



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

MARCH 3, 1995

Honorable Judy Catchpole
State Superintendent of Public Instruction
State Department of Education
Hathaway Building
Cheyenne, Wyoming 82002

Dear Superintendent Catchpole:

During the week of April 25, 1994, the Office of Special Education Programs (OSEP), United States Department of Education, conducted an onsite review of the Wyoming State Department of Education's (WSDE) implementation of Part B of the Individuals with Disabilities Education Act (Part B) and the Education Department General Administrative Regulations (EDGAR). The purpose of the review was to determine whether WSDE is meeting its responsibility to ensure that the State's educational programs for children with disabilities are being administered in a manner fully consistent with the requirements of (1) Part B and its implementing regulations, and (2) EDGAR.

We are sending you and your special education staff this final report, entitled "Office of Special Education Programs Monitoring Report: 1994 Review of Wyoming Department of Education" (Report).

I want to thank you for the assistance and cooperation offered by your staff during our review. Throughout the course of the monitoring process, Dr. Judy Minier and the staff of the Special Education Unit were responsive to OSEP's requests for information, and provided access to necessary documentation that enabled OSEP staff to acquire an understanding of the various State systems to implement Part B and EDGAR.

It is important to recognize that the Report addresses only those aspects of the Wyoming special education system that OSEP reviewed and found to be inconsistent with Federal requirements. The Report does not discuss numerous aspects of Wyoming's special education system that are consistent with Federal requirements. OSEP would also like to note that many of the areas found deficient during OSEP's last monitoring visit have been

Page 2 - Honorable Judy Catchpole

corrected. Specifically, WSDE has developed a complaint system that is well managed and maintained and has developed model forms and procedures that when utilized by all public agencies will be effective in meeting Part B requirements. In this regard, WSDE must continue to work effectively with all public agencies, particularly those identified in the General Supervision Section of this Report, in providing special education and related services to all children with disabilities.

The Report describes OSEP's findings with respect to the policies and procedures that WSDE has implemented in fulfilling its general supervisory responsibilities, in accordance with the legal requirements established by Part B and EDGAR. The findings are organized into four areas of responsibility, as shown in the Table of Contents. WSDE must take Corrective Actions as delineated in each of the four areas of responsibility, in order to address OSEP's findings and to ensure compliance with the requirements of Part B through the exercise of its general supervisory responsibilities.

Members of OSEP's staff are available to provide technical assistance during any phase of the development and implementation of your corrective actions. Please let me know if we can be of assistance. Thank you for your continued efforts in the provision of quality educational programs for children with disabilities in the State of Wyoming.

Sincerely,

Thomas Hehir
Director
Office of Special Education
Programs

cc: Ms. Sharon Davarn

OFFICE OF SPECIAL EDUCATION PROGRAMS
MONITORING REPORT:

1994 REVIEW OF THE WYOMING STATE DEPARTMENT OF EDUCATION'S
IMPLEMENTATION OF PART B OF
THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT

FEBRUARY 1995

TABLE OF CONTENTS

PREFACE	iii
INTRODUCTION	iv
I. GENERAL SUPERVISION	1
II. STATE EDUCATIONAL AGENCY MONITORING	5
III. STATE EDUCATIONAL AGENCY REVIEW AND APPROVAL OF LOCAL EDUCATIONAL AGENCY APPLICATIONS	7
IV. INDIVIDUALIZED EDUCATION PROGRAMS	13
V. DUE PROCESS PROCEDURES AND PROCEDURAL SAFEGUARDS . .	15
APPENDIX A: LEA CHART	17
APPENDIX B: CORRECTIVE ACTION PLAN	18

PREFACE

This Report presents the results of the onsite review of the Wyoming Department of Education's (WSDE) implementation of Part B of the Individuals with Disabilities Education Act (Part B), conducted by the Office of Special Education Programs (OSEP), U.S. Department of Education, during the week of November 29, 1993. The purpose of this review was to determine whether WSDE is meeting its responsibility to ensure that the State's educational programs for children with disabilities are being administered in a manner consistent with the requirements of Part B and its implementing regulations, and the requirements of the Education Department General Administrative Regulations (EDGAR).

All regulatory citations in this Report refer to sections of Title 34 of the Code of Federal Regulations, unless otherwise indicated.

The Report contains an introduction, commendations, five sections and two appendices. The introduction briefly describes OSEP's review process and includes a description of Wyoming's system for providing special education and related services. Each of the five sections of the Report sets forth: (1) a statement of the legal responsibilities which WSDE must fulfill in order to ensure that public agencies meet the requirements of Part B; and (2) OSEP's findings of fact concerning WSDE's implementation of its responsibilities.

With respect to the identified inconsistencies with Part B, as reflected in the Corrective Action Plan, WSDE must take steps to come into immediate compliance with the applicable requirements under Part B and EDGAR, including (1) discontinuing the deficient practice, and (2) informing all agencies, if necessary, of the procedures required to comply with Part B. In addition, if State regulations, statutes, or administrative policies are inconsistent with Part B and EDGAR requirements, WSDE also must take steps to ensure that the affected documents are appropriately revised within the specified timelines.

