



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

JUL 24 1996

Honorable Ada Jane Walters
Commissioner of Education
State Department of Education
710 James Robertson Parkway
Andrew Johnson Tower
Nashville, Tennessee 37243-0375

Dear Dr. Walters:

During the week of January 22, 1996, the Office of Special Education Programs (OSEP), United States Department of Education, conducted an on-site review of the Tennessee Department of Education's (TDOE) implementation of Part B of the Individuals with Disabilities Education Act (Part B). The purpose of the review was to determine whether TDOE 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 are in Enclosure C.

Our review revealed that the actions TDOE took in response to OSEP's prior monitoring report of December 1992 seem to have been effective in resolving several of the State systems problems identified in that report. During the current review we found no deficiencies in the resolution of complaints, monitoring procedures for identifying deficiencies, and procedures for submitting and approving local education agency applications -- areas where TDOE took corrective action subsequent to our 1992 report.

We also saw noteworthy TDOE initiatives for providing special education services to students with disabilities as part of Tennessee's overall education reform efforts, which are discussed in Enclosure B. OSEP also would like to acknowledge TDOE's leadership in promoting collaborative planning and program development between the Department of Education and other service providers within the State. One activity, supported by TDOE, that exemplifies this collaborative approach is a project between local school systems and area mental health centers. This collaborative project created a crisis intervention program that provides immediate and direct mental health services, including home based family therapeutic services. This undertaking, implemented through TDOE support in three widely dispersed LEAs, has assisted students with severe behavior problems, who are

typically placed and served in separate schools/centers, to transition into the regular education environment.

OSEP's monitoring places a strong emphasis on those requirements most closely associated with positive results for students with disabilities. Our monitoring revealed that TDOE has failed to ensure the correction of deficiencies identified through its monitoring, the effective provision of related services and extended school year services, timeliness of pre-placement evaluations, and the provision of services to eligible persons with disabilities in county and local adult correctional facilities and juvenile detention facilities. Further, OSEP noted continued problems with the manner in which individualized education programs (IEPs) are developed, including the content required in an IEP to address the student's need for transition services, and the content of notices used to inform the participants of IEP meetings when a purpose of the meeting is to determine needed transition services. In addition, OSEP noted that prior written notices either did not contain all of the required content, or were not provided when the public agency refused to initiate or change the student's identification, evaluation, educational placement or provision of a free appropriate public education.

OSEP recognizes the accomplishments made by TDOE through its initiatives to ensure that students are placed in the least restrictive environment. However, OSEP found that when students previously enrolled in separate facilities are returned to regular education buildings within their home school districts, these students continue to be excluded from participation with their non-disabled peers for certain academic programs and nonacademic and extracurricular services and activities. OSEP monitors learned from TDOE administrators that the State's funding structure does not encourage local school districts to provide opportunities for inclusion of students with disabilities in the regular education curriculum and activities. It was reported that a local school district, serving a student in the regular education classroom with appropriate resources, could generate less than half the State funds as a student with a disability who receives the majority of his/her educational services in a self-contained program option.

The preliminary findings of the monitoring team were discussed with Mr. Joseph Fisher and staff members of the Special Education Section, and Dr. Peggy Hayden from the Mid-South Regional Resource Center at an exit conference held at the conclusion of OSEP's on-site visit. At that time TDOE was invited to provide any additional information it wanted OSEP to consider during the development of OSEP's monitoring report. No additional information was submitted; therefore, the findings presented in Enclosure C are final.

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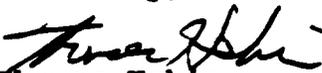
In the event that TDOE, after consideration of the data in this letter and its enclosures, concludes that evidence of noncompliance is significantly inaccurate and that one or more findings is incorrect, TDOE may request reconsideration of the findings. In such a case, TDOE must submit reasons for its 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 TDOE that the finding has been revised or withdrawn. 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 provided during our review. Throughout the course of the monitoring process, Mr. Joseph Fisher, Mrs. Gloria Matta, and staff members of the Division of Special Education were responsive to OSEP's requests for information, and provided access to necessary documentation that enabled OSEP staff to acquire an understanding of Tennessee's various systems to implement Part B.

