



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

JUL 21 1997

Honorable William Torres
Commissioner of Education
Commonwealth of the Northern Mariana Islands
Public School System
Post Office Box 1370 CK
Saipan, MP 96950

Dear Commissioner Torres:

During the week of March 6, 1997, the Office of Special Education Programs (OSEP), United States Department of Education, conducted an on-site review of the Commonwealth of the Northern Mariana Islands Public School System's (PSS) implementation of Part B of the Individuals with Disabilities Education Act (Part B). The purpose of the review was to determine whether PSS 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 PSS 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.

PSS 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: individualized education programs (IEPs), maintenance of a list of hearing officers and their qualifications, provision to parents of a full explanation of procedural safeguards, and the establishment and official appointment of a State advisory panel. It appears, therefore, that PSS's corrective actions in these areas were effective. In addition, PSS has made a number of improvements in policies and procedures with respect to the provision of special education and related services and the timeliness of evaluations, and has instituted procedures for

recruitment of qualified personnel from the mainland United States. However, because of the special challenges in recruiting and maintaining qualified personnel, the provision of related services and timely initial and triennial evaluations are still areas of concern.

As addressed in Enclosure B, we also found that PSS had taken a number of noteworthy initiatives to improve educational services to students with disabilities. Among these initiatives is PSS's program for transitioning students from school to post-school activities, PSS's procedures and practices for providing services to children with disabilities in the least restrictive environment, and the sensitivity and effort utilized to engage meaningful parental participation with parents of differing languages and cultural heritages, with bilingual staff members, interpreters, and translations of rights statements and other relevant material.

OSEP's monitoring places a strong emphasis on those requirements most closely associated with positive results for students with disabilities. Our monitoring revealed that PSS did not always ensure the provision of: related services that students require to benefit from special education; timely initial evaluation and IEP meetings to ensure that the provision of a free appropriate public education is not delayed; reevaluations at least every three years; prior written notice to parents which meets Part B content requirements; appropriate procedures for the appointment of surrogate parents, complaint investigations and due process hearings. OSEP also found that PSS developed and implemented monitoring procedures following OSEP's 1992 monitoring report. However, PSS has not monitored schools for compliance since 1994, with either the monitoring instrument developed and implemented in response to the 1992 OSEP monitoring, or the revised instrument developed in 1995.

Helen Eano discussed the team's preliminary findings with Ms. Barbara Rudy and other special education staff in an exit conference at the end of the visit. At that time, PSS was invited to provide any additional information that it wanted OSEP to consider in developing the monitoring report. PSS did not submit any additional information.

The findings in the Report are final, unless -- within 15 days from the date on which PSS receives this Report -- PSS 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 PSS 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 PSS

request for reconsideration and, if appropriate, issue a letter of response informing PSS of any revision to the findings. Requests for reconsideration of a finding will not delay Corrective Action Plan development and implementation timelines for findings not part of the reconsideration request.

I thank you for the assistance and cooperation that Barbara Rudy and her 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 PSS's various systems to implement Part B.

Our staff is available to provide technical assistance during any phase of the development and implementation of PSS 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 the Commonwealth of the Northern Mariana Islands (CNMI).

Sincerely,



Thomas Hehir
Director
Office of Special Education
Programs

Enclosures

cc: Ms. Barbara Rudy

ENCLOSURE A

OSEP's Monitoring Methodology

Pre-site Document Review

As in all educational agencies, OSEP used a multifaceted process to review compliance in PSS. In addition to on-site visits, this process included: review and approval of PSS's Part B State plan, which sets out PSS'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 PSS's compliance.

Involvement of Parents and Advocates

On March 3, 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 Special Education State Advisory Panel, the Northern Marianas Protection and Advocacy System, and other interested parties and advocates for children with disabilities in CNMI. The purpose of the parent focus group and outreach meeting was to solicit comments from parents, advocacy groups, administrators and other interested citizens regarding their perceptions of PSS'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 State officials, and review of State and local documentation, assisted OSEP in identifying the issues faced by consumers and others interested in special education in CNMI and selecting monitoring issues to be emphasized while on-site.