OSEP will be conducting follow-up visits to certain States monitored during this cycle to verify implementation of the required corrective actions. These visits will occur approximately one year after issuance of the final Report. Your State will be notified if it is selected for a follow-up visit.

INTRODUCTION

In order to be eligible to receive Part B funds each participating State is required to meet the eligibility requirements of 20 U.S.C. §1412(6), which provides:

The State educational agency shall be responsible for ensuring that the requirements of this part are carried out and that each educational program for children with disabilities within the State, including each program administered by any other public agency, is under the general supervision of the persons responsible for educational programs for children with disabilities in the State educational agency and meets educational standards of the State educational agency. [See also §300.600(a).]

In addition to WSDE's general supervisory responsibility, WSDE is required to carry out certain activities in order to ensure that public agencies carry out their specific responsibilities related to the Part B requirements, including those at §§300.340-300.350 (individualized education program (IEP)), §§300.550-300.556 (least restrictive environment (LRE)), §§300.530-300.534 (protection in evaluation procedures), §300.121 (free appropriate public education), §300.128 (child find) and §§300.560-300.575 (confidentiality of information). These activities are to:

- (1) include in its annual program plan, a copy of each State statute, policy, and standard that ensures the specified requirements are met (See §§300.121-300.154);
- (2) require public agencies to establish and implement procedures that meet specific requirements, including those identified above (See §§300.220, 300.341, 300.501, 300.530 and 300.550);
- (3) monitor to ensure that public agencies implement all requirements, including those identified above (See §§80.40, 300.402, and 300.556, and 20 U.S.C. §1232d(b)(3)); and
- (4) require that each application for Part B funds include procedures to ensure that the public agency's procedures are consistent with the requirements of §§300.340-300.350 (IEP), §§300.550-300.553 (LRE), §300.128 (child find), §§300.560-300.574 (confidentiality of information), and §300.226 (parent involvement) (See §§76.770, 76.400 and 300.220-300.240).

Information gathered by OSEP as part of its monitoring review demonstrates that WSDE did not, in all instances, establish and exercise its general supervisory authority in a manner that ensures that all public agencies within Wyoming comply with the requirements of Part B. Where findings are based, in part, on data collected from student records and local staff interviews, OSEP does not conclude that the identified deficiencies establish that similar deficiencies are present in all public agencies in Wyoming. However, because WSDE's systems for ensuring compliance have not been fully effective for the reasons cited in this Report, OSEP requires WSDE to undertake certain corrective actions to improve its systems for ensuring compliance with Part B and EDGAR.

OSEP REVIEW PROCESS: Beginning in January 1994, the OSEP team of Gerrie Hawkins, Ken Kienas, Maral Taylor and Ray Myers reviewed the Wyoming State plan and public agencies' policies, procedures, plans, standards, and other relevant documents relating to Part B. On March 9, 1994, OSEP conducted a public meeting in Cheyenne (Compressed Video connections were also available at eight different locations across the State) in order to solicit comments from parents, teachers, administrators, and other interested citizens regarding WSDE's compliance with Part B and EDGAR. Ken Kienas, OSEP State Contact for Wyoming, conducted the meeting and also met with State education agency officials during his time in the State. OSEP began a review of WSDE's monitoring and local educational agency (LEA) application systems. During the week of April 25 - 29, 1994, the OSEP team made site visits to a number of public agencies and reviewed student records and interviewed agency personnel. Ken Kienas and Ray Myers also interviewed staff at the State agency level who were involved in the administration and supervision of educational programs for children with disabilities. OSEP made onsite visits to four school districts, a Board of Cooperative Educational Services (BOCES), and a preschool program administered by the Division of Developmental Disabilities, Department of Health.

Upon returning to Washington, D.C., OSEP completed its analysis of the information collected, and prepared its draft Report. WSDE was provided an opportunity to comment on the accuracy and completeness of the draft Report, and submitted a response on January 11, 1995. OSEP reviewed WSDE's requested revisions and as a result made minor modifications to the corrective action plan (CAP).

Throughout the Report, OSEP makes reference to information obtained through interviews with teachers, related service providers, and administrators. In all cases, OSEP has established that those persons interviewed were knowledgeable about and routinely involved in the areas about which they were questioned. Specifically, OSEP interviewed only those teachers responsible for providing services to the students whose records were reviewed; the related service providers responsible for providing the related services discussed in the findings; and the administrators responsible for programs in the schools of the students whose records were reviewed.

DESCRIPTION OF WYOMING'S SPECIAL EDUCATION SYSTEM

Statewide Child Count	13,614
WSDE Central Office	Cheyenne
SEA Director	Ms. Sharon Davarn
Number of SEA Staff	Six
Number of local school systems in State	49
Other agencies providing special education programs and related services	Department of Health, Boards of Cooperative Educational Services (BOCES), Department of Family Services, Private Residential Facilities, and School for the Deaf
SEA Monitoring System	Local educational agencies are reviewed on a five year cycle. Other agencies providing special education and related services to children with disabilities are reviewed on a three year cycle. Section II of this Report, beginning on page 4 provides a more detailed description of the WSDE's monitoring system.
Due Process Hearing System	One tier system. Parent files a request for a hearing with WSDE. Mediation is available and used if both parties agree. A Hearing Officer is appointed by the State Superintendent.
State Funding Formula	WSDE administers its State aid for special education on a percentage cost reimbursement formula. Reimbursement is provided for 85% of the expenditures incurred in providing special education programs.
Technical Assistance	Conducted by Special Education Unit staff upon request of the LEAs or at the initiation of WSDE. Individual WSDE staff are assigned technical assistance responsibilities based on both geography and/or areas of expertise.

