



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

April 6, 1999

Honorable Delaine Eastin
Superintendent of Public Instruction
State Department of Education
721 Capitol Mall
Sacramento, California 95814

Dear Superintendent Eastin:

During the weeks of June 8 and 15, 1998, the Office of Special Education Programs conducted a follow-up visit to determine whether the California Department of Education had ensured the correction of noncompliance with regard to the requirements of Part B of the Individuals with Disabilities Education Act (IDEA), identified in the Office of Special Education Programs' monitoring Report of February 5, 1996.

Although the California Department of Education has made some progress in correcting some of the deficiencies identified in the 1996 Report, the Office of Special Education Programs is deeply concerned about continuing noncompliance, most notably the California Department of Education's continuing failure to exercise its general supervisory responsibility over local school districts in the State, including ensuring that local school districts correct identified deficiencies in a timely manner. As a result of this failure by the California Department of Education, serious deficiencies have been allowed to exist for a number of years, impacting services for children with disabilities. The Office of Special Education Programs has documented many of these continuing deficiencies in its prior monitoring reports to the California Department of Education of 1988, 1992, and 1996. The June 1998 follow-up visit documented that many previously identified problems remain uncorrected. These issues are addressed in detail in the enclosure to this letter.

The State must take action to ensure that the State's long-standing, serious noncompliance is effectively and promptly corrected throughout the State. The California Department of Education must develop a comprehensive corrective action plan with specific steps and timelines that will ensure that, within one year from the date of this Report: (1) all of the deficiencies in this Report are fully corrected throughout the State; and (2) the California Department of Education submits documentation, satisfactory to the Office of Special Education Programs, that all corrective actions have been effective and that all public agencies in the State are in compliance. We encourage the California Department of Education to contact the Office of Special Education Programs for technical assistance in developing the corrective action plan. We expect the California Department of Education's corrective action plan to be submitted to the Office of Special Education Programs for approval within 45 days of your receipt of this Report.

It is critical that the California Department of Education take immediate action to correct the noncompliance described in this Report. In order for the Office of Special Education Programs to determine appropriate action regarding the State's Part B grant awards for Federal Fiscal Year 1999, we need to receive from the California Department of Education, no later than May 15, 1999, a report that documents the status, as of that date, of all corrective action steps. This documentation should include concrete evidence of actions taken since the Office of Special Education Programs' June 1998 visit, such as monitoring reports and corrective actions; evidence of enforcement actions; changes in the California Department of Education's procedures, etc.

As noted above, one of the biggest barriers to the California Department of Education's achievement of compliance has been its failure to identify noncompliance in school districts and ensure that they correct it. You have discussed with us your plans for revising your monitoring system to make it more effective in targeting school districts and compliance issues, and in identifying noncompliance. It appears from the preliminary plans for the "Quality Assurance Process" that you have shared with us that the proposed changes could greatly improve the effectiveness of the California Department of Education's ability to identify noncompliance if adequate numbers of appropriately trained and supervised staff are available for its implementation. As Dr. Alice Parker, State Director of Special Education, and other the California Department of Education officials informed the Office of Special Education Programs during and subsequent to the June 1998 monitoring visit, the California Department of Education has not had and does not have enough staff to implement effective monitoring procedures in the State's approximately 1000 districts. In a letter dated February 18, 1999, the California Department of Education provided updated information showing that it needs 16 full-time equivalents to effectively monitor special education compliance, but that it currently has only seven full-time equivalents. In that same letter, the California Department of Education also stated that: (1) the number of special education complaints handled by the California Department of Education had doubled from 356 for the period of 9/95-8/96 to a projection of 712 for the period 9/98-8/99; and (2) the California Department of Education needed to increase its complaint management staffing from the current ten full-time equivalents to 12.

The California Department of Education has reported that it does not have sufficient funds to adequately staff its special education monitoring system or its system for resolving Part B complaints. In order to enable States to ensure Statewide compliance, Part B expressly authorizes State educational agencies to retain a significant portion of the funds they receive under Part B of the IDEA. For years, the State has chosen to retain only a fraction of the amounts permitted by IDEA for administration and other State level activities. As explained in the State's Part Grant B Award letter for Fiscal Year 1998, the State is authorized to set aside up to \$78,548,137 (approximately 20.8 per cent of the total grant) for State level purposes. In sharp contrast, the State is retaining only 7.27 per cent of the grant for State level purposes. While Part B permits the California Department of Education to retain for State level purposes less than the full amount allowed, the California Department of Education must ensure that a sufficient amount of Federal and State monies are allocated to ensure that its monitoring and complaint management systems are effective in the timely identification and correction of noncompliance.

The State's continuing failure to do so has been one cause of its continuing failure to meet its general supervision responsibility under Part B.

Another cause that the California Department of Education has identified for its continuing failure to meet its general supervision responsibility under Part B has been its lack of authority to implement effective enforcement actions when school districts fail to correct identified noncompliance. As explained in the enclosed Report, California Department of Education officials informed the Office of Special Education Programs that: (1) the California Department of Education has no authority under State law to withhold *State* funds from school districts; and (2) although the California Department of Education *may* withhold *Part B Federal* funds from a school district, pursuant to a State Department of Finance policy a District from which Part B funds are withheld will receive additional State funds, thus eviscerating any threat to withhold Part B Federal funds. The State must take whatever action is necessary, including any needed statutory or regulatory changes, to ensure that it has, and uses, effective enforcement action.

We are pleased that the State has received a State Improvement Grant of approximately \$1.8 million under Part D, Subpart 1, of the IDEA. We wish to emphasize the importance of the State's use of that grant in a way that will support its work to come into compliance with the requirements of Part B.

Dr. Parker has shared with us a copy of the January 4, 1999 draft of the Final Report of the Assembly Bill 602 Compliance Workgroup. Assembly Bill 602 reformed the State's funding formula for special education. As explained in that draft Report, section 69 of the Bill directed the California Department of Education to convene a "balanced" working group of representatives of State and local educational agencies, and individuals with disabilities and their families, to formulate recommendations on issues related to technical assistance, complaint management, monitoring, corrective action and follow-up, and sanctions for noncompliance. Many of the findings in the draft Report are consistent with the Office of Special Education Programs' findings, as reflected in the enclosed Office of Special Education Programs Report. We are pleased that the California Department of Education has expressed its intention to use many of the recommendations in the draft of the working group's report in formulating and implementing plans to come into compliance with Part B.

We would like to again emphasize our commitment to working with you and your staff to bring the California Department of Education into compliance with these requirements. Our staff and the Western Regional Resource Center remain available to provide technical assistance throughout this process.

Sincerely,

Judith E. Heumann
Assistant Secretary
Office of Special Education and
Rehabilitative Services

Thomas Hehir
Director
Office of Special Education Programs

Enclosure

cc: Dr. Alice Parker

OSEP MONITORING REPORT:
1998 FOLLOW-UP REVIEW OF
THE CALIFORNIA DEPARTMENT OF EDUCATION (CDE)

I. CDE'S CONTINUING FAILURE TO MEET ITS GENERAL SUPERVISION RESPONSIBILITY

In order to meet its general supervision responsibility under §300.600¹, CDE must ensure that all educational programs conducted by public agencies for children with disabilities comply with the requirements of Part B and with CDE's standards. As part of this responsibility, CDE must implement complaint management and monitoring procedures that enable CDE to identify and promptly correct noncompliance.

OSEP found during its June 1998 follow-up review that CDE is continuing its longstanding failure to meet its general supervision responsibility under §300.600(a). As demonstrated in detail below, OSEP found that: (1) CDE still lacks effective complaint and monitoring procedures and cannot ensure that, once identified, public agencies correct noncompliance; and (2) there continue to be longstanding violations of the rights of children with disabilities in the State to a free appropriate public education, placement in the least restrictive environment, needed transition services, and timely reevaluations.

A. CDE's Continuing Failure to Implement Effective Complaint Management Procedures

OSEP finds that, notwithstanding the corrective actions previously required by OSEP's 1992 and 1996 monitoring Reports, CDE is failing to ensure that: (1) all complaints that allege a violation of Part B are resolved (§300.660(a)); (2) complaints are resolved within sixty days, unless that timeline is extended because exceptional circumstances exist with respect to a particular complaint (§300.661(a) and (b)); and (3) when CDE does find noncompliance through its complaint management procedures, the noncompliance is corrected (§300.661(c)).

PRIOR OSEP FINDINGS

Resolution of all Part B complaints: As set forth in OSEP's February 1996 Report, OSEP found in 1995 that, upon receiving a complaint alleging a violation of Part B, CDE's complaint management staff would determine whether the complaint was of the type that should be resolved through a due process hearing, rather than a complaint. The Report required that CDE "demonstrate that it resolves all signed complaints that include an allegation of a Part B violation and the factual basis for the allegation," and clarified that "complainants may choose to, but may not be directed to, resolve disputes regarding the matters set forth in §300.504(a) through a due process hearing."

¹ Unless otherwise noted, all citations are to 34 C.F.R. Part 300.

