iii) and 303.342(c).

#### ***Self-Assessment Finding Regarding The Development Of The IFSP***

The Steering Committee found that IFSPs were developed without all required and appropriate participants present.

#### ***OSEP's 2002 Findings Regarding The Development Of The IFSP***

Prior to the April 2002 visit, OSEP determined that DHS' written procedures and State regulations were not consistent with Part C, because they did not require that the participants in the IFSP meeting for each infant and toddler with a disability determine the type and amount of early intervention services to be included in the IFSP and provided to the child and family. In written communications that OSEP sent to DHS on September 6, 2001 and February 4, 2002, OSEP formally informed DHS of OSEP's determination that DHS' procedures were inconsistent with Part C, because the Quality Enhancement Team, rather than the participants in the IFSP meeting, were making the final determination as to the services that each child and family would receive.

Although DHS informed OSEP before the April 2002 visit of the State's intent to discontinue the Quality Enhancement Team procedures described above, the procedures described above remained in effect at the time of OSEP's visit. As part of the April 2002 visit, OSEP collected data regarding the extent to which Child & Family Connections were implementing practices that were consistent with Part C requirements. During the visit, OSEP collected data from DHS State staff and in six Child & Family Connections regarding the implementation of the Quality Enhancement Team process and the manner in which the early intervention services for each child and family were determined. As detailed below, OSEP found that Child & Family Connections were determining early intervention services in a manner that was inconsistent with Part C.

Members of the Quality Enhancement Team for one Child & Family Connection informed OSEP that the Quality Enhancement Team had "veto power" over the decisions made by the IFSP meeting participants, and that – regardless of the quantity of service the IFSP participants determined that a child and family needed – the Quality Enhancement Team made the final decision regarding the amount of service to be included in the IFSP and provided. They further expressed their belief that, although DHS' original intent in establishing the Quality Enhancement Team process was to "inculcate the trans-disciplinary model of early intervention," DHS had implemented the process as a way of "gate-keeping" the amount of services provided. The Child & Family Connection manager and the manager's supervisor stated that although DHS' written procedures described the input from the Quality Enhancement Team to the IFSP meeting participants as "recommendations" to the IFSP participants, DHS had implemented the procedures in a way that the IFSP participants were treating the input as directives that they must follow.

In another Child & Family Connection, the service coordinators informed OSEP that the Quality Enhancement Team determines the amount and type of early intervention services for each child and family, and that although the service coordinator attended the Quality Enhancement Team for each family that is part of the coordinator's caseload, "the service coordinator has no say. We sit back and wait for the decision." They further stated that the Quality Enhancement Team "overrode" the decisions made in the IFSP meeting. Three administrators in this Child & Family Connection concurred. "The IFSP team does not have the authority to ensure that children and family's receive the early intervention services they need. The IFSP can only make recommendations; the final decisions regarding services are made by the Quality Enhancement Team."

Many individuals that OSEP interviewed in three other Child & Family Connections informed OSEP that the Quality Enhancement Team, rather than the IFSP meeting participants, determined the amount of services to be provided to each eligible child and family. These individuals consisted of three Quality Enhancement Team members, all eight of the service coordinators that OSEP interviewed in one Child & Family Connections and two Child & Family Connection administrators.

***DHS' Recent Actions To Revise Procedures For Development Of Ifsps***

DHS submitted to OSEP a written statement that DHS discontinued the Quality Enhancement Team process described above, effective July 31, 2002. On September 5, 2002, DHS provided a written assurance to OSEP that it will require that an IFSP meeting will, consistent with the requirements of 34 CFR §§ 303.340-303.344, determine the content of the IFSP, including the type, amount, duration, and frequency of early intervention services to be provided, for each infant or toddler with a disability and family that receives Part C services, and that DHS will revise its regulations to make them consistent with Part C.

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

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

#### ***ISBE's Systems for Complaints, Mediation, and Due Process Hearings***

As set forth in its 1996 report, OSEP found in 1995 that ISBE had failed to implement an effective system to ensure the timeliness of decisions in due process hearings and administrative reviews. In response, ISBE made significant changes in the State's written procedures and practices for due process hearings and provided OSEP with appropriate documentation.

Currently, Illinois has a "one tier" hearing system, in which ISBE is responsible for conducting impartial due process hearings. If either party is unsatisfied with the decision issued, they may appeal to the State or federal court. Hearing officers are appointed on a rotating basis, and receive ongoing training from the Southern Illinois University Law School. An ISBE Screening Committee hires and supervises hearing officers. The parties resolve most issues in pre-hearing conferences. If a parent refuses to participate in a pre-hearing conference, the hearing goes forward as scheduled. ISBE analyzes due process data and uses those data in monitoring districts and in making training decisions. Between July 2000 and April 2002, ISBE received 73 due process hearing requests from districts that OSEP visited (42 of those requests in one district). Of these 73 hearing requests, the parties resolved all but five prior to a due process hearing. ISBE posts hearing decisions on its web site, updating it quarterly.