I. GENERAL SUPERVISION

WSDE is responsible for ensuring that: (1) the requirements of Part B are carried out; and (2) each educational program for children with disabilities administered within the State, including each program administered by any other public agency is under the general supervision of the persons responsible for educational programs for children with disabilities in the SEA; and meets the education standards of the SEA (including the requirements of this Part). \$300.600

WSDE is responsible for exercising its general supervisory responsibility to ensure that a free appropriate public education is made available to all children and youth with disabilities ages three through 21 who need special education and related services, including those who are in facilities and institutions. §§300.600 and 300.300.

FINDING 1-- Department of Corrections

OSEP finds that WSDE did not exercise its general supervisory responsibility in a manner that ensured that all individuals with disabilities, ages three through 21, including those who are incarcerated, are identified, located and evaluated, and have available to them a free appropriate public education.

1. There are currently no existing statutes, regulations or inter-agency agreements between Wyoming adult correctional facilities and educational agencies at the local, county or State level that establish responsibility for providing special education and related services for youth with disabilities up to age 21 who are incarcerated in these facilities. WSDE staff and Wyoming Department of Corrections (WDOC) both confirmed that there is no existing interagency agreement or arrangement with the WDOC that establishes WSDE's general supervisory responsibility in assuring the provision of a free appropriate public education (FAPE) for children and youth with disabilities incarcerated in State correctional facilities. Staff from both agencies indicated at the time of OSEP's visit that draft agreements have been developed for the purpose of establishing respective agency responsibilities. In addition, WSDE verified that at the present time WSDE did not monitor or implement any other procedures at either State or County correction educational programs to ensure compliance with Part B requirements.

2. OSEP interviewed WDOC administrators responsible for educational programs in these correctional facilities. They confirmed that there were no special education and related services presently available in their educational programs.

3. A recent analysis of special education program needs in these correctional facilities was conducted by WSDE in preparation for the OSEP's monitoring visit. The analysis revealed that only one of the three major correctional facilities employs a certified special education teacher, and there is no established special education service delivery system in any of these facilities. There are currently 83 inmates under the age of 21 in these three facilities. The primary educational program in these facilities is adult basic education. Wyoming correctional facilities do not determine whether incarcerated youth are eligible for special education and related services and make FAPE available where such services are required.

FINDING 2-- Department of Health (DOH)

The Department of Health (DOH) has been designated as the agency responsible for providing services to preschool children with disabilities within Wyoming. There are fourteen regions within the State. OSEP visited one of the regional center programs which is identified in this Report as Agency A. DOH submits a consolidated application for Part B funds for all nine regions and WSDE monitors the regional centers on a five year cycle.

OSEP finds that WSDE did not exercise its general supervisory responsibility in a manner that ensured that all individuals with disabilities, ages three through 21, including those who are served in preschool programs, have available to them a free appropriate public education in the least restrictive environment.

1. WSDE approved as a part of the Part B grant application for the 1993-94 school year a procedure which required parents to participate in an administrative procedure prior to exercising their rights to a due process hearing as set forth at §300.506(a). OSEP reviewed DOH procedures which included materials that were distributed to parents in Agency A as a summary of their due process rights. The procedures require parents to participate in a hearing at an intermediate level (Contested Case Hearing with the participating agency) prior to exercising their rights to a due process hearing conducted through WSDE. An Agency A administrator confirmed that the parent would have to participate in this administrative procedure prior to accessing their rights to a due process hearing.

2. In its review of documentation related to the provision of related services for children with disabilities attending the regional program at Agency A, OSEP noted that in an informational packet for parents of children attending the program there was a two page explanation of how the program operates. Item #8 of this document states, "Bussing is not provided. If transportation is a problem, notify the staff and we will try to help arrange car pooling or other arrangements". A second document, September 1993 Center Policies for Parents, reviewed by OSEP staff confirmed this policy. Item #15 in this document states, "Bussing is not provided. If transportation is a problem notify the staff and we will try to help arrange car pooling or other transportation..." This document did not clarify that if bussing was identified as a related service on the IEP for a child with a disability, it would be provided at no cost to the parents.

3. OSEP was informed by SEA staff that public agencies were required to utilize SEA model forms unless local versions are approved by the SEA. An OSEP reviewer noted the use of a WSDE form, Individual Student LRE Determination form, in student files in Agency A to document LRE decisions. However, OSEP also noted that the SEA form was modified for use by Agency A with portions of the form either crossed out or marked "not applicable"(NA) on sections designed to facilitate placement decision for children on the continuum. For example, under "Steps to Determine Appropriate Placement full time in a regular environment" the question: "Does the IEP Team believe the child can achieve IEP goals and objectives in the regular environment?", was marked "NA". Another question under "Steps in determining placement in a special environment": "Has the IEP Team determined that the curricula, instructional methodologies and classroom organization needed to support the achievement of IEP goals and objectives could not be incorporated into placement in the regular environment?" was also designated as "NA". The elimination of these steps for the determination of LRE for individual students is inconsistent with Part B requirements, and as described below, resulted in administrators not requiring that the regular environment, i.e., full time placement in a preschool program with nondisabled children, be considered for all children with disabilities.

