



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

March 30, 2001

Commissioner William J. Moloney  
Commissioner of Education  
Colorado Department of Education  
201 East Colfax Avenue  
Denver, Colorado 80203

Dear Commissioner Moloney:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in Colorado during the weeks of November 29, 1999 and January 10, 2000 for the purpose of assessing compliance in the implementation of the Individuals with Disabilities Education Act (IDEA) and assisting your State in developing strategies to improve results for children with disabilities. The IDEA Amendments of 1997 focus on "access to services" as well as "improving results" for infants, toddlers, children and youth with disabilities. In the same way, OSEP's Continuous Improvement Monitoring Process is designed to focus Federal, State and local resources on improved results for children with disabilities and their families through a working partnership among OSEP, the Colorado Department of Education (CDE), and parents and advocates in Colorado.

A critical aspect of the Continuous Improvement Monitoring Process is collaboration between the Steering Committee of broad-based constituencies, including representatives from CDE and OSEP. The steering committee assessed the effectiveness of State systems in ensuring improved results for children with disabilities and protection of individual rights. In addition, the Steering Committee will be designing and coordinating implementation of concrete steps for improvement. Please see the Introduction to the report for a more detailed description of this process in your State, including representation on the steering committees.

OSEP's review placed a strong emphasis on those areas that are most closely associated with positive results for children with disabilities. In this review, OSEP clustered the Part B (services for children aged 3 through 21) requirements into four major areas: Parent Involvement, Free Appropriate Public Education in the Least Restrictive Environment, Secondary Transition and General Supervision. Part C (services for children aged birth through 2) requirements were clustered into five major areas: Child Find and Public Awareness, Family-Centered Systems of Services, Early Intervention Services in Natural Environments, Early Childhood Transition, and General Supervision. Components were identified by OSEP for each major area as a basis to review the State's performance through examination of State and local indicators.

The enclosed Report addresses strengths noted in the State, areas that require corrective action because they represent noncompliance with the requirements of the IDEA, and technical assistance regarding improvement for best practice. Enclosed you will find an Executive Summary of the Report, an Introduction including background information, and a description of issues and findings. The State must take action to ensure that findings of noncompliance are effectively and promptly corrected throughout the State. CDE has indicated that this Report will

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be shared with members of the steering committee, the State Interagency Coordinating Council and the IDEA State Advisory Panel. OSEP will work with your steering committee to develop corrective actions and improvement strategies to ensure improved results for children with disabilities in all areas identified in this Report.

Thank you for the assistance and cooperation provided by your staffs during our review. - Throughout the course of the review, Dr. Lorrie Harkness and Ms. Susan Smith were responsive to OSEP's requests for information, and provided access to necessary documentation that enabled OSEP staff to work in partnership with the Steering Committee to better understand the State's systems for implementing the IDEA. An extraordinary effort was made by State staff to arrange the public input process during the Validation Planning week and, as a result of their efforts, OSEP obtained information from a large number of parents (including underrepresented groups), advocates, service providers, school and agency personnel, agency administrators, and special education administrators. OSEP would also like to recognize the efforts that have taken place in Colorado to improve results for children with disabilities and the strong commitment of State staff to continue these efforts.

Thank you for your continued efforts toward the goal of achieving better results for infants, toddlers, children and youth with disabilities in Colorado. Since the enactment of the IDEA and its predecessor, the Education of All Handicapped Children Act, one of the basic goals of the law, ensuring that children with disabilities are not excluded from school, has largely been achieved. Today, families can have a positive vision for their child's future.

While schools and agencies have made great progress, significant challenges remain. The critical issue is to place greater emphasis on attaining better results. To that end, we look forward to working with you in partnership to continue to improve the lives of individuals with disabilities.

Sincerely,

Patricia J. Guard  
Acting Director  
Office of Special Education Programs

Enclosures

cc: Dr. Lorrie Harkness  
Ms. Susan Smith

## **EXECUTIVE SUMMARY**

### **COLORADO 2000**

The attached report contains the results of the first two steps (Validation Planning and Validation Data Collection) in the Office of Special Education Program's (OSEP) Continuous Improvement Monitoring of the Individuals with Disabilities Education Act (IDEA), Parts B and C, in the State of Colorado during the weeks of November 29, 1999 and January 10, 2000. The process is designed to focus resources on improving results for infants, toddlers and children with disabilities and their families through enhanced partnerships between the State agencies, OSEP, parents and advocates. The Validation Planning phase of the monitoring process included a series of public input meetings with guided discussions around core areas of IDEA and the organization of the Steering Committees that provided further comments on the status of implementation of IDEA. As part of the public input process, OSEP and the State made efforts to include multi-cultural and underrepresented populations. The Validation Data Collection phase included interviews with parents, agency administrators, local program and school administrators, service providers, teachers and service coordinators, and reviews of children's records. Information obtained from these data sources was shared in a meeting attended by staff from the Colorado Department of Education and members of the Steering Committee.

The Report includes a detailed description of the process utilized to collect data, and to determine strengths, areas of non-compliance with IDEA, and suggestions for improved results for children.

### **Early Intervention Services for Infants and Toddlers with Disabilities: Part C of IDEA**

#### **Strengths**

OSEP observed the following strengths:

- CDE promotes developmentally appropriate early intervention services for children and families in natural environments through the Babies BELONG initiative.
- CDE develops leadership skills in parents through CDE's Parent Leadership Initiative.
- Quality service coordination is promoted through CDE's mentor program.
- CDE has developed quality technical assistance documents and multi-media training materials to assist early intervention practitioners in providing services for infants and toddlers with disabilities and their families.
- CDE has encouraged and promoted parent partnerships in all areas of its early intervention system.

### **Suggestions for Improved Results for Infants, Toddlers, and Their Families**

OSEP provides the following suggestions for improved results for infants, toddlers, and their families. CDE may wish to:

- Provide wider training and technical assistance to assist with differences and similarities in best practice and Part C requirements related to family participation in service delivery.
- More broadly to disseminate CDE monitoring reports to stakeholders across the State.
- Better link with hospitals, physicians and other medical personnel to ensure that infants and toddlers with possible disabilities are referred to CDE's Child Find System.
- Conduct an evaluation of the Child Find system to ensure that the system is effective at identifying, locating and evaluating all infants and toddlers who may be eligible for Part C.
- Train providers and parents to identify child/family needs and family routines across community settings.

### **Areas of Noncompliance**

OSEP observed the following areas of non-compliance:

- CDE's Part C monitoring system is not effective in correcting deficiencies in agencies providing early intervention services.
- CDE does not have an effective and an ongoing public awareness and Child Find System that promotes effective public awareness and referrals.
- Many infants and toddlers do not receive evaluations, assessments, and IFSPs in a timely manner due to lack of funding, coordination and adequate qualified personnel.
- All eligible children and their families are not appointed a single service coordinator who provides comprehensive service coordination.
- Multi-disciplinary evaluations for infants and toddlers with possible disabilities are not conducted in all of the five required developmental areas due to lack of funding and qualified personnel.
- CDE has not ensured that each child and family are provided all services identified as needed on the IFSP and that services needed by the child and family are identified on the IFSP.
- Delays in services occur for children with disabilities transitioning from Part C to Part B services due to delays in transition conferences and lack of coordination.

## **Education of Children and Youth with Disabilities Part B of IDEA**

### **Strengths**

OSEP observed the following strengths:

- CDE has built the capacity of educators to teach children to read through its Multisensory Reading Project.

- CDE supports joint training of special and regular educators on relevant issues and concerns through its Odyssey Project.
- Behavior evaluation and support teams have served as a resource to assist local education agencies in identifying the behavioral needs of children with disabilities.
- Opportunities For Success guidelines have been useful for developing curriculum and instruction around comprehensive academic standards.
- CDE's School to Work Alliance Program enhances existing transition and employment services for youth with disabilities.
- CDE has collaborated in producing a useful transition planning resource handbook for professionals, parents and youth with disabilities.
- CDE has promoted consistency and dissemination of information to directors of facilities that may provide educational services to children with disabilities.
- CDE has adopted standards for interpreters for the hearing impaired and provided free training for those trying to meet those standards.

### **Suggestions for Improved Results for Children with Disabilities**

OSEP provides the following suggestions for improved results for children with disabilities. CDE may wish to:

- Improve in the quality of transition planning and availability of community services for students with disabilities by promoting interagency and community linkages.
- Disseminate more widely information from the quality technical assistance projects already developed by CDE across the State.

### **Areas of Noncompliance**

OSEP observed the following areas of non-compliance:

- Services and supports to meet the needs of children with disabilities are not always provided.
- Psychological counseling services were not provided when needed to enable children with disabilities to benefit from special education.
- Adequate supports for children with behavior disorders are not always considered and provided.
- Adequate supports for accessing the general education curriculum and learning in the least restrictive environment are not provided to children with disabilities.
- IEP teams are not making decisions about appropriate accommodations and modifications for students with disabilities in district and state-wide assessments or including them on IEPs.
- General education teachers do not participate in IEP development.
- CDE does not have effective methods for identifying deficiencies in programs providing services to children with disabilities.
- CDE does not have an effective system for resolving state complaints regarding violations of Part B.
- CDE does not ensure that requests for due process hearing decisions are reached and mailed to the parties within 45 days after the receipt of a request for a hearing, unless an extension is granted at the request of a party.

**Colorado Monitoring Report**  
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## INTRODUCTION

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Geographically, Colorado is divided into two primary regions: the plains and the mountain regions. The majority of the population in Colorado is located along the Front Range where the plains region and the mountain regions converge. More than 75% of the population live in a narrow band that extends from near the northern border to within 100 miles of the southern border. In 1996, 84 % of the State's population were living inside its metropolitan areas. In 1998, the resident population of Colorado was reported as 3,971,000.

The Governor-designated Lead Agency for Part C in Colorado is the Colorado Department of Education (CDE). The Early Childhood Connections Program, which is Colorado's Part C early intervention system, is under CDE's early childhood prevention initiatives. The State provides early intervention services through county-based interagency programs.

Early intervention services are provided to infants and toddlers with developmental disabilities and their families through contracts with 32 local providers. There are four full-time administrative staff in the Part C office at CDE. The Part C Coordinator, Early Childhood Supervisor and Senior Consultant also act as community consultants in addition to four contracted community consultants. The community consultants provide technical assistance to providers in community and program resource development and training. The Colorado Interagency Coordinating Council is an integral part of Colorado's early intervention system in advising and assisting the lead agency. The State received \$4,595,495 in Federal Part C funds for Fiscal Years 1998-1999 to assist with the provision of Statewide early intervention services.

To be eligible for early intervention services in Colorado, an infant or toddler must demonstrate a significant developmental delay in one or more of five developmental areas, including cognition, communication, physical (including vision and hearing and mobility), social or emotional development, and self-help skills (e.g., feeding or dressing). Infants are also eligible if they have an established condition, such as a chromosomal syndrome or low birth weight of 1200 grams or less, that has a high probability of resulting in developmental delay.

In 1997, Colorado provided early intervention services to 2962 children, 1.7% of the birth-to-three population of children in the State. In 1998, Part C served 3071 children, which represents an increase in the population served to 1.8%.

Colorado, like many States across the country, is engaged in efforts to improve and reform its schools and education for all children. High standards, assessments that accurately measure student achievement, and performance-based accreditation systems are the three cornerstones that form the basis of school improvement efforts in Colorado. Beginning in 1998, CDE undertook a broad initiative to coordinate all efforts around these three critical cornerstones of school improvement and to provide support to local education agencies by establishing a regional system with eight regions. A Regional Service Center was established in each region. Public school attendance in Colorado has increased 24% between 1983 and 1996. Projections indicate that Colorado's pupil membership will continue to increase an average of 1.8% annually, yet school funding has not kept pace with growth.

During FY 1999, Colorado's annual count of children from three to 21 served was just over 75,000. Colorado's child count generated over \$66 million in Part B funds for fiscal year 1999. CDE reported that State funds comprise approximately 24% of the revenues used to educate children with disabilities. With the addition of Federal revenues that consist of approximately 10% of the funds necessary to educate children with disabilities, local school districts are required to provide the remainder of the funds, or over 66% of the revenue necessary to educate children with disabilities in Colorado. One constant concern parents and advocates across the State expressed was the lack of needed resources because of inadequate funding for special and general education.

There are 176 school districts in Colorado. There are also 14 Boards of Cooperative Educational Services (BOCES) that provide special education services to students. The BOCES are in rural areas and operate through an arrangement between school districts to pool resources in order to provide educational programs to children with disabilities. There are 60 charter schools that operate through the school districts in which they are geographically located.

The Special Services Unit is under Educational Services that is administered by an assistant commissioner. There are approximately 27 staff (including support personnel) in the Special Services Unit. Each staff person has specific "expert" areas such as early childhood, deaf/blind, etc. Other offices, such as grants, accounting, and information systems, support Special Services.

An important addition to the reauthorization of IDEA 1997 was to include children with disabilities in Statewide assessments since educational reform that promotes accountability has been tied to these assessment programs. Colorado has a Statewide assessment called the CSAP (Colorado Student Assessment Program) that during the 1999-00 school year was administered to 8<sup>th</sup> (math & science), 7<sup>th</sup> (reading & writing), 5<sup>th</sup> (math), 4<sup>th</sup> (reading & writing), and 3<sup>rd</sup> (reading) graders. Approximately 1% of children with disabilities did not participate because of their disability. Accommodations listed on CDE's Annual Data Report include Braille, large-print, teacher-read directions, scribe, signing, assistive communication device, and extended/modified timing.