ISBE's database tracks the issues raised in State complaints and documents timelines, extensions and delays. Over the past three years, there has been a significant decrease in the number of special education complaints that ISBE receives each year (from 199 to 111). ISBE reports that findings of serious noncompliance as part of a complaint trigger a focused monitoring visit to the district. OSEP reviewed the ISBE complaints logs for July 2000- June 2001 and July 2001- March 2002, and found that ISBE had resolved most complaints within 30 days, and that ISBE had extended the timeline for complaint resolution in very few cases.

ISBE staff view mediation as a successful, efficient way to resolve disagreements. ISBE staff reported that 90% of all mediation takes place in the greater Chicago area. ISBE plans to institute a team of eleven external mediators to be available to all districts for conflict resolution.

### ***Participation and Performance on Statewide Assessments***

ISBE's Assessment Division is responsible for developing and administering tests that measure the performance of students and schools against the Illinois Learning Standards. The two regular State assessments for Illinois are the Illinois Standards Achievement Test (ISAT) and the Prairie State Achievement Exam (PSAE). The ISAT is administered in grades three, five, and eight to measure individual student performance in Reading, Writing and Mathematics; and in grades four and seven to measure performance in Science and Social Science. The PSAE is administered in grade eleven to measure performance of students relative to the Illinois Learning Standards for Reading, Writing, Mathematics, Science, and Social Science. The two other components of the state assessment system are the Illinois Measure of Annual Growth in English (IMAGE) and the Illinois Alternate Assessment (IAA). The IMAGE measures the progress of Limited English Proficiency students in attaining the English-language reading and writing skills needed to achieve in the Illinois Learning Standards. The IAA is the State portfolio assessment that is used for a special education-eligible student whose Individualized Education Plan indicates that he/she is unable to participate in the ISAT or PSAE, even with accommodations. All students enrolled in an Illinois public school district are required to participate in state and district-wide assessments. The only students with disabilities who can be exempted from participation are those who have been convicted as adults under state law and are incarcerated in adult prisons.

ISBE reports in the 2002 Biennial Performance Report that, with the exception of students who were absent, all students with disabilities participated in the statewide assessment system during the 2000-2001 school year and 108,082 students with disabilities participated in the general assessments. Participation guidelines are provided to all districts and are also posted on the website. All accommodations are acceptable on the ISAT and PSAE except reading aloud the reading portion of the ISAT reading test. Parents cannot "opt out" their children from the statewide tests. Illinois does not permit the use of out-of-level testing in the statewide assessment system. As indicated by the chart below, there is a significant gap between performance of students with disabilities and their non-disabled peers. During the 2000-2001 school year, this gap was wider in the higher grades for all three content areas reported.

<b>STUDENTS WITH DISABILITIES MEETING OR EXCEEDING ISAT AND PSAE STANDARDS DURING 2000-2001 SCHOOL YEAR</b>						
<b>Illinois Standards Achievement Test (ISAT)</b>						
<b>Grade Level</b>	<b>Reading</b>		<b>Writing</b>		<b>Math</b>	
	<b>IEP</b>	<b>Non-IEP</b>	<b>IEP</b>	<b>Non-IEP</b>	<b>IEP</b>	<b>Non-IEP</b>
3	30%	67%	33%	61%	50%	77%
5	23%	64%	37%	75%	29%	67%
8	21%	72%	21%	67%	11%	56%
<b>Prairie State Achievement Exam (PSAE)</b>						
11	16%	61%	14%	63%	12%	57%

## **A. Areas of Non Compliance**

### **1. ISBE's Monitoring Procedures are not Effective in Identifying and Correcting Noncompliance**

At 34 CFR §300.600(a)(2), the Part B regulations require 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 in the State educational agency. One method that the State must utilize to ensure its general supervision over educational programs for children with disabilities is the effective utilization of a monitoring system. The State must implement monitoring procedures that are effective in identifying and correcting noncompliance. 20 U.S.C. 1232d (b)(3).

#### ***Self-Assessment Findings of the Steering Committee and Improvement Plan***

The Steering Committee indicated that the monitoring system (that was in effect at the time the Self Assessment was completed) had not been in effect for a sufficient amount of time to provide data to evaluate its effectiveness. The Committee identified the following concerns with ISBE's system for identifying and correcting noncompliance:

1. ISBE's procedures for identifying noncompliance are "insufficient."
2. Districts and cooperatives were not monitored with sufficient frequency to ensure compliance.
3. There was inadequate tracking and follow-up to ensure correction of deficiencies.
4. ISBE did not effectively utilize enforcement actions to address persistent deficiencies.

The State's Continuous Improvement Plan includes a specific goal to implement a new monitoring system during the 2003-2004 school year, that will be student data-driven and that will impact results and student performance. ISBE plans to complete the development of the revised monitoring system by May 2003. Through a focus on goals one through four of the Improvement Plan, ISBE intends to use individual district profiles to identify and target those districts showing the least progress in several measured areas. For those districts that fail to correct deficiencies, ISBE intends to use enforcement strategies based on specific criteria.