When OSEP reviewers questioned the use of this modified SEA form, OSEP was informed by the Agency Director that Preschool Directors within DOH in Wyoming had developed and submitted to WSDE for approval a draft form, Preschool Individual Student LRE Determination, that they felt would allow the teams to determine what a child's "regular environment" would be using a regular environment definition that would vary for each child. The Director further stated that WSDE had not provided guidance to them although the proposed form had been submitted to the SEA for review. As a result, the Agency was utilizing a modified procedure which had not received approval from the SEA, in place of the SEA guidance to use the Individual Student LRE Determination form in determining LRE placements for all children with disabilities.

4. Both regular and disabled preschool children were housed in the same building in Agency A. OSEP found that integration opportunities for children with disabilities were based upon age and not children's individual needs. For example, OSEP found that three year olds with disabilities were being segregated from their nondisabled peers due to administrative convenience. OSEP reviewed two records of three year olds with disabilities and interviewed Agency A staff and found that opportunities to participate in educational, nonacademic or extracurricular services and activities with their nondisabled peers as set forth at §§300.550(b) and 300.553 was not available for them during the 1993-94 school year. The Administrator stated that plans for the 1994-95 school year are to include three year olds without disabilities in the classroom with three year olds with disabilities but acknowledged that integration opportunities were not available for this group of children at this time because of a lack of physical space.

FINDING 3-- Board of Cooperative Educational Services (BOCES)

There are three regionalized BOCES within Wyoming. Children with disabilities are placed in the BOCES by local school districts; thus, local school districts are responsible for ensuring FAPE for children they place into the BOCES. WSDE monitors the BOCES on a five year cycle and has assigned a staff member to act as liaison between institutions and facilities within the State, including the BOCES.

OSEP finds that WSDE did not exercise its general supervisory responsibility in a manner that ensured that all individuals with disabilities, ages three through 21, including those who are served in a BOCES, have available to them a free appropriate public education in the least restrictive environment.

1. OSEP was informed by staff in Agency D (a separate BOCES facility serving children with disabilities only) that although they had attempted to provide children with disabilities with interactions with nondisabled peers in the local school district where Agency D was located, there had been no success because of a lack of supports and services, and serious overcrowding at the elementary program level in the local school district. As a result, Agency D staff reported that decisions regarding integration for nonacademic and extracurricular services were based on availability of space rather than children's individual needs. For example, OSEP noted in a review of six files and discussions with Agency D staff that one fourth grade child did not participate with nondisabled peers to the maximum extent appropriate to the child's individual needs even though such integration had been determined appropriate for that child through the IEP development and review process.

II. STATE EDUCATIONAL AGENCY MONITORING

Summary of WSDE's monitoring system: WSDE special education monitoring is conducted on a five year cycle for LEAs and a three year cycle for institutions and facilities. Compliance monitoring is conducted by WSDE staff with several other contracted individuals hired as necessary to supplement the review team. WSDE staff utilize the document, Special Education Compliance Monitoring Manual (Manual) to conduct the reviews of local agencies. The manual is divided into three sections: policy and procedure review, special education forms review, and implementation review. The local policies and procedures are reviewed prior to the on-site visit. During the on-site monitoring visit, WSDE monitors visit schools where they select a random number of records to review and interview staff. After the visit, a report is prepared and sent to the local agency. The local agency is required to submit a corrective action plan that addresses the identified deficiencies to WSDE within 30 days after receipt of the Report. Local agencies submit documentation as corrective actions are completed within the established timelines. Depending upon the issues involved, follow-up visits may be scheduled.

- 1. WSDE is responsible for the adoption and use of effective methods to monitor public agencies responsible for carrying out special education programs. 20 U.S.C. §1232d(b)(3)(A).**

FINDING:

a. OSEP finds that WSDE did not adopt and use effective methods to identify deficiencies in certain areas of public agencies providing services to children with disabilities, as demonstrated below:

1) REQUIREMENTS WHICH ARE NOT INCLUDED IN WSDE MONITORING SYSTEM

300.300	Free Appropriate Public Education: Length of School Day
300.302	Residential Placement
300.348(c)	Public Agency Responsible for Private School Placements
300.401	Responsibility of Public Agency for Children Placed in Private Schools
300.505(b) & (c)	Content of Notice
300.531	Preplacement Evaluation
300.566	Fees
300.567	Amendment of Records
300.568	Opportunity for Hearing
300.569	Result of Hearing
300.570	Hearing Procedures

2) INCOMPLETE METHODS TO DETERMINE COMPLIANCE:

§300.343(b) IEP: WSDE monitors check to ensure that an IEP is written 60 days after the public agency receives consent for initial evaluation. However, WSDE does not monitor to ensure that an IEP meeting is held within 30 days of a determination that a child needs special education and related services.

