



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

MAY 22, 2000

Honorable Lisa Graham
Superintendent of Public Instruction
State Department of Education
1535 West Jefferson Street
Phoenix, Arizona 85007

John L. Clayton
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Dear Superintendent Graham and Director Clayton:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in Arizona during the weeks of October 26, 1998 and January 25, 1999, 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 Arizona Department of Education (AZDE) Exceptional Student Services, the Department of Economic Security (DES) and parents and advocates in Arizona.

In conducting its review of Arizona, OSEP applied the standards set forth in the IDEA 97 statute and in the Part C regulations (34 CFR Part 300) as they were in effect at the time of the OSEP review. The Part C regulations in effect in January 1999 were those published by the Department on July 30, 1993, as revised by the Technical Amendments published on April 14, 1998. The Part B regulations in effect in January 1999 were those published on September 29, 1992.

All citations to 34 CFR Parts 303 and 300 in this report are to the regulations, as published on those dates. On March 12, 1999, the Department published new final Part B regulations and conforming changes to the Part C regulations that took effect on May 11, 1999. In planning and implementing improvement strategies to address the findings in this report, AZDE should ensure that all improvement strategies are consistent with the new final regulations.

A critical aspect of the Continuous Improvement Monitoring Process is collaboration between Steering Committees of broad-based constituencies, including representatives from AZDE, DES, and OSEP. The Steering Committees assessed the effectiveness of State systems in ensuring

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improved results for children with disabilities and protection of individual rights. In addition, the Steering Committees 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 Arizona, 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 requirements for children aged three through 21 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 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 needing corrective action because they represent noncompliance with the requirements of IDEA, and suggestions for improved results for children. Enclosed you will find an Executive Summary of the Report, an Introduction including background information, and a description of issues and findings.

OSEP is very concerned about the noncompliance identified in this Report regarding early intervention services under Part C, and its impact on infants and toddlers with disabilities and their parents. As explained in this Report, it is very difficult for parents to secure needed early intervention services, or even to have their children evaluated, due to confusing and uncoordinated child find procedures. This is exacerbated because physicians and hospitals often are not well-informed about referral and child find procedures, and eligibility for early intervention services. Delays in referral, evaluation and assessment, and initial Individualized Family Services Plans (IFSPs), delay services to infants and toddlers with disabilities who are found through the State's child find efforts. Many families do not receive the service coordination support that they need and that is required by Part C in order to ensure that their children receive needed early intervention services. It will be important that DES take prompt and effective action to ensure that it corrects these and the other Part C findings in this Report.

AZDE and DES have indicated that this Report will be shared with members of the Steering Committees, the State Interagency Coordinating Council, and the State Advisory Panel. OSEP will work with your Steering Committees to develop corrective actions and improvement strategies to ensure improved results for children with disabilities.

Thank you for the assistance and cooperation provided by your staffs during our review. Throughout the course of the review, Dr. Lynn Busenbark and Ms. Diane Renne, former Part C Coordinator, 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 Committees to better understand the State's systems for implementing the IDEA. A significant effort was made 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, advocates,

school personnel, school administrators, special education unit administrators and service providers.

Thank you for your continued efforts toward the goal of achieving better results for infants, toddlers, children and youth with disabilities in Arizona. 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. Now that children with disabilities are receiving services, 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,

Kenneth R. Warlick
Director
Office of Special Education Programs

Enclosures

cc: Ms. Molly Dries
Dr. Lynn Busenbark
Mr. Steven Mishlove
Ms. Julie Casaway

EXECUTIVE SUMMARY

ARIZONA MONITORING 1999

The attached report contains the results of the first two steps (Validation Planning and Validation Data Collection) in the Office of Special Education Programs' (OSEP) Continuous Improvement Monitoring of the Individuals with Disabilities Education Act (IDEA), Parts B and C, in the State of Arizona during the weeks of October 26, 1998 and January 25, 1999. 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 ideas of IDEA and the organization of Steering Committees that provided further comments on the information. 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 Arizona Department of Education (AZDE) Exceptional Student Services, the Arizona Department of Economic Security (DES), parents, advocates, and members of the Steering Committees.

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. During the time OSEP conducted the Validation Planning and Data Collection phase of the monitoring process, the IDEA 1997 regulations had not been finalized. Therefore, where appropriate, in the Report, the phrase *"in effect at the time of OSEP's visit"* is used to show the section(s) cited from the IDEA regulations that the State was mandated to meet for Federal compliance standards.

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

Strengths

OSEP observed the following strengths:

- Implementation of Universal Newborn Hearing Screening to identify potential hearing loss has resulted in 80% of newborns being screened.
- In order to increase referrals of American Indian infants and toddlers and support family involvement in early intervention services, the State has located an early intervention program at the Indian Health Services site on the Navajo Reservation. Public service announcements and radio spots are offered in native languages and are an example of successful outreach activities designed to improve access to the State's early intervention system.

- Providers and families work together to identify those naturally occurring experiences in family and community life which promote child competence and the informal supports that each child may need to grow and learn. Services are delivered in community settings such as the child's home, on American Indian reservations, community swimming pools and family child care homes.
- Family-Centered practices in collaboration with interagency partners are embedded into all aspects of programming provided by the Arizona School for the Deaf and Blind. Home visits accommodate family schedules, with visits offered to families early in the day, in the evening and on Saturdays.
- Staff development and training models for all early intervention personnel developed by Northern Arizona University's Institute for Human Development include cultural competence in all parts of the curriculum.
- The State's identification and referral outreach activities to American Indian families with young children are enhanced by the Navajo Nation's "Growing in Beauty" program. This unique program provides effective, family-centered child find and parent education and training to families living on reservations.

Areas of Noncompliance

OSEP observed the following areas of non-compliance:

- Ineffective monitoring procedures to ensure consistent implementation of Part C requirements.
- State and local child find methods to locate, identify, and evaluate all children by participating education, health and social service agencies, as well as tribes and tribal organizations are not coordinated.
- The State has not ensured that physicians and hospitals are fully informed about referral and access to early intervention services in their communities.
- The 45-day timeline for referral, evaluation and assessment, and the initial IFSP meeting, are not always met.
- Interim IFSPs are being developed for children as a standard practice, based on system needs, rather than exceptional circumstances for individual children such as child illness.
- Children, including children on reservations, do not always receive services that are specific to and meet their unique needs.
- All service coordination functions are not carried out in all areas of the State. Parents are not always receiving information and assistance in accessing needed supports and services that their child needs.

Suggestions for Improved Results for Infants, Toddlers and their Families

- Remove barriers such as conflicting agency eligibility definitions, multiple separate procedures for referral to the early intervention system, and a lack of training of providers about the roles and responsibilities of interagency partners to ensure access to evaluations and assessments.
- Address cultural and linguistic needs of families specific to discussions around eligibility, service planning and transition.

- Provide education and training for primary referral sources, especially hospitals and physicians.
- Provide joint DES and AZCDE training related to the transition process between Part C system of services and Part B programs.

Education of Children and Youth with Disabilities: Part B of IDEA

Strengths

OSEP observed the following strengths:

- AZDE has provided several parent-training opportunities regarding transition from school to work, special education process, mediation and the individualized education program (IEP) process.
- As part of the comprehensive plan for personnel development, the State has held two Statewide conferences on behavior management that included 950 participants. The State efforts in the area of behavior management have resulted in a local education agency (one visited by OSEP) initiative to provide functional behavioral assessment workshops to its staff.
- Special Education Experiences for Competency in Teaching, a cooperative effort among AZDE Exceptional Student Services, the Northern Arizona University of Statewide Academic Programs and the Institute for Human Development promotes retention of special educators by offering classes for university credit or professional development.
- AZDE has provided guidance to districts on generating discussion of and addressing school to work and post-secondary transition services needs for students ages 3-21.

Areas of Noncompliance

OSEP observed the following areas of non-compliance:

- Local education agencies do not ensure child find activities are conducted to ensure a free appropriate public education is made available to eligible children no later than their third birthday.
- Local education agencies do not ensure the provision of extended school year services to eligible children who need services beyond the normal school year.
- Shortage of qualified staff in the areas of psychological counseling, results in a failure to provide services appropriate to the unique needs of a child, and delays in the provision of required services.
- Current methods to ensure corrective actions regarding complaint decisions do not result in the provision of a free appropriate public education in a timely fashion.
- Current procedures do not ensure due process hearing decisions are issued within the required timelines.
- AZDE's method for identifying deficiencies and ensuring that local education agencies consistently corrected deficiencies identified through its State education agency monitoring system was not always effective.

Suggestions for Improved Results for Children

- Remove barriers such as a lack of interstate reciprocity; lengthy certification process due to current background check procedures; and non-competitive salaries to ensure an adequate supply of teachers and related services providers.
- Develop training related to the transition process between Part C system of services to Part B program.
- Develop methods to improve communication between school personnel and parents of children with disabilities.
- Provide for training regarding secondary transition requirements.
- Develop procedures to ensure AZDE's special education funding formula does not result in a denial of a free appropriate public education, to students with disabilities, in the least restrictive environment.

ARIZONA MONITORING
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INTRODUCTION

Administrative Structure and Children/Infants and Toddlers and their Families Served

The Department of Economic Security (DES) is the lead agency for the implementation of Part C (formerly Part H) of IDEA. The DES administers the early intervention system, known as the Arizona Early Intervention Program (AZEIP) through local and Statewide contracts serving 15 counties in six individual service districts throughout the State. Early intervention service contractors include: the Arizona Department of Health Services/Office for Children with Special Health Care Needs, the Arizona State Schools for the Deaf and Blind, and the Institute for Human Development at Northern Arizona State University.

In 1997, Arizona provided services to 1601 infants and toddlers and their families in the AZEIP, which represents less than 1% of the State's birth to three population. This number reflects the total number of children served through Part C of IDEA funding, as well as other State and private agency resources.

The mission of the AZEIP is to optimize the developmental potential of Arizona children aged birth to three years who have developmental delays or established conditions known to be associated with developmental delays, and their families, through a coordinated, community-based service delivery system which is family-centered and culturally appropriate. The staff of the DES Division of Developmental Disabilities works to accomplish this mission with the assistance and guidance of the Executive Committee of the State Interagency Coordinating Council.

The Arizona Department of Education (AZDE) central administrative office is located in Phoenix and maintains a regional field office in Tucson. The AZDE Exceptional Student Services employs three co-directors/managers of special education and 27 professional special education staff. In addition, there are 17 support staff for special education in AZDE. Personnel in the central and field office are responsible for ensuring the general supervision and the provision of a free appropriate public education to the 80,233 students with disabilities, ages 3-21, in the 227 local school districts and the approximately 270 charter schools. Since students frequently transfer attendance between the district schools and charter schools, it is imperative that needed special education services are clearly identified to ensure a free appropriate public education.

The mission of the Exceptional Student Services program is to "promote the development and implementation of extraordinary education through training, technical assistance, and monitoring so that students with disabilities reach higher levels of academic achievement, workplace skills and effective participation in society."

The staff of the Exceptional Student Services works to accomplish this mission by conducting activities such as: issuing letters of clarification to the field; developing the State plan; proposing revisions to State rules and regulations; processing and approving applications for entitlement and discretionary programs; conducting training for surrogate parents and due process hearing and review officers; performing team monitoring of local education agencies; investigating and

resolving complaints; and conducting technical assistance and training activities for local education agency staffs.

The majority of the school districts are unified districts serving grades K-12. Others are elementary districts, which serve only elementary-aged students and contract with neighboring school districts to provide services to middle and high school students. The remaining districts are union districts/high school districts, which serve only high school-aged students. Many of the rural districts (including unified, elementary and union) have formed cooperatives, through which several districts with small populations or few resources collaborate in the provision of special education, related services and evaluations. These cooperatives are jointly managed by member districts who share the expenses for all services on a per cost basis. The current funding formula uses combined funding sources from State and local funding, residential placement voucher funding, State permanent special education institutional voucher funding, grants for extended school year, and Federal Part B funds.