### **Validation Planning and Data Collection**

In preparation for the Part B Validation Planning visit, OSEP reviewed the previous Part B monitoring report for Colorado. A comprehensive monitoring of Colorado was conducted in May 1996. Findings in this report included insufficient content in the notice of procedural safeguards to parents, CDE not accepting certain complaints for investigation, changes in complaint procedures necessary to make them consistent with Part B, and IEPs for students with disabilities 16 or older that did not contain statements of needed transition services.

In preparation for the Validation Planning visit, OSEP reviewed the data from the 20<sup>th</sup> Annual Report to Congress, correspondence from parents, advocates and other interested parties, Part B and Part C annual reports, CDE's Self-Study, CDE's monitoring reports, and Federal and State child count and services data.



Prior to OSEP's Validation Planning visit, CDE conducted a self-assessment and established a Steering Committee comprising stakeholders, including members from the State Advisory Committee, the State Interagency Coordinating Council and other representatives of provider, advocacy and interagency groups, in both Part B and C programs. Throughout the monitoring process, the joint Part B and Part C Steering Committee met and conducted public input meetings together.

During the week of November 29, 1999, OSEP and the Steering Committee conducted four public input meetings for Part B and Part C across the State to obtain information about issues and concerns regarding the delivery of Part B and Part C services. Two meetings were held in Denver, and one each in Montrose and Pueblo. Discussions addressed, for Part C: child find and public awareness, family-centered systems of services, early intervention services in natural environments, transition from Part C to other appropriate services, and general supervision by CDE. For Part B, discussion centered on: the provision of a free appropriate public education to children with disabilities from ages three through 21 in the least restrictive environment; parent involvement in special education decision-making; secondary transition for youth with disabilities from school to post-school activities; and general supervision of special education by CDE. At the end of the week, this information, along with self-assessment information and information from the public input meetings was discussed with the Steering Committee to identify specific issues that could be investigated by OSEP, monitoring strategies, and sites that might be visited during OSEP's Validation Data Collection visit in January 2000.

OSEP returned to Colorado during the week of January 10, 2000 to collect data to validate information provided through the planning process, including new requirements under the IDEA Amendments of 1997 and the Government Performance Results Act. The following sites were visited for Part C: Denver County, El Paso County and Arapahoe County. The following sites were visited for Part B: Denver Public Schools, Aurora Public Schools, Thompson School District, Mountain BOCES, and Jefferson County Schools. Preliminary results were presented to CDE and the Steering Committee and next steps were discussed to begin the process of improvement planning.

As part of the data collection process, OSEP reviewed children's records, including individualized family service plans (IFSPs) and individualized education programs (IEPs), and State and local policies and procedures. OSEP conducted interviews with personnel responsible for the implementation of both Parts B and C of IDEA, including local service providers, service coordinators, teachers, interagency collaborators, administrators, and State Interagency Coordinating Council members. The OSEP Part C team also interviewed small groups of parents at each site. General education teachers interviewed were those who serve children with disabilities in their classrooms, and special education teachers were those responsible for developing and/or implementing IEPs. OSEP also interviewed advocates and personnel from State agencies involved in the provision of services to infants, toddlers, children and youth with disabilities. Additional input was also sought through meetings with parents of children with disabilities in three of the districts visited by OSEP. The individuals interviewed were selected by OSEP in cooperation and consultation with State and local officials.

**Improvement Planning**

In response to this Report, CDE will develop an improvement plan addressing areas found non-compliant as identified in the Report. OSEP will work with CDE to finalize the improvement plan and will provide assistance to the Steering Committee to identify strategies for implementation, sources of technical assistance, timelines for completing strategies and methods for evaluating the effectiveness of the improvement plan.

## I. PART C: GENERAL SUPERVISION

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The State lead agency, CDE, is responsible for developing and maintaining a statewide, comprehensive, coordinated, multidisciplinary, interagency early intervention system. Administration, supervision and monitoring of the early intervention system are essential to ensure that each eligible child and family receives the services needed to enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay. Early intervention services are provided by a wide variety of public and private entities. Through supervision and monitoring, the State ensures that all agencies and individuals providing early intervention services meet the requirements of IDEA, whether or not they receive funds under Part C.

While each State must meet its general supervision and administration responsibilities, the State may determine how that will be accomplished. Mechanisms such as interagency agreements and/or contracts with other State-level or private agencies can serve as the vehicle for the lead agency's implementation of its monitoring responsibilities. The State's role in supervision and monitoring includes: (1) identifying areas in which implementation does not comply with Federal requirements; (2) providing assistance in correcting identified problems; and (3) as needed, using enforcement mechanisms to ensure correction of identified problems.

### **Validation Planning and Data Collection**

The State's 1999 Self-Assessment and OSEP's public input meetings suggested that the general supervision for Part C services in Colorado is working well, with strengths in State agency collaboration and CDE's promotion of parent leadership. However, the Self-Assessment identified concerns in the following areas: (1) lack of effective monitoring and enforcement to ensure compliance with Part C; (2) delays in the provision of services on IFSPs; (3) ineffective service coordination; and (4) delays in meeting the timeline for referral, intake, and evaluation and assessment. Participants at the public input meetings reported that the State "holds the bar high" for providers and that State staff is always willing to come to the local provider to discuss issues. Participants specifically described the State Memorandum of Understanding Committee of the Interagency Coordinating Council as a successful model of collaboration. The actions of this committee have filtered down to the local communities with local agency counterparts "seeing more of a need to be at the table." Participants also reported to OSEP that the State's contracts with individual providers emphasize the unique characteristics of their counties in order to best meet the needs of the children and families served. No due process hearings or mediation procedures were requested in 1998-99. One formal complaint received by the State was resolved through onsite staff education and community training.

The Self-Assessment document contained some recommended actions related to the concerns that it identified, including: (1) additional opportunities for provider pre-service and in-service education and training; (2) increased marketing of early intervention services to include online access to available resources; and (3) effective mechanisms for communications on policy development, between providers and families, and between other agencies and families especially around transition. Family and Provider Experiences with Part C and Part B Supports and Services in Colorado, a survey conducted by CDE and the PEAK Parent Center, reported

that 601 respondents indicated a discrepancy between parents' and providers' perceptions of the effectiveness of early intervention services. Providers reported that the systems were meeting children's needs while parents indicated less satisfaction.

At each of the public input meetings that OSEP conducted during the Validation Planning visit, the following question was asked "How is the State Lead Agency involved in ensuring that appropriate services are provided to infants and toddlers with disabilities, e.g., interagency collaboration, monitoring, technical assistance, etc.?" In response, participants identified concerns related to interagency collaboration, funding for services, availability of qualified providers including bilingual staff, service coordination, development and dissemination of culturally sensitive materials for public awareness, and child find related to the State's general supervision of early intervention services.

To investigate the concerns identified during the Validation Planning process, OSEP collected data from the review of children's records and State and local policies and procedures, reviewed monitoring reports and interviewed parents, State and local Part C and Part B personnel, the Colorado State Interagency Coordinating Council, the Memorandum of Understanding committee of the Colorado State Interagency Coordinating Council, local service providers, service coordinators, administrators, and interagency collaborators. Analysis of the data collected resulted in identification of the following strengths, area of non-compliance and a suggestion for improvement.

## **A. AREAS OF STRENGTH**

### **1. Babies' Early Learning Opportunities Nurture Growth (Babies BELONG) Initiative**

The State's Babies BELONG initiative addresses the IDEA '97 provision for services and supports in natural environments. The purpose of this exemplary initiative is to promote developmentally appropriate early intervention services for children and families in their everyday routines, activities and places. Key project activities include: Statewide collaborative forums, the development of public awareness materials for families and providers, educational and training activities, and community capacity-building through the use of technical assistance to support child and family participation in age-appropriate settings. Colorado's identified partners in this effort include parents, service providers, administrators, professional organizations, institutions of higher education, and State agencies such as Education, Public Health and Environment, Human Services, and Health Care Policy and Financing. Babies BELONG has produced A Guidebook-Early Intervention Supports and Services in Everyday Routines, Activities, and Places in Colorado which assists in improving results for infants and toddlers with disabilities and their families in Colorado as well as offering invaluable technical assistance to other States as they implement the natural environments provisions of Part C.

### **2. Parent Leadership Initiative**

Colorado's Coaching Project is a unique training program for parents of infants and toddlers with disabilities, parents who serve on local Early Childhood Connections boards, or parents who are employed by Part C providers. The Project is funded by CDE and supports the development of

parent leadership, at no cost to families, through a series of workshops. Four levels of leadership courses are available to communities to assist parents in achieving their goals for their child, goals for their community and/or the State. The Project uses co-active coaching which "is like having your own personal navigator for the journey of your life" within the context of everyday family life.

## **B. AREA OF NONCOMPLIANCE**

### **Monitoring system not effective in identifying and correcting deficiencies.**

Part C regulations at 34 CFR §303.501 require that all programs and activities used to implement the statewide early intervention system are consistent with Part C of IDEA, regardless of whether the entity receives Part C funds. Each State is required to adopt and use proper methods of administering the program, including: monitoring agencies, institutions and organizations used by the State to provide early intervention services; enforcing Part C obligations imposed on those entities; providing technical assistance, if necessary; and correcting deficiencies that are identified through monitoring.

In order to meet these supervision and monitoring responsibilities, CDE implemented the Community Infant Services Review process throughout Colorado in 1997. CDE, through a contractor, and with the assistance of a team of CDE consultants and parents, monitors local early childhood connections programs, developmental disabilities programs, and health department agencies. The Infant Services Review data gathered for each county are compiled into a written report, which serves as the basis for technical assistance for improvement planning. A combination of CDE and State Interagency Coordinating Council quality indicators, together with the requirements of Part C guides the process. In addition, early childhood connections programs implementation activities are governed by State policy, a Memorandum of Understanding between State agencies, and contracts to assist with program accountability. State staff told OSEP that for Fiscal Year 2000, CDE has implemented a more detailed contract process that includes earmarking specific funds for implementing local Part C activities. Providers are asked to state in their applications their needs based on actual expenditures for the previous year, historical trends, and program data.

OSEP finds that although CDE has been effective in identifying non-compliance it is not effective in ensuring correction of non-compliance issues. OSEP reviewed CDE's most recent monitoring reports, completed during 1998 and 1999, for each of the three counties that OSEP visited. The Infant Services Review reports identified instances of non-compliance of Part C requirements that OSEP also found, including: (1) lack of ongoing effective service coordination; (2) delays in evaluation and assessment and IFSP development; (3) the provision of IFSP services limited by insufficient funding; (4) identified child/family needs and services not integrated into typical routines and across community settings and (5) delays in services for children transitioning from Part C to Part B services.

When CDE monitored a county in March 1998, it made the following findings of non-compliance: (1) delays from the time of referral to the child find team to completion of the evaluation, assessment and development of the IFSP, result in the 45-day timeline not met; (2)

all eligible infants and toddlers with disabilities and their families do not have an assigned single service coordinator, with an estimated 150 of the 400 eligible children receiving this entitled benefit under Part C; (3) services are not based on individualized needs for all eligible children with identified needs for transportation, respite care and parent training and counseling not included on IFSPs; and (4) IFSPs do not contain documentation of transition planning. When OSEP visited this same county in January 2000, it found that noncompliance regarding the following requirements had not been corrected: (1) all eligible children and their families are not appointed a single service coordinator who provides comprehensive service coordination; (2) each child and family are not provided all the services identified on the IFSP; (3) evaluations, assessments, and IFSP development are not conducted within the 45- day timeline; and (4) transition activities are not completed in a timely manner to ensure Part B services are provided by the child's third birthday.

When CDE monitored another county in January 1999, it made the following findings of noncompliance: (1) some needed early intervention services are not included on IFSPs because of insufficient funds; (2) services that are written on IFSPs are not provided due to both funding issues and a lack of qualified personnel; and (3) waiting lists resulting in delays in evaluation, assessment, IFSP development, and the provision of services. When OSEP visited the same county in January 2000, it found that noncompliance regarding the following requirements had not been corrected: (1) some needed services are not included on IFSPs because of insufficient funds; (2) each child and family are not provided all the services identified on the IFSP due to a lack of funds and a lack of personnel; and (3) evaluations, assessments and IFSP development are not meeting the 45-day timeline.

When CDE monitored a third county in May 1999, it made the following findings of noncompliance: (1) families are assigned multiple service coordinators rather than a single service coordinator who is performing the full range of Part C required service coordination responsibilities; (2) lack of documentation of compliance with the evaluation, assessment and IFSP 45-day timeline; and (3) failure to identify the individualized needs of infants and toddlers and their families for transportation, respite care and parent training and counseling. When OSEP visited the same county in January, 2000, it found that noncompliance regarding the following requirements had not been corrected: (1) all eligible children and their families are not appointed a single service coordinator who provides comprehensive service coordination; (2) delays in services occur due to the fact that many infants and toddlers do not receive evaluations, assessments, and IFSPs in a timely manner; and (3) the individualized needs of infants and toddlers and their families for respite care, transportation, assistive technology and parent training are not identified and written on IFSPs.