§300.349 Private school: WSDE monitors check to ensure that the local agency has policies and procedures which comply with §300.349. However, WSDE's monitoring system has no method to ensure that these policies and procedures are being implemented correctly.

§300.506(c) Due Process Hearing: WSDE monitors whether parents receive information about free or low cost legal and other relevant services if a hearing is initiated. However, it does not monitor to see if the parent is provided this information if it is requested at any other time.

3) INEFFECTIVE METHODS FOR IDENTIFYING DEFICIENCIES

§300.300 Free Appropriate Public Education: WSDE uses the method included on page I-11 of the Manual to ensure that the public agency has policies and procedures which include transportation as a related service to children with disabilities. However, WSDE was not effective in identifying deficiencies relative to this requirement in Agency A which is one of fourteen regional center programs administered through uniform policies and procedures established by the Wyoming Department of Health. (See Section I on page 2 of this Report.)

§300.346(a)(1) IEP Content: Page III-9 of WSDE's Manual includes a method to verify that the IEP includes a "summary of present levels of educational performance; (raw scores not enough)." This method has not been effective in determining whether present levels of educational performance meet Federal requirements as noted by the deficiencies presented on page 13 of this Report.

§300.346(a)(5) IEP Content: Page III-9 of WSDE's Manual contains a method for determining that "measurable short-term objectives (more than one) with criteria, evaluation procedures, and schedules for determining achievement" are included in IEPs. This method has not been effective in determining whether all short-term objective components meet Federal requirements as noted by the deficiencies presented on page 13 of this Report.

**III. STATE EDUCATIONAL AGENCY REVIEW AND APPROVAL
OF LOCAL EDUCATIONAL AGENCY APPLICATIONS**

Federal regulations establish the requirements that must be satisfied as a condition for distributing Part B funds to LEAs. §§300.180-300.240. WSDE is responsible for developing procedures that applicants must follow when submitting applications for Part B funds, for providing assistance in applying for funds, for approving applications that meet Federal requirements and for disapproving applications that do not meet Federal requirements. §§76.770, 76.400(b) and (d) and 76.401.

Description of WSDE's LEA Application process: WSDE requires applicants to submit a single or consolidated application annually depending on the number of students with disabilities with the district. The LEA application is meant to serve two mandated functions. It serves as a report on the proposed implementation of procedures and programs for the current school year and as the grant application for Part B funds. The application consists of assurances, budgetary information, and LEA policies, procedures and forms. Applicants may adopt WSDE's policies, procedures, and model forms or submit their own versions for approval. Each applicant was required to submit its operating policies, procedures and forms during the 1993-94 funding cycle. For subsequent years, applicants are only required to submit their changes or amendments.

1. WSDE is responsible for developing procedures that applicants must follow when submitting applications for Part B funds. §76.770(b). The procedures must identify all the requirements that must be satisfied as a condition for distributing Part B funds to LEAs. §§300.180-300.240.

FINDING: INCOMPLETE/INCORRECT STATE INSTRUCTIONS

OSEP finds that WSDE's instructions for submitting LEA applications did not address all requirements as set forth in §§300.220-300.240 and 76.301. Table I-A on the next page provides a summary of the results of OSEP's review of WSDE's LEA application materials. The table presents the LEA application requirements for which WSDE did not develop complete instructions.

TABLE I-A: LEA APPLICATIONS - STATE INSTRUCTIONS

SECTION	CONTENT	EXPLANATION
300.226	Parent Involvement: Procedures in Meeting FEOG Goal	Absent
76.301 ¹	LEA General Application: Assurances	Incomplete: The assurance required of applicants on page 41 of the instructions does not include §§1232e(b)(1) (Administration), (b)(3) (Fiscal control/fund accounting), (b)(5) (Participation), (b)(7(A) (Construction/consistent with State plans), (b)(7)(B) (Plans for Construction), (b)(8) (Dissemination), & (b)(9) (No benefit/acquisition).

2. WSDE is responsible for approving applications for Part B funds that satisfy applicable Federal statutes and regulations and disapproving applications that do not meet Federal requirements. §76.400(b) and (d).

¹ 34 CFR 76.301 incorporates by reference the requirements of Section 436 of The General Education Provisions Act (GEPA), 20 U.S.C. §1232e.

FINDING: APPROVAL OF INCOMPLETE/INCORRECT LEA APPLICATIONS

OSEP finds that WSDE has approved LEA applications which did not meet all Federal requirements. As part of its monitoring activities, OSEP requested copies of the most recently approved Part B Project Applications from five of the six public agencies visited by OSEP.² OSEP reviewed the assurances, policies and procedures, and other information in applications for these five agencies to ensure that the documents were consistent with the LEA application requirements. Agencies B, C, and F have adopted State policies and procedures. OSEP found no deficiencies in these agencies' LEA applications except for those omissions in WSDE instructions noted in Table I-A above. Agencies A and E have chosen to utilize their own policies and procedures, as permitted through WSDE's LEA application process. In addition to the deficiencies reflected in Table I-A above, OSEP noted that requirements presented in Table I-B on the next page were either not included in the LEA applications for Agencies A and/or E, or inconsistent with Federal regulations.

² Agency D does not submit a project application for Part B funds. It provides services to children with disabilities for other agencies and, thus, does not directly receive Part B funds.