Statewide Assessment Program

The purpose of Arizona's Statewide assessment is to describe the status of students' knowledge. Arizona's accountability system includes two major testing programs: (1) the Stanford Achievement Test (9th Edition), referred to as the Stanford 9, and (2) Arizona's Instrument to Measure Standards. Participation of students with disabilities in the accountability system is determined annually by the IEP team. Specific accommodations, adaptations, and modifications, must be clearly documented on the students' IEPs.

The Stanford 9 and Arizona Instrument to Measure Standards are administered to students in grades 3, 5, 8, and 10. Since the Stanford 9 is a norm referenced test, it is administered according to the publisher's guidelines and accommodations vary in whether or not they significantly impact score interpretation. Aggregated scores for the Stanford 9 are reported in the following format: (1) number of students who took the test under standard conditions; (2) number of students without disabilities who took the test under standard conditions; (3) number of students with disabilities who took the test under standard conditions; and (4) number of students with disabilities who took the test under nonstandard conditions. The Arizona Instrument to Measure Standards is a criterion-referenced test that was developed by AZDE. Results of the Arizona Instrument to Measure Standards are reported in terms of percentage of students who are "below," "approaches," "meets," or "exceeds" standards measured in the areas of reading, math, and written expression. Students are provided a minimum of five opportunities to retake sections of the Arizona Instrument to Measure Standards where requirements are not met. High school students must pass the Arizona Instrument to Measure Standards in order to receive a diploma.

During the spring of 1999, AZDE began the initial administration of the Arizona Instrument to Measure Standards. Only 10th grade students were included in this initial administration. Grades 3, 5, and 8 will be added to the accountability system during the spring of 2000 and plans are for the Arizona Instrument to Measure Standards to be administered during the spring and fall of every school year beginning in 2001.

Section 612(a)(17)(A) requires that children with disabilities are included in general, State and district-wide assessment programs with appropriate accommodations and modifications in administration, if necessary. The Arizona Instrument to Measure Standards offers a wide range of testing accommodations, as determined for each student with disabilities, based on individual strengths and needs to ensure equal access to demonstrate what the student knows. AZDE provides an unlimited list of accommodations, under nonstandard administration conditions, for the Stanford 9 that may impact score interpretation. In these cases, scores are not aggregated in school, district and State totals. Instead, assessment results for students are used by school personnel to modify instructional methodologies in order for students with disabilities to be involved in and participate in the general curriculum. AZDE also provides a list of accommodations that do not interfere with standardized administration of the Stanford 9 and would not effect score interpretation and data aggregation. Accommodations used in the administration of the Stanford 9 should correlate with those required by the student during instruction, as determined by IEP teams.

Scores from the Arizona Instrument to Measure Standards are reported to parents and the local education agencies on student, district, and State performance. Scores from the Stanford 9 are reported to parents, local education agencies, and to the public on student, classroom, building, district, and State performance. The scores are used to hold schools and districts accountable for student progress in reading, mathematics, and written expression. Aggregated score results enable schools to identify instructional areas, in the general curriculum, that need to be changed in order to help students successfully meet the AZDE academic standards.

At the time of OSEP's visit, plans for alternate assessment of students with disabilities were in draft form. As Arizona continues to develop its statewide assessment program, the State needs to ensure that children with disabilities are included in the regular assessment program with appropriate accommodations and modifications in administration, or are provided an alternate assessment. In addition, the State must ensure that the scores of children with disabilities are reported with the same frequency and in the same detail as the State reports on the assessment of nondisabled children.

Validation Planning and Data Collection:

The Arizona Part B and Part C State Steering Committees include relevant constituencies such as parents of children with disabilities, individuals with disabilities, teachers (for Part B), early intervention service providers (for Part C), State and local health and education officials, representatives of other State agencies, protection and advocacy organizations, and institutions of higher education who play a key role in the monitoring and Statewide systemic improvement process.

In preparation for the OSEP Validation Planning visit, DES established a Steering Committee which included members of the State Interagency Coordinating Council as its Steering Committee for Part C and AZDE established a Steering Committee for Part B. Throughout the monitoring process, these groups chose to meet separately.

During the first phase of the monitoring process, data was collected for a State Self-Assessment to determine the level of implementation of Parts B and C. In the second phase of the process, at the beginning of the week of October 26, 1998, OSEP staff reviewed the Self-Assessment with the State Steering Committees. During the remainder of the visit, OSEP staff conducted focused public input meetings in Phoenix, on the Navajo Reservation in Holbrook, and in Sierra Vista. At those public input meetings, parents, advocates and representatives of professional groups commented on special education and early intervention services in Arizona. Discussion of Part B issues centered on the provision of a free appropriate public education to children with disabilities from ages three through 21, 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 AZDE. Discussion of Part C issues centered on general supervision of early intervention by DES, child find and public awareness, early intervention services in natural environments, family-centered services and transition. At the end of the week, the OSEP staff discussed this public input feedback with the State Steering Committees, staff from the AZDE Exceptional Student Services division, staff from DES including staff from the Division of Developmental Disabilities and staff from other State agencies. Issues identified for Part B included general supervision in monitoring and complaint management, due process procedures and procedural safeguards, transition of students from high school to post-secondary activities, and placement of students in the least restrictive environment. Issues identified for Part C included: general supervision and monitoring of early intervention providers, child find and public awareness, and services in natural environments for all eligible infants and toddlers and their families

OSEP staff reviewed and analyzed data and documents relevant to meeting the requirements of IDEA. These data and documents included: 1) Citizen Complaint Database; 2) due process hearing database; 3) Office for Civil Rights investigations; 4) Arizona Part B State Plan; 5) Arizona's IDEA Implementation Plan; 6) Arizona Assessment of Student Learning; 7) Special Education Finance Reform brief; 8) Arizona December 1997 Special Education Cost; 9) Birth to Three Years Study 95-14; 10) Fifth Annual Report on Special Education Services in Arizona State; and 11) Arizona, Part B, Self-Assessment.

OSEP returned to Arizona during the week of January 26, 1999 to complete data collection, the third phase of the process. The focus of this data collection was to determine how the State carries out its general supervisory responsibilities. OSEP visited a sample of early intervention providers and local school districts located in Phoenix, Flagstaff and Tuba City to review records, and interview early intervention providers, interagency collaborators, teachers, related service providers, program administrators and parents. At the end of the week, OSEP staff met with State lead agency staff, State Interagency Council members, State Steering Committee members, early intervention providers, AZDE Exceptional Student Services division staff, State Steering Committee members, and Regional Resource Center personnel, to identify areas of commendation as well as those that need improvement.

Improvement Planning

In response to this Report, DES and AZDE must develop and implement a plan to ensure that noncompliance identified in this Report is effectively corrected as soon as possible. Arizona

may determine whether it is most effective to develop a single plan for both Part C and Part B, or a separate plan for each Part. Please contact Jackie Twining-Martin and Debra Jennings, the OSEP Part C and Part B contacts for Arizona, respectively, within a week of your receipt of this Report to discuss appropriate timelines and procedures for developing your plan(s), submitting it to OSEP, and implementing it to ensure effective and timely correction of the noncompliance.

I. PART C: GENERAL SUPERVISION

The State lead agency, DES, is responsible for implementing and maintaining a Statewide, comprehensive, coordinated, multidisciplinary, interagency early intervention system. Administration, supervision and monitoring of the early intervention system are essential functions to ensure that each child and family receives the services needed to enhance the development of the child with disabilities and to minimize the child's potential for developmental delay. Through supervision and monitoring, the State assures that all agencies and individuals providing early intervention services, both public and private, 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 Arizona Self-Study Final Report, completed in September 1998, identified several concerns related to the State's oversight of early intervention services, such as: (1) Statewide waiting lists for evaluations and early intervention services; (2) lack of a single State system of service for infants and toddlers with disabilities and their families; (3) fragmentation and duplication of services; (4) inconsistent policy interpretation and implementation, particularly around eligibility and development of the Individualized Family Service Plan (IFSP); and (5) perceived inequities in funding to rural areas, which limits access to services and personnel. The Self-Study also indicated that the lead agency's monitoring system is ineffective with respect to compliance with Part C requirements and enforcement to ensure that identified deficiencies are corrected.

At each of the public input meetings that OSEP conducted during the Validation Planning visit, the following question was asked: "Does the State effectively supervise and administer the implementation of the early intervention system?" In addition to issues identified throughout the Self-Study process, other issues related to the State's general supervision of early intervention services emerged in public input and Steering Committee meetings conducted during the Validation Planning visit. These issues included the need for: (1) a uniform system of data collection, (2) additional Spanish and Navajo providers in rural areas, and (3) an increase in evaluation and assessment personnel in order to meet required timelines.

In order to investigate the issues identified during the Validation Planning process, OSEP collected information from the review of children's records, examined State and local policies and procedures, and conducted interviews with State personnel, local program directors, service coordinators, service providers, parents and the Navajo Nation's "Growing in Beauty" program staff.

OSEP reviewed and analyzed the data and identified the following area of noncompliance.

AREA OF NONCOMPLIANCE

34 CFR §303.501 requires that all programs and activities used to implement the Statewide early intervention system are consistent with Part C of IDEA. Each State is required to adopt and use proper methods of administering the program, including: (1) monitoring agencies, institutions, and organizations used by the State to provide early intervention services; (2) enforcing obligations imposed on those entities as a result of these regulations; (3) providing technical assistance if necessary; and (4) correcting deficiencies that are identified through monitoring. In addition to the responsibility for general administration, the lead agency must ensure that all policies (e.g., State statutes, regulations, Governor's orders, directives, other written documents that represent the State's position on this program – see 34 CFR §303.20) related to the implementation of Part C, are consistent with 34 CFR Part 303.

As discussed below, DES has not fulfilled its obligation for the general supervision, administration, and monitoring of programs and activities in the State, to implement the Statewide system of early intervention services.

Ineffective Monitoring Procedures to Ensure Consistent Implementation of Part C Requirements

In 1993, the State established the Arizona Review of the Early Intervention System as its program evaluation tool. DES' monitoring procedures include parent focus groups, as well as community interviews and a questionnaire designed to address several components of the Statewide system required by Part C. These components include: (1) eligibility determination; (2) timelines; (3) child find and public awareness; (4) multidisciplinary evaluation; (5) IFSPs; (6) personnel development and standards; and (7) procedural safeguards. Following the onsite visit, DES issues a written report that identifies strengths and areas of the system that require attention.

Administrators and service providers informed OSEP that DES has not ensured, through monitoring, guidance or technical assistance, that early intervention services are implemented in accordance with Part C throughout the State. Administrators confirmed data from the Self-Study that: (1) the five participating provider agencies implement policies that are inconsistent with Part C requirements, such as the 45-day timeline from referral to an IFSP meeting, service coordination functions, coordinated child find and identifying the unique needs of children; and (2) DES has ineffective procedures for monitoring issues of noncompliance in these provider agencies or the authority to enforce corrective action. Part C lead agency staff confirmed that technical assistance to address areas in need of improvement, such as children on waiting lists for early intervention services, identified through State monitoring has not been effective.

OSEP reviewed the Arizona Review of the Early Intervention System reports from both of the service districts visited and found that DES had not identified any violations of IDEA that OSEP identified in those sites and discusses in other sections of this report, including: (1) an ineffective child find system; (2) failure to provide early intervention services as identified on IFSPs; (3)

lack of service coordination; and (4) ineffective evaluation and assessment policies and procedures.

One provider emphasized that the State is still developing policies and procedures in many areas, including natural environments, and that the State has not progressed to investigating compliance issues or issuing corrective actions. Administrators in both service districts stated that implementation practices are in large part left up to the local providers to work through. Administrators and providers in both service districts also informed OSEP that DES rarely follows through on local providers requests for information on specific Part C issues, such as payments for services and personnel shortages. Part C lead agency staff reported that the local management teams which have recently been established in each service district will enhance communications in the early intervention system.