Members of OSEP's staff are available to provide technical assistance during any phase of the development and implementation of TDOE'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 education programs for children and youth with disabilities in Tennessee.

Sincerely,



Thomas Hehir
Director
Office of Special Education
Programs

Enclosures

cc: Mr. Joseph Fisher

ENCLOSURE A

OSEP's Monitoring Methodology

Pre-site Preparation: OSEP staff began its review of documents related to TDOE's special education program in June 1995. The review included, but was not limited to, TDOE's State Plan, State regulations, interagency agreements and other materials that must comply with the requirements of Part B, such as the complaint management procedures, due process hearings, and State monitoring systems. OSEP also reviewed TDOE's placement data based on the December 1, 1994 child count.

Involvement of Parents and Advocates: During the week of October 31, 1995, OSEP held three public meetings in Cookeville, Jackson, and Johnson City, and conducted two outreach meetings. The purpose of these meetings was to solicit comments from parents, advocacy groups, teachers, administrators and other interested citizens regarding their perceptions of TDOE's compliance with Part B. The information obtained from these meetings, 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 Tennessee; (2) selecting monitoring issues (e.g., the provision of related services) to be emphasized while on-site; and (3) selecting the sites to be monitored.

During the on-site visit, OSEP conducted a parent focus group meeting in one agency 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 its children, as well as the challenges faced by the district in this endeavor.

On-site Data Collection and Findings The OSEP team included Carolyn Smith, the OSEP Team Leader, who spent the week in the capitol interviewing State education agency staff and reviewing relevant documents, and one day in a local school system. Nell Eano, Jane Williams, and Larry Wexler visited four elementary schools, three middle schools, six high schools and two separate facilities in seven public agencies. Where appropriate, OSEP has included in this letter data collected from those agencies to support or clarify the OSEP findings regarding the sufficiency and effectiveness of TDOE'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: Lauderdale County School System
Agency B: Memphis City School System
Agency C: Davidson County School System (Metro-Nashville)
Agency D: Manchester City School System
Agency E: Chattanooga City School System
Agency F: Knox County School System
Agency G: Johnson City School System

CORRECTIVE ACTION PROCEDURES

In the interest of developing a mutually agreeable corrective action plan specifically designed to address these findings, OSEP proposes that TDOE 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 invite a representative from Tennessee's Special Education Advisory Council to participate in that discussion. TDOE'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.

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

1. TDOE 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 for which OSEP found deficiencies. Should these agencies determine that their current practice is inconsistent with the requirements identified in TDOE'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. TDOE 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 practice(s) and submit documentation to TDOE 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 the 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. TDOE must send to OSEP verification that all corrective actions have been completed by these public agencies.

ENCLOSURE B

COMMENDABLE INITIATIVES

The following are commendable TDOE initiatives that were identified by OSEP during the on-site review.

- 1. Complaint Resolution System.** With the assistance of its regional compliance consultants, TDOE has over the past two years resolved 95% of all complaints received within two weeks of the filing of the complaint. In the instances when the 60-day timeline required under Part B was exceeded, extensions were documented for exceptional circumstances such as needed evaluations, vacation schedules of the complainant, or issues held as a result of a due process hearing. This success rate is attributed to an early resolution system where the complainant, regional compliance consultants and TDOE work together to identify the most efficient manner to resolve issues, as well as the consultant's ability to create positive interaction between the complainant and the school system.
- 2. Parent Professional Partnership Training.** This is a State initiative designed to improve the working relationships between parents and local administrators and staff. Over 300 parents and professionals received detailed information on communication skills, positive relationship building, and "win-win" negotiation strategies. This training of trainers model is currently being replicated by local school systems.
- 3. LRE FOR LIFE Project.** The LRE for LIFE Project is a statewide technical assistance project jointly sponsored by the Curriculum and Instruction, Vocational-Technical Education, and Special Education divisions of the Tennessee Department of Education. LRE for LIFE is an acronym for Least Restrictive Environment for Living, Inclusion, Friendships, and Employment. Since 1986, the Project has collaborated with over 44 local educational agencies, focusing its efforts on assisting educators, schools, and school systems in improving the quality of education for students who have been identified as having severe disabilities. Today, the Project has evolved into a school reform and restructuring project, bridging the gap between research and practice, between general, vocational-technical and special education. As such, school systems and individual schools are provided an option of receiving technical assistance to develop a school improvement plan, or participating in the creation of positive behavior support teams for students with behavioral and emotional difficulties.