Resolution of complaints within 60 calendar days: As set forth in OSEP's February 1992 Report, OSEP found in 1991 that CDE was not resolving Part B complaints within 60 calendar days. At that time, the general complaint procedures for all CDE-funded programs, including special education, provided for a 60 day period within which to complete a local-level investigation, 15 days for appeal of the local decision to CDE, and an additional 60 days for CDE to make a determination on the appeal. In order to correct this problem, CDE amended the written complaint procedures in its Part B State Plan for fiscal years 1991-1993 to require that complaints alleging a violation of Part B be resolved within 60 calendar days at the State level, with no preliminary local-level determination. As set forth in OSEP's February 1996 Report, despite the correct timelines specified in the California State plan, CDE was continuing to implement timelines that resulted in the resolution of complaints within 135 calendar days, rather than 60 calendar days as required by §300.661(a). If CDE referred a Part B complaint to a local educational agency, it would afford the local educational agency 60 days within which to resolve the complaint; *then* the parties would have 15 days to appeal the local educational agency's decision, and CDE would have 60 *additional* days in which to reach its decision on such an appeal. CDE was required to develop procedures, including, as needed, monitoring and on-site verification, to ensure that complaints were resolved within 60 days, unless the timeline is extended due to an exceptional circumstance related to that complaint.

OSEP'S 1998 FINDINGS

CDE'S CONTINUING FAILURE TO RESOLVE ALL COMPLAINTS

CDE must resolve any signed written complaint that includes a statement that a public agency has violated a Part B requirement and the facts on which the statement is based (§§300.660(a) and 300.662), and may not decline to resolve a complaint because it believes that a complainant's allegations of Part B violations would be more appropriately resolved through a due process hearing.

During the 1998 follow-up review, CDE staff who resolve complaints informed OSEP that in some cases they will inform a parent who files a complaint that the matter must be resolved through a due process hearing, rather than the complaint process. For example, if the complaint alleges that the child needs two hours per week of speech therapy but the public agency refuses to provide more than one hour per week, some of the education consultants who resolve complaints will call the parent and inform him or her that such a disagreement cannot be resolved through investigation of the complaint, and that the parent may, instead, request a due process hearing. The consultant will then close the complaint without further investigation and without issuing a written decision to the complainant addressing each of the allegations in the complaint and containing findings of fact, conclusions, and the reasons for the State Educational Agency's final decision.

This practice is inconsistent with the requirement at §300.660 that a State resolve any complaint that meets the requirements of §300.662 and with the specific corrective action requirements in OSEP's 1996 Report. A State may inform a complainant that Part B does not permit a State educational agency, in resolving a complaint, to substitute its judgment for the determination of the team that developed the individualized education program (IEP). *However*, in resolving a

complaint, a State must decide and report whether the public agency has, in determining the child's needs and developing the IEP, acted in a manner that is consistent with the requirements of Part B.

CDE'S CONTINUING FAILURE TO RESOLVE COMPLAINTS WITHIN 60 DAYS

A State must resolve all Part B complaints within 60 calendar days, unless the timeline is extended because exceptional circumstances exist with respect to particular complaint (§300.661(a) and (b)). As explained below, OSEP finds that: (1) CDE is continuing in its failure to ensure that complaints received by CDE are resolved within the timelines required by §300.661; and (2) CDE permits the filing of complaints with either CDE or a local educational agency, but has no method to ensure that complaints filed with a local educational agency are resolved within those timelines.

CDE staff informed OSEP that CDE continues to take more than 60 days to resolve many complaints, and that in most cases these delays, and extensions beyond the 60 calendar day timeline, are due to inadequate numbers of CDE staff to resolve complaints rather than exceptional circumstances regarding a specific complaint. CDE provided OSEP with a log that included timeline data for complaints filed within a three-year period. In order to determine the extent to which CDE had corrected its failure to resolve complaints within the 60 day timeline, OSEP reviewed the data in that log for complaints received by CDE in September and October 1997. OSEP found that CDE failed to issue a decision within the 60 calendar day timeline, or within an extended timeline, for 82% of the complaints for which OSEP reviewed data. The decisions in the majority of the complaints for which CDE had not extended the timeline (as documented in CDE's own complaint log) exceeded the 60 calendar day timeline by more than 30 days, with some of these decisions overdue by more than six months.

CDE continues to permit individuals and organizations to file Part B complaints with either CDE or a local educational agency, but now--consistent with Part B--requires that each complaint be resolved within 60 days from the date on which the complaint is first received by either CDE or a local educational agency, and that a complainant filing a Part B complaint at the local level has a right to have a final decision from *CDE* within 60 days from the date on which the local educational agency received the complaint. CDE staff informed OSEP, however, that although CDE tracks timelines for Part B complaints received at the local level *when the local agency informs CDE of the complaint*, CDE does not monitor or use any other method to ensure that local educational agencies inform CDE of all Part B complaints filed at the local level. Therefore, CDE has no way to ensure that all Part B complaints filed at the local level are resolved in a manner that is consistent with the requirements of §§300.660-300.662. Thus, CDE has failed to meet its general supervision responsibility because it permits the filing of Part B complaints at the local or State level, but has no method to ensure that all Part B complaints filed at the local are resolved consistent with the requirements at §§300.660-300.662.

***CDE'S FAILURE TO ENSURE CORRECTION OF NONCOMPLIANCE
IDENTIFIED IN RESOLVING COMPLAINTS***

OSEP also determined as part of the 1998 visit, that CDE does not have effective methods to ensure that local educational agencies correct all noncompliance that CDE finds in resolving complaints. OSEP reviewed CDE's complaint logs and found that in many cases corrective action had not been completed several months, and in some instances even years, after the timelines established by CDE, as demonstrated by the following examples:

Example 1	
Complaint received: October 23, 1996	Decision issued: December 27, 1996
Corrective actions required: (1) arrange for a neuropsychological evaluation within 20 days of receiving the December 27, 1996 CDE decision; and (2) convene an IEP meeting to determine needed services within 20 days after the assessment was completed.	
Corrective actions completed by June 1998: None.	
In a February 11, 1997 letter, the school district asserted its disagreement with CDE's decision. A March 24, 1997 letter from the complainant's attorney informed CDE that the district had not yet implemented the corrective actions. On April 4, 1997, CDE informed the parties that it had completed reconsideration of its December 1996 decision, and stated that CDE was upholding the required corrective actions. On July 7, 1997, the Special Education Local Planning Area again asserted the district's disagreement with CDE's decision. CDE responded on October 1, 1997 that CDE's original decision would stand. Although an October 21, 1997 internal CDE memorandum noted that the district did not intend to comply with the corrective actions required by the December 1996 CDE decision, and that the complainant was considering commencing a lawsuit, CDE had taken no further action as of OSEP's June 1998 visit.	

Example 2	
Complaint received: January 26, 1996	Decision issued: June 6, 1996
Corrective actions required (to be completed within 30 days): (1) Provide evidence that pupils on waiting lists for special education were receiving services in their IEPs; (2) Complete review to determine need for annual and triennial IEP reviews and achieve compliance; (3) Notify all regular class teachers regarding special education students in their classes and content of their IEPs; (4) Bring caseloads in resource services programs into compliance; and (5) Provide an assurance that there will be no waiting lists for special education services.	
Corrective actions completed by June 1998: Per CDE's August 27, 1997 letter to Los Angeles Unified School District (with no further action noted in file as of June 18, 1998), only the finding regarding resource services program caseloads had been corrected.	
<p>In June 1996, CDE reviewed documentation received from the District and conducted an on-site verification of corrective actions. CDE's September 9, 1996 follow-up report stated that, with the exception of the finding regarding resource services program caseloads, the findings had not been corrected and corrective action requirements remained in effect. CDE's December 17, 1996 letter directed the District to provide documentation that the District had completed all corrective actions. CDE conducted a second on-site review to 19 sites in the District during the week of April 7, 1998, finding that the noncompliance had not been corrected. CDE informed OSEP during OSEP's June 1998 follow-up review that, after CDE's August 27, 1997 letter to Los Angeles Unified School District requiring the Agency to complete the corrective actions, CDE has documented no further action.</p> <p>As documented in the summary in the Appendix to this Report of OSEP's findings in Los Angeles Unified School District, OSEP found in June 1998 that the District continues, two-and-a-half years after the filing of the complaint and two years after CDE's findings of noncompliance, in its failure to provide needed special education and related services to some students and to complete timely triennial reevaluations.</p>	

B. STATE EDUCATIONAL AGENCY MONITORING

OSEP found in June 1998 that although CDE does identify some noncompliance when it monitors public agencies, serious deficiencies persist in CDE's identification and correction of noncompliance: (1) CDE does not identify all serious systemic noncompliance with substantial negative impact on services to children with disabilities (see 20 USC §1232d(b)(3)); and (2) CDE fails to ensure that the noncompliance that it does identify is corrected (see 34 C.F.R. §§80.40 and 300.556 and 20 USC §1232d(b)(3)(E)). As a result, serious systemic noncompliance remains unidentified and/or uncorrected in a number of school districts, including some of the State's largest school districts.

PRIOR OSEP FINDINGS

Identification of noncompliance. OSEP found in the 1988 Report that CDE had failed to implement an effective monitoring system. Specifically, OSEP found that CDE had failed to allocate sufficient staff and other resources to its special education monitoring system, noting

that although California received the largest Part B grant of any State, the amount of resources devoted to special education monitoring was significantly less than the amount of resources committed to such monitoring in other States, including much smaller States. OSEP also found that CDE had no method to monitor for compliance with many Part B requirements, and that, as a result of the limited amount of staff devoted to monitoring and the methods CDE had adopted for monitoring, a number of serious deficiencies were not identified. OSEP further found that many identified deficiencies remained uncorrected, and that CDE failed to take any enforcement action even when public agencies failed to take timely corrective action.