OSEP's review of CDE's FY 1998-1999 Annual Performance Report noted that the State had also identified concerns regarding the funding of early intervention services, conducting culturally and linguistically appropriate evaluations, providing access to evaluations and assessments on a year- round basis, and integrating child and family identified needs and services into typical family routines and across environments. To address these issues, CDE took steps to educate and support service coordinators by funding the Service Coordination Mentor Project and to provide technical assistance through the State's community consultants. In addition, CDE conducted Statewide training activities and provided families with information

that explained Part C requirements, including procedural safeguards. However, despite these efforts, OSEP has determined, as discussed in Sections II and III of this report that these identified deficiencies have continued to adversely impact the timely delivery of early intervention services, including evaluation and assessment, and early intervention services on the IFSP.

In interviews with CDE's Part C staff and their monitoring contractor, as well as local administrators, interagency collaborators, Interagency Coordinating Council members, providers and parents, OSEP confirmed that the State did not require corrective actions or implement sanctions for noncompliance when deficiencies had been identified through the monitoring process. CDE staff also added that while they did not impose formal measures of correction as part of the monitoring process, they visited some of the counties to have informal discussions regarding areas of concern. For example, in one county, which was also monitored by OSEP, CDE convened an interagency meeting with appropriate parties and provided a temporary director to lend support and technical assistance to remaining staff in the absence of a director. State staff told OSEP that they were aware of potential difficulties in this county and had in fact attempted to follow-up on State monitoring findings by meeting on-site with local administrators and providers. CDE concluded that their efforts were largely unsuccessful and decided to wait for OSEP's monitoring visit before initiating corrective actions. While the State has taken action to address the issues facing providers and families in this county, OSEP strongly recommends that the State exercise its monitoring authority, especially corrective actions, in order to ensure enforcement of Part C requirements throughout Colorado on a continuous basis.

Therefore, OSEP concludes that CDE has failed to implement a corrective action system that ensures compliance by participating agencies and providers.

### **C. SUGGESTIONS FOR IMPROVED RESULTS FOR INFANTS, TODDLERS AND THEIR FAMILIES.**

#### **1. Training and Technical Assistance to Assist with Differences and Similarities in Best Practice and Part C requirements Related to Family Participation in Service Delivery**

While the State has been successful in producing exemplary technical assistance documents that offer practical guidelines for the implementation of early intervention services, OSEP heard from administrators and providers that there is a gap between the information that is offered and the provider's working knowledge of what is necessary to apply the information, particularly Part C requirements. CDE and the State Interagency Coordinating Council may wish to identify methods of closing this gap, including training to improve providers' skills and comfort levels in instituting local practices that are family-centered and that meet Part C regulations.

#### **2. Dissemination of Monitoring Reports**

The majority of providers interviewed told OSEP that monitoring reports had not been disseminated to all stakeholders in the State. Several members of the State Interagency Coordinating Council also told OSEP that they had not received copies of the monitoring reports, even though monitoring findings were discussed at Council meetings. OSEP recommends that

CDE disseminate its monitoring reports statewide and to those public and private providers and families who reside in the particular county monitored. Access to current information regarding the sufficiency and strengths of each county's early intervention services may assist in systemic improvements through broader community involvement and support.



## II. PART C: CHILD FIND/PUBLIC AWARENESS

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The needs of infants and toddlers with disabilities and their families are generally met through a variety of agencies. However, prior to the enactment of Part C of IDEA, there was little coordination or collaboration for service provision, and many families had difficulty locating and obtaining needed services. Searching for resources placed a great strain on families. With the passage of Part C in 1986, Congress sought to ensure that all children needing services would be identified, evaluated, and served, especially those children who are typically underrepresented, (e.g., minority, low-income, inner-city, American Indian and rural populations) through an interagency, coordinated, multidisciplinary system of early intervention services.

Each State's early intervention system must include child find and public awareness activities that are coordinated and collaborated with all other child find efforts in the State. Part C recognizes the need for early referral and short timelines for evaluation because development occurs at a more rapid rate during the first three years of life than at any other age. Research in early brain development has demonstrated what early interventionists have known for years: that children begin to learn and develop from the moment of birth. Therefore, the facilitation of early learning and the provision of timely early intervention services to infants and toddlers with disabilities are critical.

### **Validation Planning and Data Collection**

The Part C Self-Assessment identified several accomplishments related to the State's efforts to locate and identify infants and toddlers with disabilities, including universal newborn hearing screening. The State's universal screening program reports that 60 % of the State's 54,000 births are screened for hearing status and 75% of infants identified with hearing loss are receiving various types of interventions, including early intervention services where appropriate, by six months of age. A concern identified in the Self-Assessment was that parents were having difficulty learning about early intervention services, particularly from physicians.

CDE also provided OSEP with child find data from the Early Childhood Child Identification/Transition interagency focus groups conducted by the State in the spring of 1999. Four regional focus groups identified the following Statewide issues: (1) comprehensive year-round child find is not available in every community; (2) there are inconsistencies in the implementation of the State's definition of eligibility for Part C services, including the use of informed clinical opinion; (3) child find services for migrant families are not available in areas needed; (4) evaluation, assessment and IFSP meetings are not conducted within 45 days of referral; (5) limited communication with medical community results in few referrals; (6) there is a need for additional public awareness materials and activities for children birth to five; (7) local service delivery is predetermined by available resources; and (8) there is a need for on-going regional training activities for providers, administrators, and interagency personnel.

One of the questions asked of the focus groups during OSEP's public input meetings was: "Are there any barriers to the process of referring infants and toddlers to the Early Intervention System, or in obtaining evaluations?" Participants indicated that there was a lack of access to evaluations and assessments, particularly by non-English speaking families. Parents and

providers expressed a concern that public awareness materials and activities in languages other than Spanish and English are not readily available throughout the State.

At the end of the Validation Planning week, after discussing information obtained through the Self-Assessment, public input meetings, and the CDE Child Identification/Transition focus groups, the following issues were identified as areas that could be investigated during the Validation Data Collection week: (1) child find and public awareness materials may not be adequate and are not disseminated throughout the State; (2) coordination of the referral process by providers and primary referral sources; and (3) infants and toddlers and their families may not receive services in a timely manner due to delays in evaluations and assessments.

To investigate the child find and public awareness issues, OSEP collected data from local providers in three counties in Colorado, reviewed children's records and State and local policies and procedures, and interviewed State personnel, local program administrators, service coordinators, and parents.

OSEP reviewed and analyzed the data and identified the following areas of noncompliance, and suggestions for improved results for infants and toddlers and their families.

## **A. AREAS OF NONCOMPLIANCE**

### **1. Lack of Coordinated, Comprehensive, Statewide Child Find System: Effective Public Awareness**

The Part C regulation at 34 CFR §303.320(a), (b)(1), (2), and (3) requires States to establish a public awareness program that focuses on the early identification of eligible children and includes the preparation and dissemination to all primary referral sources of materials for parents on the availability of early intervention services. The public awareness program must provide for informing the public about the State's early intervention program and the child find system, including: (1) the purpose and scope of the system; (2) how to make referrals; and (3) how to gain access to a comprehensive, multidisciplinary evaluation and other early intervention services. In addition, the note following this regulation indicates that an effective child find program is ongoing, includes a variety of methods, and has coverage broad enough to reach the general public to inform them about the provision of early intervention services.

The public awareness program must also provide for informing the public about the central directory. The Part C regulation at 34 CFR §303.301 requires States to implement a central directory of information about public and private early intervention services, resources, and experts in the State and other relevant professional and other groups that provide assistance to children eligible for Part C services and their families. Under §303.301(c) the central directory must be updated at least annually and *accessible* to the general public.

CDE has not met its responsibility to implement an *ongoing* public awareness program that would include the provision of a variety of materials that are current to adequately inform the general public, including parents, about the provision of early intervention services and the dissemination of materials broadly enough to reach the general public.

CDE staff told OSEP that the State's toll free number, which allows callers to access the central directory, had not been functional over the past year due to technical problems. CDE staff also confirmed that public awareness materials had not been updated for two years. CDE procedures in Colorado's approved Part C application specified that the central directory be available to the public both by telephone and written copy.

In all three of the counties that OSEP visited, parents, service providers, local administrators, and interagency collaborators told OSEP that effective public awareness activities had not been implemented. In one county, six service coordinators, five administrators, and six interagency collaborators told OSEP that early intervention public awareness and child find materials are not available in Russian, Vietnamese and other Asian languages, although this was the primary language of many families. Three service coordinators, six parents, six interagency collaborators, and six providers in another county stated that there was little availability or dissemination of public awareness materials within the local community. Six service coordinators agreed that there is one child find brochure and did not report any other public awareness activities in this same county.

In one county, three out of five administrators reported that public awareness information is not effectively disseminated through the State's designated child find providers. One administrator stated that "people do not know who we are" and that public awareness is not an ongoing process. She further explained that social service agencies in the county do not know how to refer children who may be eligible. A parent who is blind told OSEP that she had not received any materials printed in Braille that would further allow her to understand how to access services for her child. In interviews in two other counties, administrators and providers reported that dissemination of public awareness materials for parents on the availability of early intervention services is not a continuous, ongoing effort throughout the State.

## **2. Delays in evaluation, assessment, and IFSP development**

Each State is required under 34 CFR §303.321(e)(2) to ensure that within 45 days of referral in accordance with §303.342 evaluations and initial assessments are completed as required under §303.322 and an IFSP meeting is held. CDE has not ensured that each child referred for evaluation receives the required multi-disciplinary team evaluation and assessment and an IFSP meeting within the 45-day timeline.

Service providers, service coordinators, administrators, interagency collaborators, and parents in all three of the counties visited stated that many infants and toddlers do not receive evaluations and assessments in a timely manner. In Colorado, child find teams in local school districts are responsible for the identification of children who may be eligible for Part C services.

### **a) Waiting lists for evaluations and assessments**

In all three counties, administrators, interagency collaborators, providers, parents, child find team representatives, and service coordinators reported waiting lists for evaluations and assessments resulting in a failure to conduct an evaluation and assessment and develop an IFSP within the required 45-day timeline. All of these individuals stated that waiting lists exist because child

find teams are not available throughout the year, due to school calendar schedules, to receive referrals and conduct evaluations and assessments. All of the service providers expressed frustration with their inability to get child referrals to the child find teams during the summer months.

Despite one school district's recent efforts to schedule additional evaluations before school vacations, evaluations, assessments and IFSP development for all children who are referred for early intervention services do not meet the 45-day timeline requirement according to service providers. Service coordinators, service providers, interagency representatives, administrators, and parents confirmed that evaluations for infants and toddlers are not available in the summer months due to school district holiday and summer schedules. All indicated that some children are not being identified and evaluated, especially children from some low-income families who do not know what is available to them, may not have sufficient reading skills, do not have available transportation, or may not have access to a telephone. All interagency collaborators in one of the counties told OSEP that child find teams located in public schools do not have the time to reach all of the children they need to evaluate due to their responsibilities to determine eligibility for children birth to 21.

**b) Lack of coordination contributes to delay**

In two counties, parents stated that there was a lack of coordination of the referral, intake, and evaluation process. Seven service coordinators told OSEP that it is difficult to coordinate the referral and intake process between their agencies, the child find teams and private providers and that duplication of effort often occurs. An administrator and three service coordinators reported that there is not a mechanism in place to track referrals or evaluate the effectiveness of their local child find and public awareness efforts. Further, the school district will often proceed with an evaluation before they notify the early childhood connection providers of a referral. This practice results in the provider's inability to track the required 45-day timeline. OSEP confirmed through interviews and record reviews that the date of referral is not consistently reported by child find teams or tracked for infants and toddlers referred for early intervention services.

**c) Insufficient qualified personnel contribute to delay in evaluation**

Parents, service providers, service coordinators, administrators and interagency collaborators in all three of the counties visited stated that many children do not have access to appropriate evaluations, and assessments because of the lack of qualified personnel with cultural and linguistic interpretation skills. Fourteen service coordinators in one county reported there are no bilingual personnel for evaluations although many families whose primary language is not English live in the community. Twelve service coordinators in another county indicated that interpreters and translators are not available for all children referred and that some Spanish-speaking families have to wait six months for an evaluation. Another service coordinator reported a shortage of evaluation personnel with a waiting list of six to nine months for some children.

Six service coordinators, six interagency collaborators and six administrators reported that referrals, intakes and evaluations are not timely and that there are too few child find personnel to

keep up with the growing population in this county. One parent who experienced an eight month delay (after initial contact) in the provision of early intervention services for her child, reported to OSEP that she called her school district early in May, and the school representative told her the district was "booked" until the fall. The district then called her in early September and told her there was an opening for her child to have an evaluation in mid-October. The district representative also told her she could have the appointment if she agreed to an evaluation conducted by a teacher rather than a multidisciplinary evaluation team. If she did not agree to this type of evaluation, she would have to wait until December.

Although there is a designated multi-cultural child find team for Spanish-speaking families in the third county, all participants in the OSEP interviews stated that the child find teams have a limited amount of time to conduct evaluations for eligibility determination (one day a month) and that results in the 45-day timeline not being met and a significant delay in providing early intervention services to eligible children and their families. In this same county, the interagency collaborators expressed concerns to OSEP about Asian language families who are reluctant to ask for help for their children and for whom there are few translators. Six service coordinators and three interagency collaborators stated that a lack of interpreters prevents the timely delivery of services, including evaluation and assessment, especially for Asian families. CDE staff told OSEP that they were aware that culturally underrepresented groups have difficulties accessing the system due to the lack of translators and interpreters in local communities.

