



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

AUGUST 22, 1997

Honorable Tom Burnham
Superintendent of Education
Mississippi State Department of Education
550 High Street
Jackson, Mississippi 39201

Dear Dr. Burnham:

During the week of April 21, 1997, the Office of Special Education Programs (OSEP), United States Department of Education, conducted an on-site review of the Mississippi Department of Education's (MSDE) implementation of Part B of the Individuals with Disabilities Education Act (IDEA). The purpose of the review was to determine whether MSDE is meeting its responsibility to ensure that its educational programs for children and youth with disabilities are administered in a manner consistent with the requirements of Part B.

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 as in effect prior to the enactment of those Amendments. OSEP will work with the MSDE to ensure that all corrective actions, in addition to correcting all deficiencies, are consistent with the requirements of Part B as in effect at the time that the corrective actions are implemented.

Enclosure A to this letter describes OSEP's monitoring methodology and corrective action procedures; Enclosure B lists several commendable initiatives by MSDE; and our findings are in Enclosure C.

MSDE implemented a number of corrective actions to address the findings in OSEP's August 1993 monitoring report. As part of our current review, OSEP found no deficiencies in: MSDE's procedures for the submission and approval of local educational agency applications; provision of special education and related services

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to eligible individuals in the State's adult correctional facilities and in facilities operated by the Department of Youth Services; timelines in final decisions in due process hearings; provision of written notice to parents that includes a full explanation of all of the procedural safeguards available to parents; and provision of related services to students based on individual needs. It appears, therefore, that MSDE's corrective actions in these areas were effective.

As addressed in Enclosure B, we also found that MSDE has taken a number of noteworthy initiatives to improve educational services to students with disabilities including: a revised data collection system, statewide implementation of teacher support teams, MSDE's involvement in the Children's Advisory Committee and the State Level Case Review Team, initiation of the Assistive Technology Center, and MSDE's efforts in the area of distance learning.

OSEP's monitoring places a strong emphasis on those requirements most closely associated with positive results for students with disabilities. Our monitoring revealed that MSDE has not ensured: that prior written notice that includes all required content is provided in all instances required by Federal regulations; provision of services to students with disabilities in the least restrictive environment; that statements of needed transition services are developed as a component of individualized education programs (IEPs) for students 16 years of age or older; that notices used to inform the participants of IEP meetings where needed transition services are to be considered contain all required information; and that in cases where meetings are held for the purpose of consideration of transition services for a student, the public agency invites a representative of any other agency that is likely to be responsible for providing or paying for transition services, and that students with disabilities receive educational services that meet the standards of the State Educational Agency regarding length of school day.

Charles Laster, the OSEP monitoring team leader, discussed the team's preliminary findings with Ms. Carolyn Black, other staff in MSDE's Bureau of Special Services, and Dr. Denise Stewart from the South Atlantic Regional Resource Center, at an exit conference held at the conclusion of OSEP's on-site visit. At that time, Mr. Laster invited MSDE to provide any additional information for consideration by OSEP in the development of this

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letter of findings. MSDE submitted no additional information.

The findings in this Letter are final, unless--within 15 days from the date on which MSDE receives this letter--MSDE concludes that evidence of noncompliance is significantly inaccurate or 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 MSDE requests reconsideration, and the factual and/or legal basis or bases for the request, and must include documentation to support the request. OSEP will review any MSDE request for

reconsideration and, if appropriate, issue a letter of response informing MSDE 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 Dr. Black and her staff provided during our review. Throughout the monitoring process, they were very responsive in providing information that enabled OSEP staff to acquire an understanding of Mississippi's systems to implement Part B of the IDEA.

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

Prior to the enactment of the IDEA and its predecessor the Education of All Handicapped Children Act, one million children with disabilities were excluded from our nation's schools 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

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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 Mississippi.

Sincerely,

Thomas Hehir
Director
Office of Special Education
Programs

Enclosures

cc: Ms. Carolyn Black

ENCLOSURE A

OSEP's Monitoring Methodology

Pre-site Document Review: As in all States, OSEP used a multifaceted process to review compliance in Mississippi. In addition to on-site visits, this process included: review and approval of the State's Part B State plan, which sets out the State's statutes and regulations, policies and procedures, and interagency agreements that impact the provision of services to students with disabilities; and review of complaints, requests for secretarial review, other correspondence, and telephone calls that OSEP received regarding the State's compliance. Prior to its visit to Mississippi, OSEP also requested and reviewed additional documentation regarding the State's implementation of compliance with requirements regarding due process hearings, complaint resolution, and monitoring, as well as child count and placement data.