OSEP found in the 1992 Report that CDE had continued in its failure to implement an effective monitoring system. OSEP found that CDE still had no method to monitor for compliance with many Part B requirements, and that CDE's methods for determining compliance with many other requirements were ineffective.

OSEP found in the 1996 Report that CDE had no monitoring method to determine compliance with some Part B requirements related to transition services, prior written notice to parents, and confidentiality of educational records. OSEP found that CDE's monitoring procedures were not effective in determining compliance with a number of other Part B requirements related to notice of procedural safeguards, the provision of a free appropriate public education, IEP content, transition services, and placement in the least restrictive environment. OSEP again found that CDE's procedures for ensuring correction of monitoring findings were ineffective.

Correction of identified noncompliance. OSEP found in the 1996 Report that CDE was not effective in ensuring that public agencies corrected noncompliance identified by CDE or OSEP in monitoring reviews. The 1996 Report included documentation of uncorrected noncompliance in six of the twelve agencies that OSEP visited, including the Los Angeles, San Diego, and San Francisco Unified School Districts.

OSEP'S 1998 FINDINGS

CDE'S CONTINUING FAILURE TO IDENTIFY ALL SERIOUS SYSTEMIC NONCOMPLIANCE

When OSEP staff visited Mount Diablo Unified School District in June 1998, they found serious, systemic noncompliance regarding: (a) the provision of psychological counseling as a component of a free appropriate public education; (b) statements in IEPs of the supplementary aids and services that children with disabilities need in order to be educated in the least restrictive environment; (c) including a statement of needed transition services--with the content required by §§300.346(b) and 300.18--in the IEP for each child with a disability, aged 16 or older (or younger, if appropriate); (d) when the consideration of needed transition services is a purpose of an IEP meeting, ensuring that notice to the parents of the meeting informed them that a purpose of the meeting was to consider needed transition services and that the agency would invite the student, and identify any other agency that would be invited to send a representative to the meeting because that agency was likely to be responsible for providing or paying for

transition services for the student; and (e) timely reevaluation. When CDE monitored the District as part of a Coordinated Compliance Review in December 1997, it did not find any of the systemic noncompliance that OSEP found in June 1998 (see Appendix to this Report).

When OSEP staff visited Long Beach Unified School District in June 1998, they found significant, systemic noncompliance regarding: (a) the provision of psychological counseling as a component of a free appropriate public education; and (b), when the consideration of needed transition services is a purpose of an IEP meeting, ensuring that notice to the parents of the meeting: (i) informed them that a purpose of the meeting was to consider needed transition services and that the agency would invite the student, and (ii) identified any other agency that would be invited to send a representative to the meeting because that agency was likely to be responsible for providing or paying for transition services for the student. When CDE monitored Long Beach Unified School District in May 1998 as part of a Coordinated Compliance Review, it found noncompliance on 14 special education items, but did not find the above-described systemic noncompliance that OSEP found in June 1998 (see Appendix to this Report).

CDE officials acknowledged that the current monitoring system was not effective in identifying all noncompliance. They explained that the Comprehensive Compliance Review system, in which a CDE team monitors several programs (e.g., Special Education, Vocational Education, Safe and Drug-free Schools, Gender Equity, etc.) at the same time, severely limits the Special Education Division's ability to target its special education data collection. Often, the special education team member would also be assigned overall team leadership, significantly reducing the amount of time available to collect data regarding the special education program. Further, because many monitoring teams include CDE and local personnel with little ongoing monitoring training, it is difficult to ensure that monitors have the training needed to probe beyond yes-and-no questions. This problem has been exacerbated by the need to pull some experienced CDE special education monitors to other responsibilities, such as the resolution of complaints. CDE's Special Education Division administrators have informed OSEP that the Division has received approval to separate its special education monitoring system from the Comprehensive Compliance Review system. The Division believes that this will enable it to better target the Districts and schools it visits and the data it collects, but OSEP has not yet received documentation of the implementation or impact of this change.

CDE officials also acknowledged that there was no real connection between the complaint resolution and monitoring systems. CDE has not used information regarding complaints filed or noncompliance found in resolving those complaints when it monitors a public agency.

CDE'S CONTINUING FAILURE TO ENSURE CORRECTION OF IDENTIFIED NONCOMPLIANCE

CDE administrators acknowledged that CDE has not been effective in ensuring correction of noncompliance by public agencies. They stated that: (1) there is no standardization in follow-up procedures to ensure correction; no CDE manager has held CDE staff accountable for follow-up activities; (2) while follow-up visits were a critical component of ensuring correction, CDE's

ability to conduct such visits is severely limited due to staff shortages and budgetary constraints; and (3) CDE has very limited resources and authority to ensure correction. They said that CDE currently has only three options to compel compliance: (1) repeatedly requesting a public agency to comply; (2) publicizing a public agency's failure to come into compliance; and (3) withholding *Part B* funds from a public agency. According to CDE administrators, there is no mechanism under State law for withholding *State* funds. Further, pursuant to a State Department of Finance policy, a District from which Part B funds are withheld will receive additional State funds, thus eviscerating any threat to withhold Part B Federal funds. CDE acknowledged that these three tools have not been effective, and that there are at least ten districts in the State that have continued in their noncompliance for many years. During the June 1998 visit, CDE agreed to provide OSEP with a written summary of the noncompliance in these Districts, and of any action that CDE has taken to compel compliance. Subsequent to the visit, OSEP has repeatedly asked CDE to send this information but to date CDE has not provided the documentation.

OSEP found extensive noncompliance in the Los Angeles, San Diego, and San Francisco Unified School Districts in OSEP's past monitoring reviews of CDE, and found continuing noncompliance in those Districts during its 1998 follow-up review of CDE. (See discussion of OSEP 1998 findings regarding these Districts in the Appendix to this Report.)

As further explained in the Appendix, as part of its 1998 follow-up review of CDE, OSEP met with San Francisco Unified School District special education administrators and CDE administrators to determine the status of the District's correction of noncompliance set forth in OSEP's 1996 Report, and to determine what, if any, actions CDE had taken to ensure such correction. (OSEP did not visit any schools in the District as part of the 1998 follow-up review, because the District's school year ended prior to the OSEP visit.) During OSEP's June 1998 meeting with San Francisco and CDE administrators, CDE acknowledged that it had, even prior to CDE's May 1998 Comprehensive Compliance Review of the District, been aware that the District had taken little effective action to correct OSEP's findings in the 1996 Report and that little, if any, progress had been made regarding most of those findings; indeed, CDE's periodic written progress reports to OSEP continued to document the lack of any correction by San Francisco of any of the findings in OSEP's 1996 Report. For example, a November 25, 1997 CDE status report to OSEP also showed that San Francisco had not corrected any of the noncompliance cited in OSEP's 1996 Report, and assigned a "yellow" correction status (connoting that "the agency is either not making the anticipated progress to come into compliance or staff feel that it is unlikely they will come into compliance in the near future") to all of the OSEP findings. An April 3, 1998 CDE report to OSEP showed that more than four months later, none of the ten findings of noncompliance by San Francisco in OSEP's 1996 Report had been corrected, and assigned a "red" status (connoting that "the agency is perceived as either unwilling or unable to come into compliance at this time") to two of the findings, and a "yellow" status to the other eight findings.

Notwithstanding CDE's knowledge that San Francisco Unified School District was not taking effective corrective action, CDE acknowledged during the June 18, 1998 meeting with OSEP staff and San Francisco Unified School District administrators that CDE had taken little action to

compel correction. On March 31, 1998, CDE issued a letter to the District's Superintendent, warning the District that there was a potential for serious and systemic noncompliance with State and Federal law and that this jeopardized the District's continued receipt of Part B special education funds. However, in the more than two-and-a-half months between the date of that letter and the June 18, 1998 meeting, CDE neither received any documentation of further corrective action by the District nor took any action to compel such correction.

CDE's May 1998 Comprehensive Compliance Review of San Francisco further confirmed CDE's ineffectiveness in ensuring that the District corrected longstanding noncompliance. CDE made 30 findings of noncompliance with special education requirements, of which 16 were repeat findings from the 1994 Comprehensive Compliance Review. Further, the summary of CDE's 1998 Comprehensive Compliance Review showed an increase from 21 special education findings of noncompliance in 1994 to 30 in 1998.

During OSEP's June 1998 visit to CDE, OSEP staff cited San Francisco's longstanding history of uncorrected noncompliance, as confirmed by CDE's progress reports, CDE's May 1998 Comprehensive Compliance Review, and OSEP's June 18, 1998 meeting with District administrators. OSEP staff urged CDE to take prompt action to compel correction in San Francisco Unified School District and to provide documentation to OSEP of such action. To date, however, we have received no further documentation of CDE's actions to ensure compliance in the District. In fact, a September 1998 CDE report to OSEP further documented the severity of continuing noncompliance in San Francisco. That report showed that 800 reevaluations were overdue beyond the three year Part B requirement, that the annual review of 1808 IEPs was overdue, that 100 students were waiting for speech therapy services, ten students were waiting for occupational therapy services, and 25 students were waiting for psychological counseling services.