Onsite Data Collection and Findings

Dr. Helen Eano conducted the visit in cooperation with Carolyn Smith, associate division director, who coordinated efforts by teleconference from Washington, D.C. Dr. Eano visited three schools on Saipan, and reviewed monitoring reports and interviewed staff regarding services on Rota and Tinian. She interviewed special education teachers at the elementary and high school level, two school administrators, six related service providers, one vocational teacher, the PSS vocational director, three PSS central office itinerant teachers, who provided consultation and oversight to school-based programs, the PSS special education coordinator, and the PSS coordinator for Part H and preschool programs.

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

SCHOOLS	DESIGNATION
Marianas High School, Saipan	School A
Tanapag Elementary School, Saipan	School B
San Vicente Elementary School, Saipan	School C
Rota Schools	School D
Tinian Schools	School E

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 PSS 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 PSS, and to agree upon specific corrective actions. We also invite a representative from PSS's Special Education Advisory Panel to participate in that discussion. PSS'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 PSS must take to begin immediate correction of the findings in the Enclosure, as well as guidelines for the more specific actions that PSS must take to ensure correction of each of the specific findings in Enclosure C.

ENCLOSURE B - COMMENDABLE INITIATIVES

Parent Participation - PSS works diligently to involve the parents and families of children with disabilities in the special education decision-making process. PSS's itinerant teachers, who function as central office staff coordinating and overseeing special education activities in the schools, are multilingual, as are many of the school-based staff members. Because elementary schools are located in small contiguous villages, school staff often deliver the annual IEP meeting notice and parent's rights statement to the family's home, communicating in the family's native language, and ensuring that the parents understand the meaning of their rights as well as the importance of their participation in the IEP process.

Transitioning Students from School to Post-school Activities - PSS has developed procedures requiring transition planning for PSS students beginning during the student's ninth grade year. Post-school activities are identified. PSS special education itinerant teachers work with students and parents, sensitively balancing the traditional, strong family-based culture in CNMI, with the individualized needs of the young person in a society that is rapidly transitioning. Interagency cooperation is outstanding. PSS has developed Memoranda of Understanding with Vocational Rehabilitation and with the community college. Representatives from Vocational Rehabilitation are regular participants, as well as the community college, other community agencies, and employers of students in outside job training placements. Students participate in regular vocational programs with support from special education staff working in cooperation with vocational instructors, as well as specialized vocational programs when needed to foster independent living skills and supported employment. Students in regular or special vocational programs that involve work placement often move into permanent employment upon graduation.

Special Education in the Least Restrictive Environment - PSS provides training and procedures for special and regular education teachers and administrators to support and build upon the village-centered educational philosophy. Nearly every child with a disability in CNMI is educated in his or her neighborhood (village) school. Most of the services are provided within the regular classroom, with special education teachers spending most of the day working with students with disabilities in the regular classroom. Principals and regular teachers in village schools express a strong sense of ownership of all of their students. Special education students are full participants in the activities of the school.

ENCLOSURE C -- FINDINGS AND CORRECTIVE ACTIONS

GENERAL CORRECTIVE ACTIONS

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

1. PSS must develop a memorandum informing all schools and contractual personnel 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 and personnel to discontinue any noncompliant practices and implement procedures that are consistent with Part B. PSS must submit this memorandum to OSEP within 30 days of date of this letter. Within 15 days of OSEP's approval of the memorandum, PSS must disseminate it to all schools and contractual personnel throughout PSS providing special education or related services to children with disabilities.

2. PSS must also disseminate a memorandum to those schools in which OSEP found deficient practices, as identified this Enclosure, requiring those schools to immediately discontinue the deficient practice(s) and submit documentation to PSS 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, PSS must issue the memorandum to those schools in which OSEP found deficient practices. PSS must send to OSEP verification that all corrective actions have been completed by these schools.

