



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

SEP 8 1997

Honorable Roland Taimanglo
Director of Education
Department of Education
P.O. Box DE
Agana, Guam 96910

Dear Mr. Taimanglo:

During the week of March 7, 1997, the Office of Special Education Programs (OSEP), United States Department of Education, conducted an on-site review of the Guam Department of Education's (GDE) implementation of Part B of the Individuals with Disabilities Education Act (Part B). The purpose of the review was to determine whether GDE is meeting its responsibility to ensure that its educational programs for children with disabilities are administered in a manner consistent with the requirements of Part B. Enclosure A to this letter describes OSEP's monitoring methodology and corrective action procedures; Enclosure B lists several commendable initiatives; and our findings and corrective actions are in Enclosure C.

Because OSEP conducted the on-site review prior to the June 4, 1997 enactment of the Individuals with Disabilities Education Act Amendments of 1997, OSEP's compliance determinations and the findings in this report are based upon the requirements of Part B as in effect prior to the enactment of those Amendments. OSEP will work with GDE to ensure that all corrective actions, in addition to correcting all deficiencies, are consistent with the requirements of Part B as in effect at the time that the corrective actions are implemented.

GDE implemented a number of corrective actions to address the findings in OSEP's February 1992 monitoring report. As part of the current review, OSEP found no deficiencies in: timelines of annual meetings to review individualized education programs (IEPs), content of IEPs, and the explanation of procedural safeguards provided to parents. It appears, therefore, that GDE's corrective actions in these areas were effective. In addition, GDE has implemented recruitment activities to address the personnel shortages affecting the provision of a free appropriate public education to students with disabilities, and provided opportunities for staff to receive training in appropriate procedures for the provision of a free appropriate public education in the least restrictive environment. However, despite some improvement, problems still remain in obtaining and maintaining sufficient numbers of qualified staff, and further

refinement is needed in procedures used to ensure that removal of children from the regular education environment occurs only when education in regular classes with supplementary aids and services cannot be achieved satisfactorily. Remaining deficiencies can be attributed, in part, to GDE's difficulties in effectively implementing the procedures that it developed to ensure correction of deficiencies that it identified through its revised monitoring system.

As addressed in Enclosure B, we also found that GDE has taken a number of noteworthy initiatives to improve educational services to students with disabilities. Among these initiatives is GDE's exemplary support of students in transitioning from school to post-school activities, the dedication and high standards of GDE special education and related services staff, and the parent training and coordination initiatives provided by GDE staff.

OSEP's monitoring places a strong emphasis on those requirements most closely associated with positive results for students with disabilities. Our monitoring revealed that GDE did not always ensure: the provision of special education and related services that students require to benefit from special education; timely initial evaluation and placement; services in the least restrictive environment; prior written notice to parents which meets Part B content requirements; and the development and implementation of procedures for the resolution of complaints. OSEP also found that, although GDE refined and improved monitoring procedures following OSEP's 1992 monitoring report, the procedures for correction of deficiencies have not been effectively implemented.

Dr. Helen Eano discussed the team's preliminary findings with Dr. Aline Yamashita, Ms. Nieves Flores and Mr. Vincent Leon Guerrero as well as other GDE special education central office staff, in an exit conference at the end of the week. At that time, GDE was invited to provide any additional information that it wanted OSEP to consider in developing the monitoring report. GDE submitted additional information which was reviewed in the development of this Report.

The findings in the Report are final, unless -- within 15 days from the date on which GDE receives this Report -- GDE concludes that evidence of noncompliance is significantly inaccurate and that one or more findings is incorrect, and requests reconsideration of such finding(s). Any request for reconsideration must specify the finding(s) for which GDE requests reconsideration, and the factual and/or legal basis or bases for the request. It must also include documentation to support the request. OSEP will review any GDE request for reconsideration and, if appropriate, issue a letter of response informing GDE of any revision to the findings. Requests for reconsideration of a finding will not delay Corrective Action

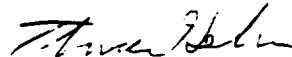
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Plan development and implementation timelines for findings not part of the reconsideration request.

