



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

September 14, 1999

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State Capitol
600 East Boulevard Avenue
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Dear Ms. Olson and Dr. Sanstead:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in North Dakota during the weeks of August 3 and September 21, 1998 for the purpose of assessing compliance in the implementation of the Individuals with Disabilities Education Act (IDEA) and assisting your State in developing strategies to improve results for children with disabilities. The IDEA Amendments of 1997 focus on "access to services" as well as "improving results" for infants, toddlers, children and youth with disabilities. In the same way, OSEP's Continuous Improvement Monitoring Process is designed to focus Federal, State and local resources on improved results for children with disabilities and their families through a working partnership among OSEP, the North Dakota Department of Public Instruction (NDDPI), the North Dakota Department of Human Services (NDDHS), and parents and advocates in North Dakota.

In conducting its review of North Dakota, OSEP applied the standards set forth in the IDEA 97 statute and in the Part C regulations (34 CFR Part 303) and Part B regulations (34 CFR Part 300), as they were in effect at the time of the OSEP review. The Part C regulations in effect in September 1998 were those published by the Department on July 30, 1993, as revised by the Technical Amendments published on April 14, 1998. The Part B regulations in effect in September 1998 were those published on September 29, 1992. All citations to 34 CFR Parts 303 and 300 in this report are to the regulations, as published on those dates. On March 12, 1999, the Department published new final Part B regulations and conforming changes to the Part C regulations that take effect on May 11, 1999. In planning and implementing improvement

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strategies to address the findings in this report, NDDPI should ensure that all improvement strategies are consistent with the new final regulations.

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

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

The enclosed Report addresses strengths noted in the State, areas needing corrective action because they represent noncompliance with the requirements of IDEA, and technical assistance on improvement for best practice. Enclosed you will find an Executive Summary of the Report, an Introduction including background information, and a description of issues and findings.

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

Thank you for the assistance and cooperation provided by your staffs during our review. Throughout the course of the review, Brenda Oas, Robert Graham and Deborah Balsdon were responsive to OSEP's requests for information, and provided access to necessary documentation that enabled OSEP staff to work in partnership with the Steering Committees to better understand the State's systems for implementing the IDEA. An extraordinary effort was made by State staff to arrange the public input process during the Validation Planning week and, as a result of their efforts, OSEP obtained information from a large number of parents (including underrepresented groups), advocates, service providers, school and agency personnel, school and agency administrators, and special education unit administrators.

Thank you for your continued efforts toward the goal of achieving better results for infants, toddlers, children and youth with disabilities in North Dakota. Since the enactment of the IDEA and its predecessor, the Education of All Handicapped Children Act, one of the basic goals of the

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law, ensuring that children with disabilities are not excluded from school, has largely been achieved. Today, families can have a positive vision for their child's future.

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

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Robert Rutten
Deborah Balsdon

EXECUTIVE SUMMARY

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The attached report contains the results of the first two steps (Validation Planning and Validation Data Collection) in the Office of Special Education Program's (OSEP) Continuous Improvement Monitoring of the Individuals with Disabilities Education Act (IDEA), Parts B and C, in the State of North Dakota during the weeks of August 3 and September 21, 1998. The process is designed to focus resources on improving results for infants, toddlers and children with disabilities and their families through enhanced partnerships between the State agencies, OSEP, parents and advocates. The Validation Planning phase of the monitoring process included the completion of a Self-Assessment by Part B and analysis of both the Self-Assessment and the Part C Self-Study (completed earlier), a series of public input meetings with guided discussions around core areas of IDEA, and the organization of Steering Committees that provided further comments on the information. As part of the public input process, OSEP and the State made efforts to include multi-cultural and underrepresented populations. The Validation Data Collection phase included interviews with parents, agency administrators, local program and school administrators, service providers, teachers and service coordinators and reviews of children's records. Information obtained from these data sources was shared in a meeting attended by staff from the North Dakota Departments of Public Instruction and Human Services (NDDPI and NDDHS), parents, advocates, and members of the Steering Committees.

The report contains a detailed description of the process utilized to collect data, and to determine strengths, areas of noncompliance with IDEA, and suggestions for improvement in each of the core IDEA areas.

EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS WITH DISABILITIES: PART C OF IDEA

Strengths

OSEP observed the following strengths:

- A Statewide tracking system for at-risk children from birth through age five allows for the early recognition of a child who experiences a delay in any area of development;
- A computerized data base, known as ASSIST, for Individualized Family Service Plans (IFSPs) allows the State to track service delivery for individual children as well as aggregated State-wide data; and
- A parent-involvement subcommittee of the State Interagency Coordinating Council, composed solely of parents, provides input regarding parent involvement in the State's Part C program and a parent perspective on all aspects of the service delivery.

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Areas of Noncompliance

OSEP observed the following areas of noncompliance:

- NDDHS does not conduct comprehensive and effective monitoring to ensure consistent implementation of Part C requirements of IDEA;
- NDDHS does not have a coordinated child find system;
- NDDHS's procedures are not effective to ensure timely referral of children by primary referral sources;
- NDDHS does not ensure that all Part C services needed by each individual child and their family are included on IFSPs and are provided;
- The State does not ensure that services are provided in natural environments to the maximum extent appropriate;
- Services that are needed by the child but not required by Part C, such as medical services, are not included on IFSPs;
- Although the State does not have a system of payments by families, services are not always provided at no cost to families;
- The State does not make individual determinations about the frequency and intensity of services needed by the child and family;
- The Infant Development Program does not ensure the appointment of a single service coordinator for eligible infants and toddlers and their families;
- A timely multidisciplinary evaluation in all developmental areas required by Part C is not completed for all referred infants and toddlers; and
- Transition plans are missing from IFSPs, and most transition meetings are not conducted at least 90 days before a child's third birthday.

EDUCATION OF CHILDREN AND YOUTH WITH DISABILITIES: PART B OF IDEA

Strengths

OSEP observed the following strengths:

- Efforts to involve children with disabilities in State- and district-wide assessment programs include State guidelines, district-level training and increased oversight of the decision-making process;

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- NDDPI has established an interagency task force to identify and provide a coordinated system of services to support the needs of children with disabilities across the State;
- NDDPI uses public television to provide parent training regarding the implementation of IDEA;
- Statewide Family Education Enhancement Teams (FEET) provide newsletters across the State and serve as a resource for information to families and services providers;
- NDDPI requires paraprofessional orientation and training, including a focus on meeting the needs of families designed to enhance the quality of direct services to children and improve relationships with their families;
- Through the cooperation of the Department of Vocational Rehabilitation, secondary transition coordinators are provided in several areas of the State;
- A task force of representatives from NDDPI, Vocational Rehabilitation, Vocational Education, Institutions of Higher Education, and Developmental Disabilities meets regularly to identify and attempt to resolve issues around secondary transition; and
- NDDPI is conducting a longitudinal follow-up study of students with disabilities who have exited school, to identify strategies to better prepare students for the transition from school to post-school activities.

Areas of Noncompliance

OSEP observed the following areas of non-compliance:

- NDDPI does not ensure an adequate supply of qualified personnel to implement IDEA requirements which results in a negative impact on the timely delivery of evaluations and services as well as the frequency and amount of available services;
- Extended school year services are not made available to all children with disabilities who need such services to ensure the provision of a free appropriate public education;
- There is insufficient support in regular education settings to ensure placement opportunities for children with disabilities in the least restrictive environment;
- Students and agencies likely to be responsible for providing or paying for secondary transition services often are not invited to attend IEP meetings where transition will be considered;
- IEP meeting notification provided to parents does not include information that a purpose of the meeting is the consideration of needed transition services, and that the student and other agency representatives, when appropriate, will be invited;

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- IEPs do not always reflect a statement of needed transition services beginning at age 16 (or younger, if appropriate); and
- NDDPI monitoring activities do not ensure consistent implementation of Part B requirements.

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INTRODUCTION¹

North Dakota has a relatively small population spread out over a large area. Lloyd Omdahl, a former Lieutenant Governor and political science professor, observed, “North Dakota is a small town spread out over 70,000 square miles.” North Dakota is a State of declining population. Thirty of the State’s 53 counties are “natural-decrease” counties, as there are not sufficient numbers of births each year to replace those who have died. The net result is a shrinking population in many of these mostly rural counties of the State. The North Dakota Department of Public Instruction (NDDPI) anticipates that these decreases will necessitate changes in the way many services are delivered to children with disabilities.

Another factor relevant to the provision of services to children in North Dakota is the strong support provided by parents and communities. For example, it is a common observation that it is almost impossible to drop out of school in the smaller communities in the State. This powerful testament to the value placed on education and the small town culture of the State that requires citizens to account to their communities for their actions contributes to the low drop-out rate (2.5% in 1996-97) and to the high rate of enrollment in post-secondary education (68% of the 1994 graduates enrolled in post secondary education).

Education personnel in North Dakota are developing State-level content standards in curricular areas. Adoption of the standards will be voluntary on the part of local districts and no funding has been appropriated to provide training of educators. Work is progressing on development of performance assessments in language arts and math through outside grant funding.