OSEP reviewed a list of monitoring follow-up activities provided by DES for both districts that OSEP visited as part of its monitoring. In general, the activities did not target substantive violations of Part C but instead focused on technical assistance in areas unrelated to all areas of local compliance. For example, follow-up activities in one district included: a Saturday Parent Information Session for children on waiting lists, demonstration projects with bilingual providers, and a study of referral and interim service coordinator caseloads. While these technical assistance activities can promote system improvements and compliance, they did not correct existing deficiencies concerning the right of each eligible child to receive early intervention services, as soon as possible, as required under Part C of IDEA.

Based on this information, OSEP concludes that DES has not fulfilled its general supervisory responsibility to effectively monitor the provision of early intervention services in all providers within the State.

II. PART C: CHILD FIND AND PUBLIC AWARENESS

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 of 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 assure 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, 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-Study identified several accomplishments related to the State's efforts to identify, locate and evaluate infants and toddlers with disabilities such as hospitals conducting universal newborn hearing screenings, early intervention personnel located at Indian Health Services on reservations, and local public health fairs. Concerns included: (1) lack of coordination of services, including evaluation and assessment; (2) the need for additional education for physicians and hospital personnel regarding the availability of early intervention services; (3) lack of timely referrals of children living in rural areas and on American Indian reservations; and (4) family awareness of early intervention services.

One of the focus questions asked during the public input meetings was: "Are all infants and toddlers with developmental delays or disabilities identified, evaluated and referred for services?" Participants responded that many infants and toddlers with disabilities are not identified, particularly American Indian children living on certain reservations. Respondents also stated that there are barriers that prevent parents from responding to referral information such as access to transportation, childcare for siblings, information in native languages, and respect for cultural beliefs.

At the end of Validation Planning week, the following issues were identified as areas that would be investigated during OSEP's data collection week: (1) coordination of the Part C system's identification and eligibility determination process; (2) referrals from physicians and hospital personnel; (3) culturally and linguistically appropriate public awareness activities; and (4) lack of child find activities in rural areas and on reservations.

To investigate the child find and awareness issues, OSEP collected data from parents, local program administrators, service providers/service coordinators, interagency representatives, and State personnel.

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

A. STRENGTHS

1. Universal Newborn Screening

Implementation of universal newborn hearing screening is resulting in the earlier identification of children with mild to moderate hearing losses. Based on July 1999 data, as reported by DES, an estimated 80% of newborns have been screened.

2. Referral and Involvement of American Indian Families

DES is implementing specific strategies for public awareness to encourage the referral and involvement of American Indian families in early intervention services. Two such successful methods have been: (1) the co-location of the early intervention program with the Indian Health Services on the Navajo reservation; and (2) conducting public service announcements and radio spots in native languages. Public service announcements are available in the southern and northern areas of the State. DES plans to have a one-day networking retreat specific to the child find and public awareness efforts for all Native American tribes in the spring or summer of 2000. Subsequent to OSEP's visit, the State Interagency Coordinating Council had re-established the Native American ad hoc committee to improve the coordination of early intervention services to infants and toddlers and their families living on reservations.

B. AREAS OF NONCOMPLIANCE

Development of a Comprehensive, Coordinated, Statewide Child Find System

34 CFR §303.321 requires that DES, with the assistance of the State's Interagency Coordinating Council, implement a comprehensive child find system. DES must implement effective procedures to ensure compliance with the State's policies and procedures by all participating public and private programs in carrying out child find activities. DES must ensure that all infants and toddlers with disabilities are located, identified and evaluated. DES must also ensure that the child find system is coordinated with all other child find efforts conducted by other State agencies (administered by relevant education, health, and social service programs), as well as tribes and tribal organizations, to locate, identify, and evaluate children and that there will not be unnecessary duplication by the various agencies involved.

As described below, OSEP found that DES failed to comply with a Part C requirement which is critical to ensuring that all eligible infants and toddlers with disabilities are located, identified, and evaluated.

Failure to Disseminate Public Awareness Information to Primary Referral Sources

34 CFR §303.320 requires that DES ensure that all primary referral sources, especially hospitals and physicians, are provided with materials for parents on the availability of early intervention services. 34 CFR §303.320(b)(2)and(3) further requires the public awareness program to address the questions of how to make referrals and how to gain access to comprehensive, multidisciplinary evaluations and other early intervention services. DES has not met its responsibilities to provide adequate dissemination of public awareness materials to ensure that all children are identified who may be eligible for early intervention services. In addition, DES has not met its responsibility under 34 CFR §303.321(d)(2)(iii) to implement procedures for determining the extent to which primary referral sources disseminate the public awareness information to parents of infants and toddlers with disabilities.

The State acknowledged that over the last two years funding for child find and public awareness activities had been discontinued and that, DES has not, therefore, coordinated any public awareness activities with physicians during that period. DES confirmed with OSEP that it has not had ongoing, focused efforts in place to educate primary referral sources about referral procedures and the benefits of early intervention services to infants and toddlers and their families. DES has not been effective in ensuring that primary referral sources, including hospitals and physicians, make timely referrals of infants and toddlers with disabilities to the Part C system.

An area that was identified as a concern in the public input and the Part C Steering Committee meetings, was physicians' and hospital personnel's inadequate levels of awareness and involvement in the early intervention system. A variety of respondents in the public meetings reported that there is difficulty getting referrals from the medical community. Some stated that physicians may be confused about referral "because so many people/agencies are involved" with child find. Parents, service coordinators and service providers from both service districts visited told OSEP that, in general, hospitals and physicians across the State do not refer families to DES. The lack of referrals was particularly evident for children who live on reservations.

Service providers and service coordinators told OSEP that for those physicians who do refer, the referrals are made when the child is older, typically around 18 months of age. Parents and service providers reported that physicians have a "wait and see" approach, not wanting to refer "too early." Service coordinators and local school district administrators in both service districts reported that schools were inundated with new referrals of children at age three, children who should have been identified and enrolled in early intervention services.

Parents, in particular, expressed their frustration with the medical community for its general lack of knowledge about developmental needs of their children and lack of referral information. They stated that the physicians need a lot of information, that many are unaware of what early intervention does, and that trust building and training must occur.

The low percentage of children receiving Part C early intervention services in Arizona is of concern. As of the December 1, 1997 child count, Arizona reported serving only 0.7 % of the birth to three-year-olds in the State. This was less than half of the national average of 1.7 %.

The 1997 child count data also showed that, of the eight States using an eligibility criterion of 50% delay in one or more of the five developmental areas, Arizona was the only State to provide Part C services to less than one percent of its birth to three population. When compared to the nation-wide average percentage of children served under Part C, the low percentage of families of infants and toddlers with disabilities in the State who are receiving Part C services at this time may be an additional indicator that the child find, public awareness and service coordination systems are not effective.

C. SUGGESTIONS FOR IMPROVED RESULTS FOR INFANTS AND TODDLERS AND THEIR FAMILIES

1. Applying for Early Intervention Services

Parents, service providers and interagency collaborators requested that DES streamline the application process for early intervention services, and emphasized the need to eliminate conflicting agency program eligibility definitions. DES may wish to develop strategies such as Interagency Agreements or appointing an interagency task force to investigate steps to reduce the barriers to accessing early intervention services.

2. Cross Training Opportunities

Service coordinators report that there is a lack of information about funding and access to other services such as the health care system, transportation and respite care. If providers and families can receive training across systems that provides current information on participating agency policies and procedures, they will be able to make appropriate referrals and gain access to needed child and family supports and services.

3. Education and Training for Primary Referral Sources

One area that was identified as a significant concern during both the public meetings and the data collection visit was the lack of referrals from primary referral sources, especially physicians and hospitals. During validation data collection OSEP heard that physicians are not familiar with the resources and supports available for infants and toddlers and their families who may be eligible for Part C services. OSEP strongly recommends that DES identify and implement education and training activities to ensure timely referrals by physicians and hospital staff. Ongoing, focused efforts are needed to enhance the capacity of community-based primary care physicians as well as hospitals to recognize and respond to the developmental needs of young children, and establish collaborative relationships with early intervention providers. Positive changes in provider and physician relationships could lead to earlier identification of infants and toddlers with disabilities and increased effective, coordinated early intervention services.

III. PART C: EARLY INTERVENTION SERVICES IN NATURAL ENVIRONMENTS

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 were 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 family, related to the enhancing the development of their 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 needed to meet the needs.

The IFSP must also include a statement of the natural environments in which early intervention services will be provided to the child. Children with disabilities should receive services in community settings and places where typically developing children would be found, so that they will not be denied opportunities that all children have to be included in all aspects of our society. Since 1991, IDEA has required that early intervention services be provided 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 the 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

To obtain data regarding infants and toddlers and their families receiving Part C services across the State, OSEP used information from the review of Arizona's Self-Study, Arizona's Review of Early Intervention Services Reports, the Arizona Interagency Coordinating Council's 1998 Strategic Planning Document, and Arizona's Part C Applications and Annual Reports. The Self-Study identified several accomplishments and concerns related to the provision of early

intervention services in natural environments. Specific survey questions in the Self-Study related to child and family evaluation and assessment practices and IFSPs. The survey results identified the following accomplishments: (1) family participation in service planning; and (2) delivery of services in the home and other community settings. Accomplishments include modifying individual program plans used by other agency programs to meet the requirements of IFSPs, and creating a consistent IFSP process across all agencies providing services to eligible infants and toddlers.

The survey results also identified concerns in the areas of evaluation, assessment, and development and implementation of IFSPs. With respect to evaluation and assessment, the survey revealed the following areas requiring improvement: (1) eliminating waiting lists for services, (2) the State's intake eligibility criteria as they relate to multiple service entrance points and reliability, (3) timelines for development of IFSPs, (4) the need to increase parent participation in the process, and (5) coordination of evaluations and assessments and IFSP development. IFSP concerns included: (1) the lack of personnel and resources to implement the IFSP and service options in rural areas, particularly on reservations; (2) delays in the provision of services; and (3) the need to reflect family's needs and outcomes on IFSPs.

One of the focus questions asked during the public input meetings was: "Do all infants and toddlers with disabilities and their families receive early intervention services in natural environments?" Responses included: (1) the eligibility determination is a lengthy process that includes multiple points of decision-making by individuals who are not knowledgeable about Part C services in some areas of the State, (2) the initial IFSP meeting did not occur within the 45-day timeline after referral, with waiting lists of three- to-four months or longer, and (3) the absence of specific early intervention services on reservations and in rural areas of the State. Participants in the public meetings indicated that after a referral is made to DES there is a significant waiting period ranging from three to six months for an evaluation and assessment and, consequently, many families "give up." Participants stated that there was a critical shortage of qualified personnel to provide services, including occupational and physical therapists, speech pathologists, and assistive technology specialists.

In addition, respondents stated that service coordinators had difficulty coordinating the needs of individual infants and their families because of excessive caseloads and the need to travel long distances. Some participants confirmed that geographic barriers outside central Arizona impeded the provision of services. In written communications provided to OSEP, parents described numerous hardships in accessing services, such as driving three hours one-way to apply for services, usually with the child, and having to drive two hours one-way for the child to actually receive the early intervention service.

At the end of the Validation Planning week and after discussing information obtained through the Self-Study and public input process, the Steering Committee requested that OSEP investigate the following concerns/issues: (1) availability of services and service options in rural areas and on American Indian reservations; (2) delays in the provision of services; (3) service coordination functions; and (4) family concerns, priorities and resources included on IFSPs. The Steering Committee and participants in the public meetings made specific recommendations that OSEP

visit early intervention providers in rural areas and on American Indian reservations during the Validation Data Collection visit.

In order to investigate issues identified through the Validation Planning process, OSEP collected information from the review of children's records; examined State and local policies and procedures; and conducted interviews of parents, State personnel, local program directors, developmental disabilities and health department service coordinators, interim service coordinators, service providers, and State Interagency Coordinating Council members.