OSEP FINDINGS**EXPECTED RESULT/
ACTION REQUIRED****I. PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION THAT MEETS THE STANDARDS OF THE SEA AND PART B (§§300.300 AND 300.8)**

BACKGROUND: OSEP's 1992 monitoring report identified deficiencies in PSS's procedures for ensuring that children receive special education services designed to meet their unique needs and that preplacement evaluations were comprehensive and completed in a timely manner. PSS responded by developing new procedures and specific timelines for initial evaluations. PSS also developed a handbook entitled Special Education Program Procedures as guidance to local schools regarding the provision of special education services according to a student's unique needs. Prior to 1994, PSS monitored schools on a three year cycle. Monitoring reports were available from PSS's 1994 monitoring of schools A, B, C, D, and E. At the time of OSEP's visit, PSS had closed the corrective action process on these schools. PSS revised its monitoring instrument in 1995. PSS reported to OSEP that the revised monitoring system will be implemented when the contract with outside evaluators is executed.

PSS staff described school scheduling and its relationship to the provision of related services. OSEP learned that the schedules of service providers are made commensurate with the school calendar. Because schools are not functioning under the same school calendar (e.g., only one-third of the schools are on the same school calendar, while the calendars of remaining schools may have different school/vacation breaks), the service delivery for related services is often affected.

The OSEP monitor visited schools A and B, reviewing student files and interviewing special education teachers, related service providers, regular and vocational teachers as well as administrators. OSEP also visited school C and interviewed related services staff and building administrators. In addition, OSEP interviewed service providers and administrators and reviewed PSS monitoring reports for PSS programs in schools A, B, D and E. Extensive interviews also were conducted with PSS officials including staff responsible for special education, early childhood education, and vocational education. Computer runs of initial evaluations with date of referral, eligibility determination, and placement were provided by PSS and reviewed by OSEP. Based upon this information, OSEP determined that, as detailed below:

- The provision of special education services continue to be delayed by untimely initial evaluations;
- IEP meetings are not held in a timely manner;
- Related Services are either delayed, interrupted, or provided based upon available personnel; and
- PSS's monitoring system has not effectively identified deficiencies or ensured appropriate correction actions regarding timely evaluations and IEP meetings, and the provision of related services.

OSEP FINDINGS	EXPECTED RESULT/ ACTION REQUIRED
<p>FINDING 1: Untimely Initial Evaluations</p> <p>PSS's procedures for conducting initial evaluations includes a timeline of 50 school days from the receipt of parental consent for assessment to eligibility meeting, if qualified individuals are on staff in PSS to perform the recommended assessments. In instances where contractual personnel who are not PSS staff will conduct the evaluation, the timeline required to complete the assessment is 85 school days. If contractual personnel from outside CNMI will conduct the evaluation, the required assessment must be completed in 120 calendar days.</p> <p>Schools A, B, D, and E provided a computer listing for tracking timelines for initial evaluations. OSEP was unable to determine from this listing whether the evaluators were PSS staff or on contracts, OSEP made its analysis of PSS's evaluation timelines utilizing the longest timeline established by PSS (i.e., 120 days). OSEP found that 37 initial evaluations, that resulted in a determination that the children were eligible, were completed in schools A, B, D, and E during the 1995-96 school year. The eligibility determinations for 14 of those 37 children exceeded the timeline by two months or more. Delays ranged from two to 10 months beyond the 120 day timeline. Of the eight initial evaluations conducted in schools D and E, seven exceeded the 120 day timeline. Delays ranged from five to 10 months.</p> <p>OSEP learned from related services personnel who provided services in schools A, B, C, D, and E and central office special education staff that initial evaluations often were delayed beyond the timelines, and as a result the provision of a free appropriate public education was delayed. These persons, in addition to advocates and representatives of other schools at the outreach meeting, agreed that these delays were caused by insufficient numbers of qualified personnel,¹ and difficulties with timely execution and renewal of contracts, and scheduling with evaluators who came from Guam or the United States mainland. Delays were found most severe in schools D and E since most PSS related services personnel were located on the major island, Saipan.</p> <p>PSS's last monitoring occurred in 1994. The monitoring reports issued by PSS for schools A, B, D, and E did not include a deficiency regarding the timeliness of initial evaluations. Monitoring procedures used by PSS at that time did not include a method to identify deficiencies regarding this requirement. While proposed monitoring procedures reviewed by OSEP do include methods for identifying deficiencies in timeliness for initial evaluations, these procedures were not being implemented at the time of OSEP's visit.</p>	<p>PSS must demonstrate that procedures have been developed and implemented to ensure that the provision of a free appropriate public education is not delayed because of failure to complete timely evaluations. Specifically, procedures must demonstrate that sufficient and qualified personnel have been recruited and engaged to ensure timely evaluations.</p>
<p>Finding 2: Delayed IEP Meetings.</p> <p>OSEP found that initial IEP meetings were not conducted within 30 calendar days of the determination of eligibility, as required at §300.343. As discussed above, 37 children were evaluated and determined eligible for the first time in schools A, B, D, and E during the 1995-96 school year. The IEP meetings for 13 of those 37 children were not held within 30 calendar days of the determination of eligibility. Delays of around one month were typical; five months was the maximum delay. OSEP was unable to determine the cause of these delays from the available data.</p>	<p>PSS must demonstrate that initial IEP meetings occur more than 30 days from the determination of eligibility.</p>

