



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

January 8, 1998

Honorable Robert E. Bartman
Commissioner of Education
Department of Elementary and Secondary Education
PO Box 480
Jefferson City, Missouri 65102-0480

Dear Commissioner Bartman:

During the week of April 28, 1997, the Office of Special Education Programs (OSEP), United States Department of Education, conducted an on-site review of the Missouri Department of Elementary and Secondary Education's (DESE) implementation of the Individuals with Disabilities Education Act (IDEA) and the Education Department of Education Act (EDGAR). The purpose of the review was to determine whether DESE is meeting its responsibility to ensure that its educational programs for children with disabilities are administered in a manner consistent with the requirements of IDEA, and more specifically with the provisions of Part B (Assistance to States and Preschool Grants for Children with Disabilities) and Part H (Early Intervention Programs for Infants and Toddlers with Disabilities). Enclosure A to this letter describes OSEP's monitoring methodology and corrective action procedures; Enclosure B lists several commendable initiatives; our findings and corrective actions are in Enclosure C for Part B and Enclosure D for Part H. (Under the 1997 Amendments, Part C of the IDEA will replace the current Part H requirements, effective July 1, 1998.)

Because OSEP conducted the on-site review prior to the June 4, 1997 enactment of the Individuals with Disabilities Education Act Amendments of 1997, OSEP's compliance determinations and the findings in this report are based upon the requirements of Part B and Part H as in effect prior to the enactment of those Amendments. OSEP will work with DESE to ensure that all corrective actions, in addition to correcting all deficiencies, are consistent with the requirements of Part B and Part H of the IDEA as in effect at the time that the corrective actions are implemented.

DESE implemented a number of corrective actions to address the findings in OSEP's September 1993 monitoring report. Such actions included revisions to its procedures for review and approval of local educational agency applications for Part B funds. In order to address findings regarding the timeliness of due process hearing decisions, in 1996 DESE revised its hearing procedures, converting to a one-tier system in which DESE is responsible for conducting all hearings. DESE also revised its procedures for placement in the State Schools for the Severely Handicapped, which helped to correct deficiencies regarding placement in the least restrictive environment, and resulted in a significant reduction of the number of students served in these separate schools rather than their home school districts. In addition, DESE's revised monitoring system resulted in improved identification of deficiencies.

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

As addressed in Enclosure B, we also found that DESE has taken a number of noteworthy initiatives to improve educational services to students with disabilities. Among these initiatives are DESE's quarterly newsletter to teachers and administrators and its nationally recognized Parents as Teachers program, which provides direct parent-to-parent training in early childhood development.

OSEP's monitoring places a strong emphasis on those requirements most closely associated with positive results for students with disabilities. Our monitoring revealed that DESE did not always ensure that students with disabilities are provided: education in the least restrictive environment; free appropriate public education, including related services needed by the child to benefit from special education, without delay or cost to the parent; prior written notice to parents which meets Part B and Part H content requirements; transition services from school to post-school activities; and smooth transition from Part H to Part B services. In addition, further revisions are needed to DESE's monitoring system to ensure that deficiencies identified by DESE are corrected.

In an exit conference at the end of the visit, Carolyn Smith, Larry Ringer, Helen Eano, Jacquelyn Twining-Martin, and Alma McPherson discussed the team's preliminary findings with DESE and a group of concerned stakeholders. The group included parents, advocates, members of the State Special Education Advisory Board, persons involved in providing services to infants and toddlers, and representation from the Mountain Plains Regional Resource Center, as well as John Heskett, Melodie Friedebach, Paula Goff and other DESE special education staff. At that time, DESE was invited to provide any additional information that it wanted OSEP to consider in developing the monitoring report. DESE subsequently submitted additional information which OSEP considered in the development of this Report.

The findings in the Report are final, unless -- within 15 days from the date on which DESE receives this Report -- DESE concludes that evidence of noncompliance is significantly inaccurate and that one or more findings is incorrect, and requests reconsideration of such finding(s). Any request for reconsideration must specify the finding(s) for which DESE requests reconsideration, and the factual and/or legal basis or bases for the request. It must also include documentation to support the request. OSEP will review any DESE request for reconsideration and, if appropriate, issue a letter of response informing DESE of any revision to the findings. Requests for reconsideration of a finding will not delay Corrective Action Plan development and implementation timelines for findings not part of the reconsideration request.

I thank you for the assistance and cooperation that John Heskett, Melodie Friedebach, Paula Goff, and their staff provided during our review. Throughout the course of the monitoring process, they were very responsive in providing information that enabled OSEP staff to acquire an understanding of DESE's various systems aimed at implementing Part B and Part H of IDEA.

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

Section 631 of the recently reauthorized IDEA Amendments of 1997, Pub.L. 105-17, recognized the importance of early intervention services for infants and toddlers with disabilities and reaffirmed our belief that such services are in the best interests of these children, their families, schools, and society in general. We thank you for your continuing efforts to improve early intervention services and results for the youngest of children with disabilities in Missouri.

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Prior to the enactment of the Individuals with Disabilities Education Act (IDEA) and its predecessor, the Education of All Handicapped Children Act, one million children with disabilities were excluded from school altogether, and another 3.5 million were not receiving appropriate programs within the public schools. The enactment of the IDEA, and the joint actions of schools, school districts, State educational agencies and the Department, have now made it possible for more than 5.4 million children with disabilities to participate in our country's public educational programs. Thank you for your continuing efforts to improve educational services and results for children and youth with disabilities in the state of Missouri.

Sincerely,

Thomas Hehir
Director
Office of Special Education
Programs

Enclosures

cc: Dr. John Heskett
Ms. Melodie Friedebach
Ms. Paula Goff

ENCLOSURE A

OSEP's Monitoring Methodology

Pre-site Document Review

As in all States, OSEP used a multifaceted process to review compliance in DESE. In addition to on-site visits, this process included: review and approval of DESE's Part B State plan and Part H application, State statutes and regulations, policies and procedures, interagency agreements, and other materials that must comply with the requirements of Part H and Part B, relating to such areas as complaint management, due process hearings, and the State's monitoring system. OSEP also reviewed placement data for school-aged students submitted by DESE's public agencies.

Involvement of Parents and Advocates

On December 2, 3, and 4, 1996, OSEP held public meetings in the Kansas City, Springfield, and St. Louis areas, respectively. OSEP also held outreach meetings with a parent group in the St. Louis area, and with the Missouri State Special Education Advisory Board in Jefferson City. As a part of OSEP's onsite review, a parent focus group meeting was held with parents of preschool children served in the St. Louis City School District. The purpose of the public meetings, outreach meetings, and parent focus group was to solicit comments from parents, advocacy groups, administrators and other interested citizens regarding their perceptions of DESE's compliance with Part B and Part H of IDEA. During the on-site visit, OSEP interviewed parents of children receiving Part H services in Rolla, Saint Louis, and Columbia to hear parents' impressions of early intervention services provided to their children.

Selection of Monitoring Issues and Schools to Visit

OSEP has identified core requirements that are most closely related to learner results, and focuses its compliance review on those core requirements (e.g., transition from school to work and other post-school activities, placement in the least restrictive environment, parents' participation in decision making, etc.). Similarly, OSEP has identified core components which help to focus its review of programs and services under Part H of IDEA (e.g., transition from Part H to Part B and other services, family participation, development and implementation of individualized family service plans (IFSPs), provision of services in natural environments, etc.). OSEP also focuses its review in each state on requirements most germane to that State's structure.