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

A. STRENGTHS

1. Delivery of Services in Community-Based Settings

DES provides the majority of its family-centered services to infants and toddlers and their families in natural environments, such as the home, a relative's home, in other environments on American Indian reservations, community pools, and family child care homes. Arizona's families and providers work together to identify those naturally occurring experiences in family and community life which will promote child competence with supports that each infant or toddler may need to grow and learn. Personnel also conduct the majority of their evaluations and assessments in the home in the northern part of the State.

2. Staff Development and Training Modules

Northern Arizona University's Institute for Human Development Staff has created development-training modules linked to a credential system for all early intervention personnel that were first implemented in 1999. The training modules include an apprenticeship credential model for verifying knowledge and skills essential to positive outcomes for infants and toddlers and their families. Cultural competence is integrated into all aspects of the curriculum.

B. AREAS OF NONCOMPLIANCE

Identification of and Provision of All Needed Services

Arizona's historical approach in providing services to individuals with disabilities, including young children, presents challenges to the State in developing an effective, comprehensive early intervention system for Part C. The practice of identifying and assigning a primary service agency based on the child's disability or presenting concerns has resulted in significant delays in eligibility determination and the provision of early intervention services. These primary service agencies include health and human service providers, tribal programs and other local and State agencies. The current referral, intake and eligibility determination program structure for children under the age of three is a barrier to the provision of a timely, comprehensive response to referrals. Significant variation in funding and resource capacity exists between individual early intervention providers.

Community-based service options for eligible children and their families are limited to existing services, rather than the promotion of a full range of resources linked to the developmental needs of individual children and the identified family supports necessary to enhance the capacity of the family to enhance the child's development.

As discussed below, DES is not effectively ensuring that each child referred for early intervention services receives a timely multidisciplinary evaluation of their unique strengths and needs within the 45-day timeline and the appropriate services to meet those identified needs and outcomes.

a. Failure to Meet Timelines

34 CFR §303.321(e) requires that DES ensure that: (1) once a public agency receives a referral, it appoints a service coordinator as soon as possible; and (2) within 45 days after it receives the referral, it completes the evaluation and assessment activities, and conducts an IFSP meeting.

OSEP found that DES has provided guidance that is inconsistent with the 45-day timeline requirements of §303.321(e). For example, one set of State forms states that the 45-day timeline begins when the "interim service coordinator" receives the referral from a parent, physician or agency, rather than when the public agency receives it, as required by Part C. Another State form indicates that the initial evaluation and assessment is to be completed in 45 days, handed off to the service provider agency, who then has an additional 45 days in which to develop a child's initial IFSP. OSEP confirmed that each of these forms was still, at the time of OSEP's visit, a "current" State form and used by providers.

OSEP reviewed a draft of the State's Eligibility Determination Guidelines which are inconsistent with the requirements of §303.321(e), in that they state that the 45-day timeline begins when the parent gives written consent for the eligibility determination, rather than when the public agency first receives the referral, as required by the Federal regulation. Subsequent to OSEP's Validation Data Collection visit, DES conducted a conference call with the lead agency staff and their interagency partners to clarify the 45-day timeline requirement of §303.321(e). DES has agreed to make changes in its policies and procedures to bring them into compliance with IDEA. OSEP has since learned from DES that while DES has revised the Eligibility Determination Guidelines and discussed the changes with providers, as of January 17, 2000, DES had not yet disseminated the revised policy document to providers or families.

The delay in making the referral is reported to be several weeks to two months, which results in children not receiving an evaluation and assessment or an initial IFSP meeting within 45 days to develop services and outcomes to meet the identified needs of the child and the family. Failure to initiate direct contact with providers to actively start the evaluation and assessment process limits the child and family's entitlement to a comprehensive and timely evaluation process and assessment of their unique needs, resources, priorities and concerns.

Parents, providers and administrators in all service districts visited stated that many children do not receive complete evaluations and assessments within the 45-day time period. They stated that delays in meeting the required timelines are caused by: (1) a lack of qualified personnel;

(2) difficulty in scheduling appointments with developmental clinics; (3) multiple agencies and procedures for determining eligibility; (4) lack of clinical and working knowledge of DES eligibility definitions by various agencies; (5) differing eligibility criteria among participating agencies; and (6) lack of staff training and orientation.

OSEP reviewed a provider's progress report from one service district that noted the waiting time for an initial evaluation is eight weeks or more from the date of referral. This was due to waiting lists at the Department of Health Services' developmental evaluation clinics and chronic delays in paperwork requirements from agency to agency. An administrator in another service district told OSEP that it could take three months to get an evaluation done and that sometimes this is due to the family not being home. Another service provider stated that referrals to the developmental clinics for evaluation could take six months. A service provider at that service district estimated a two-to-three-month wait before a child is typically scheduled for a developmental clinic evaluation.

Service providers, parents and administrators in both service districts visited confirmed that they have documented waiting lists for home-based Part C and other services due to a lack of funding and provided this information to the State. A Local Management Team stated that they review their district's waiting lists on a monthly basis. They have documented 60 children, who have been waiting for six weeks for services listed on their IFSPs. One parent in this service district said that she had been waiting a year for services for her child.

b. Inappropriate Extension of Timelines for Evaluation and Assessment and Routine Development of Interim IFSP

34 CFR § 303.322(e)(2) requires that the lead agency must develop procedures that ensure that in the event of exceptional circumstances that make it impossible to complete the evaluation and assessment within 45 days, public agencies will document those circumstances and develop and implement an interim IFSP, to the extent appropriate and consistent with §303.345(b)(1) and (2). Although Part C permits the lead agency to extend the 45-day timeline and develop and implement an interim IFSP in exceptional circumstances, DES has a policy that routinely allows timeline exceptions. Service coordinators, providers and parents in all service districts that OSEP visited reported that interim IFSPs were typically developed for most children, not only in exceptional circumstances, but because all the evaluations and assessments were not completed within the 45-day timeline. DES Policy and Procedures Manual (1404.6.1) states that an interim IFSP is to be completed in order to ensure timely services while waiting for assessments.

In both service districts visited, service providers, service coordinators and administrators reported that timelines for IFSP development were routinely extended for a variety of reasons. OSEP reviewed seven timeline exception reports from one district visited. Five of the seven reports contained system-centered reasons for why the 45-day requirement could not be met. Examples of this included: (1) difficulty getting physician signature; (2) delay in obtaining discipline specific evaluations; (3) awaiting Developmental Disabilities Division eligibility evaluation; (4) Department of Health developmental clinic DES eligibility evaluation required; and (5) personnel not available to provide service. Two of the seven reports contained family-generated reasons, which were limited to multiple "no shows" and child illness.

Service coordinators in both service districts stated that the 45-day timeline does not begin until a completed application for services is received from the parent. Service coordinators reported that they have 30 days from the date of referral to determine eligibility and then up to 45 days to write an interim IFSP. Service coordinators at one of these service districts also told OSEP that they lose approximately one third of the children after initial referrals because they are unable to get back to families due to high caseloads. A parent stated that it took three months for the local developmental disabilities agency to approve her application for eligibility for her child. This parent also reported that it was another seven months after her child was found eligible that the IFSP was written and services initiated.

c. Unique Needs of Individual Child Not Being Met

34 CFR §303.322 requires the lead agency to ensure that each referred child receives a comprehensive, multidisciplinary evaluation of a child's level of functioning in each of the following developmental areas: cognitive; physical, including vision and hearing; communication; social or emotional; and adaptive skills. The lead agency must conduct an assessment that identifies the child's unique strengths and needs and the appropriate services needed. In addition, the family has the option of participating in a family-directed assessment designed to determine the resources, priorities, and concerns of the family and the supports and services needed to enhance the child's development. The IFSP must address the child's unique needs and be based on results from the evaluation and assessment.

Service coordinators in one of the service districts stated that all children receive the same services regardless of individual need: early intervention, speech, and occupational and physical therapy. The majority of the twenty IFSPs that OSEP reviewed in one district did not include a statement of family concerns, resources, priorities, or outcomes for the child or family. One parent told OSEP that she asked for help with transportation and has not been able to get it. One child's IFSP that OSEP reviewed included occupational and physical therapy services three times per month. However, a note added to the IFSP stated that "budget restraints only allow State funded children to receive services two times per month" and "the family may reapply for Federal funding through the Arizona Long Term Care System (ALTCS)" to obtain the remaining services needed. Administrators and service coordinators told OSEP that funds were insufficient to meet the identified needs of the children they served. One service coordinator stated that in addition to inadequate funds, delays occur because there are not enough bilingual personnel to provide services. OSEP examined 10 IFSPs in one service district and found that eight out of the 10 contained statements that the child was on a waiting list for services. Providers informed OSEP that delays occurred because of a lack of providers and funding for physical and speech therapy. In each DES service district visited by OSEP, parents, service providers, service coordinators, and administrators stated that due to the lack of qualified providers, delays occurred in evaluation/assessments, children and families did not receive services for several months, and some services were completely unavailable to some children from qualified providers, even though the service was included on the IFSP.

In one service district, OSEP examined twenty IFSPs and found that all of them listed "early intervention" as a generic service instead of specific early intervention services with goals

necessary to meet the unique needs of the child and the family to achieve outcomes, as required under 34 CFR §303.344(d). For example, specific early intervention services under §303.12(d) may include among other early intervention services, assistive technology, nutrition, family training, counseling, and home visits, social work, and transportation. While occupational, speech and physical therapy services were also listed on these IFSPs, identical amounts of time and frequency of these services were indicated on all of the IFSPs reviewed at that district. Further, OSEP examined five IFSPs in another district and found “habilitation” and “day treatment training” which are terms used for adult services in Arizona, listed as services on all IFSPs, regardless of the child’s eligibility and need.

d. Services to American Indians on Reservations

Respondents from both of the service districts visited reported that children did not receive all the early intervention services to which they were entitled due to the lack of sufficient qualified staff, especially on American Indian reservations. In interviews with OSEP, the Navajo Nation “Growing in Beauty” staff, State Interagency Coordinating Council and Steering Committee members stated that there are staff shortages to provide services to children living on reservations, particularly speech and language pathologists, occupational and physical therapists, educators, and service coordinators.

These shortages resulted in delayed evaluations and assessments and for most children, and denial of some needed early intervention services, including assistive technology. One service provider and two administrators reported that assistive technology is not being provided to young children with identified needs because of the shortage of early intervention personnel who have expertise in this area and with this population. Waiting lists for services identified on IFSPs are prevalent in rural areas and on American Indian reservations. Four service providers in one service district informed OSEP that eligible infants and toddlers on reservations are on waiting lists for services, due to a lack of qualified personnel and a lack of funds. Another service provider stated that on the Hopi reservation, children and families sometimes wait a year for services.

In one service district, a service coordinator, an administrator and a service provider stated that current personnel are part-time, working 20 hours without any benefits, which results in a limited pool of personnel willing to provide services on American Indian reservations. One parent reported to OSEP that her family had to move off of the reservation in order to get timely and comprehensive services for her child because they were not receiving any on the reservation. Another parent stated that she had been waiting for four months to see a nutritionist for her child. One parent stated that her infant needed more occupational therapy services for feeding issues but that it is not available.

e. Failure to Ensure All Service Coordination Functions are Implemented

34 CFR §303.23(a)(2) requires that DES ensure that one service coordinator be provided for each eligible child and child’s family upon referral to the public agency and throughout the child’s eligibility for services. The service coordinator is responsible for coordinating all services across agency lines and for serving as the family’s single point of contact. The service

coordinator also assists the family in obtaining needed early intervention services, facilitates the timely delivery of available services, links the family to other available resources and continuously reviews and seeks out appropriate services to benefit the development of each child. (303.23)

As discussed below, OSEP found that DES does not ensure the appointment of a single service coordinator who is responsible for the activities specified in the Part C regulations to ensure that eligible children and their families receive appropriate early intervention services to which they are entitled, in a timely manner. Multiple barriers, such as conflicting agency eligibility definitions, funding requirements, and personnel availability, result in eligible children placed on waiting lists, which causes significant delay in the provision of early intervention services and contributes to some families “giving up” on pursuing Part C services.