¹ In response to OSEP's 1992 report, PSS developed intensified recruiting practices in order to overcome the shortage of qualified personnel available in PSS. PSS employed a full-time recruiter in the mainland United States to obtain sufficient qualified staff. Sufficient numbers of special education teachers had been retained at the time of the OSEP visit (although many of the teachers made only a two-year commitment to PSS), but an insufficient number of related services staff, especially occupational therapists, physical therapists, and psychologists have been identified and retained. Further steps that PSS was initiating at the time of the OSEP visit included a salary increase, and efforts to develop a four-year special education teacher certification program in CNMI.

OSEP FINDINGS	EXPECTED RESULT/ ACTION REQUIRED
<p>Finding 3: Provision of Related Services (§§300.300, 300.8, and 300.16)</p> <p>PSS has not fully ensured that students with disabilities are provided with related services based on their unique needs, as specified by an IEP.</p> <p>OSEP's review of PSS's 1994 monitoring of schools A, B, D, and E revealed that there was no method for determining whether students were receiving all of the special education and related services included on their IEPs, and they made no finding regarding this requirement in the schools monitored. Although PSS's proposed revised monitoring instrument includes a method for determining whether services are provided consistent with the student's IEP, as noted above, this instrument had not been implemented at the time of OSEP's visit.</p> <p>OSEP learned from teachers, related services providers, building administrators, and PSS central office special education staff that related services were delayed, interrupted, and/or provided in reduced amounts and different service modes than in the IEP.</p> <p>Although PSS central office special education staff stated that it was PSS's policy to include the amount and mode of services suited to the child's unique needs, regardless of availability, some IEP participants, including some special education teachers and related service providers, expressed confusion regarding the policy, and acknowledged that it was their practice to recommend amount and mode of services based upon availability of providers rather than upon the needs of the child. PSS central office special education staff acknowledged that because of lack of understanding on the part of some staff, coupled with service availability problems, some student IEPs may include recommendations for amount and mode of service based upon availability, rather than student need.</p> <p>Teachers and PSS related services staff interviewed by OSEP at schools A, B, and C stated that students currently receiving services were not receiving them in the amount and, in some cases, the mode of service delivery specified on their IEPs. Special education teachers at schools A and B reported that no occupational therapy services had been provided to students requiring these services at their schools for the entire school year. In addition, special education teachers who participated in IEP meetings at school A reported that speech therapy services were being provided by an aide, under supervision of a speech therapist, although the IEP called for direct services by the speech therapist. Special education teachers at school B reported that physical therapy services were interrupted when the therapist, who was on a different year-round schedule than school B, had her intersession break. PSS central office special education staff stated that their policy was to provide compensatory services to make up for interruptions of services to those children whose intersession breaks were scheduled at different times than those of the service provider. However, teachers were not aware of instances when students were compensated for lost services, and PSS could not provide information to verify that compensatory services were being provided in all cases.</p> <p>In schools D and E, OSEP found occupational, physical, and speech therapy services provided based on provider availability. Related service providers stated that occupational and physical therapy for school aged children in schools D and E also was provided only once a month regardless of student need, although speech services for school-aged children were available more frequently. The limited number of service providers and the constraints of travel to schools D and E by providers located on Saipan were reported as reasons for the inadequate amount of services provided to children in these schools.</p> <p>PSS central office special education staff told OSEP that the provision of appropriate and sufficient related services to preschool aged children was equally affected by the shortage of qualified staff. These problems were especially intense in schools D and E. Related services providers and administrators in schools D and E reported that preschool only received speech services and occupational therapy one a month, regardless of need.</p>	<p>PSS must demonstrate that its procedures or other efforts ensure that IEP committees determine the amount and mode of related services based upon the unique needs of the child, and that students with disabilities receive related services in conformity with the IEP without delays or interruptions.</p>