## **B. SUGGESTIONS FOR IMPROVED RESULTS FOR INFANTS, TODDLERS AND THEIR FAMILIES**

### **1. Linkages with Hospitals, Physicians and other Medical Personnel**

Service providers, and parents across the State told OSEP that physicians and hospitals do not consistently refer children to child find because they are not informed about referral procedures or they prefer to refer children to hospital-based services or private therapists. Interagency representatives interviewed in one county confirmed, that if the hospital has the capacity to provide services themselves, they will serve the children "in- house" rather than referring them to the Part C system. However, OSEP learned from interviews with hospital personnel that when the families' insurance is depleted, a referral is frequently made by a physician or other hospital staff to a local Part C provider to continue the service. OSEP strongly recommends that CDE gather additional information regarding actions taken by hospitals and physicians to disseminate information about early intervention services to parents

Members of the State Interagency Coordinating Council along with CDE staff indicated that physicians in fact are sometimes a barrier to the State's efforts to identify those children who are potentially eligible for services under Part C. Data obtained from the State's Annual Performance Report to OSEP for 1998-1999 indicate a referral rate of 16% from physicians and 20% from hospitals. Given the early, and in some cases, frequent contact between primary health care providers and young children who may be in need of early intervention supports, the above mentioned data reflect an urgent need for effective communication to be in place to ensure timely referrals for services.

More consistent linkages, including education and outreach activities, should be made with hospitals, physicians and other medical personnel. These linkages could involve standardization of local procedures to confirm referrals from physicians and actions taken to provide services and community supports for families. Routine notification to medical personnel of children's progress, including IFSP updates and transition planning activities, may serve to enhance provider/referral source communications which benefit families. CDE and the State Interagency Coordinating Council, in conjunction with local providers, may wish to develop additional methods of determining how as well as strengthening community relationships to ensure timely referrals from primary referral sources.

## **2. Evaluation of the Child Find System**

CDE may wish to conduct an evaluation of the entry process into the early intervention system to determine if the current structure is effective at identifying, locating, evaluating and assessing all infants and toddlers who may be eligible for early intervention service. Local administrators and service providers recommended that all components of the child find system, including evaluation and assessment, should be an interagency effort, include private providers, and ensure the availability of evaluation and assessment on a year-round basis.

### **III. PART C: EARLY INTERVENTION SERVICES IN NATURAL ENVIRONMENTS**

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In creating the Part C legislation, Congress recognized the urgent need to ensure that all infants and toddlers with disabilities and their families receive early intervention services according to their individual needs. Three of the principles on which Part C was enacted include: (1) enhancing the child's developmental potential; (2) enhancing the capacity of families to meet the needs of their infant or toddler with disabilities; and (3) improving and expanding existing early intervention services being provided to children with disabilities and their families.

To assist families in this process, Congress also requires that each family be provided with a service coordinator, to act as a single point of contact for the family. The service coordinator's responsibilities include assisting families in understanding and exercising their rights under Part C, arranging for assessments and IFSP meetings, and facilitating the provision of needed services. The service coordinator coordinates required early intervention services, as well as medical and other services the child and the child's family may need. With a single point of contact families are relieved of the burden of searching for essential services, negotiating with multiple agencies, and trying to coordinate their own service needs.

Part C requires the development and implementation of an IFSP for each eligible child. The evaluation, assessment, and IFSP process is designed to ensure that appropriate evaluation and assessments of the unique needs of the child and of the family, related to enhancing the development of the child, are conducted in a timely manner. Parents are active members of the IFSP multidisciplinary team. The team must take into consideration all the information gleaned from the evaluation and child and family assessments, in determining the appropriate services to meet the child's needs.

The IFSP must also include a statement of the natural environments in which early intervention services will be provided for the child. Children with disabilities should receive services in community settings and places where children without disabilities would be found, so that they are not denied opportunities that all children have to be included in all aspects of our society. Since 1991, IDEA has required that infants and toddlers with disabilities receive early intervention services in natural environments. This requirement was further reinforced by the addition of a new requirement in 1997 that early intervention could occur in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

In the event that early intervention cannot be satisfactorily achieved in a natural environment, the IFSP must include a justification of the extent, if any, to which the services will not be provided in a natural environment.

#### **Validation Planning and Data Collection**

The Colorado Self-Assessment and the Steering Committee identified as areas needing further investigation, inadequate service coordination, and a lack of available personnel to conduct timely evaluations and assessments, especially for non-English speaking families. The questions

asked of the focus group during the Validation Planning public input sessions included: "Do all infants and toddlers with disabilities and their families receive all the services they need, including service coordination? Where do children receive these services (e.g., community settings, childcare, home)?"

At the end of the Validation Planning week, after discussing information obtained through the Self-Assessment and public input process, OSEP determined that it would investigate, during the Data Collection week, whether CDE was providing; (1) families with a single service coordinator responsible for all functions; (2) service coordination services and training; (3) adequate bilingual personnel; (4) timely access to services; (5) timely services and supports such as respite, medical equipment, assistive technology, and medical expenses not covered by insurance, given issues of waiting lists for Community Centered Board funding; (6) service coordinator assistance to ensure that needs are individualized on the IFSP and families find needed service providers; (7) complete assessments of each child's strengths and needs; (8) appropriate use of evaluation and assessment data to develop child and family outcomes; (9) all IFSP services; and (10) services in natural environments.

OSEP visited three counties in the State, interviewed service providers, service coordinators, parents, administrators and interagency collaborators, and reviewed IFSPs in these counties to verify concerns related to service coordination and the provision of early intervention services to eligible children and their families.

OSEP reviewed and analyzed the data and identified areas of strengths, areas of noncompliance and a suggestion for improved results for infants and toddlers and their families.

## **A. AREAS OF STRENGTH**

### **1. Service Coordination Mentors**

The service coordination mentor program, a joint effort between CDE, Developmental Disabilities Services, and the Department of Public Health and Environment, was developed in response to concerns identified through the State's monitoring efforts about access to quality service coordination for all eligible children. CDE currently employs ten service coordination mentors to promote the implementation of service coordination responsibilities in local communities through training and coaching of local service coordinators. This is an important first step in training service coordinators given CDE's recognition in their monitoring and self-assessment activities that training of service coordinators is an issue.

### **2. Provision of Technical Assistance Documents and Multi-Media Training Materials**

Over the past two years, the State has developed a series of family-centered technical assistance documents and media materials to assist early intervention practitioners in providing quality services for infants and toddlers with disabilities and their families. CDE has disseminated the Colorado Individualized Family Service Plan Development Guidelines, the Colorado Training Manual for Typical Routines, and the Colorado Service Coordination Guidelines, and three videotapes, have been disseminated to more than 5000 providers and families. An excerpt from



one of the videotapes which highlights the natural environments provisions of Part C, was featured in a national teleconference presentation sponsored by the Pennsylvania Part C Technical System, OSEP, and National Early Childhood Technical Assistance System for State Part C systems and families. Colorado Part C staff also integrates the above-mentioned materials into university pre-service training activities.

## **B. AREAS OF NONCOMPLIANCE**

### **1. Lack of a single service coordinator**

The Part C regulation at 34 CFR §303.23(a), requires that all eligible children and their families receiving early intervention services have a single service coordinator to assist and enable them to receive the rights, procedural safeguards and services that are required in accordance with Part C.

Part C requires that one service coordinator is responsible to coordinate all services across agency lines. 34 CFR §303.23(a)(2). Record reviews by OSEP in all three sites visited revealed that an individual child had as many as three service coordinators at the same time representing different agencies providing early intervention services to that child. The practice of multiple service coordinators was confirmed in all three counties in interviews with administrators, service coordinators, service providers and parents. Service providers in one county reported that parents receive different information from different coordinators; there is a lack of consistent information. Service providers also reported that there are gaps in service coordination as families are transferred from one service coordinator to another, which also results in delays in IFSP development and the initiation of services for a child. The administrator in one county reported that it was complicated for families because there are so many people from so many agencies. OSEP finds that CDE has not ensured that all eligible children and their families have one service coordinator under Part C.

### **2. Failure to implement all service coordination responsibilities**

Under §303.23(a) and (b), service coordinators are required to assist families to obtain needed early intervention services, facilitate the timely delivery of available services, link the family to other available resources, and continuously review appropriate services, to benefit the development of each child. CDE has not ensured that service coordinators are performing their duties as set forth in §303.23 such that each child is referred for evaluation, receives the required multidisciplinary evaluation *and* assessment, and early intervention services in a timely manner in order to enhance the child's development.

Service coordinators reported that the lack of effective service coordination is a barrier to obtaining services that children need. Parents in all three counties visited reported difficulties in locating services and community resources for their children and their families. One parent stated that she did not know who her service coordinator was and another parent said that it was necessary for her to organize the IFSP process because her service coordinator did not have an understanding of the local early intervention system or the procedures used by local agency providers. One parent told OSEP that it would be wonderful if there was just one person who

could help parents through the process so that it would not be so confusing. Parents have to do much of their own service coordination that impacts timely evaluations, assessments and the initiation of services for their children.

Fourteen service coordinators in three counties reported that evaluations and assessments are not consistently used to develop child and family outcomes. Service coordinators also reported that they do not conduct family assessments and think that family choice should be the reason a service or location is selected. Parents in two counties said that their service coordinator did not assist them in obtaining all needed services. They reported that they had to make many phone calls on their own and if there was no funding, or funding barriers were identified, their child did not receive the services identified on the IFSP. Another parent told OSEP that telephone calls to her service coordinator were not returned for several weeks and that early intervention services were not explained.

This parent also stated that the service coordinator did not explain parent rights and service coordination responsibilities as required under §303.23(a)(1) and (b)(1). Parents in all three counties also reported that they had not received information during the intake process specific to their rights and procedural safeguards from their service coordinators.

The Part C regulation at §303.23(b)(3) requires that service coordinators assist families in identifying available service providers. Most of the service coordinators in all three counties reported that they do not know the service options that are available in the community. Service coordinators in two counties said they need more training. They could not describe the duties of a service coordinator and reported that they do not understand each other's agencies. Two lead agency personnel, five State Interagency Coordinating Council members, and six state interagency collaborators confirmed that there is not adequate training for service coordinators, that service coordinators are not performing all duties, and there is generally not a single service coordinator for a family. Several administrators reported that the role of the service coordinator has changed, as programs have become less center-based, with multiple service coordinators and many gaps in service delivery.

### **3. Completion of a multi-disciplinary evaluation in all developmental areas.**

Under 34 CFR § 303.322(c)(ii), each child must be evaluated at the child's present level of functioning in all developmental areas: cognitive development, physical development, communication development, social or emotional development, and adaptive development.

Record reviews in two counties revealed that children are not being assessed in all areas. In one county the general practice is to write an interim IFSP with outcomes to pursue further evaluations. Five records in one of these counties for children receiving Part C services did not include any evaluation information at all. As described in the child find section of this report, all children do not have access to comprehensive evaluations and assessments because of the inadequate supply of qualified personnel. In one county the service coordinators reported waiting at least a month and a half to conduct assessments. Services began with an interim IFSP, but they were fragmented because assessments to determine individual child and family service

needs are incomplete. Further, vision and hearing evaluations and assessments were not being completed consistently in the three counties that OSEP visited.

#### **4. Failure to address individual needs of each child and family and provide all services identified on an IFSP**

Under 34 CFR §303.344(d), the IFSP must include a statement of specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes listed on the IFSP, including the frequency, intensity and method of delivering the service. The decisions about frequency, intensity and duration are to be made by the IFSP team on an individual basis to meet the child's unique needs. OSEP finds that funding barriers and personnel shortages limit services to children regardless of whether these needs are identified on the child's IFSP.

Consistently across all three counties visited two practices were reported: (1) all services that are needed are not written on IFSPs or (2) services that are included on IFSPs are not provided because of a lack of funds. Service coordinators reported that some services such as respite, transportation, and assistive technology are not available because of a lack of funds, and consequently are not included in IFSPs regardless of individual child or family need. In one county, all participants interviewed by OSEP reported that IFSPs are written based on the availability of services and service providers, rather than on the needs identified through evaluation and assessment. Providers told OSEP that some identified needs such as training regarding parenting skills are not included on IFSPs because of a lack of funds. This was identified through record reviews and reported to OSEP by service coordinators, parents, administrators, and interagency collaborators. The funding capacity in the three counties visited had a significant impact on whether services were individualized and based on a child's evaluation and assessments.

Even where services are identified on the IFSP, administrators in all three counties reported that payment issues interfere with children receiving needed services. Service coordinators in two counties reported waiting lists of six to nine months for services even where listed on the IFSP due to a shortage of personnel. Service coordinators in one county stated that early intervention services are not an entitlement and if there were inadequate funds, the services did not need to be provided. Parents in one county described the frustrating process of spending time getting a denial for payment of services from their insurance company only to find out the county had no funds to provide services and they had to be placed on a waiting list. Service providers in another county reported that funding is the main issue related to whether there are enough providers to meet the needs of identified children.

### **C. SUGGESTION FOR IMPROVED RESULTS FOR INFANTS, TODDLERS AND THEIR FAMILIES**

#### **Training Related to Identifying Child/Family Needs and Family Routines**

Providers, administrators and parents reported that predetermined community supports such as playgroups, music groups and gymboree are routinely used for the majority of families to meet

Part C natural environment requirements in some areas of the State. They also told OSEP that there was a need for training in writing justification statements on IFSPs when services are not provided in the natural environment. CDE may want to provide focused training to providers and parents regarding identifying child/family needs and services and integrating them into typical routines in order to achieve successful outcomes.