For school-aged students with disabilities, Missouri's service delivery structure includes local school districts, the Missouri School for the Deaf, the Missouri School for the Blind, and the State Schools for the Severely Handicapped with 38 campuses across the State. Missouri also has two special school districts in local school districts, the State schools and in one of the special school districts. By visiting local districts and separate schools served by the Special School District of St. Louis County, OSEP had the opportunity to sample implementation of Part B for the 23 local districts for which that special school district provides the special education program. The Special School District of St. Louis County provides special education services to approximately 25 percent of the children with disabilities in Missouri.

Missouri's coordinated early intervention services and assistance to infants, toddlers and their families are provided through the First Steps program under the umbrellas of DESE and the State Departments of Health, Mental Health, and Social Services. Services are provided in the area of the State in which the child lives by one of 11 Regional Centers for the Division of Mental Retardation or by one of 11 Bureau of Special Health Care Needs area offices. OSEP selected three regional programs and one area bureau and reviewed IFSPs and conducted interviews with parents, administrators, service coordinators, providers, intake coordinators, and local education agency representatives, in addition to reviewing documents and interviewing staff in DESE offices.

The information that OSEP obtained from its public meetings, outreach meetings, and parent focus group, interviews with State officials, and review of State and local documentation, assisted OSEP in identifying the issues faced by consumers and others interested in special education in Missouri and selecting monitoring issues to be emphasized while on-site.

Onsite Data Collection and Findings

The OSEP team consisted of: Carolyn Smith, the team leader, Ken Kienas, Maral Taylor, Larry Wexler, Helen Eano, and Larry Ringer who conducted a review of Part B programs, and Jacquelyn Twining-Martin and Alma McPherson who reviewed Part H programs. OSEP reviewed five local school districts, one special school district, two of the local districts served by the special school district, two campuses of the State Schools for the Severely Handicapped, and three regional centers and one area office providing services for infants and toddlers. The OSEP team reviewed programs in five high schools, three middle schools, three elementary schools, including one preschool program, two separate schools, two State operated facilities, and four programs for infants and toddlers. Included in this review were interviews with special education, regular education, and vocational education teachers, preschool and early intervention providers, related services personnel, regional service coordinators, administrators, and parents. OSEP also reviewed records of students, and a limited number of IFSPs of infants and toddlers receiving Part H services.

In order to reinforce that the findings in Enclosures C and D focus on the effectiveness of DESE systems for ensuring compliance rather than compliance in any particular public agency, OSEP has not used the name of any public agency within Enclosure C or D. Instead, OSEP has identified public agencies only with designations such as "Agency A." The agencies that OSEP visited or reviewed and the designation that OSEP has used in Enclosure C and in Enclosure D to identify each of those agencies are set forth below:

AGENCIES	DESIGNATION
St. Louis County Special School District	Agency A
Springfield School District	Agency B
Neosho School District	Agency C
State Schools for the Severely Handicapped	Agency D
Blue Spring School District	Agency E
Kansas City School District	Agency F
St. Louis City School District	Agency G
Region VIII: Rolla Regional Center	H1
Region XI: St. Louis City Regional Center North	H2
Region IX: St. Louis City Regional Center South	H3
Columbia Area Office Bureau of Special Needs Health Care	I

Unless otherwise indicated, all regulatory references in Enclosure C are to 34 CFR Part 300, and in Enclosure D to 34 CFR Part 303.

Corrective Action Procedures

In order to support the development of a mutually agreeable corrective action plan that will correct the findings in Enclosure C and Enclosure D, and improve results for children with disabilities, OSEP proposes that DESE representatives discuss with OSEP staff, in a meeting or telephone conference, the findings and the most effective methods for ensuring compliance and improving programs for children with disabilities in DESE, and to agree upon specific corrective actions. We also invite a representative from DESE's Special Education Advisory Panel and the Interagency Coordinating Council for Early Childhood Intervention to participate in that discussion. DESE's corrective action plan must be developed within 45 days of receipt of this letter. Should we fail to reach agreement within this 45 day period, OSEP will be obliged to develop the corrective action plan.

Page 7 of this Report outlines the general corrective actions that DESE must take to begin immediate correction of the findings in the Enclosures, as well as guidelines for the more specific actions that DESE must take to ensure correction of each of the specific findings in Enclosures C and D.

ENCLOSURE B - COMMENDABLE INITIATIVES

- 1. Missouri Innovations in Special Education** is published quarterly as a resource for teachers and school administrators who serve students with disabilities. It has a current circulation of 14,600 and has provided information on: End-Of-The-Year-Reminders: A refresher on IEP documentation; Show-Me Standards: The role of Special Educators and Performance Standards; Special Education Funding; as well as Department of Education News.
- 2. Special Education: Professional Development Opportunities in Missouri** is a quarterly publication of statewide and national personnel training opportunities for general as well as special educators. It is sponsored by the Center for Innovations in Special Education, DESE's Division of Special Education, DESE's Division of Urban and Teacher Education, and the University of Columbia at Columbia.
- 3. Show Me How: Technical Assistance Bulletin** is issued monthly to early childhood special education employees and provides information to clarify issues related to Part H early intervention services. This document is available to service providers, parents, and others who might be interested.
- 4. Sharing Effective Practices** is a compilation of preschool practices reported by local education agencies to be effective models for service delivery to infants, toddlers, and preschool-aged children. This compilation is a mechanism for sharing information and to promote networking among LEA staff and other service providers. The document is organized in three parts: general statewide demographic information related to preschool children; information on effective practices addressing areas such as parental involvement, childfind, staff development, transition, collaboration, service delivery models, and efforts toward inclusion; and a contact list of directors of special education programs and early childhood special education teachers and their phone numbers.
- 5. Parents as Teachers Program:** Missouri has effectively integrated its Parents as Teachers Program under the Department of Education into the First Steps Program to enhance its statewide child find, referral, screening and public awareness efforts. Nationally recognized as a model of parent education and training, this initiative provides a critical linkage service on a child's IFSP, direct parent to parent training in early childhood development, and information on community resources, strengthening the family's ability to meet its needs relative to enhancing the child's development.
- 6. Missouri's Self-Study of the First Steps Program:** Under the auspices of the Missouri Department of Elementary and Secondary Education (DESE), the State Self-Study Team and Dr. Lucille Salerno at the University of Missouri-Columbia collaborated to enhance and distribute the OSEP Self-Study Survey for Infants and Toddlers Programs under the IDEA. The self-study is not required by OSEP, rather it is voluntary on the State's part. Mailings to families and various professional groups went out at the end of January 1997 with preliminary data and report analysis in draft form by April, 1997. Missouri families' overall satisfaction with First Steps and participation in early intervention services was confirmed by both their positive responses and significantly high rate (710 out of total of 1147 for the 3 populations received to date) of survey return. The self-study serves as a cornerstone for the Missouri State Interagency Coordinating Council's proposal to develop a strategic action plan to: (1) achieve future State funding support through increased community and legislative awareness; (2) specify outcomes for consumers, providers, and State agencies; and (3) strengthen Local Interagency Coordinating Councils and parent-to-parent networks. Missouri's significant contributions to the Self-Study instrument are noteworthy and will be of benefit to other states as they develop and enhance their own state monitoring systems.