OSEP FINDINGS	EXPECTED RESULT/ ACTION REQUIRED
<p>II. REEVALUATIONS CONDUCTED EVERY THREE YEARS (§300.534(b))</p> <p>BACKGROUND: OSEP's 1992 monitoring found that PSS did not have procedures to ensure timely completion of three-year evaluations, and that a backlog existed. As part of corrective action, PSS trained staff in procedures to comply with this requirement, and intensified efforts to obtain psychological evaluation services through contractual arrangements with agencies on CNMI and Guam. OSEP reviewed computer lists of reevaluation dates provided by PSS, and interviewed PSS administrators, teachers and related services providers who served students in schools A, B, C, D, and E. OSEP also reviewed the 1994 monitoring reports for schools A, B, D and E. In addition, OSEP reviewed PSS's proposed revised monitoring procedures to determine whether a method for identifying and correcting deficiencies in triennial evaluations was included.</p> <p>FINDING: OSEP finds that PSS has not fully ensured that, consistent with §300.534(b), an evaluation of the child is conducted at least once every three years.</p> <p>Interviews with teachers, related services staff, contracted evaluators, and PSS administrators, and review of computer sheets with evaluation dates indicate that while much progress has been made in addressing this deficiency, not all students have been reevaluated in a timely fashion, especially at the high school level. When OSEP reviewed the evaluation printouts for schools A, B, D, and E, OSEP found that 32 out of 106 reevaluations were overdue. Twenty-one of the overdue evaluations were of students at school A, the high school. PSS central office special education staff and explained to OSEP that psychological evaluations at the high school were contracted through a different provider, whose contract had not been renewed in a timely fashion, and that the very high turnover of special education teachers at the high school (100 percent were new in the 1996-97 school year) also contributed to the problem. Late reevaluations throughout the system ranged from one year to five years overdue.</p> <p>Evaluators and PSS administrative staff explained that unavailability of qualified personnel, and logistical difficulties by the PSS system in executing and renewing contracts, were factors in causing this deficiency. OSEP further noted that the PSS 1994 monitoring procedures did not include a method for identifying or correcting this deficiency, and therefore no findings were made in any of the reports reviewed by OSEP, including school A. The proposed revised monitoring procedures do include a method for identifying deficiencies in timeliness of triennial reevaluations, but at the time of the visit they had not been implemented.</p>	<p>PSS must demonstrate that reevaluations are conducted at least once every three years.</p>