Parents in both service districts visited informed OSEP in an interview that their service coordinators do not assist parents in gaining access to early intervention services, as required by 34 CFR 303.22(a)(3)(i). One parent stated that unless she knew how to ask for a service, she would not be informed about it, even though her child needed it. Furthermore, she was not sure who her service coordinator was by name and said that many of them had changed recently. Three administrators in both service districts visited informed OSEP that service coordinators do not have time to monitor the implementation of children’s IFSPs or carry out basic functions, as required by Part C, due to high caseloads and personnel shortages. One administrator stated that service coordinators do not receive adequate training.

Service coordinators in one service district confirmed that the functions of a service coordinator are often divided among them and that none of them was individually responsible for meeting, for a particular child and family, all of the service coordination functions required under Part C.

A service coordinator and an administrator in another service district reported that caseloads of 40-60 families are typical. In another service district visited, service coordinators confirmed that they routinely carry caseloads of 100 children per service coordinator. Because of this, early intervention services are not being coordinated or implemented in a timely manner. In one service district, providers stated that families are not receiving ongoing services because service coordinators do not monitor IFSPs.

An administrator and four service providers in one service district said that service coordinators on reservations and in rural areas are ineffective in meeting the needs of the children and their families because they have to travel great distances, which limits the time they have to work with families. Providers and interagency collaborators in all service districts visited stated that there are only a limited number of personnel to serve as service coordinators in the DES system due to limited funding and qualified personnel.

IV. PART C: FAMILY– CENTERED SYSTEM OF SERVICES

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, family’s 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 decision-making as part of the IFSP team, to transition activities before their child turns three. Parents bring a wealth of knowledge about their own child and family’s abilities, dreams for their future, as well as an understanding of the community in which they live.

In 1986, Part C of 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

To obtain data regarding family centered services in Arizona, OSEP reviewed information provided by DES and asked this question during the public input meetings: “Are supports and services family centered?” “Do they result in enhanced child and family outcomes?” The following concerns/issues were identified as areas that could be pursued during the data collection week: (1) parents do not have opportunities to fully participate in policy development and implementation at the State level through the State Interagency Coordinating Council and at the local level through IFSP development; and (2) cultural and linguistic needs of the family are not always considered during discussions around eligibility, service planning and transition. OSEP learned that parents are active participants in the State’s strategic planning committee for system improvements, the State’s Interagency Coordinating Council, and the State’s Steering Committee, and did not investigate the first issue further during the data collection visit.

To investigate the concern around the cultural and language needs of families, OSEP collected information from parents, service providers, service coordinators, and interagency collaborators, program administrators and record reviews. Analysis of the data resulted in identification of the

following area of strength and suggestion for improved results for infants and their families. OSEP did not find areas of noncompliance.

A. STRENGTHS

1. Child Find/Referral and Parent Education and Training on American Indian Reservations

The Navajo Nation's "Growing in Beauty" program offers effective, family-centered child find, referral and parent education and training to American Indian families on reservations. "Growing in Beauty" in collaboration with school districts and Headstart, is a vital connection to the State's identification and referral efforts specific to American Indian families with young children. The staff assists families living in rural areas by providing them with developmental information about their child through screening activities and linkages to needed resources such as transportation to medical services. They also facilitated getting families to the OSEP public input meetings and onsite data collection interviews by offering transportation, information in the Navaho language and electronic communications.

2. Family-Centered Practices Provided by the Arizona School for the Deaf and Blind

Family-centered practices are embedded into all aspects of programming provided by the Arizona School for the Deaf and Blind. Families, service coordinators, and providers involved with the school report that they are included in decision-making and are offered continuous training and education opportunities. Home visits accommodate family schedules, with visits being offered early in the day, in the evening and on Saturdays. As the State moves to improvement planning, the Arizona School for the Deaf and Blind in collaboration with its interagency partners will strengthen the early intervention system.

B. SUGGESTION FOR IMPROVED RESULTS FOR INFANTS AND TODDLERS AND THEIR FAMILIES

Enhancement of Culturally Competent Family Centered Practices

Parents and providers in all service districts visited identified as a concern the cultural and linguistic needs of the family during discussions around eligibility, service planning and transition. Parents emphasized the importance of trust and confidentiality and how confusing it is to have so many different people associated with early intervention services coming into their homes. DES may wish to examine and implement strategies such as education and training scholarships to increase the availability of interpreters and other qualified personnel. If families and providers participate in joint training activities, specific to culturally competent practices in service delivery, families will be able to make informed decisions that will result in the enhancement of developmental outcomes for children.

V. PART C: EARLY CHILDHOOD TRANSITION

Congress included provisions to assure that preschool or other appropriate services would be provided to eligible children leaving early intervention services 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 throughout the remainder of the school year and must establish a transition plan.

Validation Planning and Data Collection

The Self-Study respondents indicated that the transition process used by early intervention and preschool programs is effective in many areas of the State. Respondents felt the process is successful because the child has the option of remaining in the early system until a "logical school transition point." As stated in the State interagency agreement between DES and AZDE, the logical school transition period identifies the maximum time limit for the transfer of responsibility for the provision of FAPE from the early intervention system to the Local Education Agency. Often DES will continue to provide early intervention services, until their fourth birthday, to children who are enrolled in Arizona Health Care Cost Containment System or require medically necessary services. Concerns identified included: the timeliness of beginning preschool services, and the need to have the local school district staff participate in the transition process.

One of the focus questions asked during the public input meetings was: "Are appropriate supports and services available to a child, and to the child's family, by the child's third birthday?" Responses indicated that transition planning varies across the State, particularly in small school districts. Participants in all the public input meetings stated that the Arizona School for the Deaf and Blind does an excellent job preparing children and their families to move into special education settings. On American Indian reservations where Head Start is the primary service provider for children with disabilities over the age of three, transition generally occurs in a timely manner. However, parents and service providers stated that some school districts in rural areas would not participate in any transition planning activities until the child's third birthday. Participants also pointed out that differences in evaluation requirements for Part C and Part B influence the timeliness of referrals for special education services.

Service providers also reported that the service coordinators are not involved in the transition process, which is typically initiated by the early intervention provider agency. Participants indicated that service coordinators in the DES system have a high rate of turnover, which impacts negatively on the transition process. Participants were also concerned that service coordinators lack knowledge about school programs in general and stated that service coordinators need training in Part C transition requirements and procedures.

At the end of the Validation Planning week, after discussing information obtained through the Self-Study and public input process, the Steering Committee requested that OSEP investigate the following concerns/issues: (1) provider knowledge about transition procedures, and (2) parent training in transition procedures.

To investigate the concerns identified 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 directors, service coordinators, developmental disabilities service coordinators and parents.

OSEP reviewed and analyzed the data and identified the following suggestion for improved results for infants and toddlers and their families.

SUGGESTION FOR IMPROVED RESULTS FOR INFANTS AND TODDLERS AND THEIR FAMILIES

Joint DES and AZCDE Training Related to Transition Process between Part C System of Services and Part B Programs.

OSEP recommends that DES and AZCDE develop and implement joint training opportunities for parents, providers and LEAs on transition procedures. Interviews with staff from DES and AZDOE suggested a lack of information regarding transition requirements and the current interagency agreement between DES and AZDOE as well as a lack of communication between public agencies responsible for Part B programs and Part C services. See Section II. C. of Part B section of this report.

VI. PART B: PARENT INVOLVEMENT

A 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 toward the school, and benefit school personnel as well.

Validation Planning and Data Collection

OSEP's 1995 Monitoring: In its 1995 monitoring report, OSEP commended AZDE's Parent Network, a Statewide technical assistance program developed in order to expand parent involvement in special education. Two major programs that function within the Parent Network are: Parents Are Liaisons to Schools, a statewide steering committee comprised of 20 parents representing school districts from across the State; and, Parent Information Network Specialist, an outreach program in which three parents of special education students, employed by AZDE, provide resource information, presentations and other technical assistance on request to parents and other professionals throughout the State. In 1995, these specialists provided technical assistance to 27 districts, facilitating the establishment of parent advisory committees and other groups, and have presented information at regional conferences on parent education and parent involvement.

OSEP's 1995 monitoring report also noted findings of noncompliance related to parent involvement. AZDE did not consistently meet its responsibility to ensure that public agencies provided written notice to parents that contained the content required by §300.505 (a) prior to each circumstance set forth at §300.504 as demonstrated by the following: (1) a model parents rights notice, distributed by AZDE to agencies in the State of Arizona, did not include the rights of parents to appeal final decisions in due process hearings; (2) AZDE's monitoring procedures for ensuring that public agencies provide notice to parents that meet the content requirements of §300.505(a) prior to each circumstance required by §300.504(a) were ineffective; and (3) review of documents utilized in all four agencies visited, and interviews with special education administrators, found that these agencies did not provide prior notice at each of the times required by §300.504.

Self-Assessment: The self-assessment provides information on Parent Information Network specialists and Parents Are Liaison to Schools as noted below in the "strength" section.

Public Input Process: One of the questions asked during the public input meetings was, "Are parents involved in the education of their child with a disability?" Parents stated there is a need for more parent training and communication as well as a lack of trust and cooperation among parents and the schools. Parent involvement varied according to the parents' level of education and knowledge of their rights under IDEA. Barriers to parent involvement were identified as: (1) conflicting schedules; (2) intimidation and disrespect by professionals; (3) transportation

problems; (4) inconsistency of parent training; and (5) the challenge of explaining and making sure parents understand procedural safeguards.

To investigate the issues identified through the Validation Planning process, OSEP collected data from local school districts across Arizona relative to the involvement of parents in the special education decision-making process and the training of parents and staff. Information was also gathered from responses at two parent focus groups held in Flagstaff and Phoenix during the Validation Data Collection week. One focus group was held with parents of preschool children with disabilities, and the other focus group was held with Spanish speaking farm worker families who have children with disabilities. OSEP also collected and analyzed data in other areas identified as concerns by the public, Steering Committee and/or special education staff regarding parent involvement. In addition, OSEP used information from a review of citizen complaints, written and telephonic concerns expressed to OSEP over the last three years, and information provided by the Steering Committee, on which there are parent representatives from Parents Are Liaisons to Schools and the Parent Information Network. Analysis of the data collected resulted in identification of the following strengths and suggestions for improved results for children.

A. STRENGTH

Parent Information Network and Parents are Liaison to Schools

The self-assessment involved the collection of data from sample districts, and analysis of data regarding active parental participation in child find; evaluation/re-evaluation; decision making in the eligibility process; individualized education program development; reporting child's progress; and parent training. One-hundred percent of the local education agencies that participated in the sample showed parents are encouraged and trained to participate throughout the evaluation, eligibility and individualized education program process. In addition, 100% of the local education agencies in the sample provided semester progress reports to parents.

The AZDE Exceptional Student Services contracts with five Parent Information Network Specialists to facilitate parent education and to increase parent participation. Initiatives in the area of training through the parent network have resulted in: 62 presentations to 855 participants; 38 trainings with 394 participants; 211 on-site visits with 1,327 individuals; and 2,011 requests to provide 21,738 informational items. Sixty-eight local education agencies have members of Parents Are Liaison to Schools who serve on the Statewide steering committee for three years. Parents Are Liaison to Schools focus on enhancing local parent involvement in their child's special education program. This organization also makes recommendations to AZDE regarding systemic changes affecting special education in the State. Data sources for self-assessment reporting included parent surveys, Parent Information Network reports, teacher and administrator interviews, and file reviews.

In 1998, the Parent Information Network, provided parents with several training opportunities in the areas of transition, special education process, and mediation, as well as parent participation in the IEP process. The Parent Information Network and AZDE jointly developed materials made available to parents for training and information.

B. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

OSEP made the following observation about improving the provision of services to children with disabilities:

1. Effective Communication

Some school staff reported they were concerned that communication between district staffs and the parents of Native American and Hispanic children was ineffective and therefore made it difficult to effectively plan and implement programs for these children. They also told OSEP that there was a need for training in cultural diversity and effective communication. AZDE may want to provide training to LEAs regarding cultural diversity and ways to promote effective communication between district staffs and parents of Native American and Hispanic children.

