



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

FEB 6 1996

Honorable Mary E. Peterson
Superintendent of Public Instruction
State Department of Education
700 East Fifth Street
Capitol Complex
Carson City, Nevada 89710

Dear Superintendent Peterson:

During the week of October 23, 1995, the Office of Special Education Programs (OSEP), United States Department of Education, conducted an on-site review of the Nevada Department of Education's (NDE) implementation of Part B of the Individuals with Disabilities Education Act (Part B). The purpose of the review was to determine whether NDE is meeting its responsibility to ensure that its educational programs for children with disabilities are administered in a manner consistent with the requirements of Part B. Enclosure A to this letter describes OSEP's monitoring methodology and corrective action procedures; Enclosure B lists several commendable initiatives; and our findings and corrective actions are in Enclosure C.

Our review revealed that the actions NDE took in response to OSEP's prior monitoring report of June 1992, seem to have been effective in resolving all of the problems identified in that report. We found no deficiencies in the areas of individualized education programs (IEPs); placement in the least restrictive environment; due process and procedural safeguards, including ensuring that a full explanation of procedural safeguards is included in notices to parents, prior written notices are provided to parents at the required times, and that decisions in due process hearings are reached and mailed no later than 45 days after the receipt of a request for a hearing, unless an extension is granted at the request of either party; provision of a free appropriate public education, including extended school year services; protection in evaluation procedures; State educational agency review and approval of local educational agency applications; and State educational agency monitoring -- all areas where NDE took corrective action after our 1992 report.

We also saw numerous noteworthy NDE initiatives for providing special education services to students with disabilities. Two of the initiatives, the Nevada Special Education Technology Assistance Project and Parent Involvement, were noted in OSEP's June 1992 Report. These initiatives continue to warrant recognition and commendation. In addition, in response to OSEP's 1992 Report, the six staff members of the NDE's Special Education Branch have provided extensive Statewide training and technical

assistance to local educational agency administrative, instructional, and support staff in State-identified priority areas including the development of individualized education programs, provision of services in the least restrictive environment, and procedural safeguards, including the content of written prior notice. We believe that these activities have been instrumental in the correction of instances of noncompliance since OSEP's last visit. We note that NDE has also provided extensive training and technical assistance in the area of transition services, the one area in which we identified some problems. In addition, NDE is to be commended for its initiatives in the areas of Early Childhood Special Education and Comprehensive System of Personnel Development. OSEP commends NDE for its commitment and efforts to ensure that special education and related services are provided to eligible individuals with disabilities by a cadre of qualified personnel.

The preliminary findings of the monitoring team were discussed with Mrs. Gloria Dopf, State Director of Special Education, staff members of the Special Education Branch, and you at an exit conference held at the conclusion of OSEP's on-site visit. At that time NDE was invited to provide any additional information it wanted OSEP to consider during the development of OSEP's monitoring report. OSEP reviewed the additional information provided by NDE as well as the information collected both pre-site and on-site and concluded that the data substantiates the findings. Therefore, the findings presented in Enclosure C are final.

In the event NDE, after consideration of the data in this letter and its enclosures, concludes that evidence of noncompliance is significantly inaccurate and that one or more findings is incorrect, NDE may request reconsideration of the finding. In such a case, NDE must submit reasons for its reconsideration request and any supporting documentation within 15 days of receiving this letter. OSEP will review the request and, where appropriate, will issue a letter of response informing NDE that the finding has been revised or withdrawn. Requests for reconsideration of a finding will not delay development of the corrective action plan and implementation timelines for findings not part of the reconsideration request.

I thank you for the assistance and cooperation provided during our review. Throughout the course of the monitoring process, Ms. Gloria Dopf and staff members of the Special Education Branch were responsive to OSEP's requests for information, and provided access to necessary documentation that enabled OSEP staff to acquire an understanding of Nevada's various systems to implement Part B.

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Members of OSEP's staff are available to provide technical assistance during any phase of the development and implementation of NDE's corrective actions. Please let me know if we can be of assistance.