OSEP FINDINGS	EXPECTED RESULT/ ACTION REQUIRED
<p>III. PSS 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).</p> <p>BACKGROUND: In OSEP's 1992 monitoring report, deficiencies were identified in PSS's general supervision of schools. OSEP's 1992 monitoring found that PSS had not established a formal monitoring system to determine and document whether schools were operating in a manner consistent with Part B. PSS's methods at that time consisted of a review of student records and discussions with principals and teachers. In response to OSEP's 1992 monitoring report, PSS developed a monitoring system in which the assistant coordinator of special education annually reviewed 3 student files from each of the PSS schools and reviewed one student file from each private school in which PSS had placed children. Monitoring visits focused on a review of 3 case files at each school, and follow-up visits to ensure corrective action were focused on correction of deficiencies in those documents. School-wide correction was addressed through training of special education teachers and school administrative staff. No documentation of school-wide correction was required. Follow up visits and training of relevant school staff on special education policies and procedures were the measures to correct deficiencies. PSS staff and monitoring records indicated that this system was in place until 1994. PSS administrators explained to OSEP that because of cuts in central office staff after 1994, they had discontinued monitoring. PSS developed a new monitoring system, for which they proposed to contract with outside monitors. At the time of OSEP's visit they had been unable to execute the contract with the identified outside evaluators. PSS administrators explained to OSEP that the new monitoring system is based on a three year cycle; each school is to be visited in alphabetical order by level. Private schools also are to be reviewed on a three year cycle.</p> <p>OSEP reviewed 1994 monitoring reports from PSS's previous monitoring system for schools A, B, D, and E, to determine whether deficiencies had been identified and corrected. OSEP also reviewed PSS's proposed monitoring document to determine whether methods are included to identify all deficiencies.</p> <p>FINDING: PSS has not fully ensured that each program or school in under it jurisdiction meets the requirements of Part B and the education standards of PSS. Specifically:</p> <ul style="list-style-type: none"> ● PSS is not currently conducting compliance monitoring; ● PSS is not correcting deficiencies identified under its previous monitoring system; and ● PSS's proposed monitoring system does not include all federal requirements. <p>PSS does not currently have in place a system for monitoring the schools and agencies under its supervision to ensure that programs are being operated in compliance with Part B. PSS has not conducted monitoring activities since 1994. PSS developed a proposed monitoring instrument in 1995 which had not been implemented at the time of OSEP's visit, because of difficulties encountered in obtaining proposals from outside evaluators. Once the proposal was selected, delays were encountered in executing the contract. As a result, no compliance monitoring has been conducted of PSS special education programs since 1994.</p>	<p>PSS must implement a system to ensure that all educational programs for children with disabilities in PSS are operated in conformity with Part B and the educational standards of the Commonwealth. PSS must implement a method for ensuring that deficiencies are identified, and that all identified deficiencies are corrected.</p>

OSEP FINDINGS

**EXPECTED RESULT/
ACTION REQUIRED**

OSEP's review of the most recent monitoring reports that were issued during 1994 from schools A, B, D and E revealed that certain schools did not, even at the conclusion of the third and final follow up visit, correct all of the deficiencies identified in the review. The report of the third and final monitoring visit in school A stated that none of the deficiencies had been corrected at that location; the school was given instructions in the final report to correct the deficiencies, but there was no follow up visit or documentation undertaken by PSS to determine that the actions had been implemented, and therefore, no enforcement procedures were utilized. The deficiencies had not been corrected at the time of OSEP's visit. In the reports from the other locations, some, but not all of the identified deficiencies had been corrected at the time reports were closed. Again, the final report included instructions to the school to correct the deficiencies, but no further action or enforcement procedures were undertaken by PSS. PSS had provided follow up visits, technical assistance, and training to these schools prior to issuing the final report. No procedures existed to ensure correction of deficiencies in the cases where when schools did not meet timelines required for correction, and PSS did not exercise enforcement procedures when schools failed to implement corrective actions.

OSEP conducted interviews with PSS administrators and reviewed written data on the proposed new monitoring procedures which PSS proposed to initiate as soon as a contract could be finalized. Corrective actions include: follow up visits, technical assistance, and training. The revised procedures do include a method to address enforcement of corrective actions. The proposed enforcement procedure consists of recommendation to the PSS Commissioner of Education by the special education director for "adverse action" against school administrators who do not comply. There is not a procedure to ensure compliance, in the event the recommendation is not acted upon by the commissioner, nor is the nature of the adverse action described.