ADMINISTRATIVE STRUCTURES AND CHILDREN SERVED

The North Dakota Department of Human Services (NDDHS), Disabilities Services Division, was appointed as the lead agency for the State’s implementation of Part C of IDEA, known in North Dakota as the Infant Development Program. The NDDHS administers the program through arrangements with eight regional Human Service Centers. Four of these Human Service Centers implement the program through contracts with other agencies. Four provide services directly. The Human Service Centers range in size from one serving a three-county area with a population of approximately 30,000 to one serving a six-county area with a population of over 140,000. Each Human Service Center provides services to persons with disabilities of all ages and also administers other State programs.

By State statute, local school districts are responsible for providing special education services. In the majority of districts across the State, special education administrative services are centralized in a special education unit (educational service agency). There are currently 233 school districts in the State organized into 31 special education administrative units. The units may offer some services on a cooperative basis (e.g., school psychology services or physical therapy services). A

¹ Much of the information in this section was provided by NDDHS and NDDPI through their self-assessments and other documentation.

small number of special education units are single school districts. In the majority of cases, these single district entities are the larger school districts (e.g., Bismarck and Grand Forks).

In 1991, North Dakota provided services to 214 infants and toddlers (0.79 percent) in the Infant Development Program. In 1997, this number had increased to 326 infants and toddlers (1.34 percent). From July 1, 1997 through June 30, 1998, the average age for identification of infants and toddlers with disabilities is 15 months. At the time of exiting from the Infant Development Program, 79 percent of the infants and toddlers transition to early childhood classes in the public schools. The remainder enrolls in Head Start or integrated child care programs or remain at home.

North Dakota's total count for children with disabilities, from three through age 21, was 12,902 based on the December 1, 1997 child count.

Part B funds comprise approximately nine percent of the total special education expenditures in the State, with State funds comprising approximately 29 percent and local funds approximately 62 percent.

The Infant Development Program staff in NDDHS is comprised of two individuals, with a combined full-time equivalent of .6. These individuals are also responsible for the administration of other Statewide programs, as well as Part C. In addition, .25 full-time-equivalent support staff are assigned to the program.

The North Dakota Department of Public Instruction (NDDPI) employs a director of special education, 14 professional staff and 7 clerical and administrative staff within the Special Education Unit and Early Childhood Tracking System (this system provides Statewide computerized tracking of children from birth through age 5 who are at risk of having a disability). Lead responsibility for monitoring, complaint investigation and review of local policies and procedures is shared by the Special Education Director and seven program staff members within the Special Education Unit.

VALIDATION PLANNING AND DATA COLLECTION.

In preparation for the Part C Validation Planning visit, OSEP reviewed information about the State's Infant Development Program, such as performance reports; correspondence from parents, advocates and other interested parties; and NDDHS's application for Fiscal Year 1997 Part C funds. As a result of the application review, OSEP identified issues that the State is currently working to resolve in the 1997 application. OSEP did not receive NDDHS' 1998 application until August 3, 1999 and OSEP has not yet approved the application.

The Infant Development Program completed a Self-Study in the fall of 1997. Activities included analysis of the results of parent and service provider surveys that indicated areas of accomplishment and areas of concern related to program development and implementation. In preparation for the OSEP Validation Planning visit, the State organized a Steering Committee, which reviewed the results of the Self-Study. The Part C Steering Committee was comprised of

10 individuals representing parents, service providers, Developmental Disabilities Advisory Council, advocacy organizations (Pathfinder Parent Training and Information Center, Protection and Advocacy, and the Association for Retarded Citizens), university personnel, and representatives of NDDHS and NDDPI. Four of these individuals are also members of the State Interagency Coordinating Council.

In preparation for the Part B Validation Planning visit, OSEP reviewed a number of documents, including complaint logs; correspondence from parents, advocates and other interested parties; and the 1994 OSEP Part B monitoring report. That report identified deficiencies in several areas including general supervision in monitoring and complaint management, content of Individualized Education Programs (IEPs), appointment of surrogate parents, and placement of children in the least restrictive environment.

The NDDPI developed a Self-Assessment and presented it to a Statewide Steering Committee. The Self-Assessment included data analysis and improvement strategies that would create positive results for children with disabilities. The Part B Steering Committee was comprised of NDDPI staff, a local special education unit administrator, a local school district administrator and the chair of the IDEA Advisory Committee, a parent, a Protection and Advocacy representative, a representative from Pathfinder Parent Training and Information Center, a representative of institutions of higher education, and a representative from NDDHS, representing Part C. The Steering Committee reviewed the Self-Assessment information and provided input and feedback to NDDPI prior to transmitting the final document to OSEP.

During the week of August 3, 1998, OSEP and the Steering Committees conducted 17 public meetings for Parts C and B across the State to identify issues and concerns about service delivery under IDEA. Meetings consisted of 6-30 participants from the following areas: Williston, Fargo, Grand Forks, Ft. Berthold Reservation, Standing Rock Reservation, Spirit Lake Reservation, Devil's Lake, Bismarck, Dickinson, Minot and Jamestown. Discussions addressed, for Part C, child find and public awareness, family-centered systems of services, early intervention services in natural environments, transition from Part C to other appropriate services, and general supervision of Part C by NDDHS. For Part B, discussion centered on parent involvement in special education decision making, free appropriate public education in the least restrictive environment to children with disabilities from ages 3-21, secondary transition for youth with disabilities from school to post-school activities, and general supervision of special education by NDDPI. At the end of the week, information from the public focus groups, along with information from the Self-Assessment and Self-Study, were discussed with the Steering Committees to identify specific issues that could be investigated by OSEP. Recommendations for strategies and sites that would be visited were discussed and, on Friday, NDDHS, NDDPI and OSEP developed a tentative agenda for the Validation Data Collection visit.

OSEP visited the State during the week of September 21, 1998, for the purpose of collecting data to validate information provided through the planning process, including new requirements under the IDEA Amendments of 1997 and the Government Performance Results Act. OSEP visited the following sites for Part C: Grand Forks, Cavalier, Bismarck, Standing Rock Reservation, Hazen, Minot, Ft. Berthold Reservation, Rolla, and Turtle Mountain Reservation. Part C sites included

four of the eight Human Service Centers. Part B sites included: Grand Forks, Cavalier, Bottineau, Parshall, Solen, Bismarck, and Mandan. OSEP visited seven secondary schools because of significant issues identified related to secondary transition, and suspension and expulsion. Preliminary results were presented to the Steering Committees on Friday and next steps were discussed that would begin the improvement planning process.

As part of the data collection process, OSEP reviewed children's records, including Individualized Family Service Plans (IFSPs) and IEPs, and State and local policies and procedures. OSEP conducted interviews with personnel responsible for the implementation of both Part C and Part B of IDEA, including local service providers, service coordinators, teachers, and administrators. OSEP interviewed regular education teachers who serve children with disabilities in their classrooms, and special education teachers responsible for developing and/or implementing IEPs. OSEP also interviewed parents, advocates and personnel from State and Bureau of Indian Affairs agencies involved in the provision of services to infants, toddlers, children and youth with disabilities. The individuals interviewed were selected by OSEP, in cooperation and consultation with State and local officials.

IMPROVEMENT PLANNING

In response to this report, NDDPI and NDDHS will develop an action plan addressing areas requiring improvement as identified in the report. Approximately 60 days after the issuance of this report, OSEP will work with NDDPI to finalize the Part B improvement plan and may visit North Dakota to work with NDDHS to finalize the Part C improvement plan. This visit will include providing assistance to the Steering Committee in the identification of strategies for implementation, sources of technical assistance, time lines for completing strategies, and methods for evaluating the effectiveness of the improvement plan.

I. PART C: GENERAL SUPERVISION

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

While each State must meet its general supervision and administration responsibilities, the State may determine how that will be accomplished. Mechanisms such as interagency agreements and/or contracts with other State-level or private agencies can serve as the vehicle for the lead agency's implementation of its monitoring responsibilities. The State's role in supervision and monitoring includes:

- (1) identifying areas in which implementation does not comply with Federal requirements;
- (2) providing assistance in correcting identified problems; and
- (3) as needed, using enforcing mechanisms to ensure correction of identified problems.

VALIDATION PLANNING AND DATA COLLECTION

The North Dakota Self-Study identified several concerns related to the State's oversight of the provision of early intervention services. The sections of the Self-Study related to interagency collaboration, resolution of interagency conflicts, coordination of services at the State level, family-centered philosophy, the IFSP process, and procedural safeguards revealed concerns associated with the State's administration and supervision.

The concerns identified included: inconsistency in policy interpretation; lack of a system to monitor and evaluate the effectiveness of early intervention services; limited State staff, which inhibits coordination at the State level; inflexibility in State guidelines, preventing decisions from being made on an individual child basis; lack of dissemination of State policy regarding family focused intervention, as well as lack of implementation of procedural safeguards across all agencies. The Self-Study document contained some recommended actions related to these concerns, including the exploration and development of appropriate procedures for monitoring procedural safeguards and the development of processes that will minimize duplication of services.