#### ***Prior OSEP Findings***

As documented in OSEP's 1996 report, OSEP found in 1995 that ISBE had not been effective in ensuring the correction of previously identified noncompliance.

Through a corrective action plan submitted to OSEP in December 1996, ISBE proposed actions to revise its monitoring procedures and to ensure that all identified deficiencies at the district level were corrected in a timely manner. During 1997, ISBE provided OSEP with

documentation indicating that new monitoring practices were in place and that effective measures were being used to ensure correction of identified deficiencies.

### *Description of ISBE's Current Monitoring System*

Currently, ISBE uses two kinds of monitoring reviews to determine compliance: comprehensive and focused. ISBE conducts comprehensive reviews on a periodic, cyclical basis that involves pre-site, on-site, and post-site activities, and focused reviews on an as-needed basis.

Typically, ISBE conducts a comprehensive monitoring review of each single member district and each joint agreement (cooperative agreements between several smaller districts) at least once every six years. The monitoring review is structured in phases over three years. In the first year, the public agency conducts a self-study and submits it to ISBE. During this self-study phase, districts identify strengths and areas of concern and include this information in a report to ISBE. Using the State-developed format, districts review their own policies and procedures, handbooks, forms, student records and other local data elements to respond to each performance indicator.

ISBE utilizes each public agency's self-study as: (1) a basis for determining the specific monitoring items on which it will focus ISBE's on-site review; and (2) a verification tool during the second phase of the comprehensive review. ISBE includes information from the self-study in the monitoring report, and requires the district to develop and implement a corrective action plan that includes areas of noncompliance identified through the self-study process.

During the second year, ISBE uses a set of 35 indicators to determine compliance through document review, and through on-site interviews. Under the supervision of the Division Administrator for Compliance, the ISBE special education monitoring staff serve as team leaders for district monitoring activities. A team of six full-time and three part-time staff are assigned to monitor compliance in Chicago Public Schools, and a Springfield-based team of five is assigned to monitor the remaining 895 districts. This represents approximately 12 full time monitoring positions. In preparing for a site visit, team leaders put together a data collection team using peers (usually local directors) and ISBE staff. The teams all use the same detailed monitoring manual, and the Division Administrator for Compliance reviews all reports and meets with team leaders to discuss procedures and issues regarding district findings. However, the team leaders acknowledged that there has been little formal training, and that each team leader makes independent decisions regarding how to implement the written procedures, with significant variation among them.

ISBE issues a comprehensive report to the public agency within 60 days after an on-site visit. This report describes the noncompliance that the agency must correct. It directs the public agency to propose specific actions that it will take to correct the noncompliance, and timelines for completing those corrective actions and submitting documentation to ISBE that it has completed them.

Upon receiving the public agency's corrective action plan, the ISBE team leader and the Division Administrator for Compliance review each proposed corrective action to determine

whether it adequately addresses the noncompliance and whether the proposed timelines are appropriate. If ISBE determines that the proposed actions and/or timelines are not sufficient, ISBE specifies changes that the public agency must make in its corrective action plan. During the third year, each public agency must complete the required corrective actions and provide documentation that the agency has completed the corrective actions. ISBE does not require documentation of the impact of the corrective actions in achieving compliance.

Focused reviews may be triggered as a result of major changes in district policies, data analysis, or compliance deficiencies. These focused reviews are not cyclical but rather occur as needed, and may be conducted in response to specific information such as a complaint investigation or due process outcomes. Each focused review results in a written monitoring report, and the corrective action procedures that ISBE uses for focused reviews are the same as those described above for comprehensive reviews. Over the past three years, at least sixteen districts or joint agreements received a focused monitoring visit.

State officials acknowledged that ISBE does not have adequate staffing to do an effective and consistent job of ensuring correction of noncompliance. Due to the limited number of ISBE monitors, it generally limits follow-up monitoring reviews to determine whether the actions taken by a public agency have resulted in correction of the identified noncompliance. Follow-up by the team leaders on implementation of these corrective action plans is generally limited to phone calls and document review due to the personnel shortages noted above, and, as noted above, public agencies submit documentation of corrective actions they have completed but not documentation of the impact of these actions.

If a district/joint agreement does not agree with a report and refuses to negotiate a corrective action plan, they may request a hearing. If ISBE conducts a hearing, it must reach a final decision of compliance or noncompliance within thirty days. If a decision of noncompliance is reached, sanctions can be used to enforce the districts' legal obligations and may result in a loss of funds. ISBE staff report that most findings are technical rather than substantive and that monitoring teams are not finding egregious violations that require sanctions and enforcement actions.

**a. ISBE's Monitoring Procedures are not Effective in *Identifying All Systemic Noncompliance***

As noted above, the Steering Committee found that: ISBE's procedures for identifying noncompliance were "insufficient," and that ISBE did not monitor districts and cooperatives with sufficient frequency to ensure compliance.