7. **Interagency Cooperation:** Missouri has an outstanding system of interagency collaboration. In interviews with OSEP, parents, direct service providers, service coordinators and local program administrators described successful efforts by First Steps service coordinators from the Department of Mental Health, Division of Mental Retardation and the Department of Health's Bureau of Special Health Care Needs, to pull together community resources in rural and underserved areas. Four Early Intervention Liaisons (EILs) are employed by DESE in Northwest and West Central Missouri, in East Central Missouri, in Southwest Missouri and Southeast Missouri to assist with transition planning issues and to promote interagency collaboration. The EILs' efforts in these critical areas have impacted the day to day implementation of Missouri's multi-agency system under Part H enabling infants and toddlers and their families to receive truly individualized family-centered services.

GENERAL CORRECTIVE ACTIONS

In order to begin immediate correction of deficient practices, DESE must undertake the following general corrective actions:

1. DESE must develop a memorandum informing all public agencies of OSEP's findings and directing them to determine whether they have complied with the requirements of Part H and Part B noted in OSEP's report. The memorandum must further direct these public agencies to discontinue any noncompliant practices and implement procedures that are consistent with Parts H and B. DESE must submit this memorandum to OSEP within 30 days of the date of this letter. Within 15 days of OSEP's approval of the memorandum, DESE must disseminate the memo to all public agencies throughout DESE providing special education and related services to children, infants and toddlers with disabilities.

2. DESE must also disseminate a memorandum to those public agencies in which OSEP found deficient practices, as identified in Enclosures C and D, requiring those agencies to immediately discontinue the deficient practice(s) and submit documentation to DESE that the changes necessary to comply with Part H and Part B requirements have been implemented. This memorandum must be submitted to OSEP for its review and approval within 30 days of the issuance of this letter. Within 15 days of OSEP's approval, DESE must issue the memorandum to those agencies in which OSEP found deficient practices. DESE must send to OSEP verification that all corrective actions have been completed by these agencies within the timelines mutually agreed upon by OSEP and DESE in the process of developing specific corrective actions.

STATUS OF DESE's CORRECTIVE ACTIONS

At the time of OSEP's 1997 visit, DESE had completed the following corrective actions: (1) advised and provided technical assistance to administrators and others regarding the deficiencies identified in the September 1993 monitoring report; (2) revised its procedures for review and approval of local educational agency applications for Part B funds and provided a series of technical assistance activities to administrators relative to these requirements; (3) revised its due process hearing procedures and timelines, converting to a one-tier system in which all due process hearings were conducted by the State, and appropriately trained staff and hearing officers; and (4) revised its monitoring system to increase its effectiveness in identifying non-compliant practices, by including a review of requirements that had been omitted from its existing monitoring standards, emphasizing decisions used to determine the placement of students in the least restrictive environment. Much work was done by DESE regarding the movement of students in the State Schools for the Severely Handicapped to less restrictive environments as appropriate, and at the time of OSEP's 1997 monitoring activity, work continued toward the implementation of a revised monitoring system.

OSEP worked with Missouri on its monitoring system with a primary focus on the least restrictive environment provisions. An onsite visit was conducted with Missouri's special education staff to provide technical assistance on the revised monitoring process one year prior to the April 1997 onsite visit. During OSEP's 1996 technical assistance visit, DESE agreed to utilize these revised procedures during the next year's compliance review in those districts where deficiencies in the provision of services in the least restrictive environment were identified in OSEP's previous monitoring report.

DESE's monitoring system includes review of procedures for child count, eligibility data, complaints, due process/surrogates, and issues found by DESE or OSEP in previous monitoring visits, and now incorporates a school improvement review which evaluates the special education process -- referral/screening, individual evaluation, eligibility, IEPs, provision of services in the least restrictive environment, notice of placement, and procedural safeguards including notice and consent for evaluation. Procedures of the School Improvement Review include administrator and teacher interviews, opportunity for parent interaction, and case record reviews, and reviews might be focussed on one or more of DESE's targeted issues -- transition of 16-year-olds, access to vocational education, related services, three year reevaluations, extended school year services, interstate transfers, or the speech model.

In preparation for the April 1997 onsite visit by OSEP, OSEP identified eight agencies to sample for compliance with Part B. Of these agencies visited by OSEP, only two (Agencies A and E) had been monitored by Missouri under their revised monitoring procedures. DESE had completed its School Improvement Review of Agency E, and found Agency E compliant in all areas investigated. The onsite portion of the school improvement review had been completed for Agency A and a draft report developed. All other agencies had been reviewed using Missouri's previous monitoring procedures and were either found in compliance or had outstanding corrective actions.

OSEP found that DESE's procedures for ensuring correction of deficiencies identified through monitoring have not been effective in ensuring timely correction of all identified deficiencies, and that the revised monitoring procedures that DESE implemented in Agencies A and E were not fully effective in identifying deficiencies.

OSEP FINDINGS	OUTCOMES AND RESULTS REQUIRED
<p>I. FREE APPROPRIATE PUBLIC EDUCATION (§§300.300, 300.16, 300.8, and 300.308)</p> <p>BACKGROUND - DESE's document <u>Special Education School Improvement Review Standards</u> describes the procedures for a review of each public agency's compliance with Part B. DESE's sole monitoring method with respect to Part B requirements for the provision of free appropriate public education is to review students' current IEPs and verify that they are receiving all services as specified on the IEP by reviewing each student's daily/weekly schedule maintained by service providers. OSEP's review of the most recent monitoring report issued by DESE to each of the agencies visited indicated that: in January 1993, DESE monitored and made no findings in Agency C, DESE monitored Agency B but had not closed the corrective action plan at the time of OSEP's visit, and had just completed a compliance review in Agency A the week prior to OSEP's visit.</p> <p>FINDING 1: Special Education and Related Services</p> <p>DESE has not ensured that public agencies provide special education and related services to students with disabilities based on an IEP and at no cost to their parents. Some students in Agencies A, B, and C do not receive all special education and related services that are required to meet their unique needs. OSEP determined that certain related services such as psychological counseling and assistive technology are not written into the student's IEP, and/or not provided at no cost to parents. Further, medical services for diagnosis or evaluation of visual impairments are not always provided without cost to the parent.</p> <p>(a) Psychological Counseling as a Related Service</p> <p>Administrators and a teacher in Agency A stated to OSEP that psychological counseling to assist the student to benefit from special education was not provided by the agency, or included on the IEP, even if a student needed such services in order to benefit from special education. They further explained that if the IEP committee determined that a student needed this service, the school social worker would try to help the parents identify a resource in the community where they could access this service.</p> <p>Administrators, a teacher, and a related service provider in Agency B stated that students were not being provided with psychological counseling services as a component of a free appropriate public education. They explained that when the IEP team determined that a child was in need of psychological counseling services, they did not provide it, or include it on the IEP, but instead referred the parent to an outside agency to obtain the services. Agency B staff told OSEP that none of the 16 students who were classified as behavior disordered received psychological counseling as a related service, even though they acknowledged that, due to behavioral and emotional problems, these students needed such services to benefit from special education. OSEP reviewed the records of four of these students, none of whose IEPs included psychological counseling services. Agency B staff reported that the district depended upon outside agencies to provide psychological counseling services, but that Agency B did not ensure that students received needed services in an appropriate manner and at no cost to their parents.</p> <p>In Agency C, OSEP reviewed 18 records of students identified as behavior disordered in a day treatment center, and interviewed agency administrators. An agency administrator informed OSEP that psychological counseling services are provided through the regional mental health center and that the district contracts with the mental health agency for this service, however, this service was not included on the student's IEP, and therefore not provided as a component of a free appropriate public education. Only one out of the 18 students had counseling as a related service on his IEP, however, there was no indication of the frequency and duration of the service. The special education director explained to OSEP that this one student received psychological counseling through an IEP only because of a due process hearing.</p>	<p>DESE will demonstrate that students with disabilities receive the kind and amount of related services, including psychological counseling, medical services for evaluation purposes, and assistive technology that the IEP team determines are needed to assist the student to benefit from special education.</p>