At each of the public input meetings that OSEP conducted during the Validation Planning visit, the following question was asked: "Does the State exercise effective general supervision of the implementation of IDEA through the development and utilization of tools, mechanisms and

activities that result in all eligible infants and toddlers and their families having available early intervention services in the natural environments that are appropriate for the child?" In response, concerns related to the State's general supervision of early intervention services emerged in public input and Steering Committee meetings conducted during the Validation Planning visit. These concerns included the need to establish a mediation system; to examine the Quality Enhancement Reviews and the licensure process; and to evaluate the effectiveness of the State's system for tracking at-risk children. Parents and service providers stated that they were unaware of the methods the State utilizes to supervise the provision of early intervention services. In addition, OSEP heard that, in general, parents and providers did not know whether mediation was available as an option for conflict resolution. Another concern expressed by local agency personnel was that the State has not monitored the provision of services to eligible children.

During the Validation Planning week, NDDHS indicated it does not have methods of monitoring the effectiveness of its tracking system for identifying all children in need of early intervention services. This information was confirmed by members of the Steering Committee.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures, reviewed monitoring reports and interviewed State personnel, local program directors, service coordinators, Developmental Disabilities case managers and parents.

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

AREA OF NONCOMPLIANCE

LACK OF MONITORING TO ENSURE CONSISTENT IMPLEMENTATION OF PART C REQUIREMENTS

34 CFR §303.501 requires that all programs and activities used to implement the Statewide early intervention system are consistent with Part C of IDEA, regardless of whether the entity receives Part C funds. Each State is required to adopt and use proper methods of administering the program, including: monitoring agencies, institutions and organizations used by the State to provide early intervention services; enforcing the Part C obligations imposed on those entities; providing technical assistance, if necessary; and correcting deficiencies that are identified through monitoring. In addition to the responsibility for general administration, the lead agency must ensure that all policies (e.g., State statutes, regulations, Governor's orders, directives, and other written documents that represent the State's position on this program - see 34 CFR §303.19) related to the implementation of Part C are consistent with 34 CFR Part 303.

As discussed below, NDDHS has not fulfilled its obligation for the general supervision, administration, and monitoring of all programs and activities used by the State, whether or not they receive assistance under Part C, to implement the statewide system of early intervention services. The only activities used by the State as general supervisory mechanisms are State licensure and accreditation by a private national organization (the Accreditation Council) of the Human Service Centers. Neither process is designed to completely identify instances of

noncompliance with the provisions of Part C of IDEA or to ensure corrective actions of the limited findings made.

The State's Part C application for Fiscal Year 1997 funds describes the activities of the Accreditation Council (Council) to accredit the Human Service Centers' provision of early intervention services. *A Consumer's Guide to Outcomes in Early Childhood Intervention*, a document utilized by the Council, was provided by NDDHS as documentation of the State's monitoring procedures. This document states "This Consumer's Guide is designed to provide a tool to assist families in evaluating the quality of early intervention services they receive." The Council examines a variety of issues to evaluate the quality of early intervention services, and provides options for training, technical assistance and consultation. Outcome measures for families and children relate to choice, goals, rights, respect, health and safety, relationships, security, and satisfaction. The Council monitors for issues related to matters such as health and safety, staff licensure and freedom from child abuse, but does not monitor for issues related to IFSP content, delivery of services or the provision of qualified providers under Part C. NDDHS identified no other procedures for monitoring compliance. In addition, the Council accredits only the Human Service Centers and does not accredit other public and private agencies that provide early intervention services to eligible infants and toddlers. OSEP reviewed the most recent Council reports (dated during 1996 and 1997) from each of the Human Services Centers visited and found that the Council had not identified any violations of IDEA that OSEP identified in those Centers and discussed in other sections of this report.

The State has failed to utilize appropriate sanctions to ensure that noncompliance identified by the Council has been addressed. While the Council's report identifies weaknesses, which may or may not be related to Part C, NDDHS did not follow up with the Centers to determine if violations of Part C exist. One local program director stated that the State did not discuss the results of a Council visit with the program director. The director further stated that the State did not provide any information to the director on violations or changes the program must make with the director.

Based on this information, OSEP concludes that NDDHS has not fulfilled its general supervisory responsibility to effectively monitor the provision of early intervention services by all agencies within the State that provide Part C services, including those that do not receive financial assistance under Part C.

II. PART C: CHILD FIND/PUBLIC AWARENESS

The needs of infants and toddlers with disabilities and their families are generally met through a variety of agencies. However, prior to the enactment of Part C of IDEA, there was little coordination or collaboration for service provision, and many families had difficulty locating and obtaining needed services. Searching for resources placed a great strain on families.

With the passage of Part C in 1986, Congress sought to ensure that all children needing services would be identified, evaluated, and served, especially those children who are typically underrepresented, (e.g., minority, low-income, inner-city, American Indian and rural populations) through an interagency, coordinated, multidisciplinary system of early intervention services.

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

VALIDATION PLANNING AND DATA COLLECTION

The Part C Self-Study identified several accomplishments related to the State's efforts to locate and identify infants and toddlers with disabilities: conducting group screenings, regional Family Information Fairs, personnel for tracking children on American Indian reservations, and a central directory of services. Concerns included: duplication of child-find efforts; lack of coordination of service providers and agencies; need to identify how families become aware of service availability; lack of knowledge of the central directory; lack of "buy-in" by medical community; physicians' attitudes toward early intervention; and the need to be aware of the difference between adequate outreach services and intrusiveness.

One of the focus questions asked during the public input meetings was: "Are all infants and toddlers with developmental delays or disabilities identified, evaluated and referred for services?" Participants indicated that many children are not identified, including American Indian children living on reservations; that many children are not identified until 30 months of age; and many physicians are reluctant to refer, instead telling parents that their children will eventually begin to develop appropriately. Respondents also indicated that there are many factors that may prevent parents from responding or providing all the appropriate information to the tracking program's questionnaires, which may cause some children not to be referred for services.

At the end of the Validation Planning week, after discussing information obtained through the Self-Study and public input process, the Steering Committee requested that OSEP investigate the following concerns/issues:

- (1) physician's and other medical personnel's levels of awareness and involvement in the early intervention system;
- (2) late age of referral for most children;
- (3) effectiveness of the tracking system, especially on American Indian reservations;
- (4) lack of child find activities in some areas and for some populations;
- (5) lack of knowledge regarding the single point of entry into the early intervention system;
- (6) lack of strategies to identify children who are not participating in the Tracking System;
- (7) effectiveness of alternative strategies to locate children; and
- (8) scope of the child find study.

The Steering Committee suggested that OSEP make contact with primary referral sources and visit rural areas of the State during the Validation Data Collection visit.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures, and interviews of State personnel, local program directors, service coordinators, Developmental Disabilities case managers and parents.

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

A. STRENGTH

TRACKING AT-RISK CHILDREN

The efforts of the State to establish a mechanism for tracking at-risk children are commendable. The North Dakota Early Childhood Tracking System provides parents who register, beginning at their child's birth, a monthly questionnaire on which parents provide information about their child's behaviors in different developmental areas. The questionnaires are reviewed by child development specialists to determine if the behavior in each developmental domain is within norms for the child's chronological age. When the behaviors indicate developmental levels that are not commensurate with the child's chronological age, the information is reviewed by an interagency team to determine whether the child needs an in-depth evaluation in any area and, if so, which agency would be the most appropriate as the primary contact for the family. The Tracking System is currently following several thousand children, ages birth through five, across the State. In order to ensure that American Indian families are able to participate in a meaningful way, each reservation has staff to assist the families. At the local level, the Tracking System's monthly interagency meetings provide naturally occurring events for the discussion of local

systemic issues and barriers to effective service delivery for children and their families. One State administrator described these meetings as one of the best aspects of the Tracking System.

B. AREA OF NONCOMPLIANCE

1. DEVELOPMENT OF A COORDINATED STATEWIDE CHILD FIND SYSTEM

34 CFR §303.321 requires NDDHS, with assistance from the State Interagency Coordinating Council, to develop a comprehensive child find system. NDDHS must implement effective procedures to ensure compliance with the State's policies and procedures by all participating public and private programs in carrying out child find activities. The NDDHS must ensure that the child find system is coordinated with all other major efforts (administered by relevant education, health and social services programs) to locate and identify children and will not duplicate efforts unnecessarily.

NDDHS's procedures for child find do not meet the requirement that its child find efforts are coordinated with all other major child find efforts to ensure infants and toddlers are referred by all primary referral sources. Reports from parents, service providers and administrators throughout the State illustrate the ineffective implementation of procedures to ensure coordination of public agencies in child find activities. Effective coordination of agencies around child find activities would lead to timely identification of eligible children and prompt delivery of early intervention services to infants and toddlers with disabilities and their families.

Except for a cooperative effort with NDDPI in implementing the tracking program, OSEP found no evidence of coordination of child find activities with other agencies who have similar child find responsibilities (i.e., Maternal and Child Health; Early Periodic Screening, Diagnosis and Treatment; Supplemental Security Income) within the State as required in 34 CFR §303.321(c). Further, State agency administrators acknowledged that there is no systematic coordination between NDDHS and other public agencies in the State regarding child find. State agency administrators did not identify any other public agencies that were coordinating child find activities with the early intervention programs. The only example of coordination of activities identified by service providers and local agency directors was the monthly interagency meetings of the Tracking System participants, which are held to review information about children who had been referred to the tracking system.