ENCLOSURE C

FINDINGS AND EXPECTED RESULTS/ACTION REQUIRED

FEDERAL REQUIREMENT/OSEP FINDING	EXPECTED RESULTS/ ACTION REQUIRED/ TIMELINES
<p>I. MONITORING: CORRECTION OF IDENTIFIED DEFICIENCIES 20 U.S.C. §1232d(b) (3) (E). See also 34 CFR §90.40.</p> <p>Background. TDOE utilizes a five-year monitoring cycle. Agencies are divided into six regions, and assigned a Regional Compliance Consultant with responsibility for coordinating the on-site investigation. Agencies selected for monitoring complete a Self-Evaluation/Monitoring Document which identifies five areas that will be reviewed -- Child Identification, Implementation of Full Services, Procedural Safeguards, Eligible Private/Special School Children, and Management and Evaluation. The on-site review includes interviews of parents, administrators, and teachers, and a review of student records and the agency's written policies and procedures. The number of schools visited and special education programs reviewed are determined by the size of the school system. TDOE's monitoring report includes the areas of noncompliance and suggests "remedies" that are required to correct the finding. Within 30 days from receipt of the monitoring report, the agency then submits a corrective action plan to TDOE detailing actions and timelines by which deficiencies will be corrected. The regional compliance consultant reviews the corrective action plan with the agency representative prior to approval. The regional compliance consultant and other TDOE staff will be available, as needed, to provide technical assistance in the development of corrective action plans. Follow-up activities will be scheduled to determine appropriate implementation. Implementation is verified either by a review of documentation submitted by the agency or by an on-site review.</p> <p>Finding. OSEP found that when TDOE monitored its agencies, the corrective actions required by TDOE did not always result in the correction of identified deficiencies. OSEP reviewed the monitoring documents maintained by TDOE and interviewed TDOE's monitoring staff. OSEP noted that TDOE accepted a "written assurance" from agencies monitored that the necessary actions to correct identified deficiencies would be implemented. The corrective action plan is then closed. As discussed further in this enclosure, OSEP identified continuing deficiencies in public agencies where TDOE had monitored, identified deficiencies, and subsequently verified that corrective actions had occurred. In instances where follow-up visits were conducted, it was not clearly documented whether additional actions required by TDOE were completed.</p>	<p>TDOE will ensure that deficiencies identified through its monitoring are corrected by public agencies.</p>

FEDERAL REQUIREMENT/OSEP FINDING	EXPECTED RESULTS/ ACTION REQUIRED/ TIMELINES
<p>II. PROCEDURAL SAFEGUARDS: PRIOR NOTICE §§300.504(a) and 300.505.</p> <p>Written notice that meets the requirements of §300.505 must be given to the parents of a student 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 student or the provision of a free appropriate public education.</p> <p>Finding 1. Written notices provided by agencies C, E, F, and G to parents when agencies proposed to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education did not include all of the content required in §300.505(a)(2), (3), and (4). Agencies C, E, F, and G utilized the IEP as the sole way in which written notice is provided when the agency proposed to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education. OSEP reviewed completed IEPs in Agencies C, E, F, and G and determined that the IEPs, that served as written prior notice in these Agencies, did not include, nor was there a place on the IEP to include, a description of any option considered and the reasons for their rejection, or a description of each evaluation procedure, test, record or report used as a basis for the proposed action, and a description of any other factors that are relevant to the agency's proposal. The notice used by agency G did not include a description of the action proposed.</p> <p>Finding 2. Agencies A, B, C, E, F, and G did not provide written notices to parents when they refused to initiate an evaluation of students who had been suspected of needing special education and related services and were referred for an evaluation to determine eligibility under Part B. Agencies A, B, C, E, F, and G also did not issue written notices when a determination was made that a student is no longer eligible (e.g., terminated) for special education services.</p> <p>TDOE could not, either through its review and approval of local education agency applications or its monitoring procedure, ensure that agencies provided prior written notice of the content required at §300.505.¹ As a consequence, TDOE never made findings regarding this requirement when agencies were monitored.</p>	<p>TDOE will ensure that public agencies provide parents a written notice of the content required at §300.505 each time it proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student, or the provision of a free appropriate public education to the student.</p>