(b) Assistive Technology and Medical Evaluation as Related Services

OSEP found that the policies and practices of local school districts to whose children Agency A provides special education services resulted in certain related services, as well as assistive technology devices, being provided at cost to the parents. Two agency administrators in Agency A informed OSEP that while the agency conducts vision screenings, if a child requires a medical vision evaluation in order to determine the child's educational needs, the parent is responsible for obtaining such evaluation. OSEP was provided with a copy of the cooperative agreement between Agency A and a neighboring university to provide for vision evaluation. The agreement verified that parents would be charged a sliding fee based upon income.

School-based administrators and teachers stated that assistive technology services and devices were considered by the IEP team, but it was with the understanding that the devices would not be provided unless they could be borrowed, supplied by another agency, or provided by the parent, and that moneys were not available through Agency A to pay for these devices. OSEP spoke with Agency A administrators and was provided a document delineating Agency A's procedures for procurement of augmentative communication devices. The document states that once it is determined that a child needs an augmentative communication device, it is best practice for the family to own it. The document lists possible funding options, none of which include any procedure by which Agency A will ensure that needed devices are provided without cost to the parent.

DESE must demonstrate that its procedures ensure that all students who require special education and related services for the provision of a free appropriate public education receive those services at public expense, and under the supervision and direction of the public agency responsible for providing the services.

FINDING 2: Access to program options

Agency G is a large, predominantly African-American, urban school district, and Agency A is the adjoining predominantly European American, county-wide special school district. These two districts are subject to a Federal District Court desegregation order. As part of the court order, the only regular vocational education programs available to students in the two districts are shared vocational programs. At the time of OSEP's visit, Agency A had responsibility for regular vocational programming for students in grades 10-12 in Agencies A and G. A newly created vocational school district provided regular vocational programs for students in grade nine in Agencies A and G. Separate vocational programs provided exclusively for special education students were operated separately by Agencies A and G for their respective students. Determinations for students' access to these programs were not made at the individual school level, or by the IEP team, and no mechanism existed by which IEP teams could provide or ensure appropriate evaluation of students for these programs or the provision of needed supplementary aids and services to students for instruction in these programs.

Administrators and teachers in Agencies A and G reported that the program option of regular vocational education is not available to some special education students who could be appropriately served in regular vocational programs. OSEP was informed by agency and school based administrators and teachers in Agencies A and G that there were entrance requirements for regular vocational courses that any student must pass to be admitted, and that special education students were subject to the same entrance requirements, without accommodations, as non-disabled students, and, further, that the IEP committee was not allowed to include accommodations or modifications which might be necessary for the students to be successful. Therefore, special education students who could, with appropriate accommodations, gain entry to the classes, and successfully complete the programs, did not have this option available to them.

OSEP reviewed the July 18, 1991 Federal District Court order mandating the provision by Agency A of vocational education to students in Agencies A and G, and the 1990 Agency A Vocational Education Implementation Plan. The Implementation Plan included very specific practices for selection and assignment of students to vocational programs which did not include provisions for IEP team involvement in placement decisions and appropriate evaluation of students with disabilities for vocational programs, or the provision of needed supplementary aids and services to enable students with disabilities to access and progress in regular vocational programs. However, the Plan included the general statement that handicapped students are to be mainstreamed with regular students at vocational schools in accordance with applicable law. Therefore, it appears that the Plan recognized that under Federal and/or State law students with disabilities must have an opportunity to access regular vocational programs.

DESE will demonstrate that students with disabilities: (1) have available to them the variety of educational programs and services made available to non-disabled students, including vocational education; (2) have vocational education services provided which are based on deliberations by the team developing the student's IEP; and (3) are provided supplementary aids and services when necessary to enable the student to participate in regular vocational education programs.

FINDING 3: Preplacement evaluation

OSEP found that DESE has not ensured that public agencies complete an initial evaluation that meets State timelines, resulting in a delay of the provision of a free appropriate public education for those children who are eligible for services. DESE's director provided OSEP with information regarding the State standard for initial evaluations. Each agency must complete an evaluation plan 30 days from the date of referral, the evaluation must be completed 45 days after the completion of the evaluation plan, and an IEP must be developed 30 days after the evaluation is completed. Thus, a total of no more than 105 days from referral to the initial IEP is necessary to meet DESE's State standard.

(a) Agency A regional administrators stated that because of the large number of referrals received, and the fact that evaluation staff no longer worked in the summer, initial to 1 evaluations were delayed. Administrators explained that the district used the money saved in the summer to utilize more evaluators during the school year, thus limiting delays to no more than one month. Agency A did not provide OSEP with specific data regarding evaluation timelines to confirm the interview data.

(b) An Agency G central office administrator stated that initial evaluations were delayed because of a shortage of evaluation personnel. Agency G provided OSEP with data regarding timelines for meeting DESE's state standard, as described above, from January through December, 1996. The data indicated that out of 1,458 children evaluated for special education, 1013 of those evaluations, or 69% of the initial referrals for special education evaluations, did not meet DESE's 105 day timeline. An analysis of the cases which went over the 105 day timeline are as follows:

<u>Days Beyond 105 Day Timeline</u>	<u>Number of Cases</u>
1 to 90 days	684
91 to 180 days	247
181 to 270 days	69
over 9 months	13
	1013

DESE must demonstrate that its procedures ensure that students suspected of having disabilities have a full and individual evaluation completed within the State timeline.

II. PROVISION OF SERVICES IN THE LEAST RESTRICTIVE ENVIRONMENT, §§300.550(b)(2), 300.552(a)(1), 300.553, and 300.505(a)

BACKGROUND - In its 1993 Report, OSEP made findings with regard to placement in the least restrictive environment in the following areas: (1) integration opportunities were not available for students with disabilities in self-contained classes, including public and private institutions; (2) IEPs did not serve as the basis for placement decisions; and (3) students did not have opportunities for participation with nondisabled peers in nonacademic and extracurricular services and activities. DESE developed materials and provided training to address these deficiencies, as well as revised its monitoring procedures. DESE was to verify that it had determined that public agencies corrected deficient practices. However, at the time of OSEP's 1997 on-site visit, DESE had not completed the verification process required by OSEP's 1993 monitoring report. In March 1996, OSEP provided technical assistance to DESE for the revision of its monitoring system by "shadow monitoring" DESE's existing monitoring procedures.