2 REFERRAL PROCEDURES FOR PRIMARY REFERRAL SOURCES

34 CFR §303.321 requires a State's early intervention system to include policies and procedures to ensure that all infants and toddlers who are eligible for services are identified, located and evaluated. The procedures must provide for an effective method for primary referral sources to make referrals and to ensure that referrals are made no more than two working days after a child has been identified.

OSEP found that NDDHS's policies and procedures are not effective to ensure that all eligible children are identified and that primary referral sources make referrals in a timely manner.

Parents, service coordinators and service providers in all sites visited reported that doctors did not recognize and identify delays early, and if they did, they did not refer the child to the Infant Development Program. Parents in two of four areas of the State stated that physicians are slow to refer infants and toddlers for services, often instructing parents to “go home and live your life, treating this child like your other child.” A local director further confirmed that they did not receive referrals from physicians. Service providers also stated that the State had made little or no effort to ensure that private agencies and local education agencies complied with State policies for referral of children who may be eligible for services. One local provider described the State’s effort as “hit or miss, at best.”

In addition, OSEP was told that many primary referral sources did not understand the appropriate referral procedures when referring a child suspected of needing the provision of early intervention services. A concern was expressed by parents, service coordinators and service providers that many primary referral sources did not understand that children who have not been participating in the North Dakota Early Childhood Tracking System should be referred directly to the Infant Development Program rather than to the Tracking System. One informant stated that the State’s Tracking system was better known than the Infant Development Program. Therefore, many primary referral sources referred parents of children not participating in the Tracking system to that program instead of to the Infant Development Program. According to this informant, when this occurs, the process used by the Tracking system could delay the child’s evaluation and the development of an initial IFSP beyond the 45-day time limit required by Part C.

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

OSEP made the following observation about improving child find and public awareness activities.

PROVISION OF LITERATURE IN “FAMILY-FRIENDLY” LANGUAGE, LOCATIONS AND FORMATS

Parents, service providers and service coordinators stated that they did not believe that the literature published by the State contained “family-friendly” language and, as a result, parents did not respond by contacting the Infant Development Program for assistance. These same individuals noted that publications may not be available in as many languages as are represented in the State or in a variety of formats. Therefore, some families may not have information in a language or format that ensures they understand how to refer their child. The State should review published literature to ensure that it is easily understandable by the public and that it is available in languages represented in the State and in a variety of formats and locations which encourages public access.

III. PART C: EARLY INTERVENTION SERVICES IN NATURAL ENVIRONMENTS

In creating the Part C legislation, Congress recognized the urgent need to ensure that all infants and toddlers with disabilities and their families receive early intervention services according to their individual needs. Three of the principles on which Part C was enacted include:

- (1) enhancing the child's developmental potential,
- (2) enhancing the capacity of families to meet the needs of their infant or toddler with disabilities, and
- (3) improving and expanding existing early intervention services being provided to children with disabilities and their families.

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

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

The IFSP must also include a statement of the natural environments in which early intervention services will be provided for the child. Children with disabilities should receive services in community settings and places where normally-developing children would be found, so that they will not be denied opportunities that all children have - to be included in all aspects of our society. Since 1991, IDEA has required that infants and toddlers with disabilities receive early intervention services in natural environments. This requirement was further reinforced by the addition of a new requirement in 1997 that early intervention can occur in a setting other than a natural environment only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment. In the event that early intervention cannot be satisfactorily achieved in a natural environment, the IFSP must include a justification of the extent, if any, to which the services will not be provided in a natural environment.

VALIDATION PLANNING AND DATA COLLECTION

The Self-Study identified several accomplishments and concerns related to the provision of early intervention services in natural environments. Specific survey questions in the Self-Study related to child and family evaluation and assessment practices and IFSPs. The survey results identified accomplishments in the areas of evaluation/assessments and IFSPs through the development of policies and procedures, in-home evaluations, and use of clinical judgment to determine eligibility for services. Those accomplishments include modifying individual program plans used by other lead agency programs to meet the requirements of IFSPs, and creating a consistent IFSP process across the State. In addition, the results indicated that training is provided for parents in both the evaluation and IFSP process. Concerns about evaluation and assessment focused on the need to increase parent involvement in the process, the State's eligibility criteria, time lines for development of the initial IFSP, lack of staff, and lack of consistency. Concerns related to IFSPs included the need for one integrated service plan to reflect the needs of all programs providing services to the child, the failure to reflect parent concerns in the IFSP, and the perception that funding determines services included on IFSPs.

One of the focus questions asked during the public input meetings was: "Do all infants and toddlers with disabilities and their families receive early intervention services in natural environments appropriate for the child?" Parents, service coordinators, Developmental Disability case managers and service providers indicated that the 45-day time line between referral and development of the initial IFSP may elapse before the evaluation and assessment occurs. These respondents also indicated that services may not be provided in a timely manner or with appropriate frequency due to critical shortages of qualified personnel to provide services (e.g., occupational and physical therapists, vision personnel and assistive technology specialists). Parents also indicated that Developmental Disability case managers are not aware of all available services to meet the needs of the child and the child's family.

At the end of the Validation Planning week, after discussing information obtained through the Self-Study and public input process, the Steering Committee requested that OSEP investigate the following concerns/issues:

- (1) the impact of the therapist's travel time on the amount and frequency of early intervention services provided;
- (2) linkages of services to the availability of providers;
- (3) use of community environments; and
- (4) lack of qualified providers.

The Steering Committee made a specific recommendation that OSEP visit Human Service Centers administered by private and public agencies in rural and metropolitan areas during Validation Data Collection to ensure consistent implementation of early intervention services in natural environments.

To investigate the concerns identified during the Validation Planning process, OSEP reviewed the records of 27 children receiving early intervention services at the time of OSEP's visit, examined State and local policies and procedures, and conducted interviews of State personnel, local program directors, service coordinators, Developmental Disability case managers and parents.

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

A. STRENGTH

COMPUTERIZED DATABASE TO COLLECT INDIVIDUAL AND AGGREGATED IFSP INFORMATION

The computerized database, known as ASSIST, allows the State to capture information related to the provision of early intervention services across the State. The elements of each child's IFSP are entered into the database. The IFSP's outcomes are identified and associated with services and supports to assist in meeting those outcomes. Objectives, methods and activities, frequency and amount of service, providers, location, start and end dates, and funding sources are included in the database. The database information provides the State with valuable information related to the program, such as case manager caseloads, and amounts of developmental services provided. The State can also review the IFSP of a specific child to determine compliance with program standards or to investigate a complaint. In addition to tracking all services received and services authorized/funded by NDDHS, the database also identifies child and family needs beyond those required by the early intervention system and tracks referrals to access those supports allowing the State to project unmet needs of children and families.

B. AREAS OF NONCOMPLIANCE

1. IDENTIFICATION AND PROVISION OF ALL NEEDED SERVICES

As discussed below, the State is failing to include all needed services on IFSPs, as well as to individualize services. State policies and procedures limit the provision of services through the Infant Development Program by limiting the type of identified and needed services the Infant Development Program will provide to a child by limiting the settings where services will be provided. Parents, service coordinators, and agency administrators reported that these limitations result in delays and/or denials of evaluation and services for infants and toddlers with disabilities and their families. In addition to the State policies limiting the provision of services, the lack of qualified personnel to conduct evaluations in a timely manner or for service provision was cited as a reason for delays or denials of services. Therefore, as the State moves to correct the noncompliance areas discussed below, the State must ensure adequate personnel are available to provide evaluations and individually determined services with the frequency and intensity needed.

a. All Needed Services Not Included on IFSPs

34 CFR §303.344(d) requires that IFSPs include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in the IFSP, including the payment arrangements if any. 34 CFR 303.12

(d) lists as types of services included under “early intervention services”: assistive technology devices and services; audiology; family training, counseling, and home visits; health services; medical services only for diagnostic or evaluation purposes; nursing services; nutrition services; occupational therapy; physical therapy; psychological services; service coordination; social work services; special instruction; transportation and related costs; and vision services.

Page 1 of the Infant Development Program Manual, contained in NDDHS’s 1997 application for Part C funds, states: “Early intervention services, other than parent training provided through Infant Development Programs, may be included in the IFSP and the service coordinator identified in the IFSP may assist the family in coordinating these services (medical follow-up, direct therapies, etc.) even though they are services not provided by Infant Development Programs.” Further, the Manual (page 11) includes the following: “At times, children receiving Infant Development Services and their families may need services from professionals such as audiologists, Family Therapists, Nurses, Nutritionists, Occupational Therapists, Orientation and Mobility specialists, Pediatricians and other physicians, Physical Therapists, Psychologists, Social Workers, Special Educators, and Speech pathologists. The services should be accessed from other agencies/professionals without cost to Infant Development Programs.”

When OSEP inquired as to how the policies in the manual were implemented, parents, service coordinators appointed by Part C, NDDHS case managers and local directors across the State told OSEP that the only direct services provided by the early intervention system were parent training or “home visits,” and that the Infant Development Program did not provide any therapies (e.g., speech, occupational therapy, physical therapy). According to parents, service coordinators and case managers, the responsibility for services other than “developmental services” belongs to the family. Parents and service providers reported that information about service providers or how to obtain services was frequently provided by Infant Development Program staff to the family, but the Infant Development Program did not provide, obtain or coordinate the provision of those services. In 5 of 27 records reviewed, OSEP found indications of services received that were not included on IFSPs.