¹ During OSEP's on-site visit, TDOE acknowledged the deficiencies in its model notice and its monitoring procedure. A model notice will be revised and will be disseminated to public agencies with information regarding the use of the model or other notice established by the agency. TDOE also revised its monitoring standards and provided guidance to TDOE compliance consultants and local educational agencies on this requirement.

FEDERAL REQUIREMENT/OSEP FINDING

EXPECTED RESULTS/
ACTION REQUIRED/ TIMELINES

III.A FREE APPROPRIATE PUBLIC EDUCATION: PRE-PLACEMENT EVALUATION
§§300.600(a)(2)(ii), 300.300, 300.8(b), 300.128 and 300.220.

Background. TDOE's Administrative Policies and Procedures Manual (Manual) at Section (4)(a)(1) requires that each agency include in its local application systematic procedures for the identification and referral for evaluation of children suspected of having a disability. An agency's procedures must ensure that when a student is referred for an evaluation, such evaluations are conducted in a timely manner so the provision of services will not be delayed. The length of time between referral and placement may not, per TDOE's Manual, exceed 40 school days. The Manual further states that "the agency shall develop pre-referral intervention procedures to ensure that attempts have been made to meet the needs of the student in the regular education environment." Once a referral for an evaluation is made, the Manual specifies that any interventions attempted in order to meet the needs of the student within the regular school program shall be attempted as part of this 40 day time period. In essence, TDOE has specified that once the referral for an evaluation is made, regardless of any attempted interventions in the regular education program, the agency must adhere to the 40 day timeline.

OSEP monitors requested information regarding the review and approval of local policies and procedures. TDOE staff responsible for the review and approval of local education agency applications reported that all school systems have adopted the State's Administrative Policies and Procedures.

Finding. TDOE has not fully implemented procedures to ensure that students who have disabilities and are in need of special education and related services are identified, located and evaluated and that the provision of a free appropriate public education is not delayed. The Manual specifies that evaluations and placement must be completed within 40 school days of a referral. After the referral is made, any interventions attempted in order to meet the needs of the students in the regular education program must be completed as part of the TDOE mandated timeline. Although OSEP considers this a reasonable timeline, OSEP found that agencies across the State have varied in their implementation of this TDOE requirement. Some agencies, per the TDOE requirements, include within the 40 day timeline interventions attempted in order to meet the needs of the students in the regular education program; other agencies require that after a referral is made interventions attempted in order to meet the needs of the students in the regular education program be completed prior to the initiation of the 40-day timeline. For example, when a referral for an evaluation is received in agency C, interventions within the regular education program are required prior to conducting a full and complete evaluation. This intervention process can last for varying periods of time, but frequently beyond the TDOE required evaluation and placement timeline.

TDOE will ensure that a referral for an evaluation to determine a student's eligibility for special education services is conducted within a reasonable period of time and that processes, such as an agency's interventions procedures in the regular classroom, do not deny or delay the provision of a free appropriate public education.