OSEP reviewed ISBE's monitoring manual, and noted that it relies heavily on the review of written policies and procedures and student records. The manual lists interviews with staff as possible data sources, but provides little guidance to monitors as to when and how they should use probing interviews to address issues for which compliance cannot be determined based solely upon the review of documentation. ISBE's monitoring team leaders acknowledged that there is not consistency in how they use interview data to make compliance determinations.

In order to determine the extent to which ISBE's monitoring procedures are effective in identifying noncompliance (including issues that cannot be effectively addressed without strategic interviewing), OSEP compared its findings with those ISBE made in recent monitoring reviews of the same districts. OSEP determined that ISBE's monitoring had not been effective in finding all existing systemic noncompliance in some districts.

For example, when OSEP visited one district in April 2002, it made the following findings<sup>8</sup>:

1. Many children identified as behaviorally disabled and placed in a separate special education classroom are categorically excluded from participation with nondisabled children in nonacademic and extracurricular activities and services, regardless of individual needs;
2. Children with disabilities are removed from the regular education environment to a special education classroom unless they can function in the regular education classroom without supplementary aids and services, because special education support in the regular education classroom is not currently available; and
3. Students with disabilities are being exempted from participation in statewide assessments.

Neither ISBE's May 2001 monitoring review of this district nor the district's self-study made findings regarding these requirements. ISBE, in its monitoring review and the district in its self-study, had made findings but neither made findings of noncompliance with the Part B requirements regarding placement in the least restrictive environment or participation in the statewide assessment.<sup>9</sup>

Further, when OSEP visited another district in April 2002, it found systemic noncompliance with Part B requirements for providing psychological counseling and other counseling services that children with disabilities need as part of a free appropriate public education.<sup>10</sup> However, ISBE did not make any findings regarding those requirements when it monitored the same agency in February 2001, and the district did not find such noncompliance when it conducted its self-study.

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<sup>8</sup> See Section IV of this report for more detail regarding OSEP's findings.

<sup>9</sup> In its self-study, the district identified concerns regarding IEP requirements and documentation, parental consent, curriculum access and inadequate facilities. ISBE's May 2001 findings were in the following areas: regular teachers not attending IEP meetings, parental consent for evaluations, IEP documentation, delay in placement, inadequate facilities, and access to the general education curriculum.

<sup>10</sup> See Section IV of this report for more detail regarding OSEP's findings.

**b. ISBE's Monitoring Procedures are not Effective in *Correcting Identified Noncompliance***

The Steering Committee found, as part of the State's self-assessment, inadequate tracking and follow-up to ensure correction of deficiencies, and lack of effectively utilizing enforcement actions to address persistent deficiencies.

During OSEP's April 2002 visit, ISBE officials informed OSEP that due to the small number of monitors, ISBE was rarely able to conduct follow-up monitoring reviews to determine whether the actions taken by a public agency had resulted in correction of the identified noncompliance. Follow-up by the team leaders on implementation of these corrective action plans was generally limited to phone calls and document reviews due to the personnel shortages. Public agencies submitted documentation of corrective actions they had completed but not documentation of the impact of these actions. State officials acknowledged that ISBE did not have adequate staffing to do an effective and consistent job of ensuring correction of noncompliance. Current staffing at the State level limits the amount of technical support and assistance available to help ensure correction of the identified deficiencies. They explained that ISBE's prior senior leadership had apparently viewed compliance as a low priority, with recent reductions in the number of staff allocated to monitoring and oversight for special education compliance.

As part of its April 2002 on-site review, OSEP collected data in a public agency that was visited as part of its Illinois monitoring reviews in 1989 and 1995. In each of the two earlier visits OSEP had found significant violations of Part B's requirements for placement in the least restrictive environment. OSEP found in its 2002 review that ISBE had not been successful in correcting the noncompliance issues in the same district. As detailed in OSEP's 1996 report, OSEP found in 1995 that the district had no continuum of placement options for students identified as "trainable mentally handicapped" or "severely/profoundly mentally handicapped," and that 100% of these students were placed in separate schools or separate classrooms. As part of ISBE's 1999-2000 focused monitoring review of the district, ISBE found that the district was not in compliance with requirements for placement in the least restrictive environment. The December 2000 child count data for the district showed that all but three of the 748 children identified as mentally retarded were placed in separate classes or schools. Several district staff that participated in IEP meetings and placement decisions confirmed to OSEP that self-contained special education classes and separate schools remain the only placement options for children with mental retardation. Similarly, the December 2000 child count data show that 100% of children identified as behaviorally disordered were placed in self-contained special education classrooms or separate schools. Staff informed OSEP that IEP teams do not consider regular education placement with supplementary aids and services as a placement option in determining placement for children identified as behaviorally disordered. Staff explained that the schools did not have staff to support children with mental retardation or behavioral disorders in regular classrooms, and were still being educated in restrictive placements.