II. IMPACT OF CDE'S FAILURE TO MEET ITS GENERAL SUPERVISION RESPONSIBILITY ON LOCAL PRACTICE AND CHILDREN WITH DISABILITIES

As part of its 1998 follow-up review of CDE, OSEP collected data from five school districts² to determine the impact of CDE's exercise of its general supervision responsibility on compliance and results for students with disabilities at the local level. OSEP focused this collection of data from school districts on requirements which are critical to improved results for students with disabilities with which OSEP found CDE out of compliance in the 1996 Report: (a) placement in the least restrictive environment; (b) the provision of a free appropriate public education; (c) the provision of needed transition services; and (d) timely reevaluations. As explained below and in the Appendix to this Report, OSEP found that CDE had not exercised its general supervision responsibility in a manner that was effective in ensuring compliance with these requirements.

A. PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT

PRIOR OSEP FINDINGS

As set forth in OSEP's 1988 Report, OSEP found that CDE had failed to ensure that: (a) children with disabilities were removed from the regular education environment 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; or (b) the placement for each child with a disability is based on his or her IEP.

As set forth in OSEP's 1992 Report, OSEP found that CDE did not ensure that: (a) the placement for each child with a disability was based on his or her IEP; and (b) to the maximum extent appropriate, children with disabilities were educated with nondisabled children and participated with nondisabled children in extracurricular and nonacademic services and activities.

As set forth in OSEP's 1996 Report, OSEP found that CDE failed to ensure that: (a) the placement for each child with a disability was based on his or her IEP; (b) to the maximum extent appropriate, children with disabilities were educated with nondisabled children and participated with nondisabled children in extracurricular and nonacademic services and activities, and special classes, separate schooling, or other 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 could not be achieved satisfactorily; (c) each child with a disability participates with nondisabled children, to the maximum extent appropriate, in extracurricular and nonacademic services and activities; and

² OSEP visited the Long Beach, Los Angeles, Mount Diablo, and San Diego Unified School Districts. OSEP also met with special education administrators from San Francisco Unified School District, although it did not visit the District because its school year ended before OSEP's visit.

(d) a continuum of alternative placements was available to meet the needs of children with disabilities for special education and related services, and the various alternative placements included at §300.551 were available to the extent necessary to implement the IEP for each child with a disability.

OSEP'S 1998 FINDINGS

CDE'S CONTINUING FAILURE TO ENSURE THAT STUDENTS WITH DISABILITIES RECEIVE A FREE APPROPRIATE PUBLIC EDUCATION IN THE LEAST RESTRICTIVE ENVIRONMENT

Part B requires that a public agency include in the IEP for a child with a disability, any special education services and supplementary aids and services which the child needs in order for the child's education to be achieved satisfactorily without removal from the regular education class. (See §§300.550(b)(2) and 300.346(a)(3), and Appendix C to 34 C.F.R. Part 300, No. 48.) As detailed in the Appendix to this report, OSEP found in June 1998 that in Los Angeles and Mount Diablo Unified School Districts, the public agency did not consider, on an individual basis, what supplementary aids and services each student with a disability needed to be educated in the least restrictive environment, and did not, therefore, include a statement of the needed supplementary aids and services in students' IEPs.

B. PROVISION OF NEEDED TRANSITION SERVICES

PRIOR OSEP FINDINGS

As set forth in OSEP's 1996 Report, OSEP found that CDE had not ensured that: (a) the IEP for each student with a disability, age 16 or older, included a statement of needed transition services with the content required by Part B (§§300.346(b) and 300.18); and (b) if a purpose of an IEP meeting was the consideration of needed transition services, the notice to the parents of the meeting indicated that such consideration was a purpose of the meeting, and that the agency would invite the student, and identify any other agency that the public agency would invite to send a representative (§300.345(b)). The 1996 Report documented noncompliance regarding these requirements in a number of public agencies, including Los Angeles and San Diego Unified School Districts.

OSEP'S 1998 FINDINGS

CDE'S CONTINUING FAILURE TO ENSURE THAT STUDENTS WITH DISABILITIES RECEIVE NEEDED TRANSITION SERVICES

As detailed in the Appendix to this Report, OSEP found in June 1998 that Long Beach, Los Angeles, Mount Diablo, San Diego, and San Francisco Unified School Districts were not in compliance with Part B's transition requirements.

C. FREE APPROPRIATE PUBLIC EDUCATION

PRIOR OSEP FINDINGS

As set forth in the 1988 Report, OSEP found that CDE had failed to ensure that students with disabilities received all of the related services that they needed to benefit from special education, as determined by the IEP team. OSEP found that: (a) the California Department of Health Services, rather than the IEP team, had the authority under California State law to determine what, if any occupational and/or physical therapy services a student with a disability would receive in order to benefit from special education; (b) some students with disabilities were not receiving occupational and/or physical therapy services to which they were entitled under Part B; and (c) similarly the California Department of Mental Health, rather than the IEP team, had the authority under California State law to determine what, if any mental health services (e.g., psychological counseling) a student with a disability would receive in order to benefit from special education.

As set forth in the 1992 Report, OSEP found that CDE did not ensure that: (a) public agencies provided children with disabilities with a school day that met State standards on length; or (b) children with disabilities who needed occupational and/or physical therapy services to benefit from special education, received those services as a component of a free appropriate public education, notwithstanding the responsibility of California Children Services under State law for the provision of such therapy services.

As set forth in OSEP's February 1996 Report, OSEP found that CDE had not ensured that: (a) an IEP was developed for all students with disabilities receiving special education and related services; (b) the kind and amount of special education services to be provided was determined on an individualized basis; (c) children with disabilities who needed occupational and/or physical therapy services to benefit from special education, received those services as a component of a free appropriate public education, notwithstanding any responsibility of California Children Services under State law for the provision of such therapy services; (d) students with disabilities who needed psychological counseling or other counseling services as a related service in order to benefit from special education received such service as a component of a free appropriate public education; or (e) children with disabilities continued to receive a free appropriate public education during periods of long-term suspension or expulsion.

OSEP'S 1998 FINDINGS

CDE'S CONTINUING FAILURE TO ENSURE THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION

In June 1998, OSEP found CDE had not ensured the correction of all of OSEP's previous findings regarding the provision of a free appropriate public education. Specifically, OSEP found that: (1) the Long Beach, Los Angeles, Mount Diablo, San Diego, and San Francisco

Unified School Districts were failing to ensure that children with disabilities who need psychological counseling to benefit from special education received that service as a component of a free appropriate public education; (2) many students in the Los Angeles and San Francisco Unified School Districts were not receiving occupational, physical, and/or speech therapy services specified in their IEPs; and (3) although Mount Diablo and San Diego Unified School Districts reported that students with disabilities continue to receive some special education and related services during periods of long-term suspension and expulsion, that many students with disabilities received only categorically determined amounts of service, rather than the services that each student required to receive a free appropriate public education, as determined by an IEP team. (See the Appendix to this Report for a detailed discussion of OSEP's findings regarding the five districts.)

D. PROTECTION IN EVALUATION PROCEDURES

PRIOR OSEP FINDINGS

As set forth in OSEP's February 1996 Report, OSEP found, in January 1995, that CDE had not ensured that a reevaluation was conducted for each child with a disability at least once every three years, as required by §300.534(b). OSEP found this deficiency in three of the agencies that OSEP visited in 1995, including the Los Angeles and San Francisco Unified School Districts.

OSEP'S 1998 FINDINGS

CDE'S CONTINUING FAILURE TO ENSURE THAT CHILDREN WITH DISABILITIES ARE REEVALUATED AT LEAST ONCE EVERY THREE YEARS

In June 1998, OSEP found that reevaluations were not completed within the three-year timeline for a significant number of children with disabilities in the Los Angeles, Mount Diablo, San Diego, and San Francisco Unified School Districts.³

³ The IDEA Amendments of 1997 provide public agencies with additional flexibility as to the procedures they must complete in conducting a reevaluation of a child with a disability, but *retain*, at §614(a)(2) of the Act, the requirement of prior law that each local educational agency "ensure that a reevaluation of each child with a disability is conducted ... if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years."

**OSEP MONITORING REPORT:
1998 FOLLOW-UP REVIEW OF
THE CALIFORNIA DEPARTMENT OF EDUCATION**

**APPENDIX A:
DESCRIPTION OF OSEP'S 1998 FOLLOW-UP REVIEW AND
SUMMARY OF FINDINGS REGARDING PUBLIC AGENCY COMPLIANCE**

DESCRIPTION OF OSEP'S 1998 FOLLOW-UP REVIEW

During the week of June 8, 1998, the OSEP team of Ellen Safranek, Judith Gregorian, Larry Ringer, and Carolyn Smith visited four local educational agencies in order to determine the impact on those agencies of the actions taken by CDE to ensure statewide correction of the deficiencies set forth in OSEP's February 5, 1996 Monitoring Report. The four agencies that OSEP visited were: Long Beach Unified School District, Los Angeles Unified School District, Mt. Diablo Unified School District, and San Diego Unified School District. At each agency, OSEP visited one or more schools, reviewed student records and interviewed special education and regular education staff. During the week of June 15, 1998, OSEP met in Sacramento with administrators from the San Francisco Unified School District; OSEP did not conduct an onsite visit to San Francisco because the District's school year had ended before June 8, 1998, the beginning of OSEP's visit to the State.

OSEP had, as part of the 1995 monitoring review, which was the basis for the 1996 Report, visited 12 public agencies, including the Los Angeles, San Diego, and San Francisco Unified School Districts. CDE was required to ensure that each of the 12 agencies corrected the specific deficiencies that OSEP found in that agency. As part of the 1998 visit, OSEP collected data to determine not only the impact of CDE's actions to ensure *statewide* correction of the findings in OSEP's 1996 Report, but also the effectiveness of CDE's actions to ensure correction of the specific deficiencies that OSEP had found in Los Angeles, San Diego, and San Francisco.