2. Parental Attendance, and Participation at IEP Meetings

Principals and special education teachers in rural areas informed OSEP that barriers to parent attendance and participation at IEP meetings include: 1) lack of telephonic communication in rural areas due to limited or no cable lines; 2) long distances and limited or no transportation in rural areas; and 3) legal ramifications for families who have not established American citizenship. AZDE should explore alternative ways in promoting parent participation in IEP meetings in rural areas.

3. Procedures Exist to Ensure Parents are Informed of Student Progress

Most of the IEPs that OSEP reviewed were developed prior to July 1, 1998, the date on which the new IDEA IEP requirements became effective. The limited number of IEPs that OSEP reviewed that were developed after that date did not include a statement as to how the child's parents will be regularly informed (through such means as periodic report cards) at least as often as parents are informed of their nondisabled children's progress as required by §614(d)(1)(a)(viii) of IDEA. It will be important that AZDE ensures that all IEPs include this required information.

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

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

OSEP's 1995 Monitoring: In the 1995 monitoring report, OSEP determined that AZDE did not meet its responsibility to ensure that: (1) all public agencies considered, on an individual basis, the need for extended school year services and made those services available as a component of a free appropriate public education, if necessary to ensure that an individual child with a disability received a free appropriate public education; (2) all public agencies considered the need for related services on an individual basis and made those services available based upon the student's individual needs rather than the availability of the services provider.

Self-Assessment: The AZDE Self Assessment indicated that while there were a number of new components and requirements pertaining to access to the general curriculum that were not addressed under the previous monitoring system, the new monitoring procedures include the new requirements.

Public Input Process: The Steering Committee, in meeting with OSEP during the Validation Planning week, expressed concerns very similar to those expressed by parents and administrators. The Committee requested that OSEP investigate the following concerns/issues: (1) availability of supplementary aids and services for students that are fully included in regular education classes; (2) availability and provision of resources and related services in the charter schools; (3) adaptation of the general curriculum to meet individual students' needs; (4) level of skills among some teachers, related service providers, and administrators to meet the needs of children with disabilities and the need for preservice and inservice training; (5) recruitment and retention of instructional, paraprofessional, and related service staff; (6) the effect of AZDE's teacher certification process in employing needed teachers; and (7) lack of interstate reciprocity and completion of background checks.

To investigate the concerns identified 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 administrators, teachers, related services personnel, and parents.

OSEP reviewed and analyzed the data and identified the following strengths, areas of noncompliance, and suggestions for improved results for children.

A. STRENGTHS

1. Training in Functional Behavior Assessments

The State has issued a Handy Guide to Functional Behavior Assessment to all local education agencies and has held two Statewide conferences on behavior management with 950 participants. OSEP visited one district that, as a result of the State's efforts, has taken the initiative to provide functional behavioral assessment workshops to their staff.

2. Special Education Classes Available Through the SELECT Program

SELECT stands for Special Education Learning Experiences for Competency in Teaching. SELECT are university courses offered as a cooperative effort among AZDE Exceptional Student Services, the Northern Arizona University Office of Statewide Academic Programs, and the Institute for Human Development. Classes can be taken for university credit or professional growth. OSEP visited one district that works with the local university to certify staff. This district has developed an incentive program to encourage regular education teachers to obtain special education certification. The district will pay for a teacher to take a class if they complete the class with an "A" or "B" grade. The teachers who meet special education certification requirements and whose tuition is financed through the district, must commit two years of teaching as a special educator.

B. AREAS OF NONCOMPLIANCE

1. Child Find Activities to Ensure Provision of Services to Children on Their Third Birthday

AZDE is responsible for ensuring that a free appropriate public education is made available to eligible children no later than their third birthday. According to §300.300, if the State education agency and Part C lead agency are, as in Arizona, different agencies, the State education agency remains responsible for ensuring that its child find responsibilities under Part B are met, even if the agencies, through an interagency agreement, delegate to one agency the primary role in child find for birth through two population. Thus, AZDE is responsible under Part B for ensuring that all children with disabilities in the State, including those aged birth through two, are identified, located, and evaluated. See §300.128. The use of an interagency agreement or other mechanism for providing for the Part C lead agency's participation does not alter or diminish the responsibility of the State education agency to ensure compliance with all child find requirements. See §300.128 of the regulations in effect at the time of OSEP's visit, Note 2 following that section, and §300.125 in the current final regulations. As stated in the Part C section of this report, "*Failure to Disseminate Public Awareness Information to Primary Referral Sources*," DES has not met its responsibilities to ensure that all children, ages birth through two are identified who may be eligible for early intervention services; nor has AZDE met its responsibility to ensure compliance with all child find requirements.

The 1991 interagency service agreement for child find identification between AZDE, DES, Arizona Department of Health Services (DHS), Arizona Health Care Cost Containment System, and the Arizona School for the Deaf and Blind establishes conditions, procedures and commitments of fiscal and human resources for establishing a Statewide system for identifying children between ages birth through 21 who potentially need early intervention services and special education and related services. According to the agreement, DES will serve as the agency for identification of children who may need early intervention services for ages birth through 36 months and AZDE will be responsible for the identification of children ages three through five who may early intervention services to ensure a free appropriate public education.

As outlined in the 1991 agreement, a joint interagency public awareness campaign and an action plan for establishing a centralized directory information and referral services center are identified as a means to assist AZDE and DES in identifying children who need early intervention services. Each agency is responsible for maintaining its own ongoing agency-specific publicity. A component in the agreement states that a public awareness coordinator will submit a written analysis of the current public awareness activities of each agency and evaluate the effectiveness of those activities; and develop outcome measures to monitor the progress/success of public awareness activities. In addition, DHS will compile results from follow-up evaluative data regarding the effectiveness of the centralized directory services and the usefulness of resources provided. As noted in the Part C section of this report on the *Development of a Comprehensive, Coordinated, Statewide Child Find System (Primary Referral Source)*, due to the discontinuation of funding over the last two years for child find and public awareness activities, DES has not had ongoing, focused efforts in place to educate primary referral sources regarding the benefits of timely referrals of infants and toddlers with disabilities to the Part C system.

OSEP found, in three of the districts visited, a delay in the provision of services to three-year-olds due to a lack of public awareness and effectiveness of child find procedures. Thirteen of the fifteen parents participating in an OSEP preschool parent meeting stated that child find was not effective for children up through the age of three. None of the 13 parents' children received early intervention services. The majority of these parents found out about special education services through neighbors or family members when their children were age three or four. All of the parents expressed satisfaction with the preschool program and all of them stated that the problem was finding out about it. Only one of the fifteen parents had seen advertisements or notices for child find activities. None of these thirteen eligible children received services on their third birthday because their parents lacked information about the availability of preschool services. In another district the special education director and the preschool coordinator reported that parents often find out about preschool special education services on their own. This may result in many children being identified well after their third birthday, or not at all.

2. Failure to Provide Psychological Counseling as a Related Service

As outlined in §300.381, in effect at the time of OSEP's visit, the State is required to have in effect a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified personnel to meet the needs of children with disabilities. Public agencies must provide to students any related services, including psychological counseling, that they may need to benefit from special education (§§300.300 and 300.16).

OSEP found through interviews with special education teachers, related service providers, school based administrators, and directors of special education that shortages in the availability of school psychologists and social workers in two of the districts resulted in: (1) a failure to provide counseling services; (2) a failure to include needed counseling services on students' IEPs; and (3) delays in evaluations.

In one district, the psychologist and a social worker reported that because of large caseloads the social worker could not provide counseling services that were specified in students' IEPs and that they have been told not to recommend counseling. The result is that children with disabilities who need counseling services to benefit from special education are not receiving them. In another district, the director and school psychologist report that budget cuts have reduced school psychologist personnel, which has resulted in a delay in evaluations.

OSEP found in five of the seven districts visited, that students with disabilities in need of psychological counseling to benefit from special education were frequently referred to community agencies for psychological services and that the provision of psychological counseling services was generally not included in students' IEPs. Diversity of counseling services among the districts visited ranged from providing: 1) counseling to only one disability category of students; 2) services that were not included in the IEP; 3) services at the same frequency for all students; and 4) no counseling at all.

In two districts, OSEP found that psychological counseling is provided only to students who are identified as "emotionally disabled" but not to other students who, because of their behavior, need such counseling to benefit from special education. Teachers, psychologists, social workers,

principals and special education directors in these districts stated that when IEP teams determined that students required psychological counseling as a related service in order for the student to benefit from his/her special education program, the students and their parents were referred to agencies external to the district (e.g., community mental health agencies and private agencies/providers) to obtain psychological counseling services. The first district reported that counseling can be written into the IEP as one time per week and if more services are needed for the student to benefit from special education, then the child and family would be referred to a community agency, which may be at cost to the parents. The second district also only provides psychological counseling to students identified as emotionally disturbed and does not consider counseling services for students with any other disability, even if they need these services to benefit from special education.

In a third district, the psychologist and social worker reported that they were told by school administrators not to recommend psychological counseling in IEP meetings, because the school does not have the funding. They reported that they could refer parents only to outside agencies that do not charge because they cannot commit district funds, even though these agencies may not be able to meet students' individual needs.

In a fourth district, the school psychologist reported that if students are in need of psychological counseling services to benefit from special education, they are referred to the county mental health agency for services. The county mental health agency provides services on a sliding fee scale to the parents.

Staff of two public charter school local education agencies reported that counseling and psychological services were not being provided to meet the individual needs of students with disabilities who exhibited behavior that interfered with their learning and the learning of others. Interviews with teachers, psychologists and counselors reported that the counselors/psychologists provide counseling services during crisis situations with students identified as mild to moderately mentally retarded or those same students may receive services one time a week but not on an ongoing basis and not as prescribed by the student's IEP. At one site the counselor was directed by administrators not to recommend counseling services for students' IEPs because the school did not have the necessary funds to provide that service. Staff told OSEP that the school would refer students in need of counseling services, and their parents, to agencies external to the district (e.g., community mental health agencies and private agencies/providers) to obtain the counseling services.

The provision of required services by an agency external to the school district is not inconsistent with the statutory and regulatory requirements of the IDEA. However, if the IEP team determines that the service is required to enable the child to benefit from special education, then it must be included in the student's IEP and provided as a component of a free appropriate public education.

In a fifth district, OSEP found that there was an inadequate supply of evaluators in the summer due to a shortage of evaluation personnel and budget cuts. The psychologist reported that referrals are not accepted after April and that psychological evaluations are not conducted in the summer. This causes a delay in the initiation of an evaluation for services to children with

disabilities. Therefore, children referred in April are evaluated in September, four months later, and may not begin to receive services until October.

3. Availability and Provision of Extended School Year Services

To meet the requirements of §300.300 that were in effect at the time of OSEP's visit, each public agency must ensure that students who need extended school year services, as a component of a free appropriate public education, receive those services. OSEP found through interviews with parents, special education teachers, related service providers, State level administrators, school based administrators, and directors of special education that local education agencies failed to provide special education and related services to students beyond the normal school year, even if they needed those services as a component of a free appropriate public education.

OSEP found in three of the seven districts visited, including charter schools, that extended school year services were not always considered for students who may need them to benefit from special education. District staff report that extended school year services are not considered for all students who may need these services either because: (1) special education services are not available in the summer; (2) transportation is not available in the summer; or (3) extended school year services are only available for students with severe disabilities. Furthermore, these districts' procedures did not provide for extend school year services, even if students needed those services as a component of a free appropriate public education.

In one district, the occupational therapist, the vision therapist, and both of the preschool special education teachers interviewed were not aware of extended school year services and did not consider them for any student regardless of need.

In another district, the director and special education teachers stated that there was no procedure for consideration of extended school year services and that, therefore, extended school year services cannot be considered for children with disabilities in this district who may need them to benefit from special education.

C. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

OSEP made the following observation about improving the provision of services to children with disabilities.