Before the enactment of the Individuals with Disabilities Education Act (IDEA), one million children with disabilities were excluded from school altogether, and another 3.5 million did not receive appropriate programs within the public schools. Because of the IDEA and the joint actions of schools, school districts, State educational agencies and the Department, more than 5.4 million children with disabilities are in school. Thank you for your continued efforts toward the goal of improving the education programs for these children and youth with disabilities in Nevada.

Sincerely,



Thomas Hehir
Director
Office of Special Education
Programs

Enclosures

cc: Mrs. Gloria Dopf

ENCLOSURE A

OSEP's Monitoring Methodology

Pre-site Preparation. OSEP staff began its review of documents related to NDE's special education program in April 1995. The review included, but was not limited to, NDE's State Plan, State statutes and regulations, interagency agreements and other materials that must comply with the requirements of Part B, such as the complaint management, due process hearings, and State monitoring systems. OSEP also reviewed NDE's placement data based on the data submitted to the Department for the 1992-1993 school year.

Involvement of Parents and Advocates During the week of September 11, 1995, OSEP held three public meetings in Elko, Reno, and Las Vegas. The purpose of these public meetings was to solicit comments from parents, advocacy groups, teachers, administrators and other interested citizens regarding their perceptions of NDE's compliance with Part B. In addition, OSEP conducted outreach meetings with representatives from the State Advisory Panel, the Parent Training Information Project, and approximately 30 additional advocacy and disability organizations to receive additional information. The information obtained from the public meetings and outreach activities, as well as from interviews with State officials and a review of State documents assisted OSEP in: (1) identifying the issues faced by consumers and others interested in special education in Nevada; (2) selecting monitoring issues (e.g., the provision of transition services) to be emphasized while on-site; and (3) selecting the sites to be visited.

During the on-site visit, OSEP conducted a parent focus group meeting in the Clark County School District in order to hear parents' impressions of special education services provided to their children. This meeting provided OSEP staff with parent views of the methods used by the agency in providing a free appropriate public education to their children as well as the challenges faced by the district in this endeavor.

On-site Data Collection and Findings The OSEP team included Dr. Jane Williams and Ms. Claudia Brewster. Dr. Williams devoted a portion of the pre-site and on-site weeks to interviewing State educational agency staff and reviewing relevant documents. Dr. Williams and Ms. Brewster visited one consolidated school (grades K-12), one junior high school, and two high schools in three public agencies¹. Where appropriate, OSEP has included in this letter data collected from those agencies to support or clarify OSEP's findings regarding the sufficiency and effectiveness of NDE's systems for ensuring compliance with the requirements of Part B. The agency in which the supporting or clarifying data were collected is indicated by a designation such as "Agency A." The agencies that OSEP visited and the designation used to identify those agencies in Enclosure C of this letter are set forth below:

Agency A: Elko County School District
Agency B: Nye County School District
Agency C: Churchill County School District

Corrective Action Procedures

In the interest of developing a mutually agreeable corrective action plan specifically designed to address these findings, OSEP proposes that NDE representatives discuss with OSEP staff, either in a meeting or telephone conference, the areas of noncompliance identified, the most effective methods for bringing about compliance and improving programs for children with disabilities in the State, and specific corrective actions. We also will invite a representative from Nevada's Special Education Advisory Panel to participate in that discussion. NDE'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.

¹ The OSEP monitoring team initially planned to conduct an on-site visit to Clark County School District, which serves approximately 60% of the school-age children and youth in the State. Before the monitoring plan was finalized, OSEP learned that the Department's Office for Civil Rights (OCR) had a compliance agreement on special education issues with Clark County that was in its final phase when OCR received another complaint regarding some of the same issues. As a result, OCR staff was planning in-depth activities in Clark County in many of the same areas that OSEP would be reviewing as part of its monitoring. Because of the specific facts of this situation and the desire to avoid duplication of effort in a time of dwindling resources, OSEP decided not to select Clark County for an on-site visit as part of its monitoring of Nevada, but offered to assist OCR in its activities in this district.