I thank you for the assistance and cooperation that Dr. Yamashita, Ms. Flores and Mr. Leon Guerrero and their staff provided during our review. Throughout the course of the monitoring process, they were very responsive in providing information that enabled OSEP staff to acquire an understanding of GDE's various systems to implement Part B.

Our staff is available to provide technical assistance during any phase of the development and implementation of GDE's corrective actions. Please let me know if we can be of assistance. Prior to the enactment of the Individuals with Disabilities Education Act (IDEA), and its predecessor the Education of All Handicapped Children Act, one million children with disabilities were excluded from school altogether, and another 3.5 million were not receiving appropriate programs within the public schools. The enactment of the IDEA, and the joint actions of schools, school districts, State educational agencies and the Department, have now made it possible for more than 5.4 million children with disabilities to participate in our country's public educational programs. Thank you for your continuing efforts to improve educational services and results for children and youth with disabilities in Guam.

Sincerely,



Thomas Hehir
Director
Office of Special Education
Programs

Enclosures

cc: Dr. Aline Yamashita
Vincent Leon Guerrero
Nieves Flores

ENCLOSURE A

OSEP's Monitoring Methodology

Pre-site Document Review

As in all State Educational Agencies, OSEP used a multifaceted process to review compliance in GDE. In addition to on-site visits, this process included: review and approval of GDE's Part B State plan, which sets out GDE's statutes and regulations, policies and procedures, and interagency agreements that impact the provision of services to students with disabilities; and review of complaints, requests for secretarial review, other correspondence, and telephone calls that OSEP may have received regarding GDE's compliance.

Involvement of Parents and Advocates

On March 7, 1997, OSEP held a parent focus group to which all parents of children with disabilities were invited. OSEP also held an outreach meeting with a group comprised of members of the Guam Advisory Panel, the Guam Developmental Disabilities Council, Guam's protection and advocacy agency, and other interested parties and advocates. The purpose of the parent focus group and the outreach meeting was to solicit comments from parents, advocacy groups, administrators and other interested citizens regarding their perceptions of GDE's compliance with Part B.

Selection of Monitoring Issues and Schools to Visit

OSEP has identified core requirements that are most closely related to learner results, and focuses its compliance review on those core requirements (e.g., transition from school to work and other post-school activities, placement in least restrictive environment, parents' participation in decision making, etc.). OSEP also focuses its review on additional requirements. The information that OSEP obtained from its parent focus group and outreach meeting, interviews with GDE officials, and review of GDE and local documentation, assisted OSEP in identifying the issues faced by consumers and others interested in special education in Guam, and in selecting monitoring issues to be emphasized while on-site.

Onsite Data Collection and Findings

The OSEP team consisted of Dr. Helen Eano, who visited Guam, in cooperation with Carolyn Smith, Associate Division Director, who coordinated efforts by teleconference from Washington, D.C. Dr. Eano interviewed special education central office staff members responsible for policy development, program operation, monitoring, transition services, infants and toddlers programs, preschool programs, psychological services, and parent

coordination, as well as GDE administrative staff responsible for vocational education and direction of all school programs. In addition, she visited one elementary and one high school where she reviewed student records and interviewed two building administrators, two special education teachers, five related services providers, a job placement coordinator, a vocational teacher, and a regular classroom teacher.

In order to reinforce that the findings in Enclosure C focus on the effectiveness of GDE systems for ensuring compliance rather than compliance in any particular school, OSEP has not used the name of any school within Enclosure C. Instead, OSEP has identified schools in Enclosure C only with designations such as "School A." The schools OSEP visited or reviewed and the designation that OSEP has used in Enclosure C to identify each of those agencies are set forth below:

Finegayan Elementary School	School A
George Washington High School	School B

Unless otherwise indicated, all regulatory references in Enclosure C are to 34 CFR Part 300.

Corrective Action Procedures

In order to support the development of a mutually agreeable corrective action plan that will correct the findings in Enclosure C and improve results for students with disabilities, OSEP proposes that GDE representatives discuss with OSEP staff, in a meeting or telephone conference, the findings and the most effective methods for ensuring compliance and improving programs for children with disabilities in GDE, and to agree upon specific corrective actions. We also invite a representative from GDE's Special Education Advisory Panel to participate in that discussion. GDE's corrective action plan must be developed within 45 days of receipt of this letter. Should we fail to reach agreement within this 45-day period, OSEP will be obliged to develop the corrective action plan.