On June 15, 1998, OSEP met with approximately 40 parents and other advocates for children with disabilities in Sacramento and Anaheim. The participants in those meetings were asked their views on the extent to which CDE had been successful in correcting the deficiencies identified in OSEP's 1996 monitoring Report. Many participants expressed strong concern that deficiencies regarding the provision of a free appropriate public education, placement in the least restrictive environment, the provision of needed transition services, timely reevaluation, and CDE's exercise of its general supervision, have persisted, with only minimal improvement,⁴ for many years. Participants were particularly concerned that CDE has continued in its failure to take effective enforcement action when local educational agencies failed or refused to take corrective action.

⁴ Some of the meeting participants reported that there had been some improvement in the availability of occupational and physical therapy, and that, in some public agencies, less restrictive placement options had been made available to meet the needs of children with disabilities.

Throughout the remainder of the week of June 15, 1998, Larry Ringer and Ellen Safranek met with CDE officials and reviewed CDE documentation to determine, with specificity, what corrective actions CDE had implemented and what the impact of those actions had been. Also during that week, as noted above, OSEP conducted a joint interview with special education officials from CDE and San Francisco Unified School District to determine the precise status of that District's corrective actions, and to determine what, if any, action CDE had taken in response to repeated reports that the district had achieved little, if any, correction. In addition, OSEP met with special education officials from CDE and representatives from the McGeorge School of Law, which, under contract with CDE, conducts all special education due process hearings for the State.

On June 15, 1998, the final day of the OSEP visit, Larry Ringer, Ellen Safranek, and Ruth Ryder conducted an exit conference with Deputy Superintendent Richard Whitmore, Assistant Superintendent Henry Der, State Special Education Director Alice Parker, and the majority of the Special Education Division's managers and staff. In that meeting, OSEP staff reviewed their findings in detail and Dr. Parker expressed her commitment to take decisive action to correct the longstanding noncompliance.

The focus of OSEP's follow-up monitoring review and of this Report is the effectiveness of CDE in exercising its general supervisory authority to ensure the correction and nonrecurrence of long-standing noncompliance previously identified. As explained above, OSEP collected data from five local educational agencies in order to determine CDE's effectiveness in ensuring compliance in those agencies, and, where appropriate, OSEP has included in this Report data collected from those agencies to support or clarify the OSEP findings regarding the sufficiency and effectiveness of CDE's systems for ensuring compliance. The information that OSEP collected regarding each of those five agencies is summarized below.

OSEP'S FINDINGS IN LOS ANGELES UNIFIED SCHOOL DISTRICT

BACKGROUND

Because of Los Angeles Unified School District's large child count and geographic size, CDE conducts on-site monitoring visits to approximately one quarter of the District's schools each year. CDE has found substantial noncompliance in each of these annual visits, and required the District to submit corrective action plans to address the findings of noncompliance. Although CDE required that the District develop corrective action plans, assisted the District in the development of the plans, and monitored their implementation, as explained below, CDE's process has not resulted in correction of the noted noncompliance.

The Los Angeles Unified School District is under court order in the form of a consent decree in the case of *Chanda Smith, et al., v. Los Angeles Unified School District, et al.* The April 1996 consent decree requires the District to complete specified corrective actions. Despite the consent decree, CDE maintained responsibility for general supervision of Los Angeles Unified School District, and remained responsible for ensuring that the District comply with all Part B requirements set forth in the corrective action plan for OSEP's 1996 Report.

Los Angeles Unified School District administrative staff acknowledged that noncompliance persists, but stated that an important factor in the District's progress toward compliance has been the appointment of an Assistant Superintendent for Special Education, with clear authority over special education programs throughout the District which is equal to the authority of other Assistant Superintendents in the District. This position was mandated by the *Chanda Smith* consent decree, not by any corrective action required by CDE.

OSEP's 1996 California Monitoring Report noted that Los Angeles Unified School District was not able to provide accurate information regarding services provided to students with disabilities during periods of expulsion or the timeliness of reevaluations because the District had no effective information management system. The District agreed to develop an integrated data system that would enable the District's central administration to track, and ensure compliance with, Part B and State law timeline requirements.

District administrators provided OSEP with their June 1998 status report on the corrective action plan for OSEP's 1996 Report. The status report states that while there has been significant and progressive movement, the District has not yet come into compliance regarding many requirements and progress has been slower than anticipated.

PRIOR OSEP FINDINGS

As set forth in the 1988, 1992, and 1996 Reports, OSEP found that Los Angeles Unified School District was not complying with Part B requirements regarding the provision of a free and appropriate public education (especially in regard to related services), placement in the least restrictive environment, and evaluation and reevaluation.⁵ In the 1995 visit, OSEP also found noncompliance regarding the provision of needed transition services (those requirements were added to the Part B statute and regulations in 1990 and 1992, respectively). During the 1998 follow-up visit, OSEP found that noncompliance in all of these areas persisted.

OSEP'S 1998 FINDINGS

Free Appropriate Public Education--Occupational, Physical, and Speech Therapy--§§300.300, 300.16(b)(5), (7), and (13) Two Los Angeles Unified School District administrators with responsibility for related services, and school-level administrators and staff, informed OSEP that there remain a significant number of children with disabilities who are not receiving the occupational, physical, and speech therapy services that they need in order to benefit from special education. Indeed, CDE's status reports to OSEP show that the District's waiting list for related services has continued to grow. Those reports show that during the period of July - December 1997, there were 45 students waiting for occupational therapy services, 8 students waiting for physical therapy and 246 students waiting for speech therapy. For the period of January - June 1998, this increased to 110 students waiting for occupational therapy, 46 students waiting for physical therapy and 3450 students waiting for speech. District administrators explained that, although additional positions had been allocated for each of the therapies and the District has taken other steps to address the shortages, the District has been able to fill only some of those positions.

District administrators informed OSEP that, because of the continuing personnel shortages, some children are not receiving all of the services set forth in their IEPs. Administrators and staff at the school level informed OSEP that the IEPs of some students do not reflect all of the services that they need to benefit from special education, because of the personnel shortages. In addition to difficulties recruiting qualified personnel, the District has difficulty retaining personnel because there is no school space available for these professionals to do their job. District staff stated that the space needs for the speech therapists have been included in the projected long-term space allocations. Also, in one site that OSEP visited the speech therapist had been out on an extended sick leave and there was no coverage for her caseload. Those students were not receiving any speech services.

Free Appropriate Public Education--Psychological Counseling--§§300.300, 300.16(b)(8) The Los Angeles Unified School District administrator for psychological services informed OSEP

⁵ The District also entered into a voluntary compliance agreement with the Office for Civil Rights in November 1993 to "monitor the initial referral, annual review, and three year reassessment activities at each school site to assure that such procedures are conducted in a timely manner in conformance to District policy."

that some children with disabilities who need psychological counseling to benefit from special education are not receiving that service as a component of a free appropriate public education, if they are not determined eligible by the County Mental Health agency or if that agency decides to terminate service. Each of the two District schools that OSEP visited have counseling programs, but they also access services from the County Mental Health agency to serve some students with disabilities. Despite the fact that counseling services were included in their IEPs, the County Mental Health agency has terminated services to some students with disabilities, because their parents did not participate. The District did not implement procedures to ensure that these students were not denied services to which they were entitled pursuant to their IEPs when the County Mental Health agency unilaterally decided to terminate the services.

Placement in the Least Restrictive Environment--§§300.550(b)(2); 300.346(a)(3); Appendix C to 34 C.F.R. Part 300, No. 48 OSEP reviewed the IEPs of 38 students with disabilities in Los Angeles Unified School District, all of whom were being educated for at least a portion of the day in regular education classes; most of the IEPs reviewed indicated that students were being educated in regular education classes for lunch, recess, art, music, and science. However, none of the IEPs for these students included a statement of the supplementary aids and services or special education services to be provided in the regular education classroom. School administrators, special education teachers, and regular education teachers confirmed that the IEP team does not consider what, if any, supplementary aids and services or special education instruction in the regular education classroom, the student needs to be educated in the least restrictive environment, and does not, therefore, include any statement of such services in the IEP. Staff at all levels stated that the district was planning to revise its IEP format to require the inclusion of such information. Regular education teachers and special education teachers in both schools that OSEP visited reported that regular education teachers were not informed of the content or even of the existence of IEPs for students with disabilities in their classes.

Transition--Statement of Needed Transition Services--§§300.346(b), 300.18 None of the 21 IEPs of students, aged 16 or older, that OSEP reviewed included a statement of needed transition services that met the requirements of §§300.346(b) and 300.18. Although the IEPs included a page entitled "Individualized Transition Plan," neither this page nor the other pages of the IEPs included the required content.

For example, the Individualized Transition Plan page included in IEPs from a high school that OSEP visited had sections entitled "Agency involvement," "Long Range Plans for Education and Employment," "Long Range Plans for Living Arrangement," and "Long Range Plans for Leisure and Recreation." However, as demonstrated by the examples below, the IEPs did not include needed transition services to be provided to the student. In both of the IEPs represented in the examples below, the IEP states what the *student* likes to do and will do, but does not include any *transition services or linkages* to be provided *to the student*. The IEPs for these students does not include a statement of *needed transition services to be provided to the student* which included instruction, community experiences, and the development of employment and other post-school adult living objectives, and does not include a statement that the IEP team had determined that services are not needed in one or more of those areas and the basis upon which the determination was made, as required by §§300.346(b) and 300.18.