Therefore, the State’s policies, as applied, violate the requirement that IFSPs include the specific early intervention services necessary to meet the unique needs of the child and the family. In addition, given the State’s policy and practice, some children with IFSPs may not be receiving certain needed services at all.

b. Failure to Individualize Services.

34 CFR §303.344(d) states that the IFSP must include a statement of specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes listed in the IFSP including “the frequency, intensity and method of delivering the service.” Frequency and intensity are defined as the number of days or sessions that a service will be provided, the length of time the service will be provided, and whether the service is provided on an individual or group basis. See

34 CFR §303.344(d)(2)(i). These decisions, about frequency, intensity and duration, are to be made by the IFSP team on an individual basis to meet the child's unique needs.

The Infant Development Program manual (page 7) states that children "enrolled in full time Infant Development Services will receive one parent training home visit per week for one hour. Children receiving half time Infant Development Services will receive one home visit for one hour every other week."

Parents, service coordinators, developmental disabilities case managers, and local program directors reported that almost all infants and toddlers eligible under Part C receive one parent training home visit per week through the Infant Development Program, regardless of the severity of their disability and/or identified needs. Service coordinators in one area stated that, although most children receive parent training service one time per week, some children receive services only once or twice a month. Additionally, they said that, regardless of need, no children received home visits more than one time per week unless they were part of a specially funded pilot project. A review of records determined that, for the most part, regardless of factors such as severity of the child's delay, identified need, and age, parent training services were identical in frequency and intensity across children and records.

2. NATURAL ENVIRONMENTS

34 CFR §303.344(d)(1)(ii) requires that the content of an IFSP include the natural environments in which early intervention services will be provided. 34 CFR §303.12(b)(2) defines natural environments as settings that are natural or normal for the child's age peers who have no disability.

As discussed below, the services provided to infants and toddlers with disabilities are limited by State policy including the type of service provided, the frequencies and intensities of services provided and the settings in which services may be provided.

Parents, service coordinators and local directors in all sites visited told OSEP that the home was the only choice considered by the IFSP team for early intervention services. Child care settings and other community settings in which infants and toddlers without disabilities participate are not considered locations for services. Reviews of records indicate that even when children are enrolled in child care, no services or supports are provided to the child in that setting. By State policy, parents of children enrolled in Infant Development Programs receive parent training "home visits," and services and locations are not individualized to the needs of each child and family. The State is therefore failing to provide services in natural environments as required by law.

3. INCLUSION OF IDENTIFIED AND NON-REQUIRED SERVICES ON IFSPS

34 CFR §303.344(e) requires that, to the extent appropriate, medical and other services, needed by the child and child's family, but not required under Part C, are identified on the IFSP, including a listing by the State of the funding sources to be used in paying for those services and the steps that will be taken to secure those services through public or private sources.

As discussed below, OSEP found that medical and other services needed by eligible infants and toddlers and being provided by public or private programs other than the Infant Development Program, or paid for by the parents, were not identified on 12 of 27 IFSPs reviewed.

Local directors and service coordinators in all four areas visited stated that they were unaware that the IFSP must contain all the services needed by a child and family. In three areas, service coordinators reported that they were told to remove any reference to services not funded by the North Dakota Infant Development Program. In addition, representatives from Head Start, Maternal and Child Health, other health care organizations, social service representatives, American Indian reservation programs and others could not identify any area of coordination among agencies except the Tracking System. Parents reported that they were not linked with other services provided in the State (e.g., Medicaid). One parent reported that as a result of not being provided information by the early intervention system or helped to apply for medical assistance under Medicaid, her family suffered severe financial problems paying for services for their child that would have been covered through Medicaid. One local director reported the Infant Development Program typically did not list on the IFSP all the services a child was receiving unless the service was being funded through the Disabilities Services Division.

4. SERVICES PROVIDED AT NO COST TO THE FAMILY

34 CFR §303.520 requires that the State establish policies related to how services to children and their families will be paid for under the State's program. The State's policy, as stated in the Fiscal Year 1997 application for Part C funds, assures OSEP that fees "are not charged for services the child is entitled to receive at no cost to parents; and that the inability of parents to pay for services will not result in denial of services to the child and family. The North Dakota Department of Human Services does not currently charge a fee for early intervention services."

In addition to the policy statement above, the State's application includes a January 28, 1998 memorandum wherein the Disability Services Division addressed participation in Medicaid for Developmental Disability services. The memorandum states, that "General funds will be authorized as the funding source for Infant Development when the child is not eligible for Medicaid or there is a recipient liability. Private pay in any form, including application of recipient liability or parental participation is not an option as Part H [now Part C] of IDEA guarantees the child a free and appropriate education."

Because the State has no system of payments, all early intervention services are required to be at no cost to parents. As discussed below, the State has not met that requirement.

OSEP was told repeatedly by local directors, service coordinators, and parents in all sites visited, that when the needed early intervention services (e.g., occupational therapy, physical therapy) were not available through a public program, parents had to locate and pay for these early intervention services. In some cases, families and lead agency staff reported that families were reimbursed by the State, through a Family Subsidy program, for early intervention services the family purchased for their child. Service coordinators and parents told OSEP that if a family was ineligible for Medicaid or other public programs, did not have insurance, or was unable to pay for

the service, the child would not receive the service even though the need was documented in the evaluation. These services were not included on IFSPs.

5. APPOINTMENT OF A SINGLE SERVICE COORDINATOR

34 CFR §303.23(a) and §303.321(e) require that each State ensure that one service coordinator is available for each eligible child and the child's family upon referral to the public agency and throughout the child's eligibility for services. The service coordinator is responsible for coordinating all services across agency lines and serves as the family's single point of contact. The service coordinator assists the family in obtaining needed early intervention services, facilitates the timely delivery of available services, links the family to other available resources, and continuously reviews appropriate services to benefit the development of each child.

As discussed below, OSEP found that the State does not ensure the appointment of a single service coordinator who is responsible for the activities specified in Federal regulations. State procedures contain provisions for both a service coordinator and a Developmental Disability case manager, to be appointed for each eligible child and his/her family, and these two share the responsibilities specified in Part C.

Parents in three of the four Human Service Centers visited reported that the service coordinator and the Developmental Disability case manager together complete the service coordination activities outlined in IDEA. In all three centers, parents reported that they were not familiar with the term "service coordinator," and they were unable to identify their service coordinator. They also reported that they did not know whom they should call if they had a problem. Further, parents stated that the only services coordinated were services provided through the Developmental Disability Center. Parents said they may be provided information about other services, but had to arrange those services themselves. One parent stated that "no one coordinates services. I coordinate my own."

Service coordinators and Developmental Disability case managers in two of the four Human Service Centers visited confirmed that the functions of a service coordinator are divided between them and that neither was individually responsible for all the functions required by IDEA; even working together, all the functions required by IDEA were not being implemented. In addition, local agency directors reported that there is duplication of effort between the service coordinator and the Developmental Disability case manager and that the functions were divided between the two. One local director stated that service coordinators were assigned the completion of the majority of responsibilities in this area but shared responsibilities with the Developmental Disability case manager. When OSEP questioned service coordinators and Developmental Disability case managers about who was responsible for specific duties required in federal regulations, generally they were certain which of them should be completing certain functions. However, for a few of the specified duties, they were not clear about which should/would do the task creating an uncertainty that the activity may not be completed for the child and child's family.

Interagency linkages at both the state and local levels related to service coordination appear to be non-existent. OSEP found no evidence, through interviews or record review, that early

intervention service coordinators were working with service coordinators or case managers from other agencies from which a child may be also receiving services, such as Medicaid (Title XIX) or Maternal and Child Health (Title V). There also appears to be no mechanism for a service coordinator already working with a child and his/her family, but employed by another public agency, to also serve as the child's early intervention service coordinator under Part C.

Therefore, NDDHS does not ensure that a service coordinator is assigned as the single point of contact for eligible children and their families.

6. COMPLETION OF A MULTIDISCIPLINARY EVALUATION IN ALL DEVELOPMENTAL AREAS

34 CFR §303.322 requires the lead agency to ensure that each referred child receive a comprehensive, multidisciplinary evaluation of the child's level of functioning in each of the following developmental areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development. For eligible children, the lead agency must conduct an assessment that identifies the child's unique strengths and needs and the appropriate services needed. In addition, the family has the option of a family-directed assessment designed to determine the resources, priorities and concerns of the family related to enhancing the child's development.

As discussed below, OSEP found that the State has not effectively ensured that each child referred for early intervention services receives a timely multidisciplinary evaluation in all of the developmental areas.