Enclosure C outlines the general corrective actions that GDE must take to begin immediate correction of the findings in the Enclosure, as well as guidelines for the more specific actions that GDE must take to ensure correction of each of the specific findings in Enclosure C.

ENCLOSURE B - COMMENDABLE INITIATIVES

Parent Participation -Two full-time parent coordinators, who also recruit and train surrogate parents, assist parents of special education students by providing outreach services. These services include assistance in coordinating with other agencies, interpreting services, and other services needed to enhance parent participation in IEP development. The parent coordinators also work with other GDE special education staff and parent advocacy agencies to provide training to equip parents to fully participate in determining the appropriate services for their children and ensuring that their rights are protected.

Transitioning Students from School to Post-School Activities - Students are prepared for community living and employment through an individualized curriculum developed by GDE staff, which includes on the job training and functional living skills in post-secondary settings which maximize integration with nondisabled individuals. Students enter employment, education, or independent living upon graduation from the program. GDE ensures that all students receive vocational assessments in the eighth grade, and have statements of needed transition services in their IEPs beginning in the ninth grade. GDE has strong interagency agreements with Vocational Rehabilitation and with Guam Community College. (The Community College provides most of the regular vocational course work.) Special education students have complete access to regular vocational programs with support by special education teachers through the IEP process. GDE has a strong program of community based education, beginning at the elementary level and continuing through high school graduation.

ENCLOSURE C -- FINDINGS AND CORRECTIVE ACTIONS

GENERAL CORRECTIVE ACTIONS

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

1. GDE must develop a memorandum informing all schools of OSEP's findings and directing them to determine whether they have complied with Part B requirements, as clarified by OSEP's report. The memorandum must further direct these schools to discontinue any noncompliant practices and implement procedures that are consistent with Part B. GDE must submit this memorandum to OSEP within 30 days of date of this letter. Within 15 days of OSEP's approval of the memorandum, GDE must disseminate it to all schools throughout the Territory providing special education or related services to children with disabilities.

2. GDE must also disseminate a memorandum to those schools in which OSEP found deficient practices, as identified in this enclosure, requiring those agencies to immediately discontinue the deficient practice(s) and submit documentation to GDE that the changes necessary to comply with Part B requirements have been implemented. This memorandum must be submitted to OSEP within thirty days of the issuance of this letter. Within 15 days of OSEP's approval, GDE must issue the memorandum to those schools in which OSEP found deficient practices. GDE must send to OSEP verification that all corrective actions have been completed by these schools.

OSEP FINDINGS	EXPECTED RESULTS/REQUIRED ACTIONS
<p><u>I. PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION THAT MEETS THE STANDARDS OF THE STATE EDUCATIONAL AGENCY AND PART B (§§300.300, 300.16, AND 300.8)</u></p> <p>BACKGROUND: During OSEP's 1992 monitoring activity, OSEP determined that special education and related services were not provided to students based on their individual needs and consistent with an IEP, due to lack of adequate personnel, and in some instances inaccessible classrooms. OSEP also determined that GDE had not effectively monitored its schools regarding this requirement. GDE responded by increasing recruiting efforts, training staff and modifying monitoring procedures in an attempt to address these issues. To better target recruiting for staff positions and contracted time, GDE developed a system for documenting staffing needs based upon IEP determinations of service needs, which has resulted in better documentation of specific related services for which additional provider time is needed.</p> <p>GDE monitored School A in March 1995, and approved the corrective action in April 1996. GDE monitored School B in November 1993, and approved their corrective actions in September 1994. GDE did not identify deficiencies regarding the provision of related services in School A, but did find in School B, that some IEPs did not include a specific statement of the amount of related services to be provided, or goals and objectives for those services.</p> <p>In Schools A and B, OSEP interviewed special education teachers, building administrators, and related services providers, and reviewed student records. OSEP determined from staff and student record review that:</p> <ul style="list-style-type: none"> As a related service, psychological counseling is not based on an IEP, and not provided without cost to parents; Extended school year services are not considered or provided based on individual needs of the student; Medical services for diagnostic or evaluative purposes are not available as a related service, and therefore not provided at public expense; and Modifications needed by students to progress satisfactorily in the regular classroom are not determined by the IEP committee nor provided consistently. 	