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

1. NDE must issue a memorandum to all agencies advising them of OSEP's findings of deficiency. The memorandum must direct agencies to review their respective practices in regard to each of the deficiencies identified by OSEP in order to determine if they have proceeded in a manner similar to the agencies in which OSEP found deficiencies. Should these agencies determine that their current practice is inconsistent with the requirements identified in NDE's memorandum, they must discontinue the current practice and implement procedures that are consistent with Part B. This memorandum must be submitted to OSEP within 30 days of the issuance of this letter. Within 15 days of OSEP's approval of the memorandum, it must be issued to all agencies throughout the State providing special education or related services to students with disabilities.

2. NDE must issue a memorandum to those agencies in which OSEP found deficient practices, as identified in Enclosure C of this letter, requiring those agencies to immediately discontinue the deficient practices and submit documentation to NDE that the changes necessary to comply with Part B requirements have been implemented. This memorandum must be submitted to OSEP within 30 days of the issuance of this letter. Within 15 days of OSEP's approval of the memorandum, it must be issued to those public agencies in which OSEP found deficient practices. NDE must send to OSEP verification that all corrective actions have been completed by these public agencies.

ENCLOSURE B

COMMENDABLE INITIATIVES

As indicated in the letter, we believe that NDE's Statewide initiatives have improved the delivery of special education and related services to students with disabilities in Nevada. OSEP recognizes and commends NDE for the following five Statewide initiatives:

1. **Nevada Special Education Technology Assistance Project.** The Nevada Special Education Technology Assistance Project assists school districts increase their capacity to provide assistive technology devices and services to students with disabilities. During the 1994-95 fiscal year, the project staff screened 20 students, assisted with securing evaluations of 25 students, and provided training to 385 parents, paraprofessionals, special and regular education teachers and administrators. The project staff provided consultation to practitioners in 11 of Nevada's 17 schools districts as well as five related agencies, including the Dual Sensory Impairment Project and the Center for Independent Living. Twelve of the 17 school districts in Nevada participated in the equipment loan program. In addition, in June 1995, the project staff produced a technical assistance document entitled Assistive Technology and has conducted numerous conferences and teleconferences. Feedback from the recipients of the project activities has been very favorable. This project collaborates with the Nevada Assistive Technology Project funded by the Technology-Related Assistance for Individuals with Disabilities Act of 1988 (P.L. 100-407) managed by the U.S. Department of Education's National Institute on Disability and Rehabilitation Research.

2. **Nevada Early Childhood Technical Assistance Resources.** The Nevada Early Childhood Technical Assistance Resources project provides Statewide staff development in early childhood special education, assists school districts with program planning, evaluation, and service delivery activities, and disseminates information about best practices in early childhood special education to interested parties in Nevada. The Nevada Early Childhood Technical Assistance Resources project promotes partnerships with families and the general early childhood community, including Head Start and Even Start, coordinates with Nevada's Comprehensive System of Personnel Development, the Nevada Department of Human Resources' Early Childhood Services for Infants and Toddlers with Disabilities Program (the Part H program), the Nevada Early Childhood Association for Special Children, and the Universities of Nevada at Reno and Las Vegas. The Nevada Early Childhood Technical Assistance Resources project has produced several technical assistance documents designed for use by both parents and practitioners, including From Cradle to Classroom: A Guide to Your Child's Development; Preschool Assessment Instruments; The Nevada Early Childhood Special Education Programs: Building Nevada's Future; and Commonly Asked Questions in Early Childhood Special Education. NDE staff affiliated with this Project are also to be commended for their efforts to ensure a seamless system of services for children with disabilities who move from the Part H to Part B program through their collaboration with the Nevada Department of Human Resources, the lead agency for Part H.