1. Training Regarding Transition from Part C to Part B Services

Staff in five of the seven districts OSEP visited identified the following barriers to providing a free appropriate public education to three year olds: 1) a lack of information from AZDE regarding transition requirements and the current interagency agreement between DES and AZDE; and 2) a lack of communication and coordination between the public agencies responsible for Part B services and Part C programs.

In three of the districts visited, the directors reported a greater need for dissemination of information from AZDE regarding transition requirements and the current interagency agreement

between DES and AZDE. The current interagency agreement states as its purpose to: minimize the number of transitions and disruptions to children and families eligible for services; encourage cooperation and communication between agencies and families to assure the provision of a free appropriate public education from a child's third birthday; and identify the responsibilities of each agency during the transition process to all involved parties. The agreement shows the early intervention service coordinator as being responsible for arranging for the transition conference, which is to be held between the time the child is two years six months and two years nine months; and providing a copy of the child's current IFSP to the local education agency for presentation and discussion. According to the agreement, the local education agency representative is responsible for providing information about all educational programs for preschool children available through the district. The transition team consists, at a minimum, of the child's parents(s), service coordinator, representative of the current program provider, and local education agency representative(s). The agreement also outlines provisions for determining the appropriate educational environment as a continuation of the early intervention program (responsible for providing or paying for services at no cost to the family) or the initiation of services provided through the local education agency (assumes responsibility for providing or paying for the provision of services). Four logical transition time periods for the transfer of responsibility for the provision of a free appropriate public education from the Early Intervention System to the local education agency are identified in the agreement: (1) children who turn three years of age before September 1; (2) children who turn three between September 1 and December 1; (3) children who turn three between December 2 and December 31; and (4) children who turn three after December 31 of the school year. State statute permits the local education agency to admit preschool children with disabilities up to 90 days prior to the child's third birthday.

Although the current interagency agreement is clear about the responsibilities of the local education agencies and the State education agency to ensure a smooth and effective transition, local education agencies don't know what needs to happen to ensure a smooth transition because they do not know what is in the current agreement. In one district, the special education director was unaware of the 90-day timeline for transition. In another district, the preschool director stated that more guidance and dissemination of materials from the AZDE 619 coordinator would be helpful. The preschool director further reported that she had the 1992 Part C State level interagency agreement, but that she had difficulty obtaining a copy of the 1998 interagency agreement. Without the current interagency agreement, she is unable to identify new provisions that would result in getting services to eligible children without delay. Another preschool director was unfamiliar with the Part C State level interagency agreement between AZDE and DES.

AZDE, in collaboration with DES, may want to consider providing training to local education agencies on the following: 1) transition requirements and the current interagency agreement between DES and AZDE; 2) coordination between the public agencies responsible for Part B services and Part C programs; and 3) child find procedures for early identification of a child with a disability.

2. Recruitment of Personnel and Personnel Processing

OSEP found, in five of the seven districts visited, including charter schools, that personnel shortages were impacting the provision of a free appropriate public education to children with disabilities. Staffs in all five of these sites reported a lack of interstate reciprocity as a barrier to ensuring an adequate supply of teachers and related service providers. Staff also cited the long certification process, non-competitive salaries, and length of time for background checks as additional barriers to staff recruitment. OSEP suggested that AZDE address, as part of its comprehensive system of personnel development, any needed changes in current procedures and practices for staff recruitment that will promote the recruitment and hiring of personnel to provide special education and related services to children with disabilities.

VIII. PART B: SECONDARY TRANSITION

The National Longitudinal Transition Study states 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 identifies 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 shows 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

OSEP's 1995 monitoring report noted findings of noncompliance related to transition. The AZDE did not always meet its responsibility to ensure that public agencies developed IEPs in accordance with the transition requirements as demonstrated by the following: (1) AZDE reviewed and approved local education agency applications for agencies that did not include all of the transition requirements; (2) the notice to parents of the IEP meeting did not indicate that a purpose of the meeting would be the development of a statement of the transition services needs of the student and indicate that the agency will invite the student in all agencies visited; and (3) the agencies did not always invite the required participants to the IEP meeting.

OSEP's analysis of data collected during the 1998 Validation Planning period included a review of the Arizona Self-Assessment. This assessment provided information on the status of transition services in the State by the AZDE staff and the Steering Committee. During the Validation Planning visit, held the week of October 26-30, 1998, OSEP obtained information on InterAct Arizona, a multi-agency, and multi-level interactive system for improving the design and delivery of transition services. These two documents, the Arizona Self-Assessment and the InterAct Arizona Manual, provided sources for data on the identification of possible transition services issues in Arizona. The public input meetings held in Phoenix, Holbrook, and Sierra Vista provided an additional source for the identification of these issues.

Documents Review

The Arizona Self-Assessment and the InterAct Arizona Manual provided information on the status of transition services for students with disabilities. Much of the data obtained from monitoring reports provided a data source for the development of the Arizona Self-Assessment. Thirteen local education agencies were monitored by the State during the 1996/1997 and 1997/1998 school years.

Self Assessment

Information collected and reviewed by the Steering Committee to develop the self-assessment was based on data obtained from State monitoring reports and training or special projects. The Self-Assessment includes the following data on secondary transition services: 1) Data from the file reviews showed that 63% of the IEPs reviewed for students 16 years-old and above in the 13 agencies monitored, addressed transition planning as part of the IEP and AZDE has determined the need to discuss transition services during all IEP meetings for students with disabilities, regardless of age; 2) Twenty-eight of 164 local education agencies that provide high school services have a School-to-Work program called Career Pathways that includes students with disabilities; 3) Approximately 20 non-education agencies provide services to support the services of students with disabilities for support of school to work employment and post-secondary activities. These groups include private agencies, sheltered workshops and State agencies. However, local education agencies report frustration with the lack of available transition services and outcomes for students once they graduate from high school; and 4) Within Arizona, written agreements at State and local levels delineate responsibilities for transition from high school to post-secondary activities. Eighteen school districts have Youth Transition Programs in conjunction with the DES/Rehabilitation Services Administration and ten more school districts have agreements for specific transition services, such as providing orientation and mobility services with the DES/ Rehabilitation Services Administration. Eighteen Interagency transition councils (Local Education Agency, Vocational Rehabilitation Services, the Department of Developmental Disabilities, et al) are in place in communities. The 18 school-business partnerships that have been developed are in effect as well as the Statewide Advisory Council on transition services; and 5) In the on-going training for staff, students, parents, and agencies on transition services requirements during fiscal year 1997, 32 transition related trainings were conducted within 68 local education agencies or organizations. In fiscal year 1998, 29 transition related trainings were conducted within 91 local education agencies or organizations.

Systems Change Project

As part of the State's efforts "to achieve statewide systems change in transition services in Arizona, AZDE and the Arizona Rehabilitation Services Administration" implemented project InterAct Arizona. The U.S. Department of Education, Office of Special Education and Rehabilitative Services fund this project. This five-year project, established in 1996, is designed to promote a system that will improve transition services for youth with disabilities by enhancing local service options in cases, such as, students who can attend local community colleges. The InterAct Arizona Advisory Council has representative membership from students, parents, State agencies, universities and advocacy organizations.

Five goals targeted to address the improvement, expansion, and implementation of transition services in Arizona include: (1) Redefining state-level and statewide policies, procedures, agreements and funding mechanisms; (2) Enhancing the ability of youth with disabilities, families, professionals, advocates, and employers to plan for and implement effective transition services; (3) Providing more effective transagency transition services within communities;

(4) Evaluating the effectiveness of InterAct Arizona in achieving changes in state systems for transition services for youth with disabilities; and (5) Disseminating information to stakeholder audiences on the impact and outcomes of activities.

Public Input

As part of the Validation Planning process, during the week of October 26-30, 1998, OSEP met with the Steering Committee, and conducted focused public input meetings in Phoenix, Holbrook, and Sierra Vista. At those public input meetings, parents, advocates and representatives of professional groups commented on special education services in Arizona. One of the focus questions asked during the public input meeting was: "Do students with disabilities, ages 14 and older, receive instruction and coordinated services that facilitate successful transition from school to work or from school to post-secondary education?" Concerns from the participants included issues related to meaningful employment, staff expertise, involvement of outside agencies, and the Transition Services Plan form developed by the State. Overall comments expressed were: (1) There are limited employment opportunities in some communities for students who have graduated from high school. It was reported that there are limited job opportunities for lower functioning students and for students who reside on Indian reservations; (2) Staffs providing services to students in grades 7-9 demonstrate little or no knowledge of the school's responsibilities toward meeting IDEA secondary transition requirements; (3) There appears to be a lack of collaboration between the school and appropriate agencies to provide transition services. Some districts report that it is difficult to get outside agency representatives to attend IEP meetings conducted in charter schools; and (4) Some staffs are unable to appropriately complete the current Transition Services Plan forms developed by the AZDE. Parents and some special educators reported that the forms are "confusing" and that staffs and parents need to be trained on how to complete the forms.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of student's records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers and parents. OSEP reviewed and analyzed the data and identified the following suggestion for improved results for children.

A. STRENGTH

Consideration of Transition Services from School to Work Employment and Post-Secondary Activities

AZDE has taken the position that it is inappropriate to wait until a child is 14 years old to begin addressing transition services needs for support of school to work employment and post-secondary activities. Because transition should be a driving force behind the planning process for all children with disabilities, AZDE has provided guidance instructing districts to generate discussion of and address transition services needs for students ages 3-21.

B. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN

OSEP made the following observation about improving the provision of services to children with disabilities:

Need for Training Regarding Secondary Transition Requirement

In interviews with special educators and other faculty members from three districts, OSEP found that some staffs were unfamiliar with the transition requirements in §614(d)(1)(A)(vii) of IDEA and that the staffs need ongoing training. It was also reported that they were unaware of community resources and outside agencies that could provide transition services. One district reported to OSEP that the staff is just beginning to identify outside agencies who could provide transition services. It may be important for AZDE to provide training to help ensure that school districts establish linkages with outside agencies, where appropriate, to design an outcome oriented process promoting movement from school to post-school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation; based on the individual student's needs.

IX. PART B: GENERAL SUPERVISION

IDEA assigns responsibility to State education agencies for ensuring that its requirements are met and that all educational programs for children with disabilities, including all such programs administered by any other State or local agency, are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities and that these programs meet the educational standards of the State educational agency. State support and involvement at the local level are critical to the successful implementation of the provisions of IDEA. To carry out their responsibilities, States provide dispute resolution mechanisms (mediation, complaint resolution and due process), monitor the implementation of State and Federal statutes and regulations, establish standards for personnel development and certification as well as educational programs, and provide technical assistance and training across the State. Effective general supervision promotes positive student outcomes by promoting appropriate educational services to children with disabilities, ensuring the successful and timely correction of identified deficiencies, and providing personnel who work with children with disabilities the knowledge, skills and abilities necessary to carry out their assigned responsibilities.

Validation Planning and Data Collection

OSEP'S 1995 Monitoring: OSEP's 1995 on-site review report of AZDE's implementation of Part B of the Individual with Disabilities Education Act (Part B) showed that AZDE did not consistently: (1) ensure that public agencies had corrected deficiencies identified by its State education agency monitoring system; (2) use procedures which resulted in findings and final decisions in a due process hearing being reached and mailed within the required period of time, unless a specific extension of time was granted at the request of either party; and (3) exercise its general supervisory responsibility in a manner that ensured that all individuals with disabilities, birth through 21, including those who were incarcerated, were identified, located and evaluated, and that those ages three through 21 had available a free appropriate public education.

Self-Assessment: AZDE's self-assessment addresses the following components of its general supervision responsibilities: 1) interagency coordination; 2) timely resolution of complaints; 3) mediations; 4) due process hearings; 5) use of federal funds; and 6) parents of youth with disabilities awareness of and access to their rights to effective systems for parent and child protections. According to AZDE's self-assessment, interagency agreements include: memoranda of understanding with institutions of higher education to ensure coordinated pre-service and in-service training; agreements with other state agencies such as the DES, Department of Health Services, and the Arizona School for the Deaf and Blind to provide services to students with disabilities; and the provision of appropriate training to parents of students with disabilities through organizations such as the Parent Information Network Specialists and Parents are Liaisons to Schools.