In two of the four areas visited, review of early intervention records along with interviews with parents, service coordinators, and service providers revealed that infants and toddlers were not evaluated in all required developmental areas. One local director stated that assessments are driven by parent's concerns and that the Infant Development Program would do additional evaluations if the parent expressed a concern about other developmental areas. Service coordinators told OSEP that the early intervention system "doesn't have to assess in all areas if they are not a concern of the parents." They stated that they often had to encourage the parent to express a concern about one of the developmental areas in order to obtain an evaluation of that domain. If the service coordinator was not successful in getting the parent to express a concern about the developmental area, the child would not be evaluated in that area. Parents identified specific developmental areas in which evaluations did not occur (e.g., speech).

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

OSEP made the following observation about improving results for infants, toddlers and their families.

COLLECTION OF INFORMATION IN A SINGLE, COMPREHENSIVE, CHILD RECORD

OSEP recommends that the State take steps to ensure that each child's early intervention information is easily accessible to parents and others, as appropriate. At this time, all four

regions visited retain information relating to the referral, evaluation and development of the child's IFSP in several records or in different locations, rather than in a single record or location.

The Developmental Disability case manager's record, containing information about referral and quarterly reviews, is housed at the Human Service Center office, while other records may be housed in the Infant Development Program office. The early intervention record does not contain the Developmental Disability information. It was unclear which record(s) would be provided if a parent requested their child's early intervention record. For program monitoring purposes, it makes it difficult to track a child through the early intervention system beginning at referral. It also could be beneficial to the State in its monitoring efforts.

IV. PART C: FAMILY-CENTERED SYSTEM OF SERVICES

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

Parents and other family members are recognized as the linchpins of Part C. As such, States must include parents as an integral part of decision-making and service provision, from assessments through development of the IFSP, to transition activities before their child turns three. Parents bring a wealth of knowledge about their own child's and family's abilities and dreams for their future, as well as an understanding of the community in which they live.

In 1986, Part C of the IDEA was recognized as the first piece of Federal legislation to specifically focus attention on the needs of the family related to enhancing the development of children with disabilities. In enacting Part C, Congress acknowledged the need to support families and enhance their capacity to meet the needs of their infants and toddlers with disabilities. On the cutting edge of education legislation, Part C challenged systems of care to focus on the family as the unit of services, rather than the child. Viewing the child in the context of her/his family and the family in the context of their community, Congress created certain challenges for States as they designed and implemented a family-centered system of services.

VALIDATION PLANNING AND DATA COLLECTION

Several sections of the Part C Self-Study provided information relative to the family's satisfaction with their involvement in the early intervention system. Over one-third of the parents surveyed for the Self-Study indicated "satisfied" and over 50 percent of others indicated "somewhat satisfied" in relation to parents' involvement in development and implementation of early intervention policies. Similar numbers of parents indicated their level of satisfaction with the coordination of services at the State (34 percent satisfied and 50.1 percent somewhat satisfied) and local (28.5 percent satisfied and 57.3 percent somewhat satisfied) levels. Somewhat greater numbers of parents indicated they were satisfied (51.0 percent) or somewhat satisfied (43.8 percent) with the State or local policies related to family-focused philosophy. Twenty-nine percent of the parents indicated they were satisfied and 55.3 percent indicated they were somewhat satisfied with outreach to families.

The Self-Study identified some satisfaction with progress made in the area of outreach to families. However, issues were identified relating to family-centered systems of services, including the lack of parent involvement in outreach planning; confusing information provided to parents; lack of awareness of the line between adequate outreach and intrusion; lack of family-

centeredness; differences in agencies' philosophy related to family-centered vs. child-centered services; and the need to increase American Indian involvement.

One of the focus questions asked during the public input meetings was: "Are family and child outcomes enhanced by family-centered supports and systems of services?" Responses indicated some concern about family-directed assessment components. Parents reported the need for materials in languages and formats that would be understandable to them and that would be disseminated in community sites. Parents and providers reported a need to ensure that physicians and other service personnel are trained to be aware of the needs of families. Parents commented on the need for increased, community-based family support systems including a need for training of parents regarding options of services through the early intervention system. Parents also expressed need for the State to work more closely with child care providers to increase the availability of programs which can meet the needs of children with disabilities.

At the end of the Validation Planning week, after discussing information obtained through Self-Study and public input process, the Steering Committee requested that OSEP investigate the following concerns/issues:

- (1) identification of family needs;
- (2) use of family-friendly language in all documents;
- (3) parents' need for training on service options;
- (4) the provision of family-to-family services;
- (5) need for training in collaboration;
- (6) needs assessments and staff training to enable staff to be more sensitive to family needs; and
- (7) interactions with child care programs to create more opportunities to meet the needs of children with developmental delays.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures, and interviews of State personnel, local program directors, service coordinators, Developmental Disability case managers and parents.

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

A. STRENGTH

PARENT INVOLVEMENT SUBCOMMITTEE OF THE STATE INTERAGENCY COORDINATING COUNCIL

The State Interagency Coordinating Council includes a parent involvement subcommittee that has been active in advising the State on several components of the system. The Committee is composed of families with children of varying ages and, therefore, provides the Council with information related to early intervention services, early childhood transition and services to preschool-age children. This information is assisting the Council and the State in designing and implementing new initiatives to lead to improvements of the early intervention system.

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

OSEP made the following observations about improving the family-centeredness of the systems of services.

1. ENHANCEMENT OF FAMILY-CENTEREDNESS IN EARLY INTERVENTION SERVICES

During the public input process, parents reported that they did not understand the content of published materials or information provided verbally. American Indians reported that service provision, as well as verbal or printed information, is not sensitive to cultural differences. Information is not readily accessible to families with young children. OSEP recommends that the State examine aspects of the early intervention system to determine if improvements would enhance the family-centered aspects of the system. The language of all publications about the early intervention system of services should be examined to ensure that family-centered language is culturally appropriate and has been used throughout. In addition, the distribution plan of materials should be reviewed to ascertain if all community sites that would typically include families of young children are included.

2. TRAINING FOR FAMILIES AND SERVICE PROVIDERS

Providers told OSEP that training designed to assist them to be sensitive to, and meet needs of, families, was not available. Additionally, parents stated that training for them regarding service options was unavailable. Provision of this training could contribute to the development of a more family-centered system.

V. PART C: EARLY CHILDHOOD TRANSITION

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

- (1) identification of steps to be taken to prepare the child for changes in service delivery and to help the child adjust to a new setting,
- (2) preparation of the family (i.e., discussions, training, visitations), and
- (3) determination of other programs and services for which a child might be eligible.

Transition planning for children who may be eligible for Part B preschool services must include scheduling a meeting, with approval of the family, among the lead agency, the educational agency and the family, at least 90 days (with parental permission up to six months) prior to the child's third birthday. Transition of children who are not eligible for special education also includes convening a meeting to assist families in obtaining other appropriate community-based services. For all Part C children, States must review the child's program options for the period from the child's third birthday through the remainder of the school year and must establish a transition plan.

VALIDATION PLANNING AND DATA COLLECTION

The Self-Study survey results show some satisfaction regarding the transition of children from Part C to Part B services. The Self-Study respondents found that the process used by the early intervention and preschool programs is efficient, including a formal plan and a multidisciplinary approach to assessment. There had been major progress in information sharing, staff involvement, and the timeliness of beginning the transition process. Concerns identified included: the timeliness of the overall process; consistency from program to program; differences in the regulations between the early intervention and the education systems; provision of services during the summer months; issues related to migrant families; and the need to educate staff and families about the transition process. The Self-Study also included some recommended actions to be taken by the State including reexamining the State's transition policies, conducting a descriptive study of transition practices, sponsoring statewide multi-agency training on transition and developing a transition manual to be used by both NDDHS and NDDPI.

One of the focus questions asked during the public input meetings was: “Are appropriate supports and services available to a child, and to the child’s family, by the child’s third birthday?” Responses indicated that transition planning varies across the State. The parents and service providers who participated in a focus group on an American Indian reservation reported difficulty in obtaining assessments for American Indian children and developing Individualized Education Programs by the third birthday. Across the State, it was reported to OSEP that even in school districts where transition was relatively smooth for most children, transition is especially difficult for children whose third birthday is in the late spring or during the summer. Concern was expressed across the State that the Infant Development Program did not always share information about children exiting Part C with the local educational agency in a timely manner.

At the end of the Validation Planning week, after discussing information obtained through the Self-Study and public input process, the Steering Committee requested that OSEP investigate the following concerns/issues:

- (1) changes in frequency of services at age three,
- (2) parents not being made aware of how their child’s program would change upon exit from early intervention,
- (3) the practice of repeating current evaluations by school personnel to determine eligibility for special education,
- (4) timeliness in providing records to the local education agency, and
- (5) the contents of interagency agreements.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children’s records and State and local policies and procedures, and interviews of State personnel, local program directors, service coordinators, developmental disabilities case managers and parents.