OSEP reviewed DESE's most recent monitoring reports for agencies A and E, and the corrective actions required in agencies B, C, D, F, and G. DESE had monitored Agencies C, D, F, and G prior to the revision of their monitoring procedures in 1996 and identified areas of noncompliance regarding the requirements for the provision of services in the least restrictive environment in these agencies. By OSEP's 1997 visit, the corrective actions for Agencies C and D had been closed; in Agencies B and G the corrective actions were still pending. In addition, DESE monitored Agencies A and E, utilizing the 1996 revisions to the monitoring system developed by DESE with OSEP's technical assistance. There was no action required for Agency E, and the corrective action plans for Agency A had not yet been developed at the time of OSEP's visit.

In order to meet the least restrictive environment requirements of §300.550, a public agency must, at least annually, make a placement decision for each child with a disability that is based upon that child's IEP. In making that decision, the public agency must, prior to making any decision to remove the child from the regular education environment, determine whether the child's education can be achieved satisfactorily in the regular education environment with the provision of supplementary aids and services. In determining whether a child with disabilities can be educated in a regular education classroom or activity with supplementary aids and services, several factors must be considered, including: (1) whether reasonable efforts have been made to accommodate the child in the regular classroom or other regular education environment; (2) the educational benefits available to the child in the regular education environment, with appropriate supplementary aids and services, as compared to the benefits provided in a special education class or other separate environment; and (3) the possible negative effect of the inclusion of a child on the education of the other students in the class. If, after considering these factors, the IEP team determines that, even with the use of supplementary aids and services, some removal from the regular education environment is necessary, the IEP team must then determine those portions of the day (both academic and nonacademic) in which the child's education can be achieved satisfactorily in regular education with the use of supplementary aids and services.

OSEP reviewed DESE's monitoring procedures and placement data provided by the public agencies visited by OSEP, as well as student records, and interviewed administrators, teachers and other school based IEP team members regarding the placement practices throughout the public agencies and specific schools. Based upon this information, OSEP determined that:

- Education within the regular education environment with supplementary aids and services is not being considered for each student as a placement option prior to the student's removal from the regular education environment;
- The educational placements of students in restrictive settings are not always reviewed annually;
- Opportunities for participation with nondisabled students for nonacademic and extracurricular activities are not being determined or provided based upon the unique needs of the student; and
- Prior written notice that meets the content requirements of §300.505(a)(2) is not always provided when there is a change in the educational placement or in the manner in which services will be provided.

FINDING 1: Removal from the Regular Education Environment

DESE did not always ensure that the removal of a student with a disability from the regular education environment occurs only when the nature or severity of the disability is such that education in the regular environment with the use of supplementary aids and services cannot be achieved satisfactorily.

OSEP found that in four of the agencies visited (A, D, F, and G), education within a full time regular education environment with supplementary aids and services is not considered as a placement option for all students with disabilities.

Students who had been diagnosed with significant disabling conditions involving physical or emotional impairments or mental retardation were not considered for regular class placement with the use of supplementary aids and services by IEP teams in Agencies A, D, and G, because of space limitations, concerns about safety, and lack of knowledge about agency policy on the part of IEP team participants.

Administrators in Agency A stated that students with physical impairments and severe behavioral problems are not considered for placement in regular education, even for part of the school day, because local districts served by Agency A will not accept these children into their buildings because of lack of space, and fear that the children will be harmed or will harm other children. Agency A administrators also stated that students currently receiving a special pre-vocational program in a segregated special education building could receive the program in regular schools in local districts if space were made available.

Administrators in Agency D, a State program in which all of the students have been diagnosed with severe disabilities, also informed OSEP that children in their programs were not considered for placement in regular education with supplementary aids and services because the local districts in which the students resided were often reluctant to attempt programming for these students, and did not regularly attend the annual IEP meetings. Without their attendance, children could not be considered for placement back in their home districts.

IEP team members at a regular education facility in Agency G stated to OSEP that the only placement option they were aware of for lower functioning mildly mentally retarded students and moderately functioning multiply disabled students was in separate schools or the special education job training program, and the only placement for students with moderate to severe mental retardation was at the State School for the Severely Handicapped. Therefore, these IEP members did not consider regular class placement with supplementary aids and services for these students. Agency G administrators explained to OSEP that placement in regular classes as a first option to be considered was the agency policy, and that many Agency G students had been returned to the district from the State Schools for the Severely Handicapped since OSEP's last monitoring. They acknowledged, however, that there were still habits of thinking among building staff that self-contained or separate schools were the appropriate placement options for students with more severe disabilities.

DESE must demonstrate that its procedures ensure that placement in the regular education environment with supplementary aids and services is considered for all children with disabilities, and that removal occurs only when education in regular classes with supplementary aids and services cannot be achieved satisfactorily.

Administrators and teachers in Agencies A, F, and G further explained that placement in regular education with supplementary aids and services is not always considered at IEP meetings for students with less severe disabilities because of : (1) concerns about high school graduation, 2) regular teachers who are unprepared or not provided with sufficient support, or (3) a tradition in the district of placement of special education students in self-contained classes. Administrators and teachers in Agency A informed OSEP that full-time regular education placement with supplementary aids and services was not being considered for high school students because of concerns that they would not have sufficient credits to graduate. Administrators explained to OSEP that high schools in the local districts served by the special school district had the right to determine whether or not they will accept the credits the student earned at the separate school.

Administrators and teachers in agency F informed OSEP that opportunities for placement in regular education were limited by factors other than the student's unique needs. An administrator explained to OSEP that lack of understanding of student's exceptionalities by the regular education teachers was one barrier, and that student placement in regular education was dependent upon how many students a facility will accommodate. Members of IEP teams stated that the provision of supplementary aids and services to enable students to function successfully in regular education was not considered in placement decisions. They further explained that if more teacher's aides were available, more students could be placed in the regular education environment. Special education and regular classroom teachers told OSEP that modifications that were required by those students who were placed for part of the day in regular education were not consistently included on the IEP, or otherwise communicated to the regular education teacher.

Building administrators and teachers in Agency G explained to OSEP that increasing the time a child spent in regular education was a district priority, but students needed to be well-behaved and on grade level to move into regular education. Supports were not made available in the regular classroom to accommodate the child who has behavioral or academic needs beyond those of the nondisabled students in the class.

FINDING 2: Placement determined at least annually

DESE has not ensured that each student's placement is reviewed at least annually, and that any decision regarding the student's placement is based on his or her IEP, as required by §300.552(a).

OSEP learned through interviews with administrators and teachers in Agencies A, D, and F that placement is not considered annually. Building administrators and teachers in separate school programs in Agencies A and D told OSEP that key members of the committee determined, prior to the IEP meeting, whether or not they planned to discuss a change of placement at the meeting. They explained that, for the annual reviews at which they planned to have a discussion on change of placement, the representative of the child's local agency was notified that this discussion would be taking place, and the importance of the representative's attendance was emphasized. In cases where key members of the committee did not anticipate that a discussion about change of placement would occur as part of the annual IEP meeting, the local agency was sent a formal notice that the meeting was scheduled, but was not told that a discussion of change of placement was planned and that attendance at the meeting was important. Building administrators and teachers told OSEP that, as a result of this notification practice, the local agency representatives nearly always attended those meetings at which they had been told in advance that a change in placement would be considered, and that they usually did not attend the meetings for which they had not received this advance information regarding a possible change in placement. Administrators in Agency D further explained that considerations of a change in placement took place at the initial IEP and at triennial reviews, but did not usually take place at annual reviews. In five of 10 student records reviewed by OSEP in Agency D, the representative of the child's local district did not attend the most recent IEP meeting, and therefore placement in the regular education environment was not discussed. In Agency F, teachers who serve on IEP committees reported that placement is not reviewed annually for all children. Unless someone on the IEP committee feels that there is a reason to change the child's placement, the discussion of placement considerations does not take place, and the child remains in the same placement. Agency administrators informed OSEP that the State had advised them that placement should be considered annually, however, the building level IEP members interviewed by OSEP did not indicate that they understood that placement should be reviewed annually for all students, and it was not their practice to do so.