FEDERAL REQUIREMENT/OSEP FINDING	EXPECTED RESULTS/ ACTION REQUIRED/ TIMELINES
<p>OSEP has reviewed numerous complaints filed by parents of students with disabilities from local educational agencies across the State in which it was substantiated, through the complaint investigation process, that the interventions within the regular education program, after a referral is initiated, can take up to a full school year. While the procedure to intervene within the regular education program in and of itself does not violate Part 200.609, OSEP determined through reviewing a tracking system maintained by Agency C staff that interventions in the regular education environment have delayed the evaluation timeline for as much as six months. Based on interviews of local administrators, OSEP monitors found similar practices in agencies A, E, F, and G. Therefore, OSEP finds that Agencies A, C, E, F, and G have not effectively ensured that an evaluation to determine a student's eligibility for special education services is completed within a reasonable period of time, so that the provision of appropriate special education and related services is not delayed.</p> <p>Although TDOE made findings regarding the requirements noted above in agencies A and C when it last monitored those agencies and verified corrective actions, its monitoring procedures have not effectively ensured that agencies discontinue non-compliant practices.¹</p>	

¹ TDOE did not make findings in agencies E, F, and G. OSEP monitors determined from discussion during the exit conference that TDOE staff responsible for monitoring varied in their understanding of the State's standard regarding the 40 day timeline in relationship to interventions in the regular education program.

FEDERAL REQUIREMENT/OSEP FINDING

EXPECTED RESULTS/
ACTION REQUIRED/ TIMELINES

III.B FREE APPROPRIATE PUBLIC EDUCATION: ACCESS TO PROGRAM OPTIONS
§§300.300, 300.305 and 300.550(b) (2).

Public agencies must take steps to ensure that their students with disabilities have available to them the variety of educational programs and services made available to non-disabled students, including vocational education.

Finding. Access to Program Options. Administrators and teachers in agencies A, C, and E reported that students with disabilities in self-contained settings do not have access to the same vocational options as their non-disabled peers.

Agency A. Vocational services are provided to non-disabled students, students with disabilities who are not in self-contained programs, and students in self-contained programs in one of the agency's two high schools. However, the administrator responsible for vocational programming and the administrator responsible for the provision of special education and related services in Agency A indicated that no vocational educational services are available to students in self-contained settings in the high school visited by OSEP. The agency administrator explained that the building level administrator did not find it appropriate to provide access to vocational programs to students in self-contained classes, and as a consequence, vocational programming is not a consideration for these students when the IEP is being developed. The teacher confirmed that students received no vocational training other than a referral to the vocational rehabilitation agency prior to exiting from the school system.

Agency C. Administrators and teachers reported that students with moderate/severe disabilities in self-contained settings are enrolled in a pre-determined set of community-based vocational options. The building level administrator who participates in the IEP meetings confirmed that no other vocational education options, including regular vocational education options, are considered at the time the students' IEPs are developed. Both the administrator and the students' teacher reported that these students remain in their classrooms for the majority of the day but do go for some training in the community. Participation in less restrictive service options is only available to those students who could succeed without any supplementary aids or services (e.g., be supported by an aide in a vocational class).

Agency E Administrators and teachers who participated in the IEP meeting at the facility visited reported that no individualized determination is made regarding the students' participation in vocational classes. The administrator and the students' teacher reported that vocational training opportunities are not discussed during the IEP meeting because needed supplementary aids and services may not be available. Administrators also asserted that accommodations might be provided if regular education teachers were more receptive to special needs of these students.

These administrators further indicated that students with disabilities in resource programs were seldom recommended for vocational programs because of the uncertain availability of necessary supplementary aids and services, as well as the receptiveness by vocational teachers in this agency.

TDOE will ensure 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; and (2) that the vocational education services to be provided to each student with a disability are determined by the team developing the student's IEP, and that the determination includes consideration of the use of supplementary aids and services to enable the student to participate in regular vocational education programs.

FEDERAL REQUIREMENT/OSEP FINDING

EXPECTED RESULTS/
ACTION REQUIRED/ TIMELINES

III.C FREE APPROPRIATE PUBLIC EDUCATION: RELATED SERVICES §§300.300, 300.8(d) and 300.16.

A free appropriate public education must be made available to all students with disabilities. TDOE must ensure that each student with a disability receives the kind and amount of related services that are required to assist the student to benefit from special education, at no cost to the parent. TDOE has not fully ensured that public agencies provide related services based on the student's unique needs as specified by an IEP.