Involvement of Parents and Advocates: During the week of March 4, 1997, OSEP held three public meetings in Pearl, Gulfport and Greenville. Also during that week, Charles Laster and Barbara Route, OSEP's Part B State contact for Mississippi, conducted outreach meetings with representatives from the Mississippi Protection and Advocacy Center for Developmental Disabilities, Inc., the Mississippi Parent Advocacy Center, and Mississippi's State Advisory Committee. They also interviewed a number of MSDE officials, and reviewed numerous MSDE documents. The purpose of the public and outreach meetings was to solicit comments from parents, advocacy groups, teachers, administrators and other interested citizens regarding their perceptions of MSDE's compliance with Part B. In the letters inviting interested parties to the public meetings, OSEP also invited them to provide written comments and telephone input regarding their perceptions.

During the week of the presite meetings, Mr. Laster and Ms. Route also met with Ms. Carolyn Black and Mr. R.D. Harris of MSDE, Dr. Stewart from the South Atlantic Regional Resource Center, and Ms. Vickie Johnson, of the Office for Civil Rights, to discuss MSDE's progress in meeting the terms of an action plan, developed by MSDE and the Office for Civil Rights, and signed in November of 1996. The plan was developed to address the issue of disproportionate enrollment of African-American students in programs for Specific Learning Disabilities and Educable Mental Retardation in a number of school districts in Mississippi. The action plan directs MSDE to ensure that each identified district undertakes several activities, including conducting a study to

identify variables or internal processes which may contribute to a disproportionate factor, and develop a plan to correct all identified problems by a specific date. The individual plans must include a process for review of pre-referral procedures, referral criteria and procedures, and the extent to which each Local Survey Committee includes safeguards ensuring that cultural differences, socioeconomic status and physical problems of each student have been considered at the pre-referral and referral stages. In addition, each plan must include procedures for the implementation of appropriate instructional interventions for each student referred, and the districts' proposals for staff training and resources necessary to implement the plan. MSDE will monitor the plan developed by each district during its scheduled onsite monitoring of Part B programs, and during onsite complaint investigations. OSEP signed the action plan, and agreed to cooperate with and assist MSDE and the Office for Civil Rights in the implementation of the action plan. Consistent with the provisions of the action plan, Mr. Laster and Ms. Route agreed that in the site selection process, OSEP would ensure that districts identified as having a disproportionate factor would be included in the sites selected for the monitoring visit. In addition, OSEP agreed to collect specific interview information from these districts during the onsite visit (specifically, from regular education teachers and district administrators), to determine these districts' progress in meeting the terms of the action plan. Of the seven districts selected as part of OSEP's onsite review, three had identified a disproportionate factor for programs in Specific Learning Disabilities and Educable Mental Retardation. OSEP subsequently shared the interview data with both the Office for Civil Rights and MSDE.

During the on-site visit, OSEP conducted a parent focus group meeting in one of the public agencies it visited in order to obtain parents' impressions of special and regular education services provided to their children. This meeting provided OSEP staff with parents' views of the methods used by the public agency in providing a free appropriate public education to its children, as well as the challenges faced by the public agency in this endeavor.

Selection of Monitoring Issues and Agencies to Visit: OSEP focuses its compliance review in all States on those core requirements that are closely related to learner results: States' systems for identifying and ensuring the correction of deficiencies through monitoring; ensuring that all eligible students with disabilities receive a free appropriate public education as determined through the development and implementation of an IEP; the provision of needed transition services; and ensuring that parents of children with disabilities

are appropriately included in decision-making regarding the education of their child. The information that OSEP obtained from its pre-site public meetings and outreach meetings, interviews with State officials, and review of State and local documentation, assisted OSEP in: (1) identifying the issues confronted by consumers and others interested in special education in Mississippi; (2) selecting additional monitoring issues for review while on-site; and (3) selecting the sites to be visited.