ISBE staff described the States' frequent findings of noncompliance in this district, and ISBE's efforts to ensure correction of the noncompliance. They explained that although the district had taken action to correct the identified noncompliance, ISBE repeatedly found the same noncompliance when it next returned to the district. ISBE staff also told OSEP that in some

schools where the district had apparently achieved correction for a time, they found the same noncompliance issues three years later. ISBE staff further reported their belief that strong enforcement action, such as withholding, may be needed to ensure effective and sustained compliance. ISBE has warned the district of impending sanctions, but has never taken such action to ensure special education compliance in the district.

## **2. ISBE has not reported to the public regarding the performance of students with disabilities in the alternate assessment.**

IDEA requires States to ensure that children with disabilities participate in State and district-wide assessment systems, develop and administer alternate assessments, if necessary, and report publicly on the participation and performance of children with disabilities. State and district-wide assessments are crucial in ensuring that children with disabilities are provided access to high-quality instruction in the general curriculum, and that States and districts are held accountable for the progress of these children. (See 20 U.S.C. 1412(a)(16)-(17); 34 CFR §§300.137-300.139.) The requirements regarding reporting on alternate assessments have been in effect since July 1, 2000.

As shown by its Biennial Performance Report and confirmed by ISBE officials, ISBE has reported on the *participation* of children with disabilities in alternate assessments for school year 2000-2001, but did *not* report publicly on their *performance* in alternate assessments, as required by 34 CFR §300.139(a)(1)(ii). Accordingly, the State's Part B grant award for federal fiscal year 2002 includes special conditions, which require ISBE to:

1. Demonstrate, by May 30, 2003, that it is reporting publicly and to the Secretary on the performance of children with disabilities in alternate assessments;
2. Submit, by September 30, 2002, a plan detailing the steps and timelines for reporting publicly on the performance of children with disabilities in alternate assessments by May 30, 2003; and
3. Submit progress reports on November 29, 2002, January 31, 2003, and March 28, 2003, and May 30, 2003.

## **B. Suggestions for Improved Results**

### **1. The State's Mechanism for Distributing State Special Education Funds**

The Part B regulations require, at 34 CFR §300.130(b), that:

- (1) If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting where a child is served, the funding mechanism may not result in placements that violate the [least restrictive environment requirements of §300.130(a)].

- (2) If the State does not have policies and procedures to ensure compliance with §300.130(b)(1), the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.

ISBE officials confirmed that State law regarding the distribution of State special education funds did, under some circumstances, provide a different amount of State funding, depending on the type of setting in which a child with a disability receives special education and related services. Specifically, public agencies receive a different level of fiscal support for children with very expensive special education programs, depending on whether the public agency was providing a free appropriate public education to the child in a public or private school. If the public agency was serving the child in a public school setting, the maximum funding the State would provide for extraordinary services was \$2000 per child per year. For students with disabilities in private placements, the State reimbursed the district for costs over twice its per capita tuition. ISBE officials explained that this funding mechanism could result in a school district receiving a significantly greater reimbursement from the State if the district places a child with a disability in a private school than if the district places the child in a public school setting.

In 1997, ISBE convened a task force to review the Illinois special education funding mechanism and submit recommendations to the State Superintendent. ISBE reported that concerns regarding the funding formulas had been raised several times over the past five years and that attempts had been made to revise the mechanism. No significant legislative change had been made and the funding formula has remained essentially the same. When OSEP questioned ISBE administrators during the April 2002 visit as to whether ISBE was able to ensure that the above-described funding mechanisms did not result in placements that were inconsistent with Part B’s least restrictive environment requirements, they replied that they did not have sufficient data to make that determination. Although some ISBE staff reported that the State funding formula might be a contributing factor in the high rate of private school placements, there is no consensus regarding this among ISBE officials.

The Illinois Self-Assessment includes neither data nor analysis regarding the relatively high number of students with disabilities (particularly students with mental retardation and emotional disabilities) placed in private and residential settings (see the table below), and the implications of such data regarding the impact of the State’s funding mechanism on placement decisions. Similarly, the State’s Improvement Plan includes no strategies or activities to address these data.

<b>PLACEMENTS IN PUBLIC OR PRIVATE SEPARATE AND RESIDENTIAL FACILITIES – AGES 6 – 21</b>						
<b>Illinois Data</b>						<b>National Average</b>
<b>SCHOOL YEARS</b>	<b>95-96</b>	<b>96-97</b>	<b>97-98</b>	<b>98-99</b>	<b>99-00</b>	<b>99-00</b>
<b>ALL DISABILITIES</b>	7%	6%	6%	6%	6%	4%
<b>MENTAL RETARDATION</b>	17%	16%	16%	15%	14%	5%
<b>EMOTIONAL DISTURBANCE</b>	30%	30%	30%	31%	29%	13%

It is important that ISBE make a data-based determination as to what, if any changes, are needed in the State’s mechanism for distributing State funds in order to ensure compliance with Part B’s

requirements for placement in the least restrictive environment. ISBE should proceed as quickly as possible to collect and analyze the data needed to make that determination.