DESE must ensure that public agencies implement procedures to determine students' placement at least annually, based on the student's IEP.

FINDING 3: Participation with Nondisabled Students for Nonacademic and Extracurricular Activities

DESE did not fully ensure that public agencies provide children with disabilities with opportunities for participation with nondisabled children in nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.306, to the maximum extent appropriate to the needs of the child. OSEP learned, through interviews with agency administrators and building level administrators and teachers in Agencies A and C that opportunities for participation with nondisabled students were limited because of separate school placement or inaccurate understanding and implementation of agency policies at the building level.

Agency A administrators and teachers explained to OSEP that opportunities for students to participate in activities with nondisabled students during the school day were limited by the distance of the child's local district from the separate school, and that the extent of such participation was not based upon the unique needs of the student. They explained that some of the local districts are as far as a 25-minute bus ride from the child's separate school placement, therefore a round trip bus trip would use up too much of the school day, so integration opportunities for those children were limited to the beginning or the end of the school day. The administrators reported that local districts generally will not accept separate school students from a different local district for partial day integration, including participation in lunch, recess, or other nonacademic or extracurricular activities. Therefore, the option of providing opportunities for participation with nondisabled students is not based on the child's needs, but rather on the location of the child's home school district.

Agency A administrators further informed OSEP that participation by the student with nondisabled peers in nonacademic and extracurricular activities was not determined by the IEP committee, or included on the student's IEP. Because of this practice, no records were available to OSEP documenting the number of children in separate schools who were participating in nonacademic and extracurricular activities with their nondisabled peers. However, in interviews with IEP team members, and discussion of individual student records at two of the separate schools run by the district, OSEP was able to determine that a very small percentage of the students served in these separate schools were, in fact, afforded the opportunity to participate in nonacademic and extracurricular activities with their nondisabled peers.

Agency C building level administrators and teachers explained to OSEP that students in the self-contained class visited by OSEP were not considered for participation in nonacademic and extracurricular activities with nondisabled children, except for lunch, recess, and transportation with their nondisabled peers. Although the IEP form included a "menu" of nonacademic and extracurricular activities, building level staff explained to OSEP that these activities were not discussed in the IEP meeting. It was up to the individual special education teacher to make the arrangements if this integration was to occur. In four of four records of students in the self contained class which were reviewed, no nonacademic or extracurricular activities except for lunch, recess, and transportation were checked. The teacher confirmed that none of the students had been considered for, or were receiving, any other integration opportunities because of scheduling convenience and general school practice. The special education director explained that it was district policy to include children in nonacademic and extracurricular activities, and that this integration should be considered as part of the IEP process, and that the "menu" of nonacademic and extracurricular activities was included on the IEP form to stimulate the thinking of IEP team members. However, the building level teachers and administrators interviewed did not demonstrate, either in their interviews with OSEP or in their implementation practices, an awareness of the policy described by the special education director.

DESE must demonstrate that its procedures ensure that students with disabilities, especially students served in separate school programs or self-contained classes, have opportunities to participate in nonacademic and extracurricular services and activities with nondisabled children to the maximum extent appropriate to the needs of the individual child.

FINDING 4: Prior written notice that meets the content requirements of §300.505(a)(2)

OSEP finds that DESE did not ensure that prior written notice was provided to parents that included a description of the options the agency considered and rejected, and the reasons rejected, consistent with §§300.504(a) and 300.505(a)(2).

Public agencies are required to provide parents with prior written notice whenever the agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child, and such notice must include the content requirements of §300.505(a), including the description of options considered and rejected and the reasons those options were rejected. This written notice can be provided to parents by a separate form, an individual written letter or statement, or as part of the IEP, if a copy of the IEP is consistently provided to all parents, whether or not the parents request a copy. Parents are entitled to receive this information in writing in order to decide whether to agree or disagree with the agency's proposal or refusal to change the child's evaluation, identification, placement or the provision of a free appropriate public education.

DESE officials and agency administrators explained to OSEP that, in a procedural change designed to reduce paperwork, DESE had determined that documentation of placement determinations was only required for placements in separate school settings. OSEP found that in Agencies B, D, and F parents were not receiving notice with appropriate content because of State guidance, agency practice, or variance in IEP forms used by the agency. In Agency B, OSEP found, through interviews with administrators and teachers and a review of student records, that options considered were identified but the reasons that the options were rejected were not. OSEP was told that it was not the practice to document reasons rejected, and in four of four student records reviewed, the reasons that options were rejected was not documented. In Agency D, which serves a number of local school districts, IEPs are sent to all parents, and are used to provide prior written notice. However, because Agency D serves children from a variety of local school districts, student records include a variety of forms. The presence or absence of documentation of placement varied in the records reviewed by OSEP. Not all IEP forms included space to provide information regarding the options considered and the reasons those options were rejected. In Agency F, student files included a non-individualized statement with respect to placement, which did not include the reasons options were considered and rejected for the individual student. OSEP was told by administrators that the individual placement justification statement had been removed at the advice of DESE, and was only used in the case of separate school placement.

DESE must demonstrate that its procedures ensure that public agencies provide parents with prior written notice that complies with §§300.504(a) and 300.505(a) such as including a description of the options considered and rejected and the reasons those options were rejected.

III. TRANSITION FROM SCHOOL TO POST-SCHOOL ACTIVITIES (§300.18, 300.344(c), 300.345(b)(2)(i) and (ii), and 300.346(b))

BACKGROUND - When OSEP monitored DESE in 1993, no deficiencies in transition from school to post-school activities were identified. In 1997, OSEP reviewed the records of 42 students aged 16 or older in Agencies A, C, D, E, F and G. OSEP also interviewed the students' teachers who participated in the most recent IEP meeting, the building principals, and agency administrators responsible for the provision of special education services in these agencies.

FINDING 1: Meeting notice and participants

DESE has not fully ensured that when a purpose of an IEP meeting is the consideration of transition services: (1) the notice to parents of IEP meetings contains the required components; (2) the student is invited to the meeting and, if the student cannot attend the meeting, the student's interests and preferences are considered when transition services are discussed; and (3) a representative of any other agency that is likely to be responsible for providing or paying for transition services is invited and that the public agency takes steps to obtain the participation of the other agency in the planning of transition services when the agency representative is invited but does not attend the meeting.

(1) OSEP learned from the review of the records of students 16 years or older in agencies A, C, D, E, F and G that the IEP meeting notices for 36 out of 42 students did not: inform the parent that a purpose was the consideration of transition services, inform the parent that the agency would invite the student, or identify any other agency that would be invited to send a representative. Teachers and administrators confirmed that meeting notices do not include this information.