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

AREA OF NONCOMPLIANCE

TRANSITION PLANS MISSING FROM CONTENT OF IFSPs AND TRANSITION MEETINGS NOT HELD 90 DAYS BEFORE THE THIRD BIRTHDAY

The Part C regulations require that public agencies develop IFSP transition plans that meet the requirements in 34 CFR §303.344(h) and that transition planning meetings be held at least 90 days before the child’s third birthday to develop the transition plan, in accordance with 34 CFR §303.148, for children who may be eligible for Part B services. NDDHS must ensure a smooth transition for children participating in early intervention into Part B or other appropriate services. This includes notifying, with parent permission, the appropriate local education agency and, for children who may be eligible for Part B, convening, with the approval of the family, a conference

among the early intervention system, the family, and the local educational agency at least 90 days before the child's third birthday. The purpose of the conference is to review the child's program options for the period from the child's third birthday through the remainder of the school year and establish a transition plan. 34 CFR §303.344(h) requires that the IFSP include the steps to be taken to support the transition of the child to

- (1) preschool services under Part B of IDEA, to the extent that those services are appropriate; or
- (2) other services that may be available, if appropriate.

As discussed below, OSEP found that NDDHS did not ensure that transition requirements are included in IFSPs and did not ensure that transition planning meetings were held at least 90 days before a child's third birthday for children who may be eligible for Part B or make reasonable efforts to convene a transition conference for children who are not Part B eligible.

OSEP reviewed children's records, including IFSPs, and interviewed parents, service providers, service coordinators, and Developmental Disability case managers from the four areas of the State visited. OSEP found that, except for one excellent plan developed for a two-year-old child, transition plans were not included in the IFSP. Generally, notes in children's records indicated that information about transition had been discussed with the parent and the parents who were interviewed appeared to have information related to appropriate services for their child after exiting Part C. Interviews with parents and service coordinators indicated that meetings to develop transition plans were conducted just before the third birthday, rather than the 90 days required by Federal regulations, for children who may be eligible for Part B. One parent, whose child's birthday is in October, reported that the transition meeting was scheduled for the end of September.

VI. PART B: PARENT INVOLVEMENT

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

VALIDATION PLANNING AND DATA COLLECTION

MONITORING:

OSEP's 1994 monitoring report did not identify any findings of noncompliance in this area and commended NDDPI on efforts related to parent involvement and training for staff and parents.

SELF-ASSESSMENT:

Section 6 of the North Dakota Part B Self-Assessment addressed "Family Involvement." It discusses several documents that outline procedures for parent participation. In addition, the Self-Assessment summarizes local school district monitoring data from 1992-1997 relative to parent participation. Data reviewed for the most recent monitoring cycle (1996-97) indicates that 91 percent of parents in seven agencies participated in IEP meetings, 91 percent of files included consent for initial evaluation and 93 percent of files included consent for initial placement in special education.

NDDPI solicited concerns from the Pathfinder Parent Center and Protection and Advocacy based on information received from parents. Included in these concerns were the parent's role and responsibility in the IEP process, decisions about the provision of extended school year services, and appropriate behavioral services and interventions.

While the Self-Assessment reported high rates of parent attendance at IEP meetings, results of efforts to obtain parent consent for evaluations, and results of efforts to obtain parent consent for initial placement in special education, the Steering Committee expressed concerns that parents, including those on American Indian Reservations, are not actively involved in the special education decision-making process. Members of the committee stated that a major factor could be a lack of training and information dissemination to parents.

PUBLIC INPUT PROCESS:

One of the focus questions asked during the public input meetings was: "Is the provision of a free appropriate public education facilitated through parent partnerships?" Responses indicated that there is great variation from special education unit to special education unit. Participants in the western regions of the State reported a generally high level of involvement and participation. Participants in other areas of the State reported less involvement and participation. Many parents

reported a lack of availability of training opportunities. Several parents indicated that the Special Education Unit Boards, largely made up of local school district superintendents, discouraged parent involvement. Parents reported they are not represented on these boards in most areas and in some areas meetings are scheduled during the day (unlike local school district board of education meetings) when parents are working and that they have no avenue through which to raise issues with the Boards.

At the end of the Validation Planning week, after discussing information obtained through the Self-Assessment and public input process, the Steering Committee requested that OSEP investigate the following concerns/issues: reports that

- (1) parents of children with disabilities are not listened to or respected in the local school districts;
- (2) parents of children with disabilities must “fight” for what their children need;
- (3) “draft” or “pre-organized” IEPs are seen as finished documents that parents are expected to “rubber stamp;”
- (4) parents do not receive training; and
- (5) parents of children on American Indian reservations do not participate in educational planning or special education decision-making.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children’s records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers, and parents.

OSEP reviewed and analyzed the data and identified the following strengths and suggested areas for improvement.

A. STRENGTHS

1. PARENT TRAINING USING PUBLIC TELEVISION

NDDPI created three videos to be aired on public television in October 1998. NDDPI sent flyers through the schools to parents and staff. Topics are:

- (1) *Individualized Education Program*: A tool for success in education and beyond;
- (2) *Discipline Provisions*: Positive behavioral supports and beyond; and
- (3) *Assessment*: Bridging the gap between teaching and learning for all students.

2. FAMILY EDUCATOR ENHANCEMENT TEAMS (FEET)

The Family Educator Enhancement Team (FEET) provides frequent newsletters to schools and parents. Included in the newsletter are available training opportunities offered by schools, universities and other agencies throughout North Dakota.

3. PARAPROFESSIONAL TRAINING

As noted in OSEP's 1994 monitoring report, NDDPI helps to ensure quality services by requiring paraprofessionals to receive orientation and training, or demonstrate competencies, in five areas, including parent involvement.

B. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

OSEP made the following observations, which could lead, to improving parent involvement.

1. PARENT PARTNERSHIPS IN SPECIAL EDUCATION

Many parents believe that they are not equal partners in the special education decision-making process. Parents believe they are not viewed as knowledgeable about their child's educational needs by the local school districts and feel intimidated by the numbers of professionals whom they must confront at each meeting. Parents believe that school personnel, especially administrators, do not have the appropriate skills to mediate disputes.

No recent training was reported in any of the seven districts visited regarding parents' rights or procedural safeguards for either parents or staff. No consistent, coordinated training is provided for regular education staff in any of the seven districts visited relative to special education decision-making and parent involvement. Special and regular educators are not trained together.

2. TRAINING AND ENHANCING THE INVOLVEMENT OF AMERICAN INDIAN PARENTS

Administrators and teachers on two American Indian reservations reported that significant efforts have been made to involve American Indian parents but that these efforts have not been successful. Attendance at meetings related to special education decision-making is extremely low. Training opportunities do not produce participation or results.

3. USE OF "DRAFT" IEPs

Parents and local school district personnel have very different understandings of the purpose and use of "draft" or "pre-organized" IEPs. Communication between parents and local education agencies utilizing "pre-organized" IEPs needs improvement. Local school districts perceive the use of a "draft" document as a time saver and a means to provide information to the parent about what the school is thinking, in advance of the IEP meeting, so that the parent is better prepared to participate in the IEP meeting and to express their opinions/concerns about the school's proposals. Parents view this document as a finished product in which they have no input and which does not represent their concerns, ideas, and needs for their child.

The response to question #32 in Appendix A of the Part B regulations states that school districts must make it clear to parents at the outset of the meeting that the services proposed by the district

are only recommendations for review and discussion with the parents. Parents have the right to bring questions, concerns and recommendations to an IEP meeting as part of a full discussion of the child's needs and the services to be provided to meet those needs before the IEP is finalized. The school district must ensure that, if personnel bring drafts of some or all of the IEP content to the IEP meeting, there is a full discussion with the child's parents, before the child's IEP is finalized, regarding drafted content and the child's needs and the services to be provided to meet those needs.

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

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

The U.S. House of Representative's Committee on Labor and Human Resources has pointed out that too many students with disabilities are failing courses and dropping out of school. Almost twice as many children with disabilities drop out as compared to children without disabilities. There is a further concern about the continued inappropriate placement of children from minority backgrounds and children with limited English proficiency in special education. Therefore, the Committee stated its intention that "once a child has been identified as being eligible for special education, the connection between special education and related services and the child's opportunity to experience and benefit from the general education curriculum should be strengthened. The majority of children identified as eligible for special education and related services are capable of participating in the general education curriculum to varying degrees with some adaptations and modifications. This provision is intended to ensure that children's special education and related services are in addition to and are affected by the general education curriculum, not separate from it."

VALIDATION PLANNING AND DATA COLLECTION

MONITORING:

As reflected in its 1994 monitoring report, OSEP found that NDDPI did not meet its responsibility to ensure that:

- (1) children with disabilities were educated with nondisabled children to the maximum extent appropriate;
- (2) various alternative placements were available to the extent necessary to implement each child's IEP;
- (3) unless a child's IEP required some other arrangement, the child was educated in the school that he or she would attend if she or he did not have a disability;

- (4) each child with a disability participates with children who did not have disabilities in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of that child; and
- (5) the person assigned as a surrogate met the requirements that protect a child's right to a free appropriate public education.

SELF-ASSESSMENT:

Sections 4 and 5 of the North Dakota Part B Self-Assessment addressed "Appropriate Education" and "Least Restrictive Environment." NDDPI monitoring data for the 1996-97 school year indicated that all seven units monitored failed to comply with IEP meeting attendance requirements. The following requirements were not met in more than 70 per cent of cases reviewed: IEP reviews within one year, justification for placement determinations, and the nature of physical education services to be received by the child.

The Self-Assessment indicated that, in response to a survey during the 1995-96 school year, only 11 of 218 districts that responded excluded most children with disabilities from Statewide assessments. Results of the 1997-98 California Test of Basic Skills testing were unavailable, as well as the number of children with disabilities participating when the Self-Assessment was developed.