OSEP also reviewed PSS's proposed new monitoring document to determine whether a method existed to identify deficiencies with respect to all Part B requirements. OSEP found that a method did not exist for determining compliance with the following requirements:

- §300.300 Extended school year services provided when required as part of a free appropriate education.
- §300.303 Proper functioning of hearing aids
- §300.305 Program options including art, music, industrial arts, consumer and homemaking education, and vocational education available to children with disabilities
- §300.345(e) Arrange for interpreters at IEP meetings for parents who are deaf, or whose native language is other than English.
- §300.346(b)(2) If transition services not needed in one or more of the areas specified in §300.18(b)(2)(i-iii), IEP must include statement to that effect and basis for determination.
- §300.347 If participating agency fails to provide agreed upon services, IEP meeting initiated to determine alternative strategies.
- §300.505(a)(2)-(4) Descriptions of actions proposed or refused, reasons for proposal or refusal, including options considered and reasons rejected, descriptions of procedures used, and other relevant factors, as part of prior written notice to parents.

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OSEP FINDINGS

EXPECTED RESULT/
ACTION REQUIRED

III. PROCEDURAL SAFEGUARDS (§§300.500 -300.515)

BACKGROUND. In OSEP's 1992 monitoring report, deficiencies were identified in PSS's procedures to ensure that a prior written notice was provided to parents a reasonable time before a proposal or refusal to initiate or change the identification, evaluation, or educational placement of a child, or the provision of a free appropriate public education. Deficiencies also were found in the written notice of evaluation, in that it did not include a description of the evaluation procedure, test, record, or report the school used as a basis for the proposal or refusal, what options were considered by the agency, and why those options were rejected. In addition, OSEP found that the explanation of procedural safeguards provided to parents did not include all of the required components.

In response to OSEP's 1992 monitoring report, PSS developed a parents' rights booklet, Commonwealth of the Northern Mariana Islands Public School System Special Education Program Procedural Due Process Rights, which includes all of the required content. In addition, PSS revised the Special Education Program Regulations (Revised 1994) and the Special Education Program Procedures (Revised June 1996) to include guidance regarding the content and provision of the prior written notice.

During the 1997 monitoring visit, OSEP reviewed student files, PSS special education regulations and procedures, the revised parents rights booklet, and due process hearing logs, and interviewed special education administrative staff to determine whether PSS's revised procedures resulted in full compliance with requirements with respect to procedural safeguards. Based upon OSEP's review of this documentation, OSEP finds that PSS has not ensured all of the procedural safeguards guaranteed students with disabilities and their parents. Specifically:

- PSS does not provide prior written notice to parents that includes the content required by §300.505(a) each time notice is required under §300.504(a);
- Due process hearings are not conducted in a manner consistent with §300.506(a)

OSEP FINDINGS	EXPECTED RESULT/ ACTION REQUIRED
<p>FINDING 1: Prior Written Notice</p> <p>The <u>Special Education Program Procedures (Revised June 1996)</u>, under the heading, <u>Providing Prior Notice</u> on page 70, include instructions to utilize the form, entitled, <u>Notification of Change in Child's Program</u>, when a change in the child's program is to be <u>discussed</u> at an IEP meeting. Interviews with PSS central office special education staff and teachers confirmed that the notice is provided to the parent as an invitation to the IEP meeting where changes in the child's program will be discussed, and that no notice, except the IEP itself, is sent to the parent after the IEP committee has proposed to initiate the changes.</p> <p>The <u>Notification of Change in Placement</u>, a format also included in the <u>Special Education Procedures</u>, and as utilized in student records, does not include a description of the options considered and the reasons rejected. OSEP reviewed the IEP document itself which is provided to parents immediately following the IEP meeting. OSEP found, under the section on placement, a requirement that a reason be given if the child were not attending the school which he/or she would attend if the child had not disability. No section was provided on the IEP form to describe other options considered and the reasons rejected. Special education teachers and administrators confirmed that procedures did not exist to provide parents with notice of other options considered and the reasons they were rejected except in the case where the child was being placed in a school other than the child's neighborhood school.</p> <p>OSEP reviewed the <u>Special Education Program Regulations (Revised 1994)</u>, and found that they do include, under Section 5.4(2) on page 23, a requirement that the prior notice to parents include a description of any options the Special Education Program considered and the reasons these options were rejected. However, OSEP found through the review of <u>Special Education Procedures</u> and interviews with PSS school-based central office special education staff of that this requirement was neither understood nor implemented.</p>	<p>PSS must demonstrate that procedures developed and implemented to ensure that parents receive a written notice of placement which includes the options considered and the reasons rejected a reasonable time before the agency proposes or refuses to initiate or change the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. PSS must demonstrate that the prior written notice that includes the content noted above, and is provided <u>after</u> PSS's determination to propose or refuse to take one of the actions described in §300.504(a), <u>prior</u> to taking the action.</p>