(2) In agencies C, D, E, and F, OSEP found from review of records and interviews with teachers and building administrators that students were not invited. Administrators and teachers in Agency D further confirmed that students are not generally invited to the IEP meeting where transition is discussed unless the parent requests that the student attend.

(3) In 41 of 42 records of students aged 16 or older reviewed by OSEP in Agencies A, C, D, E, F, and G, there was no indication that representatives of any other agency that would likely be responsible for providing or paying for transition services for any of these students had been invited to attend the IEP meeting. (OSEP did not review records of students aged 16 or older in Agency B.) Teachers and administrators in Agency A informed OSEP that they had no process for determining if they should invite representatives from other agencies and do not invite any other agency representatives unless a parent requests a specific agency to be invited.

Records reviewed in Agency C included no transition plans. The director confirmed that mildly disabled students did not always receive transition services, and, therefore, no outside agencies had been considered or invited.

Agency D administrators told OSEP that it was their policy to invite representatives from Vocational Rehabilitation to participate in the transition planning for students 16 years of age and older, but OSEP saw no evidence of this in student records reviewed at either of the schools visited in Agency D, and found, from interviews with school-based staff, that not all persons responsible for setting up IEP meetings were aware of this policy.

Agency and school-based staff in Agency E indicated that it was agency practice to invite outside agencies to IEP meetings if another agency would be paying for or providing services to the student, although no other agency had been invited for the students whose records SEP reviewed.

In Agency F, staff confirmed that no other agency had been invited or attended IEP meetings in which transition services were an issue, and in four out of five IEPs reviewed in this agency, there was no evidence that an outside agency had been invited or attended.

In Agency G, administrators stated that they consider inviting Vocational Rehabilitation representatives in the student's senior year, but that there is currently no process and no parameters set forth by the agency to determine if any other agencies should be invited to the meeting, although district transition procedures state that "These (transition) goals and objectives may require outside agency involvement. If agency involvement is denied, alternative goal(s) and objectives must be developed at a reconvened IEP conference." However, agency administrators acknowledged that more staff preparation was needed to ensure implementation of these practices.

DESE must demonstrate that its procedures have ensured that notice to parents of an IEP meeting in which transition services will be considered informs the parents of this purpose, explains that the agency will invite the student, and identifies any other agency that will be invited to send a representative.

DESE must also demonstrate procedures that ensure that the student is invited to an IEP meeting in which the consideration of needed transition services is a purpose. In addition, DESE must be able to demonstrate that a representative of any other agency that is likely to be responsible for providing or paying for transition services is invited, and if an agency invited to send a representative to a meeting does not do so, the public agency will take other steps to obtain the participation of the other agency in the planning of any transition services.

FINDING 2: Transition statements not on IEP, or do not include outcome oriented activities

DESE has not fully ensured that the IEP for each student, beginning no later than age 16 (and at a younger age, if determined appropriate), includes a statement of needed transition services as set forth in §300.18. Transition services must be a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based on the individual student's needs, taking into account the student's preferences and interests, and must include (i) instruction, (ii) community experiences (iii) the development of employment and other post-school and adult living objectives, and (iv) if appropriate, acquisition of daily living skills and functional vocational evaluation. If the IEP team determines that services are not needed in the areas above (i)-(iv), the IEP must include a statement to that effect and the basis upon which the determination was made.

OSEP found that out of a total of 42 IEPs of students 16 or older, 15 IEPs (in Agencies A, C, E, and F) contained no statements of needed transition services. The remaining 27 IEPs contained statements of transition needs but were not written in an outcome oriented manner such that a student's expected movement from school to post-school activities could be determined. An administrator in Agency C explained to OSEP that the district has not done a good job on transition and that it is not district practice to provide transition services to postsecondary education for students with "mild disabilities," such as learning disabilities. Administrators in Agency D confirmed that transition statements are not outcome oriented because outcomes discussed in the IEP meeting are not included in the IEP. Special education teachers in Agency F stated that they had not received training on how to develop transition plans. An Agency F administrator stated that there is a need for training and additional inservice for staff regarding transition.

DESE must demonstrate that its procedures ensure that for each student age 16 (and at a younger age, if determined appropriate), must have an IEP that includes a statement of the needed transition services as defined in §300.18, including, if appropriate, a statement of each public agency's responsibilities, or linkages, or both, before the student leaves the school setting.

ENCLOSURE D: PART H FINDINGS

Prior to the onsite review, OSEP monitors identified three targeted areas which would focus its review of system implementation and emphasize cross cutting issues relevant to both Part H and Part B of IDEA. The targeted areas were: (1) child find, (2) services, and (3) transition from Part H to Part B services. OSEP interviewed parents, service coordinators, program administrators, direct service providers, local education agency representatives, State Interagency Coordinating Council members, a Part H coordinator, and State and local interagency representatives. State supervision and monitoring were areas of review as well. OSEP monitors reviewed the preliminary data from DESE's self-study, Missouri's Part H policies and procedures, and the DESE monitoring report and corrective action plans from three of the early intervention programs of the Division of Mental Retardation, (Department of Mental Health's Regional Centers), one from the Bureau of Special Health Care Needs, (Department of Health Area Office). OSEP monitors reviewed IFSPs of children in three regional early intervention programs and one area bureau, and conducted interviews with parents, administrators, service coordinators, service providers, intake coordinators, and local education agency representatives in four program sites, in addition to DESE offices. OSEP monitors conducted onsite interviews with 8-24 families of infants/toddlers served in each of the four designated programs. Where appropriate, OSEP has included in this section data collected from those family interviews to support or clarify OSEP's impressions regarding the sufficiency and effectiveness of DESE systems for ensuring compliance with the requirements of Part H and Part B.