OSEP FINDINGS	EXPECTED RESULTS/REQUIRED ACTIONS
<p><u>PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION (CONTINUED)</u></p> <p><u>FINDING 1:</u> Provision of psychological counseling as a related service (§§300.300, 300.8, and 300.16)</p> <p>GDE did not consistently meet its responsibility to ensure that each student with disability receive special education and related services that are required to meet the unique needs of the student. Specifically, OSEP found that psychological counseling was not made available to students in need of those services, without cost to the parent.</p> <p>When students require counseling by a psychologist as a related service, this is not typically considered and provided through the IEP process, unless the child is served in one of the school programs operated by GDE for emotionally disturbed students. Related service providers and other IEP committee members in Schools A and B told OSEP that parents of children not served in the regional programs are expected to take their children to counseling outside of the school on their own because GDE does not contract with private providers. GDE central office staff, however, stated to OSEP that GDE will contract with private providers for these services when they are needed, but acknowledged that they had not provided sufficient training and information to IEP team members, school psychologists, and other related services personnel to ensure that they are aware that this service is made available by GDE for students who require it as a related service.</p>	<p>GDE must demonstrate that it has established and implemented procedures to ensure that IEP committees, when appropriate, consider and provide psychological counseling to all children with disabilities who require this related service in order to benefit from special education. GDE must ensure that this service is provided in conformity with an IEP, without charge to the parent, and that all related services personnel and other IEP committee members are aware of the availability of this service.</p>
<p><u>FINDING 2:</u> Consideration and provision of extended school year services.</p> <p>In Schools A and B, special education teachers and building administrators who participate on IEP committees stated that IEP committees do not consider extended school year services for students who are experiencing regression, unless those students are experiencing regression due to health impairments, participating in programs to develop independent living skills, or have severe disabilities. These IEP committee members stated that students with academic needs, such as students with learning disabilities who regress in academic skills, are not considered for extended school year services, regardless of their need for extended school year services as a component of a free appropriate public education. These students are more likely to be referred to the regular summer school, without the provision of transportation by GDE, and without services directed by the IEP. An IEP team member at School A described a situation in which the IEP committee recommended a child with academic difficulties for extended school year services, and the provision of these services was rejected at the central office level. OSEP reviewed the form utilized by IEP teams for determination of need for extended school year services which can be found in <u>The Handbook of Special Education Procedural Guidelines</u>. The first two questions on this form relate to the student characteristics to be considered for this determination. The first question addresses student health impairments; the second question addresses whether the student's IEP includes goals critical for development of self-sufficiency, and gives the following examples to be checked: self-care, communication, social skills, mobility, and other. The central office staff interviewed by OSEP stated that it was their intent that extended school year services be considered for any student, but acknowledged that their written procedures suggest that an assessment of a student's needs for extended school year services be limited to students with certain disabilities or in certain programs. GDE central staff also recognized the need for clarification and inservice training of IEP team members.</p>	<p>GDE must develop and implement procedures to ensure that extended school year services are considered and provided for all children with disabilities who require these services as part of a free appropriate public education.</p>