COMMENDABLE INITIATIVES

3. **Nevada Comprehensive System of Personnel Development.** NDE's Comprehensive System of Personnel Development is committed to ensuring that persons currently providing for the educational needs of children and youth with disabilities are sufficiently trained and qualified to carry out all aspects of a free appropriate public education in the least restrictive environment and that new personnel are recruited on an on-going basis and appropriately trained. NDE's consultant for Comprehensive System of Personnel Development (a full-time staff member of the Special Education Branch of NDE) has established a contact in each public agency to ensure local agency participation in the recruitment and training activities conducted by NDE. In addition, the State Advisory Panel, established by Part B, has determined that the establishment of a Comprehensive System of Personnel Development is a priority in Nevada and therefore created a subcommittee which has adopted goals in the areas of personnel preparation, teacher recruitment/retention, public information, and data collection/utilization. NDE, in coordination with the Nevada Comprehensive System of Personnel Development Subcommittee of the State Advisory Panel, takes a primary role in ensuring that personnel in this largely rural State are recruited and retained to provide special education and related services to students with disabilities. Over the past year, NDE, in conjunction with the Comprehensive System of Personnel Development Subcommittee of the State Advisory Panel, has developed a strategic plan designed to address Nevada's shortage of related service personnel, specifically occupational therapists, physical therapists, and speech therapists. NDE is to be commended for its efforts to ensure that related services personnel are both available to provide special education and related services and meet the highest academic standard for that profession or discipline.

4. **In-service Training.** As indicated in the letter, NDE has made significant changes since OSEP's last visit, resulting in correction of all the deficiencies identified in OSEP's June 1992 Report. NDE and OSEP attribute these changes to the massive training efforts in which NDE has engaged since 1992. NDE aggressively implemented the requirements of the Corrective Action Plan to provide training for teachers and administrators in the areas of individualized education programs (IEPs), least restrictive environment, procedural safeguards with particular emphasis on the content of prior written notice, free appropriate public education, and protection in evaluation procedures. After receipt of OSEP's Report, NDE conducted 15 training sessions for both regular and special education administrators, including local education agency superintendents, special education teachers, related service providers, including school psychologists, and parents on actions needed to correct the deficiencies. In addition, NDE conducted 35 training sessions in the area of least restrictive environment, 27 training sessions on the topic of IEPs, and 31 training sessions on the topics of least restrictive environment and IEPs for early childhood practitioners. Many of these training sessions covered multiple days and some of the training and technical assistance activities have been provided on an on-going basis. During the past three academic years, NDE also conducted 19 training sessions on secondary special education issues, including the provision of transition services. Moreover, NDE included Part B compliance issues in its quarterly meetings of special education administrators, the annual Statewide special education conferences, and the State Advisory Panel meetings. The scope, frequency, and number of these trainings is particularly impressive given that the Special Education Branch of NDE is comprised of six individuals. OSEP commends NDE for its large-scale training efforts and recognizes the significant impact these staff development activities have had on the special education and related services provided to students with disabilities in Nevada.

5. **Parent Involvement.** As indicated in OSEP's June 1992 Report, NDE is committed to strong working relationships with parents. Since OSEP's last visit, NDE has continued to demonstrate the value it places on parental input ensuring membership on numerous Statewide committees and task forces, including the State Advisory Panel, the Comprehensive System of Personnel Development Task Force, the Inclusion Study Steering Committee, and the Early Childhood Special Education Stakeholder Committee. NDE also demonstrates the worth of parental participation in various Statewide conferences and meetings by providing funding for attendance. For example, NDE has provided the financial means for parents to attend the annual State Special Education Inclusion Conference, the Early Childhood Assistive Technology Conference, the Nevada Early Childhood Association for Special Education. In addition, as part of its complaint management procedures, NDE forms a team of individuals to conduct an on-site investigation of every complaint filed with the department. NDE ensures that each team includes a parent. NDE staff are to be commended for their continued efforts to ensure that parents are part of the decision-making activities related to the provision of special education and related services to children and youth with disabilities in Nevada.