EXAMPLE 1

Agency involvement -- No information provided.

Long Range Plans for Education and Employment -- "[Student] doesn't know [his plans for postsecondary vocational training or competitive employment] but likes to work. Has been hired as a box boy at market-stacked groceries."

Long Range Plans for Living Arrangement -- "Family does things together -- go to church."

Long Range Plans for Leisure and Recreation -- "[Activities with families and friends --] to park, mall, play basketball, karate and church."

Additional transition-related IEP content --

Vocational education goal: "Show ability to select and plan occupational choices."

Objective: "List necessary occupational needs and explores major occupational interests."

EXAMPLE 2

Agency involvement -- "[student] is not receiving services from any agency."

Long Range Plans for Education and Employment -- "Plans to attend LA Trade Tech after graduation."

Long Range Plans for Living Arrangement -- "Her plans are to live independently -- hopes to marry and have a family."

Long Range Plans for Leisure and Recreation -- "Likes to dance and go to the movies."

Transition--Notice to Parents--§300.345(b)(2) The notice to the parents of the IEP meeting in the files that OSEP reviewed for students aged 16 or older did not inform the parents that a purpose of the meeting was to consider needed transition services and that the agency would invite the student.

Timely Reevaluation-§300.534(b) The District continues to report delays beyond the three-year timeline for reevaluation, but could not provide comprehensive information to OSEP about the extent of these delays, and had no reliable, consistent procedures in place to track reevaluation timelines. CDE's September 16, 1998 status report to OSEP shows that for the period of July-December 1997 there were 1340 students with overdue reevaluations. In both schools it visited, OSEP found examples of overdue reevaluations.

OSEP'S FINDINGS IN SAN DIEGO UNIFIED SCHOOL DISTRICT

BACKGROUND

A parent filed a Part B complaint with CDE in 1994, alleging serious violations in San Diego Unified School District regarding the provision of a free appropriate public education. CDE investigated the complaint and required the District to take corrective action. The parent again filed a complaint in 1996 with both CDE and the Department's Office for Civil Rights. On April 10, 1997, CDE and the Office for Civil Rights issued a joint Compliance Report, in which they found that:

The results of the investigation show that San Diego City Schools is not appropriately identifying, assessing, and providing a free appropriate public education to all pupils with exceptional needs, is not providing a full continuum of program options, is not ensuring that pupils have access to qualified staff and that staff members receive training in the requirements for educating pupils with disabilities or suspected disabilities, and does not provide a system to ensure that compliance with state and federal law is continued.

The Compliance Report included specifications for a corrective action plan, to be developed by the District and approved by both CDE and the Office for Civil Rights. One specification for corrective action was the employment of a monitor to report, on a monthly basis, to the District, CDE and the Office for Civil Rights regarding the District's progress toward compliance. CDE and the Office approved a corrective action plan for Civil Rights on August 1, 1997. On September 10, the District sought to revise the plan to eliminate compliance matters relating to Section 504 of the Rehabilitation Act of 1973; CDE and the Office for Civil Rights responded on September 23, 1997 that the District was to implement the plan as approved on August 1, 1997. The monitor began work in September 1997, and his contract continues through June 1999.

PRIOR OSEP FINDINGS

As set forth in the 1996 Report, OSEP found the following noncompliance in San Diego Unified School District: (a) placement decisions were not based on students' IEPs; (b) special education instruction in regular classes was not available as a placement option for all students with disabilities; (c) the only placement option available for students with moderate to severe mental retardation was a separate class program; (d) students identified as seriously emotionally disturbed served in a separate school and students served in the agency's separate school pre-school program were not provided adequate opportunities for integration with age appropriate peers, regardless of individual need; (e) students were not receiving psychological counseling services as a component of a free appropriate public education, even if such services were required to enable them to benefit from special education; (f) students with disabilities placed on long-term suspension or expelled received home study services, but these services were not based on an IEP; (g) notice to parents of students aged 16 or older of an IEP meeting did not inform the parents that a purpose of the meeting was to consider needed transition services and that the agency would invite the student, or identify any other agency that would be invited to send a representative to the meeting; and (h) the statement of needed transition services in the IEPs for some students, aged 16 or older, did not include all of the required content.

OSEP'S 1998 FINDINGS

Provision of a Free Appropriate Public Education to Students with Disabilities During Periods of Long-term Suspension or Expulsion--§300.300 Several district-level special education administrators explained that some children with disabilities who are long-term suspended or expelled continue to receive services either in an alternative school or in a homebound program. Currently about 40 students with disabilities are placed in the homebound program, in which they receive three hours per day of services, regardless of whether that is appropriate to meet the student's needs as determined by an IEP team. These administrators further explained that they recognize that this arrangement is not consistent with Part B requirements, and they are working to change it.

Provision of a Free Appropriate Public Education--Psychological Counseling--§§300.300, 300.16(b)(8) The special education department chair and an assistant principal at a high school, and a special education teacher and an aide serving children identified as having serious emotional disturbance, all informed OSEP that no psychological counseling services were available from the school district, regardless of student need; given their evaluation workload, school psychologists are *not* available to provide counseling services and the caseloads of guidance counselors are prohibitively large (approximately 500 students per counselor) to permit them to provide ongoing counseling services pursuant to a student's IEP. They further stated that if the IEP team determines that a child needs more than the limited available guidance counseling services in order to benefit from special education, the district will refer the child to the county mental health agency. The department chair and assistant principal noted that if the county mental health agency does not agree to provide the needed service, the school district will refer the parents to an outside agency to obtain the needed services, but the services will not be included in the student's IEP, and the school district is not accountable for ensuring that the student receives the needed services.

A school psychologist informed OSEP that, regardless of student need, given the evaluation workload of school psychologists, they are not available to provide psychological counseling services, and counseling services from a school psychologist are, therefore, never written into a student's IEP. She further explained that, with very few exceptions, even if a child with a disability requires psychological counseling services to benefit from special education, the only options are: (1) "generic" counseling services (i.e., the guidance counseling services available to all students from an "in-school" or "district" counselor), even if a student needs more intensive and individualized services;⁶ (2) referral to the county mental health agency (the county mental health agency may decline to provide any service, or may discontinue services, regardless of student need, if the agency finds the parents uncooperative); or (3) the parents finding a private resource for counseling services.

District-level special education administrators explained that the decision as to whether a child will receive psychological counseling as a component of a free appropriate public education is

⁶ The psychologist explained that these are generic services available to all students, and that they are not related services determined by the IEP team or included in a student's IEP.

made by the county mental health agency, rather than the IEP team. Regardless of student need, such services are written into a student's IEP only if the county mental health agency agrees to provide them. These administrators further informed OSEP that psychological counseling services needed as a component of a free appropriate public education by some students identified as emotionally disturbed are available to those students only if the students are placed at a separate school for children with disabilities or a non-public school.

Provision of a Free Appropriate Public Education--Occupational and Physical Therapy-- §§300.300, 300.16(b)(8) CDE's September 1998 status report to OSEP showed that in San Diego Unified School District, for the period of January-July 1998, 104 students were waiting for occupational therapy services specified in their IEPs, and 30 students were waiting for physical therapy.

Transition--Notice to Parents--§300.345(b)(2) OSEP found that this deficiency had not been fully corrected. OSEP reviewed the notice provided to parents of students, aged 16 or older, informing them of an upcoming IEP meeting, and found that the notice did not inform the parents that a purpose of the meeting was the consideration of transition services or that the student would be invited to participate in the meeting.

Transition--Statement of Needed Transition Services--§§300.346(b), 300.18 OSEP found that this deficiency had not been fully corrected, and that IEPs reviewed by OSEP did not include a statement of needed transition services, consistent with the requirements of §§300.346(b) and 300.18. Although each IEP included an "Individualized Transition Plan," the IEP stated what the *student* would do to explore options for post-high school life, but did not include any *transition services or linkages to be provided to the student*. The IEPs for these students did not include a statement of *needed transition services to be provided to the student* which included instruction, community experiences, and the development of employment and other post-school adult living objectives, and did not include a statement that the IEP team had determined that services are not needed in one or more of those areas and the basis upon which the determination was made.

Timely Reevaluation--§300.534(b) In a status report that CDE submitted to OSEP in September 1998, CDE reported that in San Diego Unified School District, for the period of January-June 1998, 791 reevaluations were overdue (exceeding the Part B three year timeline). A District report showed 265 overdue reevaluations for the month of April 1998.

OSEP'S FINDINGS REGARDING SAN FRANCISCO UNIFIED SCHOOL DISTRICT

BACKGROUND

OSEP visited San Francisco Unified School District during the 1995 on-site monitoring review of CDE. As set forth in OSEP's 1996 monitoring Report, OSEP found significant systemic noncompliance regarding: the provision of a free and appropriate public education, particularly with regard to the provision of needed related services; placement in the least restrictive environment; needed transition services; and the timeliness of reevaluations.

As part of OSEP's 1998 follow-up review, OSEP met in Sacramento with San Francisco Unified School District special education administrators and CDE administrators, to determine the status of the District's correction of noncompliance cited in OSEP's 1996 Report, and to determine

what, if any, actions CDE had taken to ensure such correction. (OSEP did not visit any schools in San Francisco Unified School District as part of the 1998 follow-up review, because the District ended its school year prior to the OSEP visit.)