WSDE reviews Agency D's policies and procedures for compliance with Part B requirements as part of its monitoring of this Agency.

TABLE I-B
REVIEW OF CONTENT OF LEA APPLICATIONS

Requirement	Agency A	Agency E
300.221 CONFIDENTIALITY: Pol. & Proc.		
.564 Records on more than one child	Absent	
.565 List of types/locations of records	Absent	
.566(b) No fee for search/retrieval	Absent	
.570 Hearing according to 99.22	Absent	
.572(b) Official responsible	Absent	
.572(c) Training for personnel	Absent	
.572(d) List of personnel with access	Absent	
.573(b) Destroy at parent's request	Absent	
300.224 CSPD: Procedures	Incomplete-- Plan does not include procedures which implement State CSPD. Plan only provides assurance and one inservice activity.	Incomplete-- Plan does not include procedures which implement State CSPD. Plan only provides assurance and one inservice activity.
300.227(a) LRE: Procedures		
.550(b)(2) Removal	Absent	
.551(a) Continuum available	Absent	
.552(a)(3) Placement close to home	Absent	
.552(b) Alternative placements available	Absent	
.552(c) Child educated in school normally attend	Absent	
.552(d) Harmful effects on child	Absent	
300.23 5 IEP: Procedures		
.341(a) IEP developed for each child w/ disability	Absent	
.341(b)(1) IEP developed for each child placed in private school	Absent	Absent

.341(b)(2)	IEP developed for each child receiving services attending private school	Absent	
.342(a)	IEP in effect at beginning of year	Absent	
.342(b)	IEP in effect before services provided and implemented ASAP	Absent	
.343(a)	Agency conducts meeting	Absent	Absent
.343(c)	IEP mtg./30 days of eligibility	Absent	Absent
.343(d)	IEP reviewed annually	Absent	
.344(a)	Membership at IEP	Absent	
.344(b)	Other at IEP for first time	Absent	
.345(e)	Action to insure parents understand		Absent
.346(a)	IEP content	Absent	
.346(b)(1)	Transition services included in IEP		Incomplete-- Policy does not include a statement of each public agency's and each participating agency's responsibilities or linkages.
.346(b)(2)	Statement if transition services not needed		Absent
.347(a)	Transition: Public agency responsible -Identify alternative strategy		Absent
.347(b)	Transition: Participating agency responsible responsibility to pay/provide		Absent
.348	Private school placement procedures	Absent	
.349	Placement procedures for children enrolled in private school	Absent	
.350	Accountability	Absent	

IV. INDIVIDUALIZED EDUCATION PROGRAM

- A. WSDE is responsible for ensuring that the IEP of each child with a disability contains all the information set forth at §300.346.**

FINDING: OSEP finds that WSDE did not fully meet its responsibility under §300.341 to ensure that IEPs were developed in accordance with §§300.346(a)(1) & (5) as demonstrated by the following:

1. Present Levels of Performance [§300.346(a)(1)]
 - a. WSDE's monitoring procedures do not include an effective method for determining compliance with the requirements at §300.346(a)(1). (See page 6, 13 in Section I of this Report).
 - b. Twenty-two of the 39 IEPs reviewed by OSEP did not contain present levels of performance (PLPs) that meet the requirements of §300.346(a)(1). In five out of the six agencies visited by OSEP, PLPs did not identify or communicate performance levels. The following are examples of PLPs that were global in nature, and failed to specify levels of performance: "(Student) interacting socially very favorably. Not prepared academically," "(Student) inconsistent and very slow in math," "(Student) needs communication opportunities. Language skills delayed," "Currently below grade level," "Social skills are an area of weakness." The examples presented above are the only present level of performance information conveyed on the IEPs.
2. Evaluation Procedures and Schedules [§300.346(a)(5)]
 - a. WSDE's monitoring procedures do not include an effective method for determining compliance with the requirements at §300.346(a)(5). (See page 7 in Section I of this Report.)
 - b. In 23 of the 39 student records reviewed by OSEP, objective criteria were not included in IEPs.
 - c. In 18 of the 39 student records reviewed by OSEP, evaluation procedures were not included in IEPs.

TABLE V

Number of IEPs That Did Not Meet IEP Requirements Compared to
the Number of IEPS Reviewed

IEP Requirement	PUBLIC AGENCIES						TOTAL
	A	B	C	D	E	F	
§300.346(a)(1) Present Levels of Performance	$\frac{6}{6}$	$\frac{6}{6}$	$\frac{5}{6}$	$\frac{0}{6}$	$\frac{4}{12}$	$\frac{1}{3}$	$\frac{22}{39}$
§300.346(a)(5) Evaluation Procedures	$\frac{6}{6}$	$\frac{6}{6}$	$\frac{1}{6}$	$\frac{0}{6}$	$\frac{10}{12}$	$\frac{0}{3}$	$\frac{23}{39}$
§300.346(a)(5) Evaluation Schedules	$\frac{6}{6}$	$\frac{6}{6}$	$\frac{0}{6}$	$\frac{0}{6}$	$\frac{3}{12}$	$\frac{3}{3}$	$\frac{18}{39}$
KEY:	# IEPs With Deficiencies						
	# Of IEPS Reviewed						

V. DUE PROCESS PROCEDURES AND PROCEDURAL SAFEGUARDS

- A. Public agencies are responsible for establishing and implementing procedural safeguards that meet the requirements of §§300.500-300.515, including the requirements of §§300.562-569, as incorporated in §300.502, and the requirements of 20 USC §1415(d)(4) (§300.501).