Finding. Administrators, teachers, and related service providers from Agencies A, E, F, and G stated that mental health services, such as psychological counseling, are not determined based on the student's individual needs, nor provided based on an IEP. Agency personnel in these agencies stated that if an IEP team determines that a student, in order to receive a free appropriate public education, requires more comprehensive counseling than is available through a school counselor at the school, the parent and student are referred to community mental health agencies for community based psychological services. The administrators and teachers reported that the student's IEP does not reflect the need for these services and is not revised once the services are obtained. The Agency A administrator and two related services providers reported that some students are receiving psychological counseling through some other agency, but that those services are not included on students' IEPs. Agency E and G administrators and teachers confirmed that the result of an IEP team recommendation for counseling would be a recommendation that the parent pursue counseling at an outside agency. However, the educational agency would not take steps to ensure that the student was provided the counseling services needed to benefit from special education. Agency F administrators, teachers, and related services personnel reported that the only students receiving mental health services are those with more severe emotional impairments. Agency F personnel further reported that students with less severe emotional impairments who require counseling or other mental health services to benefit from special education are referred to an outside agency. They also stated that the IEPs, for these students, do not include counseling as a related service because it would represent a commitment on the part of the agency to provide these services.

TDOE will ensure that students with disabilities receive the kind and amount of related services, including mental health counseling, when the IEP team determines that such services are necessary to ensure that the student receives a free appropriate public education.

FEDERAL REQUIREMENT/OSEP FINDING

EXPECTED RESULTS/
ACTION REQUIRED/ TIMELINES

III.D FREE APPROPRIATE PUBLIC EDUCATION: EXTENDED SCHOOL YEAR SERVICES
5300.8(a) and 300.300.

Finding. TDOE has not fully ensured that public agencies consider the need for extended school year services for children with disabilities and provide those services, if necessary to ensure children receive a free appropriate public education. OSEP found that Agencies A, C, and E did not provide extended school year services to all students who needed those services as a component of free appropriate public education.

Administrators and teachers who participate in IEP meetings in Agencies A, C, and E reported that, regardless of need, extended school year services are not considered and, if appropriate, made available, to students with disabilities. Agency A administrators reported that extended school year services are not considered for students in comprehensive development (self-contained) classes because it is not available, regardless of student need. Agency C administrators and teachers reported that extended school year services had not been discussed and added that there are no IEP-driven summer services available to any student with a disability, regardless of need. The administrator of the special school in Agency C reported that recommendations for extended school year services had to be justified and approved by the central office. This assertion was supported by a memorandum to principals and special education teachers in agency C confirming that all "referral" information for extended school year services is sent to the agency's Special Education Office for approval by a date specified by the agency's administrator. Because so few recommendations resulted in students receiving services, school-level recommendations for extended school years services had ceased. Agency E administrators reported that a summer vocational program is available to students in self-contained comprehensive development classes and might be provided if recommended by the teacher, or if the parents request a summer work program. However, transportation would not be provided. Teachers in Agency E reported that extended school year services are not discussed at the IEP meetings because they have been advised that extended school year services are not available.

Although TDOE made findings regarding the requirements noted above in Agencies C and E when it last monitored those agencies and verified corrective actions, its monitoring procedures have not effectively ensured that agencies discontinue non-compliant practices.

TDOE will ensure that students with disabilities receive extended school year services, if necessary, to ensure that the student receives a free appropriate public education.