As part of the corrective action plan that resulted from OSEP's 1995 monitoring visit and 1996 monitoring Report, CDE was required to ensure that each of the 12 public agencies in which OSEP found noncompliance corrected the noncompliance, and to provide progress reports to OSEP documenting such correction. The progress reports that CDE submitted to OSEP on November 25, 1997 and April 3, 1998 documented CDE's own determination that San Francisco Unified School District had corrected none of the findings. These CDE reports were more than 21 and 26 months, respectively, after CDE's receipt of OSEP February 1996 monitoring Report. These reports included CDE's determination that the District was "unwilling or unable" to correct the findings in the 1996 monitoring Report. However, CDE did not conduct its own on-site monitoring review of San Francisco Unified School District until May 1998. Further, although CDE threatened enforcement action, it took no such action to compel the District to come into compliance.⁷

CDE's May 1998 Comprehensive Compliance Review of San Francisco further confirmed CDE's ineffectiveness in ensuring that the District corrected longstanding noncompliance. CDE made 30 findings of noncompliance with special education requirements, of which 16 were repeat findings from the 1994 Comprehensive Compliance Review. Further, the summary of CDE's 1998 Comprehensive Compliance Review showed an increase from 21 special education findings of noncompliance in 1994 to 30 in 1998.

In San Francisco Unified School District's administrative structure, the Director of Special Education has no supervisory authority over building administrators, special education teachers, or related services personnel, and cannot issue memoranda to school personnel requiring action, or require school personnel to participate in training or otherwise engage in corrective action. Participation in training and implementation of corrective action can be mandated only by the Assistant Superintendents with authority over elementary and secondary education. The District's Director of Special Education explained to OSEP that, due to his lack of authority, he has been unable to ensure correction of the deficiencies found by OSEP and CDE.

The Agency has days which are designated each school year for staff training and professional development, but did not include special education training as part of the agenda for the 1997-98 school year. Although special education training was made available to personnel during the school year (often after school), attendance was very limited and often there were more trainers than training participants present. As a result, training efforts had very little effect. The District did include one day of special education training as part of the Agency training agenda for the

⁷ On March 31, 1998, CDE's State Director of Special Education issued a letter to San Francisco Unified School District's Superintendent warning the District that there was a potential for serious and systemic noncompliance with State and Federal law and that this jeopardized the District's continued receipt of Part B special education funds. To date, however, OSEP has received no documentation from CDE of any action to withhold funds or of any other sanction against the District.

1996-97 school year; although follow up days were to be designated for this training; there have been none. CDE conducted site training on the implementation of the Federal corrective action plan in San Francisco Unified School District. While the district provided three hours of special education training to the principals, it did not result in correction of the identified noncompliance.

During the interview with OSEP and CDE, the San Francisco Unified School District administrators stated that the Agency has no computer system in place to compile data, and acknowledged that the Agency could not ensure the accuracy of the child count data that it submits to CDE.

Free Appropriate Public Education--Provision of Services without Delay--§§300.300, 300.600 State standards require that evaluations be completed and services provided within 50 days after referral. San Francisco Unified School District administrators reported that the District does not meet its 50-day time line with respect to implementing the services necessary for individual students to receive a free and appropriate public education. This finding was verified by CDE's May 1998 Comprehensive Compliance Review report.

Free Appropriate Public Education--Occupational, Physical, and Speech Therapy--§§300.300, 300.16(b)(5), (7), and (13) In a status report that CDE submitted to OSEP in September 1998, CDE reported that in San Francisco Unified School District 10 students were waiting for occupational therapy, and 100 students were waiting for speech therapy.

Free Appropriate Public Education--Psychological Counseling--§§300.300, 300.16(b)(8) San Francisco Unified School District administrators informed OSEP that some children with disabilities who need psychological counseling to benefit from special education are not receiving that service as a component of a free appropriate public education. They explained that the provision of needed psychological counseling services can be dependent upon the availability of the County Mental Health agency to provide those services. Thus, if the County Mental Health agency is not available to provide counseling services to a child who needs them in order to benefit from special education, the child will be denied the needed services, and may be required to wait for the services until backlogs are reduced.

Statement of Needed Transition Services--§§300.346(b) and 300.18 San Francisco Unified School District administrators informed OSEP that the IEPs for some students with disabilities, aged 16 or older, did not include all of the required content regarding needed transition services. CDE found, as part of its May 1998 Comprehensive Compliance Review of the District, that, districtwide, "transition plans lacked completion and in some cases were absent in student folders." District special education administrators informed OSEP that the District has submitted revised transition forms to CDE for review and feedback on their compliance with the 1997 amendments to IDEA.

Transition--Notice to Parents--§300.345(b)(2) San Francisco Unified School District administrators informed OSEP that notice of an IEP meeting to parents of students with disabilities, aged 16 or older did not: (1) inform them that a purpose of the meeting was to consider needed transition services; (2) inform them that the District would invite the student; or (3) identify any other agency that the public agency would invite to send a representative to the meeting. As part of its May 1998 Comprehensive Compliance Review of San Francisco Unified

School District, CDE found districtwide that the notice of the IEP meeting sent to parents does not indicate whether transition is to be considered and does not include the student. District special education administrators informed OSEP that the District has submitted revised transition notices to CDE for review and feedback on their compliance with the 1997 amendments to IDEA.

Timely Reevaluation--§300.534(b) San Francisco Unified School District administrators reported that as of June 18, 1998, 774 reevaluations were overdue (beyond the three year timeline under Part B). On May 10, 1998, there were 622 reevaluations that were 1-11 months overdue and there were 273 evaluations that were more than a year overdue. Because of these delays in reevaluations, some students with disabilities are not receiving the appropriate education services. During the interview with San Francisco Unified School District administrators, CDE acknowledged that although CDE had been aware of these serious delays it had taken no action to compel compliance. In a status report that CDE submitted to OSEP in September 1998, CDE reported that in San Francisco Unified School District, for the period of January-June 1998, 800 reevaluations were overdue (exceeding the Part B three year timeline). CDE's May 1998 Comprehensive Compliance Review of the District also found a "backlog of students in need of 3 year reassessments."

OSEP'S FINDINGS IN MOUNT DIABLO UNIFIED SCHOOL DISTRICT

CDE monitored Mount Diablo Unified School District, including the District's special education program, as part of a Coordinated Compliance Review in December 1997, and made a number of special education findings of noncompliance, but did not find the systemic noncompliance that OSEP found in June 1998 regarding the provision of a free appropriate public education, placement in the least restrictive environment, or transition, as detailed below.

Provision of a Free Appropriate Public Education and Placement in the Least Restrictive Environment--Special Education and Supplementary Aids and Services to Support Success in Regular Education Classes--§§300.550(b)(2), 300.346(a)(3), Appendix C to 34 C.F.R. Part 300, No. 48 A public agency must include in the IEP for a child with a disability any special education services and supplementary aids and services which the child needs in order for the child's education to be achieved satisfactorily without removal from the regular education class. (See §§300.550(b)(2) and 300.346(a)(3), and Appendix C to 34 C.F.R. Part 300, No. 48.) OSEP interviewed four regular education teachers in Mount Diablo Unified School District, all of whom stated that students with disabilities who were placed in these teachers' regular education classes often did not receive the special education support they needed in order to succeed in their classes. These teachers explained that, although they were rarely included in IEP meetings, it was their understanding that the decision as to whether a special education aide was provided to support a student or students with disabilities in regular education classes was based upon the availability and schedule of the aides, rather than the needs of the students. They explained that if they informed special education staff that one or more students with disabilities in one of their regular education classes needed special education support in the classroom, a special education aide would be assigned to support the child(ren) in the class only if an aide was available.

OSEP reviewed the IEPs of six students with disabilities and found that, although all of them were being educated for at least a portion of the day in regular education classes, none of their IEPs included any supplementary aids and services or special education services to be provided in the regular classroom. Leadership personnel in the school, including four administrators who participate in IEP meetings, the special education department chair, and the central office special education consultant who provided support to this and other district schools, as well as several administrators at the district level, confirmed that--with the exception of students with severe disabilities who needed a full-time aide, it was not the practice of the District to include in the IEP for each student with a disability the supplementary aids and services and special education services the student needed in the regular education setting so that his or her education could be achieved satisfactorily without removal from the regular education class. They explained that the district was planning to revise its IEP form to require the inclusion of such information.

Provision of a Free Appropriate Public Education--Services to Students with Disabilities During Periods of Long-term Suspension or Expulsion--§300.300 Seven district-level administrators informed OSEP that although students with disabilities continue to receive special education services during periods of long-term suspension and expulsion, the services to be provided to a student during such period are not determined by an IEP team based upon the unique needs of the child. Rather, students from resource specialist program placements are placed in a county day program which operates for a full school day, while students from special day class placement (typically children with more severe disabilities) receive services in their home for only one hour per day, regardless of individual need.

Provision of a Free Appropriate Public Education--Psychological Counseling--§§300.300, 300.16(b)(8) Several administrators at both the school and the District level informed OSEP that while some students receive the counseling services that they need, other students are receiving less psychological, or other, counseling services than they need in order to benefit from special education.