OSEP FINDINGS	EXPECTED RESULTS/REQUIRED ACTIONS
<p><u>PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION (CONTINUED)</u></p> <p><u>FINDING 3:</u> Medical evaluations provided at public expense, under public supervision and direction. [Medical services for diagnostic or evaluation purposes are described as a related service at §300.16(a) and (b)(4), and therefore must be appropriately provided without cost to the parent.]</p> <p>OSEP learned from special education teachers and related services providers involved in the identification and evaluation of students, and parent focus meetings that it is GDE's policy that when medical evaluations, such as visual evaluations or neurological evaluations, are required in order to determine whether a child is eligible for Part B services, it is the parent's responsibility to obtain these evaluations. OSEP determined from GDE staff and parents that this responsibility included making the appointment, providing transportation, and if the costs of the evaluations are not covered under the parent's health care program, paying for them. It was further stated that evaluations were often delayed because of the burden placed on the parent, and because of GDE's policy to discontinue all other activity on the referral, evaluation, and eligibility determination until these medical evaluations are completed. OSEP learned from the parent focus meetings that some parents did not have a means of transportation or material resources to readily obtain these evaluations, and the completion of the evaluation process and initiation of services were often delayed for several months as a result.</p>	<p>GDE must develop and implement procedures to ensure that medical evaluations, when needed to determine a child's eligibility for Part B services, are provided without charge to the parent.</p>
<p><u>FINDING 4:</u> GDE did not always meet its responsibility under §300.300 to ensure that modifications needed by students to progress satisfactorily in the regular classroom are determined by the IEP committee and provided consistently (See also Appendix C to 34 CFR Part 300, response to question 48.).</p> <p>OSEP was informed by special education teachers at School A and School B that modifications needed by the student in the regular classroom were not determined by the IEP committee and included in the student's IEP. Two of the three students whose files OSEP reviewed at School A were placed in a resource room for three periods a day for reading, language arts and mathematics. The third student was in regular education all day with speech and physical therapy services. The teacher stated that all three students required modifications in the regular class, but none of the IEPs included modifications. In all three files reviewed by OSEP at School B, students were placed in unspecified electives at the IEP committee meeting. None of these students IEPs included modifications. OSEP was told that since it was not determined at the IEP meetings which elective subjects the students would be enrolled in, it could not be determined whether the students would require modifications in those subjects, and if so, what the modifications would be.</p>	<p>GDE must demonstrate that it has procedures to ensure that modifications needed by special education students in the regular classroom are determined by the IEP committee, written on the IEP, and provided in accordance with the IEP.</p>

OSEP FINDINGS	EXPECTED RESULTS/REQUIRED ACTIONS
<p><u>PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT (§§300.550, 300.551, and 300.552(b))</u></p> <p>BACKGROUND: In its 1992 monitoring report, OSEP found regular education placement with supplementary aids and services and resource room placement were not available as continuum options for high school students identified as emotionally disturbed. GDE conducted training and technical assistance activities with schools, and modified monitoring procedures to address this deficiency.</p> <p>Subsequent to OSEP's 1992 monitoring report, GDE conducted compliance monitoring of Schools A and B. GDE's compliance review of School A was conducted in March 1995 and closed in April 1996. GDE's review of School B was conducted in November 1993 and closed in September 1994. Although GDE made no findings regarding the availability of continuum options in School A, GDE found that for some students placed in regular education, collaborative support, such as consultation from the special education teacher, was not provided. In addition, not all students are provided time in the regular classroom consistent with that indicated on the students' IEP. In School B, GDE found that students in regular classes were not receiving special education specific to their unique needs. Specifically, GDE found students with disabilities "...doing their own thing" while regular education students were being instructed by the regular education teacher. GDE's compliance reviews found that placement alternatives were limited for students as a result of concern for safety, shortage of instructional aides, availability of service providers, and inability of instructors to adapt their instructional level to meet IEP requirements.</p> <p>FINDING: GDE did not always meet its responsibility under §300.550(a) to ensure that public agencies remove a student from the regular educational environment only when the nature and severity of the student's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily as required by §300.550(b)(2), and that the various alternative placements included under §300.551 are available and considered to the extent necessary to implement the student's IEP, as required by §300.552 (b).</p> <p>OSEP found that special education in a full-time regular education environment is not considered as a placement option for all students with disabilities in the schools visited by OSEP. Special education teachers at the elementary and high school level indicated that full-time placement in regular education classes with supplementary aids and services was not routinely considered. Teachers and administrators who participate in IEP meetings reported that the student must demonstrate progress in a special education class before the IEP committee would consider a regular education placement or consider making modifications to the regular education environment. At the elementary level, the child was usually placed in a resource room for reading, mathematics and language arts, with some informal integration into the regular classroom. Such participation was not included in the IEP and was provided at the discretion of the regular classroom teacher. At the high school level, if a student was graduating and had limited exposure to the regular education curriculum, placement in regular education for academics, even with supplementary aids and services would not be considered because the student might fail. In all three files reviewed by OSEP at School B, the students were in a resource room for three periods a day or more. IEP members stated that placement in regular education for academics had not been considered for any of the three students.</p> <p>In addition, for those students in Schools A and B who were placed in regular classrooms, modifications to enable them to progress satisfactorily were not determined by the IEP committee, or provided consistently. Please refer to finding 4 of Section I of this Report for further discussion of this finding.</p>	<p>GDE must develop and implement procedures to ensure that schools do not remove a student from the regular educational environment unless the nature and severity of the student's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, as required by §300.550(b)(2), and that the various alternative placements included under §300.551 are available and considered to the extent necessary to implement the student's IEP, as required by §300.552(b).</p>