FEDERAL REQUIREMENT/OSEP FINDING	EXPECTED RESULTS/ ACTION REQUIRED/ TIMELINES
<p>IV. LEAST RESTRICTIVE ENVIRONMENT: NONACADEMIC SETTINGS §300.553.</p> <p>TDOE is responsible for ensuring that in providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.306, each public agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.</p> <p>Finding. Nonacademic Settings. OSEP found that, for moderately mentally disabled and seriously emotionally disturbed students in separate classes in agencies C and E, the extent of participation in nonacademic and extracurricular activities with non-disabled children was not determined on an individual basis.</p> <p>The administrators responsible for special education and the students' teachers in Agency E stated that participation in nonacademic and extracurricular activities with nondisabled peers was not considered for seriously emotionally disturbed and moderately mentally disabled students enrolled in the self-contained settings even though these students could benefit from such participation. OSEP visited a program in Agency E that was housed in a separate wing of a regular education building. The building administrator told OSEP that the students' placement in the separate wing is not intended to isolate the disabled students, but rather to centralize services. The building level administrator further indicated that he is not aware of any discussion of necessary supplementary aids, services, or accommodations at the IEP team meeting that would allow participation with nondisabled children in those nonacademic and extracurricular services and activities appropriate to the needs of the children with disabilities.</p> <p>Administrators and the students' teachers in Agency C reported that the integration of moderately mentally disabled and seriously emotional disturbed students with their non-disabled peers in nonacademic and extracurricular activities was not based on the individual needs of students, but on the availability of resources and teacher receptiveness. They further confirmed that for moderately mentally disabled students in self-contained placements, no integration opportunities beyond job training activities in the community are considered.</p> <p>Although TDOE made findings regarding the requirements noted above in Agencies C and E when it last monitored those agencies and verified corrective actions, its monitoring procedures have not effectively ensured that agencies discontinue non-compliant practices.</p>	<p>TDOE will ensure that in providing or arranging for the provision of nonacademic and extracurricular activities and services, each public agency ensures that students with disabilities participate with non-disabled children in those activities and services to the maximum extent appropriate to the needs of the child.</p>

FEDERAL REQUIREMENT/OSEP FINDING	EXPECTED RESULTS/ ACTION REQUIRED/ TIMELINES
<p>V. GENERAL SUPERVISION: RESPONSIBILITY FOR ALL EDUCATIONAL PROGRAMS §§300.600(a), 300.2(b)(4), 300.128 and 300.300.</p> <p>Finding. TDOE did not exercise its general supervisory responsibility in a manner that ensured that all individuals with disabilities, including those who are incarcerated, are identified, located and evaluated, and if found eligible, provided a free appropriate public education.</p> <p>OSEP interviewed TDOE staff and local administrators who verified that there is no method for identifying, and if determined eligible, providing special education and related services to inmates in county and local adult correctional facilities and juvenile detention centers. Under Tennessee State law: (1) the provision of special education and related services for the inmates in county and locally operated correctional facilities and juvenile detention facilities is the responsibility of the school district in which the facility is located; and (2) students with disabilities are entitled to receive a free appropriate public education through age 21. Administrators from each of the agencies visited by OSEP reported that no plans had been initiated to establish procedures for the identification of eligible Part B students, and confirmed that special education services were not available to a student who might require such services.³ OSEP determined from interviews with TDOE staff that TDOE had not monitored LEAs to ensure that eligible individuals in locally operated jails or detention centers were identified and, if found to be eligible under Part B, were receiving services.</p>	<p>TDOE will ensure that eligible inmates at county and locally operated correctional facilities and juvenile detention facilities in the State who are 21 years of age or younger are identified and, if found eligible, provided special education and related services. TDOE must have procedures to monitor these agencies for compliance with Federal and State requirements.</p>

³ Through collaborative efforts with the Office for Civil Rights, it came to OSEP's attention that a complaint had been filed with the Office for Civil Rights because previously identified students with disabilities in county correctional facilities in agency F were not provided special education services. The Office for Civil Rights investigated the complaint and found the allegations valid. The Office for Civil Rights and TDOE developed a plan of action that was limited to Agency F but could be replicated in correctional facilities in other local educational agencies throughout the State.

FEDERAL REQUIREMENT/OSEP FINDING

EXPECTED RESULTS/
ACTION REQUIRED/ TIMELINES

VI. TRANSITION SERVICES §§300.344(c), 300.345(b)(2) and 300.346(b).

Finding 1. Participants in Meetings. TDOE is responsible for ensuring that, if a purpose of an IEP meeting is the consideration of transition services, the public agency must invite a representative of any other agency that is likely to be responsible for providing or paying for transition services, 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. Administrators and teachers in Agencies B and C told OSEP that no individual determination is made as to any other agency which was likely to be responsible for providing or paying for transition services. Administrators in public Agency B told OSEP that the "involvement of other agencies is not yet effective," explaining that although schools are provided with a list of potential agencies to invite to IEP meetings, generally vocational rehabilitation is the only agency invited, regardless of the student's need for the involvement of other agencies. Similarly, two administrators and a teacher in Agency C told OSEP that referrals are made to the Department of Vocational Rehabilitation for each student, but that representatives of Department of Vocational Rehabilitation were not consistently invited to attend IEP meetings when that agency was likely to provide or pay for transition services.