## **2. Technical Assistance**

ISBE reported to OSEP that its statewide capacity-building efforts include training on inclusion, autism, services for children who are deaf-blind, teacher certification, and secondary transition. Although ISBE staff is providing a variety of training activities, there is no formal connection between compliance and technical assistance in Illinois. Some mediation and due process decisions require districts to utilize technical assistance for targeted areas; however, there does not appear to be a prioritized plan to provide training and technical assistance based on systemic needs identified by ISBE. Reportedly, technical assistance is provided at the invitation of districts and schools. In Illinois, all grantees are required to spend 5% of flow through dollars on their Comprehensive System of Personnel Development. At one time ISBE had specific positions for providing technical assistance, however reductions in state personnel has resulted in less staff to cover many areas of responsibility including technical assistance.

ISBE monitoring team leaders informed OSEP that they support districts during the correction phase of the monitoring process primarily through phone conferences, and that they did not have adequate staff to address systemic needs and provide effective technical assistance.

It is critical that ISBE take strong action to ensure the effectiveness of its technical assistance efforts, especially in light of ISBE's small special education staff and the State's large number of districts and large geographic area and population. To make a significant impact, ISBE should look to a comprehensive approach that links technical assistance to identified systemic needs. It is important that ISBE use all available data (including data from monitoring, State complaints, hearings, and student data such as placement data and performance on Statewide assessments) to identify the public agencies that most need technical assistance and the specific assistance they need, so that ISBE can best target its resources to leverage improved results. Given the varied needs and limited resources, we recommend that ISBE coordinate all technical assistance efforts with each other, and with the State's Improvement Plan and State Improvement Grant activities. It will also be helpful for ISBE to evaluate, over time, the effectiveness of the technical assistance it provides to the districts. Further, ISBE should determine the staff and other resources that it needs to make these technical assistance efforts work effectively, and secure those resources.

## **IV. 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. Children with disabilities are educated, to the maximum extent appropriate, with children who do not have disabilities and, unless their IEPs require some other arrangement, in the school they would attend if they did not have a disability. Any removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

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

### **Areas of Noncompliance**

#### **1. ISBE has not ensured that all public agencies meet the least restrictive environment requirements of Part B.**

34 CFR §300.550(b)(2) requires that special classes, separate schooling or other 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 aides and services, cannot be achieved satisfactorily. A group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options, must determine the educational placement for each child with a disability (34 CFR §300.552(a)(1)). The placement for each child with a disability must be determined at least annually and be based on the child’s IEP (§300.552(b)(1) and (2)).

34 CFR §300.551 requires that: (a) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special

education and related services; and (b) The continuum must (1) Include the alternative placements listed in the definition of special education under §300.26 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

34 CFR §300.553 requires that, in providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.306, each public agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

### ***Prior OSEP Findings***

As set forth in OSEP February 26, 1996 Illinois Monitoring Report, OSEP found that ISBE had failed to:

1. ensure that public agencies removed students from the regular education environment only when the nature or severity of the disability was such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily (34 CFR §300.550(b)(2));
2. ensure that a full continuum of alternative placements is available to meet the needs and implement the individualized education plans of children with disabilities (34 CFR §300.551);
3. ensure that the education placement of each child with a disability is determined at least annually as required by 34 CFR §300.552(a)(1) in the then-existing regulations (now §300.552(b)(1)); and
4. ensure that children with disabilities participate with nondisabled children in nonacademic and extracurricular activities to the maximum extent appropriate, as required by 34 CFR §300.553.

### ***Self-Assessment And Placement Data***

As part of the self-assessment, the Steering Committee determined that placement data showed that “compared to national data,” the State was “not doing well” in placing students with disabilities in the least restrictive environment.

As part of its review of the State’s implementation of Part B requirements regarding placement in the least restrictive environment, OSEP reviewed the State’s placement data, comparing these data across time and to the national average. As indicated in the table below and the table in Section III of this report, there has been some improvement in the State’s placement data over the past several years, but Illinois continues to serve a significantly higher percentage of its children with disabilities in more restrictive placements (e.g., separate classrooms, separate

schools (public), private day schools, and public and private residential settings than the national average.

Five-year trend data for students educated in separate settings show little change since 1995. Of particular concern is the high percentage of children with mental retardation and emotional disturbance placed in these separate settings.

<b>5 YEAR TREND IN PLACEMENT SETTINGS TIME OUT OF REGULAR CLASS FOR 60% OR MORE OF THE DAY (AGES 6-21)</b>						
	<b>Illinois 95-96</b>	<b>Illinois 96-97</b>	<b>Illinois 97-98</b>	<b>Illinois 98-99</b>	<b>Illinois 99-00</b>	<b>National Average 99-00</b>
<b>ALL DISABILITIES</b>	<b>29%</b>	<b>29%</b>	<b>29%</b>	<b>28%</b>	<b>28%</b>	<b>20%</b>
<b>MENTAL RETARDATION</b>	<b>75%</b>	<b>70%</b>	<b>72%</b>	<b>72%</b>	<b>73%</b>	<b>51%</b>
<b>EMOTIONAL DISTURBANCE</b>	<b>44%</b>	<b>37%</b>	<b>38%</b>	<b>38%</b>	<b>38%</b>	<b>33%</b>

Although the State is taking aggressive action under the consent decree in the *Corey H.* litigation and has improved compliance with the requirements for placement in the least restrictive environment, status reports from ISBE, Chicago Public Schools, and the court monitor show that significant noncompliance with these requirements continues.