OSEP FINDINGS	OUTCOME AND RESULTS REQUIRED
<p>I. State Administration of Programs §§303.500, 303.501, 303.520, 303.525, and 303.527(b)</p> <p>DESE, the lead agency, is responsible for the administration, general supervision and monitoring of programs and activities receiving Part H funds and those not funded by Part H, but a part of the system under Part H. As a part of its administrative responsibilities, the lead agency must (a) include in its statewide system procedures to ensure that services are provided in a timely manner, as required at section 303.525; (b) identify and coordinate all available resources, as specified at section 303.522; and (c) ensure payments are made to providers in a timely manner [303.520]. In carrying out this requirement, the lead agency must enforce obligations, correct deficiencies, and provide technical assistance, including monitoring programs and activities to ensure compliance with Part H requirements. (303.501).</p> <p>BACKGROUND - DESE assures that appropriate early intervention services are available to all eligible infants and toddlers, and that such services would be provided in a timely manner. Although there is no specific timeline by which an IFSP must be implemented, the IFSP is in effect once the consent of the parent is obtained. DESE has further assured that, as the lead agency, it would resolve any disputes regarding the implementation of IFSPs. Currently, DESE has designated responsibility for the payment and provision of early intervention services to the departments of Health and Mental Health. These responsibilities have been established through interagency agreements. On page 86 of DESE's Part H State plan, it is specified that pending resolution of a dispute among public agencies or service providers, and to prevent a delay in service delivery, DESE will utilize Part H funds to directly pay for services. DESE's procedures require in instances where it is necessary to support a service to prevent a delay in service provision, the agency or entity that has ultimate responsibility for the provision of services must exercise its procedures under section 303.528 to ensure that reimbursement occurs within 60 days.</p> <p>FINDING</p> <p>DESE had not effectively implemented methods for ensuring that the services specified in a child's IFSP are provided and that the payment for those services is provided in a timely manner, and at no cost to parents. OSEP found delays in the provision of early interventions services because of unavailable staff. In interviews, a parent and service coordinator in Agency H1 reported speech services delayed for seven months because funding was not available to purchase the services of a speech and language pathologist. It was similarly reported by a provider in Agency H2 that children in the First Steps program had to apply for scholarship services to pay for early intervention services not available because of a lack of funding.</p> <p>OSEP also learned that the provision of services specified on the child's IFSP had been affected by the agencies' reimbursement procedures. Three private service providers under contract with the Agencies H1, H2, H3, and I reported that they or the parents were bearing the costs for occupational, physical, and speech therapy services because of untimely reimbursement or ineffective reimbursement procedures from the contractual agency. Three service providers in Agency H1 reported that they are not reimbursed for time and expenses incurred to travel to a child's home, child care or other community service delivery settings, which directly limits the child and family's access to needed therapy services.</p> <p>OSEP reviewed DESE's procedures and other documents used to ensure compliance with Part H. State monitoring procedures, as well as DESE's most recent monitoring reports for the four agencies visited were reviewed. OSEP found no procedures for identifying and correcting the timely provision of services, and none of the monitoring reports from the four agencies identified this deficiency.</p>	<p>DESE must ensure that services on a child's IFSP are provided in a timely manner at no cost to parents and demonstrate effective payment procedures. Specifically:</p> <p>(a) DESE must ensure that local contracting procedures for payment to private providers do not limit an eligible child's or family's access to services on an IFSP;</p> <p>(b) DESE must ensure adequate State funding procedures to all its providers so that services on an IFSP are available for all eligible children at no cost to parents; and</p> <p>(c) DESE must demonstrate that it has taken steps to revise its monitoring procedures to include the identification and correction of deficiencies in the timely provision of services and payments, including reimbursements.</p>

II. Individualized Family Service Plans (IFSPs) : Participants At Meetings (§303.343)

BACKGROUND - Initial and annual IFSP meetings must include the following participants: (1) parent(s); (2) service coordinators; and (3) individual(s) directly involved in evaluations and assessments. In addition, the parents can request that other family members or advocates attend as well. Individual(s) who are providing services or who will be providing services to the child or family may attend, as appropriate. IFSP meetings and periodic reviews must include those participants in accordance with § 303.343. However, if the evaluation/assessment person(s) cannot attend, arrangements must be made for their involvement through other means, including

(1) participating in a telephone conference call; (2) having a knowledgeable representative attend the meeting; or (3) making pertinent records available at the meeting.

DESE's procedures specify on page 63 of the Part H State plan the participants required at initial and annual IFSP meetings. Those individuals include the parent(s), other family members if requested by the parent, an advocate, the service coordinator working with the parent since referral; persons(s) directly involved in conducting the evaluations and assessments; and as appropriate, service providers to the child or family. Except for persons involved in conducting an evaluation or assessment, DESE's procedures do not provide an alternative to be used when one or more of the participants are unable to attend an IFSP meeting. The Part H State plan provides that if a person involved in conducting an evaluation and/or assessment is unable to attend the IFSP meeting, participation by telephone conference call or through pertinent records available at the meeting is required. A knowledgeable authorized representative may also attend the meeting as a substitute for the person unable to attend.

FINDING

DESE has not effectively ensured that agencies include required participants in all IFSP meetings. OSEP learned from interviews at regional centers visited that IFSPs were not developed with the appropriate representation. Parents in Agency H1 stated they were not aware who should be attending these meetings. A parent reported that the service coordinator develops the IFSP based upon the early intervention services identified solely by the referring physician. Other parents from Agency H1 indicated that they were not informed that others, including family members and advocates could be invited to attend IFSP meetings. Other parents from Agency H3 stated that their service providers, such as speech pathologists and occupational therapists, were not present when IFSPs for their children were developed, particularly during discussions related to the development of integrated goals and outcomes. Service Coordinators in agencies H1, H2, H3, and Agency I reported that they typically conduct IFSP meetings with just the parent, although they included a written report from a provider, as appropriate, or as available. OSEP's review of six IFSPs, State Self-Study preliminary data, and interviews with service coordinators and service providers indicated problems with implementing the IFSP process related to involvement of individuals, as required or appropriate.

DESE must demonstrate that IFSPs are developed for each eligible child consistent with required procedures, and include the steps to be taken to ensure participation in IFSP meetings and periodic reviews by the parents of the child, other family members, as requested by the parent, if feasible to do so; an advocate or person outside the family, if the parent requests that the person participate; the service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the public agency to be responsible for implementation of the IFSP, a person or persons directly involved in conducting the evaluations and assessments and as appropriate, persons who will be providing services to the child or family.

DESE must demonstrate that deficiencies identified either through its monitoring system or self-study are corrected.

III. Content of an IFSP (§303.344)

BACKGROUND - Under Part H, an IFSP must contain the following information: (a) the child's status; including the child's developmental status in five areas based on professionally acceptable, objective criteria; (b) at the family's option, their concerns, priorities, and resources related to enhancing the development of the child; (c) the outcomes expected for the child and family with criteria, procedures and timelines; (d) early intervention services; (e) medical and other services; (f) dates and duration of services; (g) service coordination; and (h) transition from Part H services.

FINDING 1 : IFSP Elements Not Addressed

DESE has not provided guidance, (e.g. disseminated an IFSP protocol to be used to ensure the comprehensive content of IFSPs). Between April 1996 and December 1996, DESE early childhood staff monitored the four intervention programs visited by OSEP. OSEP's review of IFSPs and the State's monitoring reports of the four programs visited, substantiated that the IFSP formats used did not address all of the IFSP contents required. Of the six IFSPs reviewed, the information varied: five did not address the infant/toddler's status, including present levels of development; three failed to include family resources, priorities, and concerns, and two omitted outcome statements.

OSEP found that the IFSP document used by each of these four early intervention programs did not include the required IFSP content. For example, although DESE required that agencies provide documentation of a developmental evaluation/assessment based on professionally acceptable criteria, DESE found the lack of such evidence to be a significant issue in Agencies H1, H2, H3 and I.

FINDING 2 : Transportation Not Provided as an Early Intervention Service

DESE defines transportation as mileage, travel by taxi, common carrier, or other means that are necessary to enable a child eligible for the program and the child's family to receive early intervention services, and includes the cost for tolls and parking as related costs. However, parents and service providers in Agencies H2, H3 and I indicated that transportation is not included on the IFSP and was not provided as an early intervention service, regardless of the needs of an individual child and family. See 303.12 (d)(15).

DESE must demonstrate steps taken to include in the content of an IFSP (a) a child's developmental status in five areas based on professionally acceptable, objective criteria, (b) at the family's option, their resources, priorities, and concerns related to the child's development, (c) outcomes expected for the child and family with criteria, procedures and timelines, (d) specific information about the services to be provided and any financial arrangements, (e) non-routine medical and other services which the child needs, but are not required under Part H along with the steps to secure those services, (f) projected initiation dates and projected duration of services, (g) name of the service coordinator responsible for implementation and coordination of the IFSP, and (h) the steps to support transition at age three. Corrective action activities must include staff training and procedures to ensure that agencies add transportation to an IFSP as appropriate.