## **IV. PART C: FAMILY-CENTERED SYSTEM OF SERVICES**

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Research has shown that improved outcomes for young children are most likely to occur when services are based on the premise that parents or primary caregivers are the most important factors influencing a child's development. Family-centered practices are those in which families are involved in all aspects of the decision-making, families' culture and values are respected, and families are provided with accurate and sufficient information to be able to make informed decisions. A family-centered approach keeps the focus on the developmental needs of the child, while including family concerns and needs in the decision-making process. Family-centered practices include establishing trust and rapport with families, and helping families develop skills to best meet their child's needs.

Parents and other family members are recognized as the linchpins of Part C. As such, States must include parents as an integral part of decision-making and service provision, from assessments through development of the IFSP, to transition activities before their child turns three. Parents bring a wealth of knowledge about their own children and family's abilities and dreams for their future, as well as an understanding of the community in which they live. In 1986, Part C of the IDEA was recognized as the first piece of Federal legislation to specifically focus attention on the needs of the family related to enhancing the development of children with disabilities.

In enacting Part C, Congress acknowledged the need to support families and enhance their capacity to meet the needs of their infants and toddlers with disabilities. On the cutting edge of education legislation, Part C challenged systems of care to focus on the family as the unit of services, rather than the child. Viewing the child in the context of her/his family and the family in the context of their community, Congress created certain challenges for States as they designed and implemented a family-centered system of services.

### **Validation Planning and Data Collection**

The State's Self-Assessment and public input indicated the need for additional development and dissemination of culturally sensitive materials. Participants in the public meetings stated that an increase in the numbers of qualified bilingual staff is critical to meeting the needs of all potentially eligible children and their families.

### **AREA OF STRENGTH**

#### **Parent Partnerships**

CDE has established parent co-chairs of the State Interagency Coordinating Council that are parents of young children with disabilities. The co-chairs have been continuously involved in OSEP's monitoring process including membership on the Steering Committee and attending OSEP's and CDE's Part C and Part B public input meetings. With respect to the State's monitoring responsibilities, CDE routinely enlists the assistance of several parent participants to be involved in the Colorado Infant Services Review process. Parents participate in the State's monitoring sub-committees assisting in the design and development of focus groups for State

data collection. Families are also selected to interview other families and service providers for verification of issues or strengths in service delivery in their communities.

## V. PART C TO PART B: EARLY CHILDHOOD TRANSITION

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Congress included provisions to ensure that preschool or other appropriate services would be provided to eligible children leaving early intervention at age three. Transition is a multifaceted process to prepare the child and the child's family to leave early intervention services. Congress recognized the importance of coordination and cooperation between the educational agency and the early intervention system by requiring that a specific set of activities occur as part of a transition plan.

Transition activities typically include: (1) identification of steps to be taken to prepare the child for changes in service delivery and to help the child adjust to a new setting; (2) preparation of the family (i.e., discussions, training, visitations); and (3) determination of other programs and services for which a child might be eligible. Transition planning for children who may be eligible for Part B preschool services must include scheduling a meeting, with approval of the family, among the lead agency, the educational agency and the family, at least 90 days (with parental permission up to six months) prior to the child's third birthday. Transition of children who are not eligible for special education also includes making reasonable efforts to convene a meeting to assist families in obtaining other appropriate community-based services. For all Part C children, States must review the child's program options for the period from the child's third birthday through the remainder of the school year, and must establish a transition plan. School district personnel are required to participate in transition planning for eligibility for special education and related services under Part B in order to ensure a smooth and effective transition at age three.

### **Validation Planning and Data Collection**

Several sections of the Part C Self-Assessment provided information on the transition of children from Part C to Part B services. The Self-Assessment respondents indicated that service coordinators do not always facilitate transition planning and that IFSPs do not always include the required steps to explore transition options.

CDE provided OSEP with several reports describing the results of the focus group meetings held on the topic of transition. The focus group attendees identified four common themes: (1) a lack of understanding of IDEA requirements, State policy, and best practices with respect to transition; (2) families, providers, and agencies all want more timely information on transition; (3) communities may be "locked-in" to specific service delivery methods due to resources; and (4) families lack collaborative support for transition.

One of the questions asked during the OSEP focus groups in the public meetings was: "By the child's third birthday, does transition planning result in timely provision of needed supports and services to a child and the child's family?" Responses to this question included: (1) some children who reach the age of three after December 1 may wait to receive services for several months, and, in some cases until the following school year; (2) private programs on a twelve-month calendar may not accept children during the summer months due to a lack of funding; and, (3) school district child find teams that determine eligibility for Part B services follow a nine-month calendar and do not conduct evaluations consistently during the summer months.

**AREA OF NONCOMPLIANCE****Failure of CDE to Ensure an Effective Transition of Children with Disabilities from Part C to Part B**

Both Parts C and B require that children with disabilities, if eligible, exiting Part C experience a smooth and effective transition to Part B as the child approaches age three. Under Part C, §303.148(b)(2)(i) requires, in the case of a child who may be eligible for preschool services under Part B of the Act, with the approval of the child's family, that a conference be convened with the lead agency, the family and the local education agency, at least 90 days before the child is eligible for preschool services to discuss the services the child may receive. Section 303.148(b)(1) also requires that the lead agency notify the local education agencies, in the area where the child lives, that the child will shortly reach the age of eligibility for preschool services under Part B of the Act, according to State law. Under Part B, the local education agency is required to ensure that a free appropriate public education is available to all children with disabilities at age three, an IEP (or IFSP) is in effect on the child's third birthday, and that the local education agency participates in transition planning conferences (See §§300.300(a), 300.121(c) and 300.132). OSEP found through a review of records (including IFSPs), and interviews with parents, administrators and service providers that CDE has not made available a free appropriate public education to children eligible for special education and related services by their third birthday because Parts C and/or B have failed to meet their responsibilities as described below.

In all three counties visited for Part C, OSEP found a lack of planning for a smooth and effective transition from Part C to Part B for eligible children by their third birthday. The State Part C Coordinator agreed that the provision of a free appropriate public education for Part B-eligible children at their third birthday was inconsistent because there was a lack of understanding by service coordinators as to their role in the transition process. This has often resulted in inconsistent implementation of the 90-day conferences to prepare for transition. As cited above in this Report in Section III, service coordinators are not assisting all families in finding needed services, including facilitating the transition process to Part B programs and other community preschool services as appropriate.

Service coordinators in one county confirmed that transition meetings are not held at least 90 days before the child becomes eligible for Part B services and that Part C did not invite school districts to participate in the transition planning process. OSEP reviewed records in this county and found that, typically, only the service coordinator and the parent participated in writing the transition plan. Record reviews did not indicate any involvement of the local school district in the development of the transition plan. In a second county, service coordinators and program administrators all agreed that transition planning meetings did not occur at least 90 days before the child's third birthday. Reasons for delays included a lack of service coordination for transition, traditional school calendar year work schedules, and a lack of funding for placements after January 1. Some school districts did not, although invited, participate in the transition planning, and placements in preschool were not made by the child's third birthday.



For local agencies that provide Part B preschool services, OSEP found that agencies were not always making available special education and related services to children with disabilities by age three. CDE preschool special education staff confirmed that the provision of a free appropriate public education by a Part B eligible child's third birthday was inconsistent in its implementation. In a meeting OSEP held in one county with local Part C and B staff, OSEP discovered that there was not an effective system in place to ensure that the names of children exiting Part C were communicated to Part B school districts so that evaluations, eligibility determinations, and IEP development could be completed by age three. In addition, administrators confirmed that there is no mechanism in place to collect local data on the implementation of the 90 day transition conference requirement. Service coordinators for Part C in another county reported that transition is not always effective for each child, and that "procedures for transition are confusing and vary across the five school districts and the BOCES" in the county resulting in children with disabilities not receiving services by their third birthday.

## **VI. PART B: PARENT INVOLVEMENT**

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One purpose of the IDEA Amendments of 1997 is to expand and promote opportunities for parents and school personnel to work in new partnerships at the State and local levels. Parents must now have an opportunity to participate in meetings with respect to the identification, evaluation and educational placement of their child, and the provision of a free appropriate public education to their child. Parent involvement has long been recognized as an important indicator of a school's success and parent involvement has positive effects on children's attitudes and social behavior. Partnerships positively impact achievement, improve parents' attitudes towards the school, and benefit school personnel as well.

### **Validation Planning and Data Collection**

In OSEP's 1996 monitoring, the only issue identified regarding parent involvement as out of compliance was CDE's failure to ensure that public agencies provided notice to parents that included a full explanation of procedural safeguards.

CDE's self-assessment regarding parent involvement did not identify any specific issues in this area. CDE reported that it has an ongoing conference program for parents and that three to four hundred participants benefit from these conferences each year. CDE reported that parent surveys reported that more than 80% of the parents surveyed indicated that their input was valued at IEP meetings, that they were informed about their child's assessment, and that they felt included as a parent at their child's school.

Some participants in public input meetings expressed concern that although parents attend IEP meetings, they often do not understand their role and their input is not valued. Some parents also expressed a need for more training and information about special education and parent's rights.

OSEP reviewed and analyzed the data collected during Validation Data Collection and did not identify any strengths, areas of noncompliance, or suggestions for improved results for children with disabilities in this area.

## **VII. PART B: FREE APPROPRIATE PUBLIC EDUCATION IN THE LEAST RESTRICTIVE ENVIRONMENT**

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The provision of a free appropriate public education in the least restrictive environment is the foundation of IDEA. The provisions of the statute and regulations (evaluation, IEP, parent and student involvement, transition, participation in large-scale assessment, eligibility and placement decisions, service provision, etc.) exist to achieve this single purpose. It means that children with disabilities receive educational services at no cost to their parents, and that the services provided meet their unique learning needs. These services are provided, to the maximum extent appropriate, with children who do not have disabilities and, unless their IEP requires some other arrangement, in the school they would attend if they did not have a disability. Any removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The IDEA '97 Committee Reports of the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Education and the Workforce emphasized that too many students with disabilities are failing courses and dropping out of school. Those Reports noted that almost twice as many children with disabilities drop out as compared to children without disabilities. They expressed a further concern about the continued inappropriate placement of children from minority backgrounds and children with limited English proficiency in special education. The Committees stated their intention that “once a child has been identified as being eligible for special education, the connection between special education and related services and the child’s opportunity to experience and benefit from the general education curriculum should be strengthened. The majority of children identified as eligible for special education and related services are capable of participating in the general education curriculum to varying degrees with some adaptations and modifications. This provision is intended to ensure that children’s special education and related services are in addition to and are affected by the general education curriculum, not separate from it.”

### **Validation Planning and Data Collection**

In OSEP's 1996 monitoring of CDE, no issues were identified as noncompliant in the provision of a free appropriate public education in the least restrictive environment.

Issues in the self-assessment regarding the provision of a free appropriate public education to children with disabilities in the least restrictive environment focused on the following: the provision of special education, related services, and supports to students with disabilities; personnel to meet the needs of children with disabilities and those suspected of having a disability; preservice and inservice training for personnel in order to meet the needs of children with disabilities; meeting the behavioral needs of children with disabilities; interagency collaboration; and participation of children with disabilities in State/district-wide assessments.

In the fall of 1998, Colorado identified a need for 6,143.75 full time equivalent teachers to ensure a free appropriate public education to children and youth with disabilities. Of this number, there were approximately 26 vacant positions (less than five percent). CDE continues to

promote the development of preservice preparation programs and alternative teacher programs to increase the supply of special education teachers. The self-assessment further found, however, that strategies are needed to continue to increase the quality of special education graduates emerging from Colorado institutions of higher education as well as alternative programs.

The self-assessment noted that assistive technology is an ongoing area of focus during on-site monitoring visits. According to the results of a parent survey, parents believe that school districts in Colorado need to be more helpful in assisting parents in acquiring assistive technology devices.

The self-assessment also indicated that CDE has promoted the use of behavior evaluation and support teams as a resource for school districts to identify the behavioral needs of students with disabilities. (See “Strengths” section below for additional information.)

According to the self-assessment, CDE has signed memoranda of agreement and developed multiple interagency collaborations and partnerships that include agreements with the Department of Human Services and Health Care Policy and Financing, the Colorado Interagency Coordinating Council, the Early Childhood Care and Education Advisory Council, the Colorado Children’s Cabinet, the Colorado Workforce Coordinating Council, the Division of Youth Corrections, the Department of Corrections, the Division of Mental Health, Vocational Rehabilitation, and others. The interagency agreements with these agencies act as a safeguard to ensure that special education and related services to children with disabilities are coordinated, where required, to ensure a free appropriate public education. In its State Improvement Plan developed in the fall of 1998, CDE identified the need for, and entered into, over 35 public and private partnership agreements to assure maximal, effective and coordinated educational services to children with disabilities.

The Steering Committee, in meeting with OSEP during the Validation Planning week, expressed concerns very similar to those expressed by parents and administrators that participated in public input meetings. The Committee requested that OSEP investigate the following concerns/issues: (1) appropriate modifications, accommodations, and/or supports to enable students with disabilities to be involved in and progress in the general curriculum; (2) availability of special education and related services to address student needs; (3) availability of extended school year services; (4) lack of skills among some teachers and special educators; (5) lack of related service providers, and paraprofessionals to meet the needs of children with disabilities; (6) the need for more preservice and inservice training; (7) availability of counseling services and supports to meet the needs of students with emotional and behavioral problems; and (8) recruitment and retention of instructional, paraprofessional, and related service staff.

To investigate the concerns identified by the Steering Committee and public input participants during the Validation Planning process, OSEP collected information from the review of children’s records and State and local policies and procedures, and interviews of State personnel, local program and school administrators, teachers and other service providers, and parents.