#### ***OSEP's 2002 Findings Regarding Placement In The Least Restrictive Environment***

In light of the concerning placement data summarized above and past noncompliance, OSEP collected data as part of the April 2002 on-site review to determine whether the school districts were in compliance with Part B's requirements regarding placement in the least restrictive environment. As detailed below, OSEP found significant systemic noncompliance in two of the public agencies that it visited as part of its April 2002 review.

In its February 26, 1996 monitoring report, OSEP found that the placement data for one district showed that 100% of students identified as trainable mentally handicapped or severely mentally handicapped were placed in segregated classes and/or separate schools, and that such separate settings were the only placement options available or considered in making placement decisions for these children. OSEP visited this district again in April 2002. The December 2000 child count data for the district show that this pattern continues -- all but three of the 748 children identified as mentally retarded were placed in separate classes or schools. Several district staff that participated in IEP meetings and placement decisions confirmed to OSEP that self-contained special education classes and separate schools remain the only placement options for children with mental retardation. Similarly, the December 2000 child count data show that 100% of children identified as behaviorally disordered are placed in self-contained special education classrooms or separate schools. Staff informed OSEP that IEP teams do not consider regular education placement with supplementary aids and services as a placement option in determining the placement for children identified as behaviorally disordered. Staff explained that the schools do not have the staff to support children with mental retardation or behavioral disorders in regular classrooms.

In another district, many children identified as behaviorally disabled are placed in a separate special education classroom that is housed in the basement of a regular education school. One Director informed OSEP that the school principal had determined that children in this program may not participate with nondisabled children in the school in nonacademic and extracurricular activities and services, and that, therefore, the IEP team did not make, or document in the IEP, individualized decisions as to the extent to which these children may have such participation. Thus, as for children in this program, the public agency was not complying with the requirements of 34 CFR §300.553. Special education teachers also informed OSEP that because supplementary aids and services, including special education support in the regular education classroom, were not currently available to support their success in regular classes, children with disabilities were removed from the regular education environment to a special education classroom unless they could function in the regular education classroom without such supports. Two special education teachers reported that unless children with disabilities are functioning within one year of nondisabled children they were removed to a special education classroom.

**2. ISBE has not ensured that children with behavioral or emotional disabilities are receiving all of the services that they need as part of a free appropriate public education, including psychological counseling services.**

The Part B regulations require that, “In the case of a child whose behavior impedes his or her learning or that of others, [the IEP team] consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.” 34 CFR §300.346(a)(2)(i). Section 300.346(c) further specifies that, “If, in considering the special factors described in paragraphs (a)(1) and (2) of this section, the IEP team determines that a child needs a particular device or service (including an intervention, accommodation, or other program modification) in order for the child to receive FAPE, the IEP team must include a statement to that effect in the child’s IEP.”

Section 300.347(a)(3) specifies that the IEP for each child with a disability must include: “A statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

- i. To advance appropriately toward attaining the annual goals;
- ii. To be involved and progress in the general curriculum in accordance with paragraph (a)(1) of this section and to participate in extracurricular and other nonacademic activities; and
- iii. To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section...”

Each public agency must provide every child with a disability with the related services (including, among others, counseling services, psychological counseling services, and social work services in schools) that the child needs to benefit from special education. (34 CFR §§300.24 and 300.300.)

A public agency may meet a child's need for counseling as a related service through services provided by a school counselor or social worker, *if* those services meet the unique needs of the child as determined by the IEP team. However, if a child needs psychological counseling services pursuant to 34 CFR §300.24(b)(9)(v) in order to benefit from special education, the IEP team must include those services in the child's IEP and the public agency must provide them as part of a free appropriate public education.

Staff in two districts informed OSEP that children with emotional and behavioral needs may receive counseling services from social workers and school counselors. However, IEP teams do not include psychological counseling services in students' IEPs, even if a child needs such services in order to receive a free appropriate public education. Of those students needing psychological counseling, most are receiving private services or services through mental health agencies, with parents paying on a sliding scale or through Medicaid.

In one of these two districts, two special education teachers for children with emotional disturbance reported that none of their students were receiving psychological counseling services and that they had not been involved in any IEP meetings where it was even considered. In this same district, six parents reported that their children receive psychological counseling outside of school because of their intensive needs. These parents were paying co-insurance fees and reportedly were not aware that the school district could be responsible for providing such services as part of a free appropriate public education.