ENCLOSURE C

FINDINGS AND EXPECTED RESULTS/ACTION REQUIRED/TIMELINES

FEDERAL REQUIREMENT	OSEP FINDING	EXPECTED RESULTS/ACTION REQUIRED/TIMELINES
<p>TRANSITION SERVICES (§§300.344(c)(1)(ii) and 300.344(c)(3)). [If a purpose of the IEP meeting is the consideration of transition services the public agency must ensure that (1) 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 does not do so, the public agency shall take other steps to obtain the participation of the other agency in the planning of transition services; and (2) the IEP for each student, beginning no later than age 16 (and at a younger age, if determined appropriate) must include a statement of the needed transition services as defined in §300.18, including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting.]</p>	<p>Transition Services (§§300.344(c)(1)(ii) and 300.344(c)(3)). As part of its efforts to ensure that the transition requirements of Part B are implemented by local education agencies, NDE has developed several documents which explain the transition requirements of Part B, including <u>Individualized Transition Services: A Manual to Assist Special Education Teachers</u>, which was produced by the Individualized Transition Plan Subcommittee of the Nevada Interagency Transition Council; <u>Legal Requirements Past and Present: A Guide to the Transition Provisions in P.L. 101-476</u>; <u>Secondary Special Education and Transition Teams: Procedures Manual</u>; <u>Making Your Dreams Come True: Advocating for Yourself</u>; <u>"On the Road Again" - Making Transitions to Life</u>; and <u>Graduation: The Options for Students with Disabilities</u>. In addition, as indicated in Enclosure B, NDE has conducted numerous training sessions relative to the transition requirements of Part B.</p> <p>OSEP reviewed NDE's <u>Comprehensive Program Review</u> materials, including the Student Record Review, District Procedures and Form Review Checklist, Structured Interview Forms, Final Report, and Corrective Action Plan. OSEP determined that NDE's procedures for monitoring for the Federal requirements relating to the provision of transition services include annual submission and review of local agency applications, which include the LEA's policies and procedures relative to the provision of transition services; and evaluation of student folders and interviews with administrators and special education teachers during its triennial on-site monitoring visit. In addition, a percentage of parents are surveyed and interviewed as part of NDE's monitoring process. This information from parents is also utilized by NDE to determine a local education agency's compliance with the transition requirements of Part B.</p> <p>FINDINGS:</p> <p>OSEP finds that NDE did not ensure, in all cases, that public agencies implemented policies and procedures which complied with the requirements of Part B relative to transition.</p> <p>OSEP visited one senior high school (grades 9-12) and one consolidated high school (grades 7-12) in public agencies A and B. OSEP reviewed the records of 15 students from these programs, all of whom were 16 years of age or older. OSEP also interviewed the students' teachers who participated in the IEP meeting, the building principal, and other administrators responsible for the provision of special education services in these two public agencies.</p>	<p>NDE must ensure that, if a purpose of the IEP meeting is the consideration of transition services, the public agency must ensure that (1) 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 does not do so, the public agency shall take other steps to obtain the participation of the other agency in the planning of transition services; and (2) the IEP for each student, beginning no later than age 16 (and at a younger age, if determined appropriate) must include a statement of the needed transition services as defined in §300.18, including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting.</p>

FEDERAL REQUIREMENT	OSEP FINDING	EXPECTED RESULTS/ ACTION REQUIRED/TIMELINES
	<p>§§300.344(c)(1)(ii) and 300.344(c)(3) - Transition Services Participants in Meetings - Agency Representative. OSEP found that neither public agency A nor public agency B have a method to ensure that, if a purpose of the IEP meeting is the consideration of transition services, a representative of any other agency that is likely to be responsible for providing or paying for transition services is invited, and, if a representative of the agency is unable to attend, other steps are taken to obtain the participation of the agency in the planning of transition services. In public agency A, three administrators and two teachers told OSEP that there was no agency involvement in meetings at which transition services would be discussed. One of the teachers told OSEP that a representative from vocational rehabilitation did not attend the meeting, even if invited. The teacher acknowledged that there were no other steps taken to obtain the participation of the other agency in planning transition services if a representative did not attend, as required by §300.344(c)(3). The administrator responsible for the administration and supervision of special education programs in public agency B told OSEP that an individual determination was not made as to any other agency which was likely to be responsible for providing or paying for transition services, and, although a representative of vocational rehabilitation was sometimes invited, generally the representative did not attend and no other steps are taken to obtain the participation of the agency in the planning of any transition services. Two building level administrators in public agency B corroborated the agency administrator's information, and two teachers told OSEP that a representative of a participating agency that is likely to be responsible for providing or paying for transition services is not considered and, if appropriate, invited to participate in meetings during which transition services are to be discussed.</p>	