FINDING: ESTABLISHMENT OF PROCEDURAL SAFEGUARDS

WSDE's general responsibility for the educational programs within the State of Wyoming is outlined and established in Section 2 of the Wyoming Rules and Regulations for Serving Children with Disabilities (1992, p.2)(hereafter called the R&R). Pursuant to §300.506(b), a parent or public agency may initiate a due process hearing whenever a public agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. Section 33(a) of WSDE's R&R states, "(t)The parent(s) or public agency may request a hearing when the public agency proposes or refuses to initiate or change the identification, assessment or educational placement of the child or **proposes** [emphasis added] to make any change in the provision of FAPE." The WSDE regulation does not include the Part B requirement that the parent may request a hearing when the public agency **refuses** to make changes in the provision of FAPE.

- B. Pursuant to §300.512 (a) The public agency shall ensure that not later than 45 days after the receipt of a request for a hearing--(1) A final decision is reached in the hearing; and (2) a copy of the decision is mailed to each of the parties; and...(c) A hearing or review officer may grant a specific extension of time beyond the periods set out in paragraph (a)... of this section at the request of either party.

FINDING:

OSEP found that WSDE did not always meet its responsibility to ensure that a final decision is reached in a hearing and that a copy of the decision is mailed to each party not later than 45 days after the receipt of a request for a hearing, unless a specific extension of time is granted at the request of either party.

OSEP reviewed six hearing files for cases that were heard between 1991 and the date of OSEP's on-site visit. Four files showed that the 45 day timeline had been exceeded by periods of one to two months. Two of these four files included documentation that an extension had been granted by the Hearing Officer at the request of one of the parties to the hearing, but even in these cases, the extended timeline had been exceeded. Although these four files indicated that the hearing officers had completed the hearings within the required 45 day or extended timeline, these decisions were not mailed to each of the parties within the established timeline.

- END OF TEXT OF REPORT -
APPENDICES A AND B
ARE INCLUDED BY REFERENCE IN THIS REPORT

APPENDIX A

OSEP visited six local educational agencies in Wyoming. Where appropriate, OSEP has included in this Report data collected from these agencies to support or clarify OSEP findings regarding the sufficiency and effectiveness of Wyoming's systems for ensuring compliance with Part B requirements.

The individual agencies visited by OSEP and referenced in this Report are as follows:

Agency A: Region V Development Center
Agency B: Uinta County School District #1
Agency C: Lincoln County School District #2
Agency D: Region V BOCES
Agency E: Natrona County School District #1
Agency F: Platte County School District #2

APPENDIX B
CORRECTIVE ACTIONS CHART

FINDING/FEDERAL REQUIREMENT	ACTION REQUIRED	TIMELINE FOR SUBMISSION
WSDE must submit to OSEP the procedures that WSDE will use to ensure that all public agencies in the State immediately correct any deficiencies for the requirements regarding which OSEP found deficiencies as set forth in this Report. These procedures must include issuing a memorandum to all agencies advising them of OSEP's findings of deficiency. The memorandum must direct agencies to review their respective policies and procedures in regard to each of the deficiencies identified by OSEP in order to determine if they have proceeded in a manner similar to the public agencies for which OSEP found deficiencies. Should the agencies determine that their current practice is inconsistent with the requirement identified in WSDE's memo, they must discontinue the current practice and implement the correct procedure. This memo must be submitted to OSEP within thirty days of the issuance of the final Report. Within 15 days of OSEP's approval of the memorandum, it must be issued to all agencies throughout the State.		

I. General Supervision §300.122 (Supervision over other State facilities)	<p>1. WSDE must develop a plan to ensure that eligible youth with disabilities are identified, located, evaluated, and provided FAPE in correctional facilities.³</p> <p>2. WSDE must develop and submit to OSEP the procedures necessary to ensure that preschool children receiving special education and related services through the Department of Health are provided these services in a manner consistent with all Part B requirements. WSDE must document implementation of these procedures.</p> <p>3. WSDE must monitor LEAs in which the BOCES programs are located to ensure that children receiving special education and related services through BOCES programs are provided these services in a manner consistent with all Part B LRE requirements. WSDE must provide OSEP with a report of its findings and provide documentation of any corrective actions as a result of its monitoring.</p>	<p>Submit plan to OSEP: <u>120 days from receipt of final Report.</u></p> <p>Implement and complete plan: <u>120 days from receipt of OSEP approval.</u></p> <p>Submit documentation: <u>30 days after completion of plan.</u></p> <p>Submit procedures to OSEP: <u>60 days from receipt of final Report.</u></p> <p>Submit documentation that procedures have been implemented: <u>60 days after receipt of OSEP approval.</u></p> <p>Submit report to OSEP: <u>120 days from receipt of final Report.</u></p> <p>Submit documentation that corrective actions have been implemented: <u>60 days from completion of WSDE monitoring report.</u></p>
II. Monitoring 20 U.S.C. §1232d (b)(3)(A) (Effective methods for identifying deficiencies in monitoring)	<p>1. Revise monitoring methods to effectively identify deficiencies regarding requirements cited in all Sections of this Report.</p> <p>2. (OSEP will review working papers and reports from 2 randomly selected agencies.)</p>	<p>Submit revised monitoring procedures by: <u>60 days from receipt of the final Report.</u></p> <p>Implement revised monitoring procedures: <u>30 days from receipt of OSEP's approval.</u></p>