OSEP reviewed and analyzed the data and identified the following strengths and areas of noncompliance.

## **A. AREAS OF STRENGTH**

### **1. Multisensory Reading Project**

CDE has sponsored the Multisensory Reading Project with the purpose of building the capacity of educators across the State in the latest research-based techniques for teaching children reading skills. CDE reports that this project has been extremely well received in the field and has a direct impact on teachers' abilities to address reading problems in children with disabilities.

### **2. Odyssey Project**

The Odyssey Project is a once-a-year intensive conference initiated by CDE and designed around one theme of special interest to educators of children with disabilities. Every year a group of special education and general education teachers selects the topic and meets together for two days. CDE designs materials to address the theme and hire facilitators. It has been well received by teachers and has been effective in that special and general educators address a common area of concern.

### **3. Behavior Evaluation and Support Teams**

The behavior evaluation and support teams program has served as a resource to assist local education agencies in identifying the behavioral needs of students with disabilities in Colorado. The teams are trained to conduct functional behavioral assessments, recommend proactive strategies and supports, develop behavior support plans and consult with other professionals to develop education plans for students with disabilities. The teams may provide services to individual students, on a consultative basis, and/or through inservice training and resource sharing mechanisms.

Services provided by the teams have resulted in increased capacity for building level teams to conduct assessments of behavior. The behavior evaluation and support teams have increased from the initial five teams in 1994 to 28 teams through the 1997-1998 school year. During the 1997-1998 school year, the teams served 64 students who showed improvement in student behavior for 82% of the interventions implemented. Forty-six persons participated in training for behavior evaluation and support teams during the summer of 1999.

### **4. Opportunities For Success**

"Opportunities For Success" are guidelines that CDE created through a process that engaged over 2,000 Colorado educators, parents and citizens. Its purpose is to provide guidelines for educators as they help special populations of students, who have diverse and unique needs, meet academic content standards. Teachers have found the guidelines useful for developing curriculum and instruction around comprehensive academic standards.

## **B. AREAS OF NONCOMPLIANCE**

## **1. Lack of Provision of Services and Supports to Meet the Needs of Children with Disabilities**

Section 300.300 requires that a free appropriate public education be made available to all children with disabilities. In addition, §300.380(a)(2) requires that each State have a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified personnel, including special education and related services personnel, necessary to carry out the purposes of IDEA. In four of the districts OSEP visited, OSEP found that CDE does not always ensure that children with disabilities receive the special education and related services they need. Factors resulting in children with disabilities not receiving needed services include: inadequate supply of qualified and trained personnel; high caseloads for related services personnel; and provision of services based upon availability of staff.

In one district, an assistant principal and an occupational therapist stated that teachers are hesitant to identify students' needs in the IEPs because they know that there are limited staff and in some cases no resources to serve the students' needs. The assistant principal also stated that there have been times that individual student needs have been discussed in IEP meetings, but because the school is unable to provide the services, the school will not put the needed services in the students' IEPs. In order to assist schools in meeting the related services requirements specified in students' IEPs, the district contracts for the provision of related services through a central agency office. According to the assistant principal and occupational therapist, the financial limitations outlined in the contract between the districts and the central agency that provides special education and related services to students with disabilities, can result in students not receiving related services identified in their IEPs.

Also in this district, the superintendent, a principal, a general education teacher and a special education teacher at an elementary school reported that services required in the students' IEPs are not consistently provided due to the high rate of staff turnover. Schools rely heavily on teacher assistants to provide related services. The services provided by teacher assistants are affected by high turnover and inadequate training. The high turnover rate is due, in part, to low salaries and the high cost of living in the area. New teacher assistants must receive required training in order to provide the occupational therapy, physical therapy, and/or speech and language therapy services to students who need support in the general education classroom. The training for teacher assistants is not consistent nor is the teacher assistants' ability to implement the respective services. As a result, this leads to inconsistency in the provision of service.

The superintendent, principal, occupational therapist, and school psychologist further reported that the services provided by the central agency are set during the negotiations of the annual contract. The schools must provide services based on the agreed upon pre-negotiated services contract when meeting the needs of their students with disabilities.

In another district, a special education teacher, in response to OSEP's question on the services that are in IEPs, stated, "Hopefully, we do not put things in IEPs that we can't provide." The teacher clarified that the school can only provide the services that the district has available, regardless of individual need. A special educator at the high school reported to OSEP that the teacher does not put things in the IEPs that the district cannot buy, explaining, "we have been

told by the district office not to promise something that the district can't provide." The special educator further stated to OSEP that "four of seven students [in provider's program] need updated mobility equipment to meet student IEP goals and objectives for leisure and recreation, adaptive PE, and physical therapy. There is just no money for assistive technology." The speech and language pathologist in the district reported that equipment is needed for two students who need standers, walkers, and appropriate matting in order to meet the IEP goals and objectives.

OSEP asked a related service provider and special education teacher in this district if services begin on the dates specified in the IEP, and was told that services begin by the third week of school. They explained that the first two weeks are devoted to scheduling and that time is counted as indirect service. The special education director in this district told OSEP that there are approximately 67 uncertified teachers providing special education services to students with disabilities. According to the director, students with mild to moderate disabilities are the most vulnerable to the effects of having untrained teachers because these students do not get needed services and continue to fall behind in school.

In a third district, a physical therapist serves 61-65 students, of which 15 are pre-schoolers. She stated that students at the pre-school level receive inadequate services. According to the physical therapist, eight of the 15 pre-schoolers are not receiving the physical therapy services that they need as identified in evaluation reports. She stated that services identified in the IEPs are driven more by her work schedule, and lack of time and space to conduct activities to address gross motor needs, than by students' individual needs.

One special education teacher, in this district, reported that assistive technology evaluations had been conducted on two students in the class. However, the teacher does not know how to use the recommended software. The teacher stated that no time was available for scheduling appropriate training in the use of the software and as a result, the students have not introduced the technology for use even though this technology is required to meet specific goals and objectives in the students' IEPs.

A speech and language pathologist, in a fourth district, who serves 85-90 students in two district schools and has 97 evaluations scheduled at the high school for the current school year, reported to OSEP, "if I had more time I would give the students more time in the IEP. The required paperwork and evaluations take a lot of time." When OSEP asked what impact this had on the students, the speech and language pathologist stated that the students are not getting the services they need as specified in the IEP. Another speech and language pathologist reported that she has students who need more services than what is on the IEP and that parents are referred to outside agencies for therapy as a "recommendation" so the school district will not have to pay for the services.

## **2. Lack of Provision of Psychological Counseling Services**

Public agencies must provide to students with disabilities any related services, including psychological counseling, that they need to benefit from special education (34 CFR §§300.300 and 300.24). OSEP found that in four of five districts visited that psychological services were not provided, or limited, in cases where psychological counseling was needed to enable the child

to benefit from special education. Specifically, OSEP found that: 1) psychological counseling services provided by an outside agency were rarely integrated into the students' IEPs even if the children needed them to benefit from special education; 2) parents were at times required to pay for psychological counseling services determined necessary by the IEP team for their children to benefit from special education; and 3) psychological counseling services were not available to students regardless of need.

In one district, OSEP reviewed the files of three high school students with learning disabilities and emotional disturbance. Each student's IEP contained a checklist of internal and external indicators of "social/emotional problems" designed to determine if the student has a "significant identifiable emotional disability" that qualifies him/her for special education and related services. OSEP interviewed these students' teachers regarding the special education and related services available to address their identified behavior problems and recommendations in evaluation reports. The teacher of two of the students told OSEP that services are based on what is available and that unless parents ask for psychological counseling services, they do not get them regardless of student need. The principal and the district's part-time school counselor confirmed that psychological counseling, as a related service, is not provided or paid for by the district, even if a child needs them to benefit from special education.

According to the special education teacher, if a high school student needs psychological counseling to benefit from special education, the school recommends mental health services to the parents. The parents then become responsible for obtaining and paying for these services. Another option is to refer the student to the in-school mental health clinic that is available to all students in the high school and deals mainly with students who are substance abusers or those who need anger management training. The mental health clinic staff does not have the capacity to provide individualized psychological counseling services to all students with disabilities who need these services to benefit from special education. This special education teacher never had a student who received psychological counseling as a related service, because, she stated, "schools do not want to pay for the service so they do not put it [needed psychological counseling services] in the IEP." The impact on students with disabilities who need psychological counseling services as described by the principal, counselor, and teachers includes: 1) crisis intervention approaches to behavior instead of prevention; 2) poor student attendance; 3) a lack of student motivation; and 4) a high drop out rate.

In a second district, a special educator providing services to students who have been identified as emotionally disturbed reported to OSEP that the district was sending someone to provide group therapy once a week because the counselor wasn't providing services to students, even though more counseling services were needed by these students as indicated on their IEPs. At the time of OSEP's visit, the day treatment program (generally contracted at a community mental health center) was not a placement option, due to an understaffing of personnel at the mental health center. Two of the four students' records reviewed in this class were on a waiting list to receive services in the day treatment program.

In a third district, a school psychologist reported that the provider is recommending to parents that they seek outside psychological therapy because the provider cannot provide the individual psychological counseling that the students need to benefit from special education due to a lack of



time. According to the psychologist, counseling for students with disabilities, provided by the psychologist, is not included in a student's IEP, even if the student needs the service to benefit from special education. No psychological counseling services were included in the IEPs of students identified as emotionally disturbed and in need of psychological counseling services to benefit from special education.

In a fourth district the principal and two central office administrators told OSEP, that if students require psychological counseling to benefit from special education, they are referred to the local mental health provider. Services through the mental health provider are not part of the needs identified on the individualized education program.

### **3. Inadequate Supports for Children with Behavior Disorders**

34 CFR §300.346(a)(2)(i) requires that in the case of a child whose behavior impedes his or her learning or that of other students, the IEP team shall consider, if appropriate, strategies, including positive behavioral interventions, and supports to address that behavior. OSEP found that CDE was not consistently ensuring that consideration is given to needed supports, strategies or positive behavioral interventions, where appropriate, to meet the needs of students with disabilities.

In one district, a special educator for students with emotional impairments reported to OSEP that the teacher has a caseload of 25 students and of those 25, nine are provided services in a self-contained setting. The teacher reported that she used an inclusive model for a period of time in which she gathered data to measure student success in a general education environment. She determined that virtually all of her 25 students would be able to learn effectively in the general education setting if the supports they needed were available. The psychologist stated that teachers are hesitant to identify student needs because they know that there are no resources to provide them. As a result, the students are not succeeding at the elementary level and are dropping out at the high school level.

Also in this district, a special education teacher reported that there is no time to create and make materials that reach and stimulate students with behavioral disorders to address the goals and objectives on the IEP. The teacher further reported that she would like to have time to be able to adapt behavioral systems to meet individual student needs. The behavioral system implemented for one student was ineffective according to the teacher. In one file OSEP reviewed, the teacher implemented a “systematic exclusion plan.” The district initiated this plan to allow schools to call parents to pick-up the child for the remainder of the day after an escalating behavior had occurred and this action would not go on the child’s record or be considered or counted as a suspension. In response to OSEP's question about how the goals and objectives of the IEP would be addressed if the child were sent home, the teacher reported that the school might send work home or the student would make-up the work during recess or during specials. However, when OSEP asked the special education director about the “systematic exclusion plan” and how the goals and objectives of the IEP would be addressed if the child was sent home, the director responded that she did not know how the goals and objectives would be met.

In a second district, two of three student files reviewed of students identified with social/emotional needs did not have any behavior plans to address these needs. When the special education teacher, who is responsible for carrying out the goals and objectives of the IEPs, was asked about the missing behavior plans, s/he was unaware of their location. Upon further inquiry, the special education teacher stated that s/he was not doing anything, at that time, to address those students' behavior or counseling needs. A school psychologist confirmed that not all students who are identified as emotionally impaired and need behavior plans have them. The school psychologist went on to say that students identified as emotionally disturbed are not succeeding in the general education programs because they do not have needed supports due to a lack of structure, funding, and, staffing. For example, the school psychologist requested an additional psychologist to assist with the caseload for six schools but the district denied that request. The school psychologist is responsible for assessing all students referred for an evaluation and for those students who require a triennial evaluation, serving as a participant at child study meetings, conducting classroom observations, holding counseling groups, and conducting consultations.

In a third district, administrators told OSEP that students with disabilities who have committed three offenses or have brought a weapon or drugs to school and a relationship between their behavior and their disability has been established through a manifestation hearing, are expelled and provided services at an alternative site which could include alternative counseling, alternative cooperative education, court involvement, or placement on homebound instruction for a year, as a disciplinary measure. They expressed concern that while educational services are provided, course instruction is so minimal, from four to 10 hours a week, that students do not have full access to the general curriculum, and fall so far behind that they cannot acquire the full range of credits to graduate. As a result, many of these students who are sixteen years or older, drop out.

A special education teacher and a general education teacher in a fourth district stated that behavior plans of students were not implemented because they were not aware of the plan's contents because the plan was not provided or made available.

#### **4. Inadequate Supports for Accessing the General Curriculum and Learning in the Least Restrictive Environment**

Section 300.342(b) requires that a child's IEP is accessible to each regular education teacher who is responsible for the implementation of the IEP and that the teacher is informed of the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP. Section 300.346(d) requires that the regular education teacher of a child with a disability participates in assisting the IEP team in determining supplementary aids and services, program modifications or supports for school personnel that will be provided for the child. Section 300.347(a)(3)(ii) requires that the IEP contains a statement of program modifications or supports for school personnel that will be provided for the child to be involved and progress in the general curriculum. In addition, each public agency shall ensure that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (See

§300.550(b)(2)). In four of five districts visited, OSEP found that needed accommodations and modifications were not included in the IEP, or in cases where accommodations and modifications were included, the general education teachers were not aware of their responsibilities to implement them in order to ensure the students' involvement and progress in the general curriculum.