Finding 2. Content of Notice. TDOE is responsible for ensuring that, if a purpose of an IEP meeting is the consideration of transition services, the notice to parents of the IEP meeting must: (1) indicate that the purpose of the meeting includes consideration of transition services; (2) must indicate that the agency will invite the student; and (3) identify any other agency that will be invited to send a representative.

The IEP notices in the records of students 16 years and older in all the agencies visited by OSEP did not address the requirements of §300.345(b)(2). These notices did not state that a purpose of the IEP meeting was the consideration of transition services, indicate that the agency would invite the student, and identify any other agency that would be invited to send a representative. TDOE monitors determine compliance with transition requirements by verifying whether a transition plan is attached and the content of that plan meets the requirements at §§300.18 and 300.346(b), but do not monitor regarding the notice requirements of §300.345(b)(2).

TDOE will 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 notice must indicate the purpose, indicate that the agency will invite the student, and identify any other agency that will be invited to send a representative.

FEDERAL REQUIREMENT/OSEP FINDING	EXPECTED RESULTS/ ACTION REQUIRED/ TIMELINES
<p>OSEP determined from TDOE monitors and staff responsible for the review and approval of agency policy and procedures, the model IEP notice does not include the content required at §300.345(b)(2)⁴, thereby ensuring that the parent is informed when needed transition services will be discussed at an IEP meeting, and the participants invited to that meeting.</p> <p>Finding 3. Statement of Needed Transition Services. TDOE is responsible for ensuring that 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, or if the IEP team determines that services are not needed in one or more of the areas specified in §300.18(b)(2)(i) through (b)(2)(iii) [instruction, community experiences, the development of employment and other post-school living objectives], the IEP must include a statement to that effect and the basis upon which the determination was made. TDOE must also ensure that the IEPs for students age 16 and older include, if appropriate, a statement of each public agency's and each participating agency's responsibilities and/or linkages, before the student leaves the school setting.</p> <p>OSEP reviewed the IEPs of 25 students 16 years or older in Agencies A, B, C, E, F, and G. OSEP found that none of the statements of needed transition services in the IEPs reviewed in Agencies C, E, and G had all components as defined by §300.18. Required components that were missing included needed activities in the areas of community experiences and the development of employment and other post-school adult living objectives. There was no statement in any of the IEPs with missing components that the IEP team had determined that services were not needed and the basis for the determination as specified under §300.346(b)(2). Some transition plans only included a referral to the Department of Vocational Rehabilitation. In addition, none of the IEPs reviewed by OSEP included a statement of each public agency's and each participating agency's responsibilities or linkages. Personnel in Agencies B and C indicated that they do not have a method to ensure that, if appropriate, a statement of each agency's responsibilities and/or linkages is included on the student's IEP before the student leaves the school setting.</p> <p>Although TDOE made findings regarding the requirements noted above in Agencies A, E, and F when it last monitored those agencies and verified corrective actions, its monitoring procedures have not effectively ensured that agencies discontinue non-compliant practices.</p>	<p>TDOE will ensure that each public agency, beginning no later than age 16 (and at a younger age, if determined appropriate), develops an IEP for each student which includes a statement of needed transition services; and in those instances specified in §300.18(b)(2)(i) through (b)(2)(iii) where one or more content areas are omitted, the IEP must include a statement to that effect and the basis upon which the determination was made.</p>

⁴ While OSEP's monitor was in the State office, TDOE revised its model IEP notice and monitoring standards to include the requirements of §§300.344(c) and 300.345(b). Guidance will be provided to compliance consultants regarding these requirements for use during the remainder of TDOE's monitoring cycle, and while TDOE's monitoring procedures are being updated.