On-site Data Collection and Findings: Charles Laster interviewed State education agency staff and reviewed relevant MSDE documentation. He also spent one day collecting implementation data in a local school system. Barbara Route, Catherine Cooke, Claudia Brewster, and Delores Barber visited four elementary schools, one middle school, one junior high school and four high schools in six additional public agencies. Where appropriate, OSEP has included in Enclosure C data that it collected from those agencies that support or clarify its findings regarding the sufficiency and effectiveness of MSDE's systems for ensuring compliance with the requirements of Part B. Because the findings in Enclosure C focus on the effectiveness of MSDE's systems for ensuring compliance rather than compliance in any particular local educational agency, OSEP has not used the name of any local educational agency in that Enclosure. Instead, local educational agencies visited by OSEP are identified only with designations such as "Agency A." The agencies that OSEP visited and the designation that OSEP has used in Enclosure C to identify each of those agencies are set forth as follows:

AGENCY	DESIGNATION
Leflore County School District	AGENCY A
North Bolivar School District	AGENCY B
North Panola Consolidated School District	AGENCY C
Pearl River County School District	AGENCY D
Gulfport School District	AGENCY E
Jackson Public School District	AGENCY F
Clinton Public School District	AGENCY G

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

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 improve results for students with disabilities, OSEP proposes that MSDE representatives meet with OSEP staff, in a meeting or telephone conference, to discuss the findings and the most effective methods for ensuring compliance and improving programs for children with disabilities in the State, and to agree upon specific corrective actions. We also invite a representative from Mississippi's Special Education Advisory Council to participate in that discussion. MSDE's corrective action plan must be developed within 45 days of MSDE's 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.

Enclosure C outlines the general corrective actions that MSDE must take to begin immediate correction of the findings in the Enclosure, as well as guidelines for the more specific actions that MSDE must take to ensure correction of each of the specific findings in Enclosure C.

ENCLOSURE B

COMMENDABLE INITIATIVES

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

MSDE is in the process of developing a **data collection system** that will facilitate faster, more accurate collection of data, eliminating a significant amount of paperwork and allowing MSDE to access student IEPs from their central office in Jackson. The new system will result in collection and dissemination of more consistent, secure data, and will facilitate MSDE's supervision and monitoring of local districts. The system is expected to be fully operational by January of 1998.

MSDE has developed a statewide training program for the implementation of **Teacher Support Teams**, which is available to all schools in Mississippi. These teams are composed of both regular education and special education personnel, and are designed to address both learning and behavior problems of students and are designed as a safeguard for children who are referred for evaluation and possible placement into a special program. Teacher support teams are structured to improve the implementation of educational interventions, reduce the number of referrals for special education programs and services, and improve teacher morale.

The **Children's Advisory Committee** was established in 1993 by the Mississippi legislature for the purpose of implementing an interagency collaborative approach to providing services to children in Mississippi. The Committee is composed of representatives from the State Departments of Education, Health, Human Services and Mental Health, and the Division of Medicaid, Mississippi Families as Allies, Inc., Mississippi Health Advocacy, and the Council for Youth Court Judges. The Committee is charged with the development of a plan to: design and implement local level pilot projects which allow for a single point of entry for eligible children, pool State funds from categorical agencies, develop and expand local services to prevent out-of-community placements, and provide an array of services within a coordinated system of care.

The State of Mississippi is a national leader in the area of **distance learning** (instruction that employs current technology, including video, audio and satellite link-ups to share information and provide training to multiple sites, often in remote areas of the State). In the fall of 1995, MSDE entered into an agreement with the University of New Mexico, Research Institute of Assistive Training and Technology to develop and deliver assistive technology through distance learning. In the spring of 1996, MSDE delivered courses in assistive technology to twelve satellite sites across the State. Another four courses were offered in the fall of that year. Through the Star Schools grant program, MSDE is able to offer teacher training in 76 electronic classrooms, some of which provide an interactive teaching experience. MSDE is expanding this program to conduct training in the area of transition services in a collaborative effort with the State of Kentucky.

The **Assistive Technology Center**, located in Pearl, is a statewide service that provides evaluation, training and resources in the use of assistive technology devices by students with disabilities. The Center's services are provided without cost to recipients, whether they access the services at the Center or via the electronic classroom video system. The goal of the Assistive Technology Center is to assist educators with the latest technology and its integration into the students' curriculum.