A cluster director, a special education, and school principal in one district all agreed that limited financial and human resources make it nearly impossible to support children with disabilities in the regular education setting. They reported that the district lacks the resources to provide the necessary accommodations and modifications on a daily basis.

OSEP reviewed 23 files of elementary, middle and high school students. All IEPs reviewed included modifications and accommodations for instruction. However, in interviews with special education and general education teachers at the high school, OSEP found that accommodations and modifications in students' IEPs were not always implemented because teachers did not have access to IEPs since the IEPs are locked in a central location, and there is a lack of time for collaboration between special education and general education teachers to identify the modifications, accommodations, and/or supports necessary to enable students to be involved in and progress in the general curriculum.

A high school special education teacher in this district stated that there were lower expectations and a "watered-down curriculum" for students with disabilities because of their low reading and writing skills. The teacher stated, and the principal and special education director confirmed, that there is a disparity in quantity and quality between the curriculum materials provided to students without disabilities and those that are provided to students with disabilities, and that this curriculum is not the product of an IEP teams decision to meet student needs. An example that was given to OSEP was that "special education teachers have to scrounge for textbooks that have been cast-off by general education teachers." The principal acknowledged that there is a culture of low expectations in this school for students with disabilities, as well as a belief among special education teachers that students are better off with them in pullout classes where teachers are more knowledgeable about how to teach them. The principal stated that these factors present her with one of the greatest challenges in improving results for students with disabilities in the general curriculum.

OSEP interviewed a high school special education teacher, in the same district, about how students are included in the general curriculum. The teacher responded that only students with learning disabilities and mild emotional disabilities have access to the general education classroom for earth science and government, regardless of student needs and abilities, because these are the only classes available to special education students through a co-teaching model with one general education teacher and one special education teacher. Students with cognitive delays are not considered for these classes and therefore have no opportunity to be involved and progress in the general curriculum. When asked if these students could be included with the assistance of a paraprofessional, the teacher said they could but that money is not allocated to provide the services of paraprofessionals for students with mild or moderate cognitive disabilities. The high school principal stated in an interview with OSEP, that there are two barriers to integration in the high school, teacher acceptability and building accessibility.

A preschool teacher in the same district told OSEP that in order to maintain a child with a physical disability in the general kindergarten classroom, the teacher must make an appeal to the district with sufficient justification for more educator time. The decision to place students in the least restrictive environment is driven by resources. An itinerant teacher for students with visual impairments told OSEP that a big challenge is getting general education teachers to implement the IEP goals and objectives for students with visual impairments. As a result, these students are unable to adequately progress and remain successful in their general education classes. The principal of a high school stated that students with physical disabilities couldn't take biology with students who do not have disabilities regardless of ability, because the labs are inaccessible to students in wheelchairs. Instead, these students, with average to above average cognitive ability, would have to do the lab work in the resource room even though there is no equipment for them. The special education director agreed that the placement decision for individual students in this class was not based on the student's unique needs, and that these students should not be in a separate classroom. Sometimes, the director explained, it is just easier for teachers and students to do most of the coursework in the resource room because some general education classes are too crowded to accommodate a wheelchair or located too far away.

The special education director for this district also told OSEP about the availability and assignment of paraprofessionals to support students with mild and moderate disabilities in the general education classroom. The director agreed that the district does not have sufficient numbers of paraprofessionals, stating that more students could be integrated in the general classroom and be involved and progress in the general curriculum if they had more paraprofessionals to provide students with needed support in the general education classroom. The main barrier to hiring needed paraprofessionals is salaries that were not competitive.

In another district, three special educators who serve students with mild to profound disabilities reported that general educators will not take students with disabilities in their class without support from a paraprofessional, even if the student has modifications and adaptations listed in their IEPs. OSEP was also told that general educators have the option of refusing to accept students with disabilities in their classroom even if a paraprofessional is made available.

Four special educators and five general educators in a third district reported to OSEP that general educators are not provided the information necessary to provide accommodations or modifications required to meet the needs of students with disabilities in the general curriculum. A review of grades for 12 students with learning disabilities show that three of 12 students had failed at least one course and two students had failed two courses. The "F's" received by the students were in the general education courses.

Four special educators in the high school in this district, reported that there are general educators "who are supportive but [general] education teachers need to be shook-up. We have [general] educators who don't want to do the accommodations." They further reported that general educators do not have a copy of the accommodations and modifications page of the IEP. According to the special education director for the district, schools have been instructed to provide a copy of the accommodations/modifications page of the IEP to general educators who will work with the student. The special education director said the district office recognizes that this is a problem and the district is "moving toward procedures to ensure every general educator

who works with the child has a copy of the "performance-based education" page of the IEP that outlines modifications and accommodations." Six parents in the district expressed their belief that accommodations and modifications did not always address the students' needs and that their understanding based on conversations with their children and teachers were that accommodations and modifications listed on the IEPs were not being implemented in the general education classrooms.

A principal in a fourth district stated that there are not enough supports in the general education classroom, and expressed the following concerns: insufficient meeting time for regular education teachers to plan; budget constraints; and an inability to get additional services from the contracting agency once the service contract has been negotiated.

#### **5. Accommodations and Modifications for Students With Disabilities in District and State-wide Assessments**

Section 300.138(a) requires that children with disabilities be included in general State and district-wide assessment programs, with appropriate accommodations and modifications in administration, if necessary. Section 300.347(a)(5) requires that the IEP contain a statement of any individual modifications in the administration of State or district-wide assessments of student achievement that are needed in order for the child to participate in the assessment; and if the IEP team determines that the child will not participate in a particular State or district-wide assessment of student achievement, a statement of why that assessment is not appropriate for the child; and how the child will be assessed. Although CDE has provided procedural guidance regarding how schools are to ensure the provision of accommodations and modifications to students with disabilities in the general education program, this guidance has not been adequately understood or school personnel were inadequately informed regarding making these decision in the IEP meeting.

Four special educators interviewed in one district reported that no accommodations could be made for students with disabilities who participate in district and Statewide assessments. The special education director in that district told OSEP that necessary accommodations could be made when appropriate, to assist students with disabilities who participate in district and Statewide assessments, but that school personnel did not understand their responsibility to individually determine needed accommodations and modifications in the IEP.

OSEP reviewed the files of 12 students in a second district. Seven students' IEPs documented that the students were to take State and district-wide assessments with accommodations/modifications, but no specific accommodations or modifications were listed on the IEP.

#### **6. Participation of General Education Teacher as an IEP Team Member**

As noted above in Finding 4, OSEP found that needed accommodations or modifications were not included in IEPs, and that general education teachers were not aware of their responsibilities to implement IEPs to ensure that students with disabilities are able to progress in the general curriculum. Section 300.346(d) requires that the general education teacher of a child with a

disability, as a member of the IEP team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP. Although CDE has provided guidance to the local education agencies regarding general education teachers' participation in the IEP meeting, OSEP found that there still exists a lack of clarity regarding who can serve as a general education teacher during IEP meetings.

Two district administrative personnel informed OSEP districts meet the requirement for general education teacher participation in the IEP by having the guidance counselor attend the IEP. CDE staff explained that districts and schools have been informed that in order to meet the requirement for general educators' participation at IEP meetings, counselor participation would not meet this requirement. A local director for special education in another school district verified this information. However, the director did not know whether schools have been effective in ensuring general education participation in the IEP.

Special education directors in these two school districts told OSEP that districts probably have not done enough training with principals and general education staffs to emphasize the general education teacher's responsibilities when developing the IEP. The districts currently have teachers at the high school level that refuse to accept kids with disabilities in their classrooms. The directors stated that the districts need to revisit this issue since principals do not take responsibility to ensure that general educators meet this requirement.

A general education teacher in one of these districts reported that she has 20 special education students in her classes. However, she had not attended IEP meetings for any of the 20 students. The instructional leader for special education told OSEP that general education teachers do not attend IEP meetings, and, that some general education teachers will not modify curriculum for students with disabilities regardless of what the IEP requires. OSEP was informed that the school meets the IDEA requirement for a regular education teacher to participate in the development review and revision of the IEP by having a counselor attend all IEP meetings and sign the IEP form as the regular education teacher.

## VIII. PART B: SECONDARY TRANSITION

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The National Longitudinal Transition Study stated that the rate of competitive employment for youth with disabilities out of school for three to five years was 57 percent, compared to an employment rate of 69 percent for youth in the general population. The Study identified several factors that were associated with post-school success in obtaining employment and earning higher wages for youth with disabilities. These include completing high school, spending more time in regular education, and taking vocational education in secondary school. The Study also showed that post-school success is associated with youth who had a transition plan in high school that specifies an outcome, such as employment, as a goal. The secondary transition requirements of IDEA focus on the active involvement of students in transition planning, consideration of students' preferences and interests by the IEP team, and the reflection, in the IEP, of a coordinated set of activities within an outcome-oriented process which promotes movement from school to post-school activities. Through parent and student involvement, along with the involvement of all agencies that can provide transition services, student needs can be appropriately identified and services provided that best meet those needs.

### **Validation Planning and Data Collection**

In its 1996 monitoring report, OSEP found that CDE failed to ensure the inclusion of statements of needed transition services in IEPs for students with disabilities who are sixteen years or older. CDE's Self-Assessment indicated that it did not have the information to determine the effectiveness of transition planning for youth with disabilities transitioning to post-secondary activities. For example, CDE did not have data on high school completion rates, dropout rates, or participation in post-school activities. Through its monitoring of local agencies, CDE has identified transition as its top issue. Public input indicated that transition is not always effectively addressed, that there is a lack of cooperation and coordination between agencies, and that parents are not given notification about transition being addressed in IEP meetings. Results of parent surveys taken during CDE's on-site visitations found that between 30% to 40% of the respondents were dissatisfied with transition planning for their children with disabilities.

### **A. AREAS OF STRENGTH**

#### **1. School to Work Alliance Program**

The School to Work Alliance Program (SWAP) is a collaborative initiative between the Colorado Division of Vocational Rehabilitation and local school districts. It is supported by CDE and was designed to provide interagency services that would enhance existing transition services and provide employment services to an underserved population of youth. Unique components of this program include case management services and a one-year follow-up after successful employment. Since its inception in 1995, the School to Work Alliance Program has grown to a 3.5 million-dollar program involving approximately 98 school districts. During the 1998-99 school year, the School to Work Alliance Program served approximately 1500 students and helped to successfully employ approximately 500 students.

#### **2. The Cooperative Service Handbook for Youth in Transition**

In a collaborative effort, CDE and the Colorado Department of Human Services, Division of Vocational Rehabilitation developed the Cooperative Services Handbook For Youth In Transition. This handbook is designed to assist Vocational Rehabilitation staff, educators, students and their families in the delivery of transition services. The information and examples in the handbook are intended to be used as technical assistance tools for transition planning. It is a good resource for parents and youth with disabilities transitioning to post-secondary services and an example of coordinated planning between State agencies.

## **B. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN WITH DISABILITIES**

### **Improve the Quality of Transition Planning and Services for Students with Disabilities**

OSEP reviewed the files of high school students and interviewed school personnel regarding transition services to promote the access of student with disabilities to post-secondary activities. Although school districts visited by OSEP did include a statement of needed transition services in IEPs, the quality of these statements and the effectiveness of the transition services provided remains a concern.

A special education director in one district stated, “transition from high school to post-secondary activities is our greatest need for emphasis in this district; we’ve been weak in transition, and we recognize this as one of our biggest problems. The focus is on meeting standards, and we have put our eggs in one basket—standards. We feel we are short-changing kids because we are concentrating on the Colorado Student Assessment Program due to the high stakes of schools losing their accreditation. As a result, very little time and attention is given to address transition needs of students. We need to make sure staffs know which outside agencies to call to address transition needs and make sure schools postpone IEP meetings where transition is addressed if the outside agency is not in attendance, and make sure schools know what to do when this happens.”

Four special educators, in the same district, at the high school level stated that they do not know what is offered for transition services from outside agencies. They stated, “We sometimes have to spend time pounding the bushes. There may be programs out there that we don’t know about. For example, we were not aware that Developmental Pathways would place kids in work settings. We need a booklet on transition services because we are unclear on choices and resources available.” To further emphasize this issue, a focus group of six parents reported that the school will refer parents to outside agencies to address transition from high school to post-secondary activities but will not contact the agencies themselves or invite them to IEP meetings. Parents must contact and invite agencies to the meetings. They further reported that counselors and special educators may not be aware of what services and classes are available at the vocational center to address transition, therefore, students may not be referred to appropriate agencies to meet their transition needs.

In another district, community linkages are limited. Two teachers reported that they have worked very hard to develop community linkages to help in the transition of their students. Most employers did not want to work with students with disabilities and it took a lot of convincing by



the teachers to get community employers to accept any students with disabilities. The district does work with the Vocational Rehabilitation and Job Training Partnership Act agencies whenever possible. Neither agency is in town; therefore agency representatives are often not available to attend meetings.