OSEP FINDINGS

EXPECTED RESULTS/REQUIRED ACTIONS

III. GENERAL SUPERVISION: THE TERRITORIAL EDUCATION AGENCY IS RESPONSIBLE FOR ENSURING THAT THE REQUIREMENTS OF THIS PART ARE CARRIED OUT (§300.600(a)). SEE ALSO 20 U.S.C. §1232d(b)(3).

BACKGROUND: In its 1992 monitoring report OSEP found that GDE's procedures for monitoring compliance with Federal requirements did not adequately address the requirement that services were to be provided in the least restrictive environment. OSEP further determined that GDE's method for correction of identified deficiencies was insufficient. Uncorrected deficiencies, identified by GDE in their monitoring, and, subsequently by OSEP in the 1992 visit, included meetings to review IEPs, components of IEPs, continuum available, three-year reevaluations conducted, and provision of special education and related services accordance with IEPs. In response to the 1992 monitoring report, GDE revised its procedures to provide a method to identify deficiencies in the provision of services in the least restrictive environment, and added procedures to address the correction of identified deficiencies.

GDE central office staff responsible for monitoring, described the current monitoring procedures to OSEP, and provided the Monitoring and Technical Assistance Manual. The staff explained that a comprehensive monitoring of each school is conducted every three years. In addition, focused monitoring visits are conducted in the case of special problems at a particular site. The staff explained that the purpose of their monitoring efforts is to determine whether special education procedures are being implemented. Student files are selected from a variety of categories of disabilities, with a focus on those files that have overdue annual reviews. All school staff involved in providing special education services are interviewed, including school guidance counselors and paraprofessionals. School administrators and a sampling of regular classroom teachers, secondary students and parents also are interviewed. Reports are issued within 15 days of the visit and signed by the elementary or secondary associate superintendent who directly supervises the principal. The principal is to develop a corrective action plan. If the special education central office staff does not accept the corrective action plan, another letter from the appropriate associate superintendent is sent to the school. After an acceptable corrective action plan has been submitted by the school, a follow-up visit by the monitor is made within 45 days to verify that the corrective actions have taken place. If the deficiencies have been corrected, a letter of commendation and/or approval is sent to the principal by the appropriate associate superintendent.

GDE has developed a procedure to attempt to enforce compliance in the event that schools do not voluntarily implement corrective actions. If the deficiencies have not been corrected, a letter of concern outlining actions that will be taken in the case of continuing non-compliance and/or lack of response is sent to the school. If the principal does not respond within 15 days, a letter of reprimand from the appropriate associate superintendent is placed in the principal's personnel file. If noncompliance continues, the associate superintendent notifies the director of education to recommend adverse action, as provided in GDE board policy, and the director implements these procedures.

FINDING: OSEP finds that GDE has not fully ensured, consistent with §300.600 (a), that each program or school in Guam meets the requirements of Part B and the educational standards of GDE; specifically, GDE has not ensured:

- Identification of deficiencies; and
- Correction of identified deficiencies to ensure compliance.

OSEP FINDINGS

EXPECTED RESULTS/REQUIRED ACTIONS

GENERAL SUPERVISION (CONTINUED)

Identification of deficiencies

GDE's IDEA Monitoring Standards Checklist, in GDE's Monitoring and Technical Assistance Manual includes a requirement that the school adopt a formal policy affirming the rights of all children to a free appropriate public education, but no further standards or probes are included to determine whether special education and related services are provided without cost to the parent, under the direction and supervision of the agency, and in conformity with an IEP. (See §§300.300 and 300.8.) Deficiencies in the provision of a free appropriate public education identified by OSEP in its monitoring of agencies A and B, which had not been identified in the GDE monitoring of those agencies included the following:

- §300.300 Psychological counseling not provided by the agency when needed as a related service;
- §300.300 Extended school year not considered and provided as needed for all categories of children with disabilities; and
- §300.300 Medical evaluations not provided at public expense, under public direction and supervision, without cost to the parent.