³ WSDE requested that the timeline for completing the corrective action be extended to September 1996. The timelines on the CAP were extended to within one year. WSDE has the responsibility to insure FAPE for all children with disabilities. If WSDE cannot insure that this obligation is met within one year, as provided for in the CAP, OSEP will offer WSDE the procedure set forth at 20 U.S.C 1234(f) to demonstrate to the Secretary that compliance cannot be achieved until some time in the future.

III. LEA Applications <ol style="list-style-type: none"> 1. §76.770(b) (Procedures for LEA application submission) 2. §76.400(b) and (d) (Procedures for submission and approval of LEA applications) 	<p>1. WSDE must revise its LEA application materials and review procedures to ensure that WSDE approves applications only if they meet all Federal requirements.</p>	<p>Submit revised review procedures and LEA application materials by: <u>60 days from receipt of final Report.</u></p> <p>Submit a sample of two approved LEA applications who did not adopt State policies and procedures by: <u>1 year from receipt of OSEP approval of materials and procedures.</u></p>
IV. IEP <ol style="list-style-type: none"> 1. Contents §§300.346(a)(1) & (5) (IEPs must contain all the content required by Part B) 	<p>1. Issue a memo to those public agencies in which OSEP identified deficient practices, requiring those agencies to discontinue the deficient practices. The public agencies must submit documentation to WSDE that IEPs include: (1) present levels of performance; and (2) evaluation procedures and schedules.</p>	<p>Submit memorandum by: <u>30 days from receipt of final Report.</u></p> <p>Issue memorandum by: <u>15 days from receipt of OSEP's approval of memorandum.</u></p> <p>Submit documentation by: <u>60 days from the date the memo is issued.</u></p>
V. Due Process Procedures and Procedural Safeguards <ol style="list-style-type: none"> 1. §300.501 (Establishment of Procedural Safeguards) 	<p>1. WSDE must amend its Rules and Regulations to be consistent with §300.506(a).</p>	<p>Submit proposed amendment and timeline to OSEP: <u>30 days after receipt of final Report.</u></p>
<ol style="list-style-type: none"> 2. §300.512 (Hearing within 45 days) 	<p>1. WSDE must issue a memo to all hearing officers regarding Part B requirement and WSDE's procedures for completing hearings and mailing decisions within established timelines. WSDE must maintain documentation of dates on which hearing decisions are completed and mailed to parties.</p>	<p>Submit memorandum to OSEP: <u>30 days from receipt of final Report.</u></p> <p>Issue memorandum to hearing officers: <u>15 day from receipt of OSEP approval of memorandum.</u></p> <p>Submit documentation of mailing timelines for decisions: <u>1 year from the date the memo is issued.</u></p>

CORRECTIVE ACTION TRAINING PLAN

FINDING/FEDERAL REQUIREMENT	ACTION REQUIRED	TIMELINE FOR SUBMISSION
II. Monitoring 20 U.S.C. §1232d (b)(3)(A) (Effective methods for identifying deficiencies in monitoring)	<p>1. Develop training materials for WSDE monitoring personnel in the use of revised monitoring procedures.</p> <p>2. Provide training to monitoring personnel in the use of revised monitoring procedures for identifying deficiencies.</p>	<p>Submit training materials by: <u>60 days from receipt of final Report.</u></p> <p>Submit verification by: <u>90 days from receipt of OSEP approval of training materials.</u></p>
III. LEA Applications 1. §76.770(b) (Procedures for LEA application submission) 2. §76.400(b) and (d) (Procedures for submission and approval of LEA applications)	<p>1. Develop training materials for LEA and SEA personnel in the use of revised LEA application procedures with emphasis on approval of those public agencies who do not use SEA model.</p> <p>2. Provide training to SEA personnel in the use of revised procedures for approving LEA applications.</p> <p>3. Provide training to LEAs who do not utilize SEA model.</p>	<p>Submit training materials by: <u>60 days from receipt of final Report.</u></p> <p>Submit verification by: <u>90 days from receipt of OSEP approval of training materials.</u></p> <p>Submit verification by: <u>90 days from receipt of OSEP approval of training materials.</u></p>
IV. IEP Contents §§300.346(a)(1) & (5) (IEPs must contain all the content required by Part B)	<p>1. Develop training materials to inform and train teachers and administrators in their responsibilities in the areas cited in this Section.</p> <p>2. Provide training to teachers and administrators in their responsibilities to develop IEPs which include the required content.</p>	<p>Submit training materials by: <u>60 days from receipt of final Report.</u></p> <p>Submit verification of training by: <u>60 days from receipt of OSEP approval of materials</u></p>