CDE staff reported that, “The issue the last time OSEP monitored us, was that we were not doing transition. The issue now is that we are not doing it well.” There are three issues that continue to affect transition services. 1) Funding at the school level. Many districts had a transition coordinator who was hired through OSEP’s system-wide grant. When the funding ended, the transition coordinator was eliminated and placed back into the classroom. 2) Changes in adult services. There are long waiting lists for services through Developmental Disabilities. For many students, this means that there is no place to go after graduation. 3) Focus on the standards-based system, as explained above. It is suggested that Colorado address these issues in a systematic way in order to promote more effective transition of students with disabilities to post-secondary activities.

## IX. PART B: GENERAL SUPERVISION

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Under the IDEA, States have a general supervision responsibility for ensuring that all public agencies comply with the requirements of Part B of the IDEA. (See 34 CFR §300.600). As early as 1975, Congress recognized the need for a central point of responsibility and accountability. The Senate Report on PL 94-142 stated that the general supervision provision would "... assure that in the implementation of all provisions of this Act and in carrying out the right to education for handicapped children, the State educational agency shall be the responsible agency." The importance of this provision continues to be recognized by Congress and was strengthened by the 1997 Amendments to the IDEA. The language in the IDEA, as well as relevant court decisions, plainly demonstrates that the State's responsibility goes beyond the mere writing of regulations and procedures. The court held in *Cordero v. Pennsylvania Department of Education*, 795 F. Supp. 1352 (M.D. PA 1992): "The State's role amounts to more than creating and publishing some procedures and then waiting for the phone to ring. The IDEA imposes on the State an overarching responsibility to ensure that the rights created by the statute are protected regardless of the actions of local school districts."

The IDEA contains several mechanisms for State education agencies to use in fulfilling their general supervisory responsibilities. A strong State monitoring process to ensure effective implementation of the IDEA is crucial to improving educational results for children with disabilities. A basic component of State eligibility has long been that the State education agency exercises general supervisory responsibility over all educational programs for children with disabilities in the State, including ensuring that those programs meet the requirements of IDEA. This responsibility includes not just monitoring, and enforcement when noncompliance is not corrected, but also effective technical assistance that focuses on best practice designed to improve the substantive content and results of special education. A key priority of OSEP's monitoring is the State's compliance regarding its supervisory role in the implementation of IDEA.

### Validation Planning and Data Collection

To obtain data on CDE's oversight of educational programs for children with disabilities across Colorado, OSEP used information from the review of citizen complaints, CDE's self-assessment, information from public input meetings, and information provided by the Steering Committee.

CDE's self-study indicated that CDE monitors public agencies on 5-year cycle. In the last three years it has monitored 20 administrative units out of a total of approximately 50 administrative units. The most common citations were the lack of transition services for youth with disabilities, a lack of appropriate special education services, problems with evaluations, and insufficient personnel to provide services to children with disabilities.

Public input meetings produced three themes that were viewed as problems in this area: 1) the lack of accountability because of the impact of "local control;" 2) insufficient funding for school programs through the State resulting in a high fiscal burden on local districts; and 3) a lack of follow-through by CDE to ensure that corrective actions are carried out as a result of monitoring reports, complaint investigations, and due process hearing decisions. A wide range of positive

and negative comments was received during public input meetings. An example of a typical concern was, "If districts are monitored, why is it that in some districts you can get services and in others you can't?" CDE received positive comments regarding the provision of workshop and other inservice opportunities and the high regard that the field has for CDE staff expertise.

To investigate the issues identified through the Validation Planning process, OSEP collected data from local educational agencies across Colorado, interviewed parent groups, and obtained information at the State educational agency relative to the CDE's responsibility to ensure that all education programs for children with disabilities meet Part B requirements and State education standards. Analysis of the data collected resulted in identification of the following strengths, areas of noncompliance and areas requiring improvement.

## **A. AREAS OF STRENGTH**

### **1. Training for Facility Directors**

CDE has recently designated a staff person to act as the liaison with the approximately 100 facilities, such as hospitals, correctional facilities, and mental health facilities, across Colorado that provide educational services to children with disabilities. Recognizing the lack of consistency in the information that has been disseminated to facilities, CDE has conducted trainings for facility directors and assisted in developing quality indicators for special education programs in these facilities.

### **2. Meeting Interpreter Standards**

Colorado has recently adopted standards that interpreters for the hearing impaired, including those working in schools, must meet to practice within the State. In order to assist interpreters attempting to meet these standards, CDE has provided regional programs at no cost to the individual.

## **B. AREAS OF NONCOMPLIANCE**

### **1. Effective methods for identifying deficiencies in programs providing services to children with disabilities**

As required at 34 CFR §300.600, CDE is responsible for ensuring that the requirements of Part B are met, that all programs for children with disabilities in the State are under CDE's general supervisory authority, and that these programs meet the educational standards of CDE. One method CDE uses to assist meet this requirement is its State monitoring system of local educational agencies. OSEP finds that CDE does not have a monitoring system that is effective in identifying noncompliance for Part B requirements.

CDE's current monitoring process spans a five-year cycle. The first step in the process is data collection prior to the onsite visit. CDE solicits input from various sources including local educational agency staff, parents, reports, and a "count audit" (sample file review). During step two, CDE identifies a team and analyzes the initial data to look for patterns and concerns. At

step three, an onsite team from CDE visits the local educational agency for two to three days to verify compliance. In the final step, CDE staff writes a report that it mails to the district within 90 days of its onsite visit. CDE rules require that within 90 days following any report of noncompliance, the agency is required to provide CDE a corrective action plan that must be approved by CDE. The public agency may appeal any findings or directives for corrective action to the State Board of Education.

CDE monitored each of the five local education agencies visited by OSEP. Two of the agencies were monitored by CDE in 1999, two were monitored by CDE in 1997, and one was monitored in 1995. OSEP made a number of findings of noncompliance regarding the provision of a free appropriate public education in the least restrictive environment that CDE did not make when it monitored the same agencies. For example, in 1999, CDE cited a local agency only for permitting a shortened school day for some students with disabilities, students with disabilities not having the ability to participate in activities with their nondisabled peers, and a lack of comparable facilities for students with disabilities in one school. In this same agency, OSEP found a lack of provision of services and supports to meet the needs of students with disabilities, a lack of provision of psychological counseling services, and inadequate supports for children with learning disabilities. In two other districts, the noncompliance cited by CDE in its monitoring reports was very specific to a program or school or to a specific procedural violation of Part B without identifying generalized problems that would have a significant impact on educational outcomes for children with disabilities. CDE cited the districts for a failure to provide a record of access to confidential records. However, CDE's monitoring system failed to identify that children with disabilities in these agencies did not have the supports necessary for them to access the general curriculum, an issue with great impact on education for children with disabilities.

OSEP also found in reviewing CDE's monitoring procedures that it was not making findings of noncompliance in all instances where the data collected by CDE would warrant a finding. CDE's reports contain a category entitled "recommendations." It was explained to OSEP that CDE makes "recommendations" if an issue was not "best practice" or did not rise to the level of "systemic" noncompliance. When questioned about a standard that was used to identify a "recommendation," OSEP was informed by CDE staff that the decision about whether an issue was a recommendation or a finding was individually determined by the CDE staff responsible for coordinating the visit and writing the report. OSEP identified the following "recommendations" that should have been findings in CDE's monitoring reports: placement of children with disabilities based on program, not individual needs; children with disabilities in self-contained programs not provided adequate supports for integration; general education teachers not providing needed accommodations and modifications; the general education teacher not attending IEP meetings; removal of moderately disabled children to center-based programs; and the failure of essentially separate programs to address the general education curriculum. As a result, OSEP finds that CDE's monitoring system is ineffective in identifying deficiencies regarding Part B requirements.

## **2. Effective System for Resolving Complaints Regarding Violations of Part B**

As set forth at 34 C.F.R. §§300.660 -300.662, CDE is required to have procedures that insure that any complaint alleging a violation of Part B is resolved within 60 calendar days unless an extension of time is permitted when exceptional circumstances exist with respect to the particular complaint. OSEP found that CDE was not resolving all Part B complaints, was not resolving complaints within timelines, and had complaint procedures that are inconsistent with Part B.

### **a) Resolving All Signed, Written Complaints That Allege Part B Violations**

OSEP found that CDE investigators continue to “reject” complaints that meet the requirements of Part B for resolution by a State education agency, consistent with OSEP previous monitoring findings. Part B requires that any complaint that alleges violations of Part B and that meets the requirements of §300.662 must be investigated. For 1999, CDE’s log of complaints shows that 39 complaints received a written decision, of which eight were rejected or closed for inaction by CDE. In four of these eight cases, complaints were rejected wholly or in part for reasons inconsistent with Part B. Two were rejected because CDE stated that there was not enough information. However, the complaints contained all of the information required by Part B. The other two complaints were rejected by CDE because they alleged violations that related to the placement of the child involved. Although it is true that a State education agency cannot make decisions about the appropriateness of a child’s placement, and the State education agency must investigate whether the procedures followed in determining the child’s placement meet the requirements of Part B.

Section 300.661(a)(4) requires State education agency, for every complaint, to issue a written decision that addresses each allegation in the complaint and contains findings of fact and conclusion and the reasons for the State education agency’s final decision. A random analysis of five complaints and their letters of findings showed that written decisions failed to address at least one allegation in the complaint related to a possible violation of Part B. Also, two written decisions contained findings that contradicted or misinterpreted the requirements of Part B. For example, OSEP reviewed a letter from a CDE investigator, dated December 9, 1999, stating that it is the investigator’s “practice” to have the complainant “bear the burden of proof” in a complaint investigation. Since Part B regulations do not indicate that either party to a complaint has an unequal burden, neither party can bear the entire or greater share of the burden of proof.

### **b) Complaint timelines**

CDE has also not met its responsibility to ensure that the complaints are resolved within the 60-day timeline unless exceptional circumstances occur with respect to a particular complaint. Section 300.661(a) and (b)(1).

During 1998, CDE received 32 complaints, of which 12 were not resolved within 60 calendar days. From January 1999 to January 2000, CDE received 55 complaints, of which 40 were not resolved within the 60-calendar day timeline. None of the complaint files documented extensions for exceptional circumstances.

Part B provides that extensions to the 60-day timeline may be granted only when exceptional circumstances exist with regard to a particular complaint. CDE's records and an interview with the CDE's complaint investigator indicate that CDE has no criteria for determining when an extension is granted and that extensions can be granted for any reason deemed appropriate by the complaint investigator. A September 1999 letter from a CDE complaint investigator, in referring to the 60-day timeline, states that he can extend the 60-day time period if he "determines it is necessary to do so." CDE's Parent's Rights Notice, "Special Education Law Dispute Resolution Rights" also stated that complaint investigators can extend the timelines "if necessary for an adequate resolution" of the complaint. These two statements do not meet Part B requirements that permit extensions to complaints only when exceptional circumstances exist with respect to a particular complaint.

CDE's procedures allow for mediation as a method for resolving complaints. CDE's procedures state that the Complaints Officer may refer the parties to mediation, secure a mediator and that mediation shall take place within a time frame established by the Complaint Officer. However, the procedures fail to state that the existence of ongoing mediation, in and of itself, is not an exceptional circumstance to extend the timeline. When mediation is used, the 60-day timeline is often exceeded without documentation of extensions for exceptional circumstances. A review of the complaint log shows that mediation has resulted in resolution agreements occurring between 120 to 210 days from the time the initial complaint was filed. If the parties agree that the complaint resolution timeline should be extended because of mediation, CDE may extend the timeline for resolution of the complaint. (See OSEP Memo 00-20 - Complaint Resolution Procedures under Part B of the Individuals with Disabilities Education Act).

CDE's procedures also state that written decisions must contain the reasons for the final decision. Part B requires that written decisions must also contain findings of fact and conclusions for each allegation raised in the complaint.

### **3. Resolving requests for due process hearings not later than 45 days after the receipt of a request for a hearing**

As set forth at 34 C.F.R. §300.511(a), CDE must ensure that not later than 45 days after the receipt of a request for a hearing a final decision is reached in the hearing, and a copy of the decision is mailed to each of the parties. A hearing officer may grant specific extensions of time beyond the 45 days at the request of either party (See §300.511(d)). As described below, OSEP found the CDE does not have a system in place adequate to ensure that decisions for due process hearings are reached within 45 days, unless extended at the request of either party.

OSEP reviewed CDE's log that documented timelines for due process hearings. Of 39 requests for hearings during the first ten months of 1999, 25 decisions were not reached within 45 days. Neither the log nor a sample of due process hearing records maintained by CDE indicated that hearing officers were documenting extensions of time at the request of either party. OSEP was told by CDE officials that CDE does not track due process timelines to ensure decisions are reached within 45 days. One official stated that they would hear about it from the parent if this were a problem. This individual was unaware of any problem with the timeliness of due process hearings. When asked how CDE was able to determine if extensions had been properly granted,

this same official indicated that there was no process to track extensions and that it depended upon whether the hearing officer assigned to the case informed CDE of its status before a decision was written.

## **C. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN WITH DISABILITIES**

### **Wide-Spread Dissemination of Technical Assistance**

As noted in previous sections of this Report, CDE has initiated numerous commendable technical assistance projects that disseminate "best practice" for children with disabilities to the field. CDE staff and their expertise in providing these initiatives were praised throughout OSEP's monitoring process. OSEP observed that in many instances the individuals and districts that benefited from these projects were the ones who were providing quality programs already. The individuals and districts with the greatest needs did not know about or did not choose to access the technical assistance. OSEP recommends that CDE explore ways to promote dissemination of these projects, including requiring training and other technical assistance as corrective actions.