GDE's IDEA Monitoring Standards Checklist does include a section to determine placement in the least restrictive environment, including the availability of a continuum of placement options to meet the needs of each student, and special education services to support regular class placement. However, examples of services to support regular class placement that were included in the monitoring standard (consulting services, resource room, itinerant instruction, etc.) do not specify the availability of supplementary aids and services in regular class placement. Although GDE had identified the absence of a continuum of placement options for students in life skills classes in School A, the omission in its monitoring standard of the availability of supplementary aids and services may be the reason it did not identify the systemic deficiencies in this regard which were identified by OSEP in its monitoring of Schools A and B:

- §300.550(b)(2) Removal from the regular environment without determining whether education can be achieved in the regular environment with supplementary aids and services; and
- §300.551 Available continuum of alternative placements including regular class placement with supplementary aids and services.

GDE must implement a system to ensure that all educational programs for children with disabilities are operated in conformity with Part B and the educational standards of GDE.

GDE must implement a method for ensuring that all deficiencies are identified, and that all identified deficiencies are corrected.

OSEP FINDINGS

EXPECTED RESULTS/REQUIRED ACTIONS

GENERAL SUPERVISION (CONTINUED)

GDE's IDEA Monitoring Standards Checklist does include a standard to determine whether the parents receive a prior written notice whenever the school proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child. The standard omits the requirement for a prior written notice to the parent when the agency proposes or refuses to change the provision of a free appropriate public education. Although the standard addresses the refusal to initiate or change the evaluation of the child, this deficiency was not included in GDE's monitoring reports of Schools A and B. GDE central office personnel explained to OSEP that it had not been the practice in the system to provide this notice when a parent requested an evaluation and the request was denied because the interventions by the Child Study Team were determined to be effective. GDE's monitoring standards regarding the content of prior written notice also were incomplete because only the content of the written notice to be given prior to evaluation was included in the standards, and for the content of that notice, the requirement that the parent be given a full explanation of all procedural safeguards also was omitted. No content requirements were detailed in the checklist for the other conditions described in §300.504(a). The following deficiencies which were not identified in GDE's monitoring of Schools A and B, were identified in OSEP monitoring:

- §300.504(b) Prior written notice not provided when agency refuses to evaluate a child; and
- §300.505(a) Prior written notice does not include a description of the options considered and the reasons rejected.

OSEP FINDINGS	EXPECTED RESULTS/REQUIRED ACTIONS
<p><u>GENERAL SUPERVISION (CONTINUED)</u></p> <p><u>Correction of identified deficiencies to ensure compliance</u></p> <p>GDE special education central office staff, responsible for monitoring and for ensuring compliance, explained to OSEP that the effective implementation of corrective actions varied according to the interest and cooperation of the school principal and the degree of enforcement imposed by different associate superintendents. GDE staff also acknowledged that their own follow-up, which generated the actions by the associate superintendent, was not consistent in promptness or regularity. GDE informed OSEP that they were in the process of reallocating the duties of central office staff members so that more time could be allocated to the monitoring process.</p> <p>OSEP also noted that GDE's monitoring for Schools A and B identified deficiencies in the provision of services in the least restrictive environment; these deficiencies were not corrected, and were identified in OSEP's monitoring of those agencies.</p> <p>OSEP found that GDE has not exercised authority to implement its own corrective actions. GDE special education central office staff, responsible for monitoring and for ensuring compliance, explained to OSEP that the effective implementation of corrective actions was not always successfully completed for the following reasons:</p> <p style="padding-left: 40px;">Attendance at special education training sessions was not mandated for school-based special education personnel and building administrators; and</p> <p style="padding-left: 40px;">Completion and enforcement of corrective actions varied according to the interest and cooperation of the principal involved, and the degree of enforcement imposed by different associate superintendents.</p> <p>GDE central office special education staff also acknowledged that their own follow-up, which generated the actions by the associate superintendent, was not consistent in promptness or regularity, due to staffing shortfalls in the central office. GDE informed OSEP that they were in the process of reallocating the duties of central office staff members so that more time could be allocated to the monitoring process.</p>	