The Self-Assessment also examines channels available to parents to grieve issues and circumstances where there is a lack of concurrence with the actions of the local education agency. This was evidenced in sections of the Self-Assessment focusing on the evaluation of dispute resolution data regarding: complaints filed, due process hearings, training of hearing officers, and the mediation process. According to the Self-Assessment, data addressing dispute

resolutions shows 80 complaints filed during fiscal year 1998. Of the 80 complaints filed, four were withdrawn and 44 resulted in corrective action to local education agencies. Also during fiscal year 1998, of the 47 requests for due process hearings, 30 were withdrawn before the hearing and 10 were heard. Of the 10 requests heard, eight hearing decisions were appealed to administrative law judges. There were 26 attorneys trained as hearing officers during March 9-10, 1998. The mediation process was used during the 1998 fiscal year by 37 parents. Data show that 11 of the mediation requests were withdrawn, 16 resulted in resolution and four resulted in due process requests. Data from 1995-1998 show an increase from 24 to 37 requests where parents opted to use the mediation process. To assist parents in processing their request for a hearing, the State has developed dispute resolution packets and a model form for submission of parent requests.

AZDE's self-assessment further shows that parents of students with disabilities are informed of special education services and procedural safeguards through the local education agency. The self-assessment did not include an analysis of parents being informed of their rights/procedural safeguards.

Public Input Process: One of the focus questions asked during the public input meetings for Part B was “Does the State exercise effective general supervision of the implementation of IDEA through the development and utilization of tools, mechanisms and activities that result in all eligible students having an opportunity to receive a free appropriate public education in the least restrictive environment?” Concerns expressed by parents were those related to procedural safeguards. Parents providing input commented that one of the biggest challenges in special education is the school staff's attempt to explain a very legal process and the impact of the procedural safeguards. In addition, parents expressed that they are not informed of their rights and educators and administrators do not encourage parents to learn their rights.

OSEP subsequently learned that a class action, *Dunajski v. Keegan*, was filed against AZDE on February 24, 1999, alleging that AZDE had failed to adequately meet its general supervisory responsibility under IDEA. The plaintiffs specifically alleged that AZDE was not adequately monitoring or resolving complaints.

Office for Civil Rights Complaint: The United States Department of Education's Office of Civil Rights received a complaint, under Section 504 of the Rehabilitation Act of 1973, alleging that a free appropriate public education was not made available to eligible youth with disabilities who were incarcerated in the State's adult prisons. OSEP is working with the Office of Civil Rights to resolve that complaint and ensure that the rights of such youth under both Part B and Section 504 are protected.

A. AREAS OF NONCOMPLIANCE:

1. Failure to Ensure Correction of Noncompliance Identified in Resolving Complaints

Under §300.661(c), the State must have procedures for effective implementation of the SEA's final decision, including technical assistance activities, negotiations, and corrective actions to achieve compliance. A further analysis of the log of complaints showed AZDE does not have

effective methods to ensure that local education agencies correct all non-compliance that AZDE finds in resolving complaints. OSEP found cases in which corrective action had not been completed ranged from approximately a month to eight months after the timelines established by AZDE.

Files for 55 complaints, with findings regarding Part B issues, showed that corrective actions were not corrected within timelines specified by the State. To date, AZDE agreed to extend 44 of the 55 district timelines to complete the corrective action, and sent 11 letters to districts whose corrective actions were overdue. Reasons cited by the local education agencies for overdue corrective actions include: lack of cooperation by the complainant; internal staffing problems; and staff miscommunication over identifying who was responsible for submitting documentation to the State. However, there were also instances in which four local education agencies did not provide reasons for the delay. In the cases where no reasons were provided, time frames for the delay of the corrective actions ranged from 23 to 62 days. As a consequence to districts for corrective actions that are overdue, AZDE is exploring the implementation of sanctions, such as reducing the amount of federal dollars that are awarded to the schools; conducting focus monitoring to identify systemic problems as opposed to isolated incidents; stopping the flow of federal payments that go to the local education agency for an interim period of time until the exception is resolved; and/or placing the local education agency or charter school in a status of ineligibility to receive grant awards. The State needs to examine the corrective actions process to ensure procedures for effective implementation of AZDE's final decision results in meeting the requirements of §§300.660 and 300.661.

2. Due Process Hearing Timelines

In accordance with §300.506(a) (now §300.507(a)), a parent or a public agency may initiate a hearing on any of the matters described in §§300.504(a)(1) and (2) (now §300.503(a)) related to the identification, evaluation or educational placement of a child with a disability, or the provision of free appropriate public education to the child. Section 300.512(a) and (b) (now §300.511(a) and(b)) requires that the public agency shall ensure that not later than 45 days after the receipt of a request for a hearing, a final decision is reached in the hearing. Section 300.512 requires that the State education agency shall ensure that not later than 30 days after the receipt of a request for review, a final decision is reached in the review. Under §300.512(c), a hearing or review officer may, at the request of a party, grant a specific extension of time beyond the 45 or 30-day periods for a hearing or review decision.

The two-tier system for due process hearings is described in the *AZDE Due Process System for Special Education* brochure. This brochure contains information about due process hearing rights for parents of eligible students and public agencies responsible for providing special education and related services. The information outlines the procedures to be followed when a party requests a first-level hearing with the local education agency and the appeal process or second-level hearing with the State education agency. The process for a first-level hearing requires the hearing officer assigned to the case to send the written decision to both parties within 45 calendar days or within the extended time line. The hearing officer assigned must be a licensed attorney, in good standing, and has been trained by AZDE in the state and federal laws/regulations concerning children with disabilities.

According to AZDE, procedures to be followed by the school for submission of the parent request for a due process hearing require the school to fax a copy of the request to the State on the day it receives the request. This date is logged as the date of request by the State. Once the date is logged, the State sends the parents and schools a list of hearing officers for selection. After the selection is made, a hearing officer is assigned to the case. In cases where schools do not fax a copy of the request to the State on the day it receives the request, the State logs the date of receipt of request as the date on the parent's letter.

AZDE does not always ensure that responsibilities for adhering to the timelines prescribed in §300.512, in effect at the time of OSEP's visit, are met by public charter school local education agencies. AZDE expressed concerns to OSEP regarding charter schools' inability to meet timeline requirements in due process hearings. OSEP's review and analysis of AZDE's Due Process Level I tracking log shows five charter schools that participated in due process hearings between June 1996 and June 1998. AZDE's due process procedures require schools to fax a copy of the written request to the State office on the day the school receives the request. Four of the five charter schools did not contact AZDE on the day of the submission of the request from the parent to the school. Delays between the time the charter schools received the parent request and the time AZDE received the faxed copy were as long as four months. In two of the four cases, as reported during phone interviews with staff from AZDE and review of documentation, the late submission of the parental request for a due process hearing resulted in the charter schools' inability to meet the 45 day timeline requirement; however, extensions were granted to the schools. Personnel in the five charter schools reported to AZDE that they were unsure of the due process hearing procedures, particularly those to follow once a hearing officer has been selected.

OSEP also found that AZDE does not ensure State review decisions are reached and mailed to parties within 30 days unless specific extensions of time are granted at the request of a party. OSEP's review of AZDE's Due Process Level II tracking log shows 14 cases logged for review between June 1996 and August 1998. According to the log, all 14 cases were resolved after the 30-day timeline requirement. Extensions were granted for two of the 14 cases for an unspecified time line. Decisions in seven cases were resolved two to 23 days beyond the timeline and those for the remaining five cases were reached 30 to 83 days after the timeline requirement, including any extensions to the timeline.

3. State Monitoring of Services for Students with Disabilities

Section 300.600(a)(2) requires States to ensure each educational program for children with disabilities administered within the State is under the general supervision of the persons responsible for educational programs for children with disabilities in the State education agency. AZDE has adopted an ongoing monitoring process to ensure continuous program improvement. This cycle of ongoing monitoring is divided over a six-year period and permits AZDE staff to conduct on-site compliance reviews; examine the effectiveness of staff development; initiate corrective action plans; and verify the impact of the corrective action plan as well as the district's program improvement plan. During the six-year period, AZDE also reviews: local education agency policies, procedures, and forms; comprehensive entitlement applications; and results of

performance objectives. Depending upon the status and wishes of the local education agency being monitored, AZDE will allow the local education agency to participate as active partners with AZDE staff in the monitoring process through a Collaborative Compliance Program Review; or AZDE will use the Exceptional Student Services' Team Review process. The Exceptional Student Services' Team Review monitoring process is conducted by AZDE staff.

In ensuring implementation of the Exceptional Student Services' monitoring process, AZDE consultants evaluate the services to students with disabilities and provide feedback to local education agencies as well as provide assistance in developing the corrective action plan. Focused reviews may be used as a third approach in circumstances where a limited aspect of a program is being considered. The focus areas are generated by local education agency or Exceptional Student Services staff's concerns, an unusual number of parent complaints, due process hearing requests, or audit exceptions. To ensure the provision of special education and related services to students with disabilities, monitoring teams use survey results and interviews with district and school administrators, evaluators, special and regular education teachers, related services providers and parents, among other data sources, to determine local education agency compliance. The level of compliance is noted in a Summary of Findings report for each compliance area addressed using the following criteria: 1) items are considered to be "in compliance" indicating that all applicable items meet the requirement; 2) items are considered in "partial compliance" showing 51% or more items meet the requirement; or 3) items are considered to be in "non-compliance" where 50% or fewer of the items meet the requirement.

Prior to OSEP visit, AZDE monitored the seven sites that OSEP visited and issued a monitoring report with corrective actions to each agency. AZDE monitored three districts during school years 1996-1997 and 1998-1999, using the Exceptional Student Services' Team Review process. AZDE monitored the other four agencies, using the Collaborative Compliance Program Review process during school years 1993-1994 1994-1995, and 1998-1999.

OSEP also reviewed AZDE's corrective action requirements for the seven sites visited. Currently, corrective actions have been completed in five of the seven local education agencies monitored. In a sixth agency, where monitoring was conducted in 1997, a third follow-up visit was scheduled in the fall of 1999 to note the status of the remaining corrective actions. Follow-up visits to address the status of the corrective actions for the seventh agency were scheduled for June 1999.

As explained below, OSEP found that AZDE's monitoring procedures are not effective in identifying all noncompliance.

Methods of Identification of Deficiencies and Ensuring Correction of Identified Deficiencies

In comparing OSEP's information gathered during the 1999 Validation Data Collection period with the results of the previous monitoring of the seven local education agencies by AZDE, OSEP found mandatory compliance issues, also identified by AZDE, in the area of provision of Free Appropriate Public Education—a lack of extended school year services. OSEP also identified the following areas of noncompliance that were not identified by AZDE through its

monitoring procedures and as a result, AZDE's procedures for determining compliance were ineffective in identifying noncompliance in:

- §300.128-ineffective child find leads to special education and related services not provided on the child's third birthday.
- §§300.16 and 300.300-lack of availability of services to meet the needs of a child for psychological counseling services.

B. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN

Review of State Funding Formula

OSEP was informed by AZDE that a 1997 special education cost study, to review State and local funding, had been conducted by an independent certified public accounting firm under contract with AZDE. Results of the study show that a significant gap exists between State and local funding and district expenditures for special education and related services. Under the current funding formula, greater funding weights are attached to various disabilities and to self-contained settings. According to the cost study, the funding formula creates a financial incentive to place students in more restrictive settings to generate additional funding for special education and related services. Section 612(a)(5)(B) of IDEA requires that, if the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting where a child is served, the funding mechanism may not result in placements that violate a least restrictive environment requirement and that if the State's policies and procedures do not insure compliance, the funding mechanism must be revised as soon as feasible to ensure that it does not result in such placement. As the State plans its improvement strategies for those compliance areas identified in the Report, you are encouraged to assess all aspects of the State's structure, including the effect of funding on placement decisions for students with disabilities.