MSDE initiated the **State Level Case Review Team** to review cases concerning children and adolescents demonstrating emotional and/or behavioral problems for whom adequate treatment or placement cannot be found at the county or local level, and for whom any single State agency has been unable to secure necessary services through its own resources. Team members meet monthly to review individual cases presented by a local or member State agency in an effort to develop programs which combine resources and referral information through all member agencies to meet the needs of the child. Agencies represented on the Team include: Department of Human Services, Department of Education (Office of Special Education), Department of Health, Department of Mental Health, Department of Medicaid and the Office of the Attorney General.

ENCLOSURE C -- FINDINGS AND CORRECTIVE ACTIONS

GENERAL CORRECTIVE ACTIONS

In order to begin immediate correction of the findings set forth in Enclosure C, MSDE must take the following general corrective actions:

1. MSDE must develop a memorandum informing all public agencies of OSEP's findings, and directing them to determine whether they have complied with Part B requirements, as clarified by OSEP's Letter of Findings. The memorandum must further direct these agencies to discontinue any noncompliant practices and implement procedures that are consistent with Part B. MSDE 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, MSDE must disseminate it to all public agencies throughout the State providing special education or related services to students with disabilities.
2. MSDE must also disseminate a memorandum to those agencies in which OSEP found deficient practices, as identified in this Enclosure, requiring those agencies to immediately discontinue the deficient practice(s) and submit documentation to MSDE that they have implemented revised procedures that correct the deficiencies and comply with Part B requirements. MSDE must submit this memorandum to OSEP within 30 days of the date of this letter. Within 15 days of OSEP's approval, MSDE must disseminate the memorandum to those public agencies in which OSEP found deficient practices. MSDE must send to OSEP verification that these public agencies have completed all of these corrective actions.

FINDINGS AND SPECIFIC CORRECTIVE ACTIONS

REQUIREMENTS AND FINDINGS	EXPECTED RESULTS
<p><u>PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT</u></p> <p><u>BACKGROUND:</u> Prior to its onsite visit, OSEP reviewed the most recent monitoring report for each of the agencies to be visited. OSEP determined that MSDE made the following findings with regard to the Federal requirements for placement in the least restrictive environment: In Agency A, MSDE found that children with disabilities did not participate in nonacademics and extracurricular activities with nondisabled students (§300.553). In agencies C and E, MSDE determined that students with disabilities were placed in separate special education settings without consideration of regular education with supplementary aids and services (§300.550(b)(2)). OSEP reviewed MSDE's monitoring procedures, including the document, <u>Evaluation for Special Education Services</u> and all interview guides and ancillary documents, and determined that MSDE's procedures include a complete method for monitoring each of the Federal requirements for placement in the least restrictive environment. MSDE provides technical assistance to public agencies statewide utilizing a variety of materials developed by MSDE staff, including <u>Resource Guide for Inclusion</u>, <u>Behavior Management Strategies</u>, <u>Meeting the Needs of Students with Disabilities in the Regular Class</u>, and <u>Educational Interventions Strategies Bank</u>.</p> <p>In order to meet the requirements of §300.550, a public agency must make a placement decision for each child with a disability that is based upon that child's IEP. 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 class 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, removal from the regular educational environment is necessary, the IEP team must then determine those portions of the day, if any, (both academic and nonacademic) for which the child's education can be achieved satisfactorily in regular education with the use of supplementary aids and services.</p> <p>Over half of the children ages 6-21 served under Part B in Mississippi are reported under the category of specific learning disabilities. OSEP reviewed the comparison between the national percentages of students in this category in regular class, resource room, and separate class placements,¹ and students with specific learning disabilities in Mississippi as reported in the <u>18th Annual Report to Congress: 1996</u>. This Report includes the percentage of students with disabilities ages 6-21 served in different educational environments during the 1993-94 school year. The percentages reported by Mississippi are well below the national average for placement of students with specific learning disabilities in regular class settings, and well above the national average in separate class placements for specific learning disabilities. The National statistics for specific learning disabilities are: Regular Class 39.3 percent; Resource Room 41.0 percent; and Separate Class 18.8 percent. Mississippi statistics for students with specific learning disabilities are: Regular Class placement 19.7 percent; Resource Room 53.1 percent; and Separate Class, 26.8 percent. OSEP requested that the agencies that it visited complete a placement chart by disability category and environment during the 1996-97 school year. In OSEP's chart, the category of "Regular Class Placement" was divided into two categories: students with specific learning disabilities in regular education classes 100 percent of the time (RE 1), and with less than 20 percent "pull out" (RE 2).</p>	

¹Regular class includes students who receive special education and related services outside the regular classroom for less than 21 percent of the school day. Resource room includes students who receive special education and related services outside the regular classroom for at least 21 percent but not more than 60 percent of the school day. Separate class includes students who receive special education and related services outside the regular classroom for more than 60 percent of the school day.