OSEP FINDINGS

EXPECTED RESULTS/REQUIRED ACTIONS

PROCEDURAL SAFEGUARDS (§§300.504(a)(2) and 300.505(a)(2))

BACKGROUND:

In the 1992 monitoring report, OSEP determined that the explanation of procedural safeguards provided to parents did not include a complete and accurate explanation of all procedural safeguards. As a response, GDE adopted and disseminated a complete explanation of procedural safeguards.

OSEP reviewed materials in student files, the Handbook of Special Education Procedural Guidelines, and interviewed special education teachers, school administrators and GDE central office staff responsible for program operations and policy.

FINDING : OSEP finds that GDE has not fully ensured that parents receive appropriate written notice, consistent with §§300.504(a)(2) and 300.505(a)(2); specifically, GDE did not ensure compliance with the requirements that:

- Written prior notice be provided when a public agency refuses to initiate an evaluation; and
- Written prior notice includes a description of the options considered and the reasons rejected.

Written notice when the agency refuses to initiate evaluation

Special education teachers and central office staff explained to OSEP that when parents refer a child for special education evaluation, the first step in the process is a review by the school-based Child Study Team, which may recommend classroom interventions to address the child's problems prior to referring the child for special education evaluation. These staff members explained to OSEP that parents only receive prior written notice and an explanation of procedural safeguards if the Child Study Team refers the child for special education evaluation. In the event that the Child Study Team determines that the interventions have been successful, and that the child will not be evaluated for special education eligibility, procedures do not require that parents receive written notice of GDE's refusal to evaluate a child.

Written notice that includes a description of the options considered and reasons rejected

GDE has not ensured that public schools provide appropriate prior written notice to a parent before an agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of a child, or provision of a free appropriate public education. Such notice must meet the requirements of §300.505, which include a description of any options the agency considered and the reason why these options were rejected.

Special education teachers and central staff explained to OSEP that procedures required that parents receive a copy of the IEP following the IEP meeting. OSEP reviewed student records and the Handbook of Special Education Procedural Guidelines and determined that the IEP includes a form entitled Parent Notice: Change in the IEP, Educational Placement, or Provision of a Free and Appropriate Education. This form includes a section to describe the options to the changes that the IEP committee considered and the reasons they were rejected. However, in the IEPs reviewed by OSEP in which changes were proposed by the IEP committee, the form was completed, but the section to describe the options considered and the reasons rejected was left blank, or noted N/A.

GDE must develop and implement procedures to ensure that parents receive prior written notice under section 615(b)(3), that includes the content required by section 615(c) and (d) of the IDEA Amendments of 1997. This must include ensuring that the parents receive notice when GDE refuses to conduct an evaluation and ensuring that each notice describes the options considered and the reason why those options were rejected.

OSEP FINDINGS	EXPECTED RESULTS/REQUIRED ACTIONS
<p><u>IV. COMPLAINT MANAGEMENT (§§300.660 -300.662)</u></p> <p>FINDING: OSEP finds that GDE has not developed written complaint procedures, and informed parents and other interested parties about the procedures, consistent with §300.660.</p> <p>OSEP interviewed GDE central office staff responsible for complaint management and program operations. The staff explained to OSEP that they had not yet developed written procedures for resolving State complaints, although they had resolved complaints through an informal process. This informal process does not meet any of the requirements of §§300.660-300.662. They also stated that they did not have a written procedure for informing parents and interested individuals about the procedures, although complaints had been submitted by some parents and resolved by GDE. Additional information was provided at the parent focus group where most parents explained to OSEP that they had not been aware, prior to that meeting, of their right to file a State complaint.</p>	<p>GDE must develop and implement written complaint procedures, consistent with the requirements of §§300.660-300.662, and inform parents and other interested parties of those procedures, as required by §300.660(b).</p>