OSEP FINDINGS	EXPECTED RESULT/ ACTION REQUIRED
<p>FINDING 2: Due Process Hearings</p> <p>PSS has not fully ensured that, consistent with §300.506(a), a parent may initiate a due process hearing regarding a proposal or refusal to initiate or change the provision of a free appropriate public education to the child.</p> <p>PSS, through a hearing officer appointed and trained by PSS, exercised discretion regarding the nature and type of issues for which the hearing process was an appropriate remedy, thereby denying a parent access to due process. OSEP's review of hearing files revealed that a parent was denied his right to due process in a case alleging the denial of provision of a free appropriate public education. The hearing officer ruled that this issue did not fall within the due process hearing provisions of Part B for remedy. The hearing officer further ruled that the appropriate regulatory jurisdiction for dealing with that issues resided in the State Complaint Procedures. Although the hearing officer recommended in the ruling that the parent pursue the State Complaint Procedure, he did not notify the parent of his right to bring civil action if he was aggrieved by the due process decision.</p> <p>PSS administrators discussed with OSEP the hearing officer training which had been provided to Guam and PSS administrative staff, in order to enable them to conduct due process hearings and complaint investigations for each other. The administrators expressed confusion, engendered by the training, with respect to the differences between due process hearings and State complaint procedures.</p>	<p>PSS must demonstrate that hearing officers are appropriately trained to ensure that due process hearings are conducted and completed in the matters described in §300.504(a), including the provision of a free appropriate public education in conformity with an IEP.</p>
<p>IV. COMPLAINT MANAGEMENT (§300.661(a)(4) and (c))</p> <p>FINDING: OSEP reviewed PSS complaint management procedures, logs and complaint resolutions, and interviewed PSS central office special education staff. From this review, OSEP has determined that PSS's complaint procedures do not ensure that a written decision that address all the allegations of the complaint is provided to the complainant, and nor are there procedures for effective and timely implementation of the final decision.</p> <p>PSS's procedures for the complaint management system are found in <u>Special Education Procedures, (Revised June 1996)</u> on pages 96 - 102. The procedures require that a written complaint that alleges violations of Federal law be resolved within 60 days. The procedures, on page 101, require that the complaint be resolved in a meeting with the complainant and special education coordinator, legal counsel, principal, and other parties, but do not specify that a written decision be submitted to the complainant, as required at §300.661(a)(4).</p> <p>The procedures also state, on pages 101-102, that the resolution of the complaint might be further seeking of remedy through administrative or legal channels which might not alleviate the conditions that warranted the complaint. The procedure therefore does not provide for the resolution of <u>any</u> complaint, as required at §300.660(a), and, in the cases where the resolution is further seeking of and administrative or legal remedy, rather than a final decision resolving the allegations, does not include procedures for effective implementation to correct the violations as required at §300.661(c).</p>	<p>PSS must demonstrate that a final written decision is issued for any allegation of a violation of Part B, and that procedures are in available for effective implementation of PSS's final decision.</p>