The findings set forth below are based upon a review of placement data provided by the public agencies visited by OSEP, student records, statements from teachers regarding placement determinations as made in IEP meetings in which they participated, and interviews with administrators and other agency personnel, regarding the placement practices throughout public agencies and specific schools.

FINDING: OSEP finds that MSDE did not always meet its responsibility to ensure that public agencies remove a student from the regular education environment only when the nature or severity of the disability is such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily, as required by §300.550(b)(2).

Administrators and teachers in two of the seven agencies visited informed OSEP that regular class placement with supplementary aids and services is not considered as a placement option when determining placement for students in special education programs at annual review meetings.

AGENCY A

Two teachers stated that no options to a student’s current placement, including regular education with supplementary aids and services, are considered at annual review meetings. These options are only considered at meetings to discuss initial placement and reevaluation. A building-level administrator stated that regular class placement with supplementary aids and services is not considered because regular class interventions had been attempted prior to placement in special education and “it didn’t work out.” A special education teacher in a high school indicated that the placement of all of the special education students in special, rather than regular, education vocational education classes is not based on decisions about individual student needs, but rather, the students’ ability level (the student’s ability to participate in the regular education curriculum without assistance); therefore, the IEP team does not consider regular class placement for the students in special education because “the vocabulary is too difficult.” The teacher stated that they had tried placing some of the students in regular vocational classes, but they could not handle the required reading, so they now provide all of the prevocational skills and vocational education in the special education classes.

MSDE must ensure that in all its public agencies, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, and 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 class with the use of supplementary aids and services cannot be achieved satisfactorily.

AGENCY C

Two teachers informed OSEP that there is no consideration of placement in regular education with supplementary aids and services for their students at annual review meetings. One of these teachers informed OSEP that IEP teams did not discuss putting special education students in regular education academic classes at IEP meetings even though some of the students this teacher serves could probably perform satisfactorily in some of the regular academic classes.

A teacher of an elementary self-contained class of students with mild disabilities stated that the IEP team had not, as of yet, discussed placing any of these students in regular class for any part of the day. The teacher also stated that the older students in elementary school are "too far behind" academically to consider placing them in a regular education classroom. Further, IEP teams would not place a special education student in a regular education class with his same age peers; rather, they would place the student in a class with younger students one or two grades below the grade to which the student would normally be assigned. The teacher told OSEP that a student must be able to function at the level of the other students in a regular class before the IEP team would place the student in that regular class.

A building-level administrator confirmed that regular class placement is not discussed at IEP meetings. The administrator told OSEP that the reason for not doing so was that they did not want to put any child in a situation where the student is not going to be successful; however, the agency is going to consider inclusion next year. Another teacher informed OSEP that the teacher had determined that regular class placement would be appropriate for one of the preschool students, but the closest appropriate regular class (a head start program, two and a half miles away) was too far away to bus the child. A district-level administrator confirmed the teacher's description of this situation.

REQUIREMENTS AND FINDINGS**EXPECTED RESULTS****PRIOR NOTICE**

BACKGROUND: All agencies in Mississippi utilize “Written Prior Notice” Forms (referred to by the agencies as WPN forms) that MSDE developed for implementation in accordance with the requirements of the Mattie T consent decree. Public agencies use these forms to provide Written Prior Notice for: initial evaluation, initial placement, reevaluation, revision of the IEP, and change in placement.

MSDE’s procedures require that a WPN be mailed to parents along with a copy of a parent information pamphlet and “Procedural Safeguards Policy and Procedures,” prior to the initial evaluation or reevaluation, prior to changing the designation of a student’s disability category, prior to “exiting a child from special education to regular class placement,” and prior to an IEP meeting. The WPN that is mailed to the parents prior to an IEP meeting also serves as the agency’s documentation that it meets the notice requirements at §300.345 (a) and (b) (invitation to the IEP meeting). The WPN forms for initial evaluation and initial placement also include the statement, “The following option(s) has been considered and/or attempted and is inappropriate.” The WPN forms for reevaluation include the statement: “The following options have been considered and have been found inappropriate (include explanation for reason for reevaluation),” and the WPN forms for Change in Placement state, “The following option(s) have been considered and have been found inappropriate.” There is no “options statement” on the WPN forms utilized for revision of the IEP. MSDE officials informed OSEP that the WPN forms, along with a copy of the parent information pamphlet and Procedural Safeguards Policies and Procedures, comprise the prior notice. OSEP verified this practice in each of the agencies visited.