In the other district, several staff reported that IEP teams will not consider whether to include psychological counseling as a related service in a student's IEP and that the district does not provide this service, regardless of individual student need. They reported that the school helps link the parents to community counseling, but does not provide or pay for the counseling, regardless of student need. A building administrator in this same district reported that if a student needed psychological counseling they would refer the student to community counseling and that it is up to the parents to pursue that counseling.

## V. 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% for youth in the general population.<sup>11</sup> The study identifies several factors that were associated with post-school success in obtaining employment and earning higher wages for youth with disabilities. These factors include completing high school, spending more time in regular education, and taking vocational education in secondary school. The study also shows that post-school success is associated with youth who had a transition plan in high school that specified an outcome, such as employment, as a goal. The secondary transition requirements of IDEA focus on the active involvement of students in transition planning, consideration of students' preferences and interests by the IEP team, and the reflection, in the IEP, of a coordinated set of activities within an outcome-oriented process which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living or community participation. Through parent and student involvement, along with the involvement of all agencies that can provide transition services, student needs can be appropriately identified and services provided that can best meet those needs.

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

### ***Prior OSEP Findings***

As set forth in OSEP's 1996 monitoring report, OSEP found in 1995 that ISBE was not ensuring that the IEP for each student with a disability aged 16 or older (or younger if determined appropriate) included a statement of needed transition services that met Part B requirements.

### ***Self-Assessment And Public Input***

The Steering Committee did not make any findings regarding the State's implementation of Part B's requirements regarding secondary transition. Rather, the Steering Committee indicated that there were insufficient data and ability to analyze data to reach conclusions.

Parents attending the public input meetings reported that: (1) students are not involved in transition activities, (2) transition services are not always included in IEPs, (3) transition coordinators do not understand their roles, and (4) other agencies are not involved in transition activities.

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<sup>11</sup> Blackorby, J. and Wagner, M. (1996). Longitudinal Postschool Outcomes of Youth with Disabilities: Findings from the National Longitudinal Transition Study. *Exceptional Children*.

### **A. OSEP'S 2002 Data Collection regarding Secondary Transition**

OSEP did not, during the April 2002 visit, make any findings of noncompliance with Part B's requirements for secondary transition. Interviews and record reviews in the six districts showed that the school districts OSEP visited were: (1) inviting transition-aged students with disabilities and other agencies to IEP meetings; (2) including a statement of transition service needs in the IEPs for students aged 14 or older; and (3) including a statement of needed transition services in the IEPs for students aged 16 or older.

Based on OSEP's 1995 finding and the public input, OSEP collected data in six school districts regarding secondary transition. In each of those districts, OSEP collected data in a senior high school; in three of those districts, OSEP also visited a middle school. In two of the districts, OSEP collected data in coordination with the United States Department of Education's Rehabilitation Services Administration, which conducted a review of the State's implementation of the requirements of the Rehabilitation Act regarding transition at the same time as OSEP's April 2002 visit. OSEP also collected data from ISBE staff and the Rehabilitation Services Administration collected data from the Illinois Office of Rehabilitation Services. On the final day of the visit, OSEP and the Rehabilitation Services Administration conducted a joint meeting with ISBE and Illinois Office of Rehabilitation Services administrators to discuss the State's transition initiatives.

ISBE monitors secondary transition through a comprehensive review process, using file reviews and interviews to ensure compliance. ISBE staff report that very few transition findings of non-compliance have been made in recent years, as most districts have been meeting the "letter of the law." If noncompliance is found, the district must address it in a corrective action plan and provide ISBE with documented evidence that correction has taken place.

ISBE and Office of Rehabilitation Services acknowledged that the State-level interagency transition agreement has not been updated since 1997, and reported that they will be working to revise the agreement to better address the needs of transitioning youth with disabilities. They indicated that they would complete a draft of the revised agreement by October 2002.

A Transition Systems Change Project is now in its fifth year of operation, providing extensive training to staff and parents in seven districts and developing needs assessments, business partnerships, and interagency agreements. The State has received additional funding to continue the Project beyond the fifth year, and the Project will provide focused technical assistance and training in twenty additional sites and develop multi-media training materials for dissemination statewide.

### **Suggestions for Improved Results**

The State's improvement plan indicates that the State does not currently have data regarding post-school outcomes for young adults with disabilities, and that the State will begin to collect such data. Further, the improvement plan does not currently include any goals or strategies to improve post-school outcomes for young adults with disabilities. It will be important for the State to continue to collect and analyze data to assist in ensuring improved post-school

outcomes. It will also be important that, as the State works to revise the interagency agreement, it focuses on improved post-school outcomes.

During the OSEP visit, ISBE staff indicated that the Transition Systems Change Project Systems has been very effective in improving practices and performance in the districts that have participated directly in the Project, but that it has not yet had much impact on most other districts in the State. It will be important that the State implement effective strategies to impact other districts. This may include showcasing districts that have effectively implemented promising practices in secondary transition.