Transition--Notice to Parents--§300.345(b)(2) In the files for each of the six students whose files OSEP reviewed in Mount Diablo Unified School District (all of whom were 16 years or older at the time of the most recent IEP meeting), OSEP reviewed the notice sent to the parents to inform them of the IEP meeting. The notice in all of those files did not inform the parents that a purpose of the meeting was the consideration of transition services. School and district-wide administrators explained that although a new notice form had been developed which included this information, the wrong iteration of the notice, omitting this information, had been sent to the printers and, therefore, schools were continuing to use a notice form which omitted this required information.

Transition--Statement of Needed Transition Services--§§300.346(b), 300.18 OSEP reviewed IEPs for students, aged 16 or older, that did not include a statement of needed transition services, consistent with the requirements of ' ' 300.346(b) and 300.18. Although each of the IEPs that OSEP reviewed included a page entitled, "Transition Services Plan," which asked the team to indicate *activities* in the categories of "Instruction, Community Experience, and Development of Employment and other Post-school Adult Living Objectives," and the "Responsible Person or Agency" for each activity. However, the *student* was indicated as the sole responsible person or agency for nearly all activities written on this page for in each student's IEP. The activities were the responsibilities of the *student*, and did not include any *services to be provided to the student*

to support his or her transition. Thus, the IEPs for these students did not include a statement of needed transition *services* which included instruction, community experiences, and the development of employment and other post-school adult living objectives, and did not include a statement that the IEP team had determined that services are not needed in one or more of those areas and the basis upon which the determination was made.

Timely Reevaluation--§300.534(b) A June 1998 report prepared by the Mount Diablo Unified School District showed that the reevaluation for 138 students with disabilities remained overdue (i.e., delayed beyond Part B's three year timeline). District administrators informed OSEP that they anticipated that they would begin the 1998-99 school year with 100-150 overdue reevaluations, and that the length of most delays was from one to three months.

OSEP'S FINDINGS IN LONG BEACH UNIFIED SCHOOL DISTRICT

CDE conducted a Comprehensive Compliance Review of Long Beach Unified School District in May 1998. CDE made several special education findings of noncompliance, but did not find the systemic noncompliance that OSEP found in June 1998 regarding the provision of psychological counseling and the provision of needed transition services, as described below. At the time of OSEP's visit, the Agency had not yet developed a plan of corrective action.

Free Appropriate Public Education--Psychological Counseling--§§300.300, 300.16(b)(8)
OSEP found that Long Beach Unified School District is not ensuring that students with disabilities who need psychological counseling in order to benefit from special education receive that service as a component of a free appropriate public education, as required by §§300.300, 300.8, and 300.16(b)(8). Although Long Beach Unified School District attempts to provide counseling services to students with disabilities in school or through a local regional center prior to referring a student to the County Mental Health agency, OSEP reviewed the files of 12 students identified as having severe emotional disturbance whose IEPs indicated that they were to receive counseling services from the County Mental Health agency. Long Beach Unified School District personnel informed OSEP, however, that the District did not know whether any of these 12 students were in fact receiving the counseling services set forth in their IEPs and needed by them to benefit from special education. District administrators and a District psychologist explained that services from the County Mental Health agency depended upon availability, and that there are often delays in the provision of services. The District had no procedure in place to ensure that the provision of counseling services were not delayed or denied because the County Mental Health agency delayed, or failed to provide, those services.

Transition--Notice to Parents--§300.345(b)(2) The notice inviting the parents to the IEP meeting did not inform the parents that the purpose of the meeting was to consider needed transition services and that the agency would invite the student, or identify other agencies that would be invited to send a representative to the meeting because that agency was likely to be responsible for providing or paying for transition services.

APPENDIX B -- CORRECTIVE ACTIONS

<i>FEDERAL REQUIREMENT</i>	<i>RESULTS/ACTIONS REQUIRED</i>
<p>GENERAL SUPERVISION</p> <p>CDE must ensure that all public agencies meet the requirements of Part B and standards of the State. §300.600(a)(1) and (a)(2)(ii)</p>	<p>CDE will develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report:</p> <ol style="list-style-type: none"> 1. CDE resolves any signed, written complaint alleging a Part B violation, and does not decline to resolve a complaint because it believes that a complainant’s allegations of Part B violations would be more appropriately resolved through a due process hearing; 2. CDE resolves all complaints within 60 calendar days, unless the timeline is extended because exceptional circumstances exist with respect to a particular complaint; 3. CDE ensures that public agencies promptly correct noncompliance identified in resolving complaints and comply with complaint decisions; 4. CDE’s monitoring system is effective in identifying noncompliance throughout the State regarding all Part B requirements; 5. CDE ensures that any noncompliance identified through monitoring is effectively and promptly corrected; and 6. CDE ensures that, when necessary because of uncorrected noncompliance by public agencies, including noncompliance identified through monitoring and complaint resolution, CDE takes prompt and effective enforcement action. <p>CDE’s plan must include steps and timelines to ensure that there are adequate numbers of personnel to implement CDE’s complaint resolution and monitoring systems, and that these personnel are provided adequate training, guidance, and supervision, so that CDE can ensure effective and timely identification and correction of noncompliance. The plan must also identify any limitations on, or barriers to, CDE’s implementation of necessary enforcement procedures, and include any changes necessary to enable CDE to take enforcement actions and the timelines for completing those steps. The plan must also include the procedures that CDE will implement to provide documentation to OSEP that these corrective actions have been effective.</p>

<i>FEDERAL REQUIREMENT</i>	<i>RESULTS/ACTIONS REQUIRED</i>
<p>PLACEMENT IN LEAST RESTRICTIVE ENVIRONMENT</p> <p>CDE must ensure that: The IEP for each child with a disability must include a statement of any supplementary aids and services that the child needs to ensure the child’s participation in the regular education program, and that children with disabilities are removed from the regular education environment only when the nature or severity of the disability is such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily. [§§300.550(b)(2) and 300.346(a)(3); see Appendix C to 34 C.F.R. Part 300, No. 48]</p>	<p>CDE must develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report:</p> <ol style="list-style-type: none"> 1. The IEP for each child with a disability must include a statement of any supplementary aids and services that the child needs to ensure the child’s participation in the regular education program; and 2. Children with disabilities are removed from the regular education environment only when the nature or severity of the disability is such that education in the regular education environment with the use of supplementary aids and services cannot be achieved satisfactorily. <p>The plan must include the procedures that CDE will implement to provide documentation to OSEP that these corrective actions have been effective.</p>
<p>STATEMENT OF NEEDED TRANSITION SERVICES</p> <p>CDE must ensure that:</p> <ol style="list-style-type: none"> 1. Beginning no later than age 16 (and at a younger age, if determined appropriate), each student’s IEP includes a statement of the needed transition services as defined in §300.18. [§300.346(b)] 	<p>CDE must develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report:</p> <ol style="list-style-type: none"> 1. Beginning no later than age 16 (and at a younger age, if determined appropriate), each students IEP includes a statement of the needed transition services as defined in §300.18; and 2. If a purpose of an IEP meeting is the consideration of needed transition services, the notice to the parents of the meeting: (a) indicates that purpose; (b) informs the parents that the agency will invite the student; and (c) identifies any other agency that the public agency will invite to send a representative. <p>The plan must include the procedures that CDE will implement to provide documentation to OSEP that these corrective actions have been effective.</p>

<i>FEDERAL REQUIREMENT</i>	<i>RESULTS/ACTIONS REQUIRED</i>
<p>2. If a purpose of an IEP meeting is the consideration of needed transition services, the notice to the parents of the meeting indicates that purpose, states that the agency will invite the student, and identifies any other agency that the public agency will invite to send a representative. [§300.345(b)]</p>	
<p>FREE APPROPRIATE PUBLIC EDUCATION</p> <p>CDE must ensure that:</p> <ol style="list-style-type: none"> 1. Children with disabilities who need psychological counseling to benefit from special education receive that service as a component of a free appropriate public education; 2. Children with disabilities who need occupational, physical, and/or speech therapy to benefit from special education receive those services as a component of a free appropriate public education and as specified in their IEPs; and 3. All children with disabilities, including children who are long-term suspended or expelled, receive a free appropriate public education, as determined by an 	<p>CDE must develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report:</p> <ol style="list-style-type: none"> 1. Children with disabilities who need psychological counseling to benefit from special education receive that service as a component of a free appropriate public education; 2. Children with disabilities who need occupational, physical, and/or speech therapy to benefit from special education receive those services as a component of a free appropriate public education and as specified in their IEPs; and 3. All children with disabilities, including children who are long-term suspended or expelled, receive a free appropriate public education, as determined by an IEP team and specified in their IEPs. The plan must include the procedures that CDE will implement to provide documentation to OSEP that these corrective actions have been effective.

<i>FEDERAL REQUIREMENT</i>	<i>RESULTS/ACTIONS REQUIRED</i>
<p>IEP team and specified in their IEPs.</p> <p>[§§300.300, 300.8 and 300.16]</p>	
<p>REEVALUATION</p> <p>CDE must ensure that:</p> <p>A reevaluation of each child with a disability is conducted if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every 3 years. [§300.534(b). See also 20 U.S.C. §1414(a)(2).]</p>	<p>CDE must develop and implement a plan, with detailed steps and timelines, that will ensure that, within one year from the date of this Report, a reevaluation of each child with a disability is conducted if conditions warrant a reevaluation or if the child's parent or teacher requests a reevaluation, but at least once every three years.</p> <p>The plan must include the procedures that CDE will implement to provide documentation to OSEP that these corrective actions have been effective.</p>