OSEP reviewed MSDE’s monitoring procedures, including the document, Evaluation for Special Education Services and all interview guides and ancillary documents, and determined that MSDE’s procedures include a complete method for monitoring the requirements of §300.505(a). OSEP also reviewed MSDE’s most recent monitoring report to each of the agencies visited, and determined that MSDE made the following findings: MSDE determined that in agencies B, E, F and G, public agencies did not ensure that all WPN forms contained all information required by §300.505(a).

FINDING: OSEP finds that MSDE has not ensured, in all cases, that written prior notice that meets the requirements of §300.505 is provided to the parents of a child with a disability a reasonable time before the public agency proposes or refuses to initiate or change the identification, evaluation, educational placement of the child, or the provision of a free appropriate public education to the child. (§300.504(a).)

OSEP was informed by a district level administrator in Agency A that no WPN or other written notice is provided to parents when a change in a related service is made (for example, when occupational therapy is removed from the IEP as a related service). A copy of the IEP is provided to parents only if they request one.

OSEP confirmed in interviews with teachers and administrators in all agencies visited that the WPN is sent to parents prior to an IEP meeting, and serves both as the invitation to the meeting and a presentation of the issue(s) to be addressed at the meeting (change in placement, evaluation, etc.). No other documentation or information is provided to parents subsequent to the IEP meeting, even if a change is made in the student's program. Administrators and teachers in agencies A and C informed OSEP that parents are not provided with a copy of the IEP unless the parent requests it.

OSEP's review of six of 12 student files in Agency E, two of 12 files in Agency A, two of 11 files in Agency D and three of three files in Agency G indicated that a change in the provision of a free appropriate public education was made (a related service was added, deleted, or changed, or the student's participation in either regular or special education program was changed) however, notice containing the content of §300.505 was not provided to the parents. Specifically, review of these individual files indicated that neither the IEP nor the WPN for revision of an IEP contain the requirements of §300.505(a)(2) and (3).

MSDE must ensure that public agencies provide prior written notice to parents of a child with a disability a reasonable time before the public 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. Such notice must include the content required by §615(c) of the IDEA Amendments of 1997.

OSEP FINDING	EXPECTED RESULTS
<p><u>TRANSITION SERVICES</u></p> <p><u>BACKGROUND:</u> In an effort to assist local agencies with implementation of the requirements of transition services to eligible students with disabilities, MSDE has developed a number of technical assistance documents for use in training and technical assistance statewide, including <u>Transition Services - Promising Practices, Incorporating Transition into the IEP Process</u>, and a document that provides an explanation of the Federal requirements related to transition services in a question and answer format which includes sample forms and IEPs. OSEP finds that MSDE’s monitoring procedures include a method for monitoring each of the Federal requirements related to the provision of transition services.</p> <p>Prior to its onsite monitoring visit, OSEP reviewed MSDE’s most recent monitoring report issued to the agencies to be visited. MSDE made findings in the area of provision of transition services in the following instances: Agency E- MSDE found that appropriate transition plans were not developed and implemented for eligible students, and Agency A- MSDE found that IEPs of eligible students did not include all of the required transition-related components. OSEP also reviewed MSDE’s monitoring procedures, including the document, <u>Evaluation for Special Education Services</u>, all interview guides and ancillary documents, and determined that MSDE’s procedures include a complete method for monitoring each of the Federal requirements relating to the provision of transition services.</p>	

FINDING: OSEP finds that MSDE did not ensure, in all cases, that public agencies implemented policies and procedures which complied with the transition services requirements of Part B. OSEP reviewed secondary programs in four high schools in four of the seven public agencies it visited (Agencies A, C, D and F) and reviewed the records of 20 students 16 years of age or older. OSEP also interviewed the students' teachers and agency administrators responsible for the provision of special education services in these agencies. Based on these interviews and record reviews, OSEP made the following findings:

§300.344(c)(1)(ii) - Transition services participants in meetings - Agency representative - OSEP found that there is no procedure in agencies A, C, D and F to ensure that if a purpose of the IEP meeting is the consideration of transition services for a student, the agency will invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. Administrators and teachers in these agencies informed OSEP that these agencies only invite a representative from Vocational Rehabilitation, and then only in a student's junior or senior year of high school; consequently, a representative from this agency is not invited before this time, and no representative of any other agency is invited to IEP meetings, even if another agency is likely to be responsible for providing or paying for transition services for the student. Three teachers in agencies A and C informed OSEP that representatives from Vocational Rehabilitation are not invited to IEP meetings, that these representatives work with students outside of the IEP meetings to make arrangements for their participation in the program. Transition IEPs from Agency C listed "Participating agencies" as faculty members from the high school.

§300.345(b)(2)(I) - Parent participation - Notice must include purpose - OSEP found that in all 11 files reviewed in agencies A and D, the notice of invitation to the IEP meeting did not indicate that a purpose of the meeting would include the consideration of transition services.

§300.345(b)(2)(ii) - Parent participation - Notice must indicate that the student is invited to the IEP meeting if a purpose of the meeting is the consideration of transition services - OSEP found that in 10 of 15 student files reviewed in agencies A, C and D, the notice of invitation to the IEP meeting did not indicate that the student was invited. OSEP was informed by two teachers and a district administrator in Agency A, and a teacher in Agency D that students are not invited to attend IEP meetings; further, although parents may bring a student to the IEP meeting, the public agency does not invite the student.

MSDE must ensure that, if a purpose of the IEP meeting is the consideration of transition services for a student: 1) the public agency invites a representative of any other agency that is likely to be responsible for providing or paying for transition services; and 2) the IEP meeting notice sent to the parents states that purpose and the student is invited to attend the meeting.

§300.346(b) - Content of IEP - Transition services - OSEP found that there were no statements of needed transition services or that specific transition services were not needed in the IEPs of three of the five students whose files OSEP reviewed in Agency C. The IEPs in six of 11 student files in agencies D and F did not include community experiences (§300.18(b)(2)(ii)), or a statement that the IEP team had determined that services were not needed in this area and the basis upon which the determination was made. One student file in Agency D included a statement that the three content areas described in §300.18(b)(2)(i)-(iii) would not be addressed, but there was no stated basis for that determination, as required by §300.346(b)(2). In two additional student files from this agency, the statement “not addressed due to level of functioning” was the only information included as to the reasons why these required areas were not addressed on the IEP.

MSDE must ensure 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 defined in §300.18.

REQUIREMENTS AND FINDINGS	EXPECTED RESULTS
<p><u>FREE APPROPRIATE PUBLIC EDUCATION - SHORTENED SCHOOL DAY</u></p> <p><u>BACKGROUND:</u> Prior to its onsite visit, OSEP reviewed MSDE’s monitoring procedures, including the document, <u>Evaluation for Special Education Services</u> and all interview guides and ancillary documents, and determined that MSDE’s procedures include a complete method to determine whether students with disabilities receive a free appropriate public education during the State-mandated length of the school day. OSEP also reviewed MSDE’s most recent monitoring reports for the seven agencies to be visited. OSEP found that MSDE made no findings of noncompliance with regard to students with disabilities who were denied a free appropriate public education as a result of a shortened school day. OSEP was informed by MSDE officials that the State standard for length of school day for students in Mississippi is 330 minutes of instructional time.</p> <p><u>FINDING:</u> OSEP finds that MSDE did not fully meet its responsibility under §300.300 and §300.8 (b) to ensure that all children with disabilities are provided a free appropriate public education that meets the standards of the SEA. Data collected by OSEP indicated that two public agencies do not consistently ensure that students received the State-mandated length of school day, due to administrative problems with transportation. (§§300.300; 300.8(b).)</p> <p>District and building-level administrators and a teacher in Agency E informed OSEP that there are 12 students at a junior high school and seven students at an elementary school in the agency that leave school 30 minutes prior to the end of the school day due to the school bus schedule. A building-level administrator in Agency F informed OSEP staff that there are six students who are transported to school on a special bus that leaves school 30 minutes prior to the end of the school day, due to the school bus schedule. In both agencies, these students therefore received only 300 minutes of instruction per day.</p>	<p>MSDE must ensure that students with disabilities receive the same mandated school hours as nondisabled students to ensure that the student receives a free appropriate public education.</p>