NDDPI publishes trend data every two years as a follow-up to OSEP's 1994 findings. The comparisons highlight two aspects of least restrictive environment:

- (1) the extent to which services to children with disabilities are provided in the school the child would attend if he or she did not have a disability and
- (2) the extent to which those services are provided in a general education setting versus more restrictive settings.

Comparisons indicate that in 1993, 14.2 percent of children with disabilities were placed in schools other than their neighborhood schools and 10.5 percent in 1997. Changes were also noted in the degree to which children in some disability categories receive their services in separate classroom settings (defined as those children placed in these settings for 60 percent or more of the school day) versus less restrictive options.

DISABILITY CATEGORY/SETTING	1992-93	1996-97
Children with "Educable Mental Retardation"		
Regular Class	24%	38%
Resource Room	33%	45%
Separate Class	41%	16%
Other	2%	1%
Children with "Trainable Mental Retardation"		
Regular Class	9%	11%
Resource Room	13%	32%
Separate Class	67%	48%
Other	11%	9%
Children with Emotional Disturbance		
Regular Class	47%	53%
Resource Room	27%	30%
Separate Class	18%	9%
Other	9%	8%
All Other Categories		
Regular Class	84%	84%
Resource Room	9%	9%
Separate Class	5%	4%
Other	2%	3%

The NDDPI Self-Assessment identified categorical certification as a major issue in implementing least restrictive environment provisions under IDEA. A joint meeting of the IDEA Advisory Committee and the CSPD Committee is planned for March 1999 to examine this issue.

PUBLIC INPUT PROCESS:

One of the focus questions asked during the public input meetings was: "Do students with disabilities receive a free appropriate public education in the least restrictive environment that promotes a high quality education and prepares them for employment and independent living after they exit school?" Responses indicated lack of knowledge about extended school year services. Many parents indicated their children attend summer school and that they pay tuition. Parents also indicated difficulty in identifying and obtaining appropriate assistive technology devices and services. Parents reported that it was easier than in the past to get their children into neighborhood schools; however, many parents expressed frustration at having to "fight for services." Parents of children with behavioral issues were unfamiliar with the terms "functional behavior assessment" and indicated their children did not have behavior management plans. Administrators across the State indicated difficulty in transitioning children from Part C, by their third birthday, to Part B services. They indicated two very different issues:

- (1) children were receiving a great deal of service under Part C and very little Part B service was being recommended at transition planning meetings; and
- (2) children were receiving very little service under Part C and significant amounts of Part B services were being recommended at transition planning meetings.

These administrators indicated that records were not provided to the Part B provider in sufficient time for them to become familiar with the child and his/her needs and that, therefore, appropriate services may not be offered. Parents indicated difficulty in obtaining Part B services for their preschool children.

The Steering Committee, as noted in the Self-Assessment, reported general improvement in the provision of a free appropriate public education in the least restrictive environment; however, in a meeting with OSEP at the end of the Validation Planning week, they expressed concerns very similar to those expressed by parents and administrators. The Committee requested that OSEP investigate the following concerns/issues:

- (1) whether a lack of qualified evaluators and providers exists, especially for low incidence populations, and contributes to delays in evaluations and reevaluations, as well as to the delivery of services, in accordance with appropriate IEPs, in the least restrictive environment;
- (2) whether children with disabilities receive a free appropriate public education, including, when appropriate, functional behavior assessments and behavior management plans, when suspended more than ten days cumulative in a school year, or expelled;
- (3) whether assistive technology devices and services are provided, when appropriate, to children with disabilities, at no cost to the parent;
- (4) whether extended school year services are considered and, when determined necessary, provided in accordance with an appropriate IEP;
- (5) whether children with emotional disturbance receive their services in the least restrictive environment; and
- (6) whether services for children transitioning from Part C to Part B services are appropriately determined and documented in the child's IFSP/IEP.

Section 615(k)(1)(B) of the Act sets forth specific requirements regarding functional behavioral assessments and behavioral intervention plans, when a student with a disability is suspended for more than 10 days, or expelled. Five of the seven school districts that OSEP visited in North Dakota have policies that prohibit suspensions for more than ten days or expulsion of students with disabilities. Therefore, OSEP was unable to collect sufficient data to determine whether there was systemic noncompliance regarding the requirements of this section.

Another issue raised in public comment and by the Steering Committee concerned the provision of assistive technology devices and services. OSEP found that one of the districts visited was not ensuring that students with disabilities received needed assistive technology devices and services as part of a free appropriate public education. NDDPI agreed to work with that district to ensure that it comes into compliance with IDEA requirements regarding assistive technology devices and services. Because OSEP did not find such noncompliance in any of the other districts that it visited, it has not included a finding of systemic noncompliance in this report. NDDPI has created an assistive technology project with a State-wide focus and continues to provide technical assistance and training to districts across the State to assist them in complying with these requirements.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers, and parents.

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

A. STRENGTHS

1. INCREASED INVOLVEMENT IN STATE- AND DISTRICT-WIDE ASSESSMENT PROGRAMS

NDDPI is taking proactive steps to increase the involvement of children with disabilities in State- and District-wide assessment programs, including the creation of a broad-based Task Force to identify barriers and develop alternate methods of assessment for children who are unable to participate in Statewide assessments. The Task Force has met six times since October 1997 and includes school principals, regular educators, guidance counselors, special educators, university personnel, outreach service providers, NDDPI personnel and parents with knowledge of assessment issues. The Task Force has developed draft guidelines on the *Participation of Students with Disabilities in State-District Assessment Programs*.

2. INTERAGENCY SERVICE SUPPORT EFFORTS

North Dakota is implementing interagency efforts to develop preventive and supportive service systems among agencies. Agencies involved in this effort include: Foster Care, Mental Health and Developmental Disabilities in the Department of Human Services, Juvenile Services in the Department of Corrections, and the Department of Public Instruction.

B. AREAS OF NONCOMPLIANCE

1. ADEQUATE SUPPLY OF QUALIFIED PERSONNEL TO PROVIDE A FREE APPROPRIATE PUBLIC EDUCATION

34 CFR §300.300 requires that a free appropriate public education be made available to all children with disabilities. In addition, 34 CFR §300.380(a)(2), formerly 34 CFR §300.381, requires that each State ensure an adequate supply of qualified personnel, including special

education and related services personnel and leadership personnel, necessary to carry out the purposes of IDEA.

As discussed below, OSEP determined that NDDPI did not ensure that an adequate supply of qualified personnel (special educators, related services personnel and trained paraprofessionals) is available to implement IDEA.

In six of seven school districts visited, administrators reported that personnel shortages existed that resulted in children with disabilities not receiving all the services to which they were entitled. In three districts, teachers and administrators reported that providers are often required to choose between providing direct services identified on IEPs or conducting evaluation activities within the required three-year time line. Teachers and administrators in three of the seven districts reported that children with disabilities are not evaluated in a timely manner because of staff shortages. Administrators in two districts reported attempts to address personnel shortages through contracted services but that none were available. Teachers and administrators in two districts reported that crisis intervention, identified as a need on IEPs, is sometimes unavailable because it is necessary to schedule qualified personnel in advance. Teachers and administrators in five districts reported that either the type or amount of service is determined by providers' schedules rather than by the child's identified needs or that children with disabilities are denied opportunities to participate in general education classrooms because of personnel shortages.

2. AVAILABILITY AND PROVISION OF EXTENDED SCHOOL YEAR SERVICES

34 CFR §300.300 requires that a free appropriate public education be made available to all children with disabilities. In addition, 34 CFR §300.13, formerly 34 CFR §300.8, requires that services be provided in accordance with an appropriate IEP.

As discussed below, OSEP determined that NDDPI did not ensure that children are provided extended school year services, in accordance with an appropriate IEP.

OSEP determined that extended school year services are not available for all children with disabilities who need such services in order to receive a free appropriate public education in North Dakota. Teachers and administrators in one district reported that no extended school year services are available for consideration, regardless of individual children's needs. Teachers and administrators in two other districts reported that all children are permitted to participate in summer school programs that are available to all children in the district. Such services are not provided in accordance with an IEP, and services pursuant to an IEP are not available during the summer, regardless of individual student needs. In six of seven districts where teachers and administrators reported availability of extended school year services, these services are provided through summer school programs; however, extended school year services were not identified on any of the IEPs reviewed by OSEP. Three districts provide services based on funding availability. Two districts provide transportation at parent expense or only to children with specific categories or severities of disability.

3. SUPPORT IN THE REGULAR EDUCATION SETTING TO ENSURE PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT

34 CFR §300.550(b) requires that, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled. In addition, removal of children with disabilities from the regular education environment may occur 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. Section 602(29) of IDEA defines supplementary aids and services as aids, services and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate. Section 601(c)(2)(A)(5) states that research and experience has demonstrated that the education of children with disabilities can be made more effective by providing appropriate aids and supports in the regular classroom, whenever appropriate.

As discussed below, OSEP determined that children with disabilities are often not placed in regular classes to the maximum extent appropriate, because of a lack of supplementary aids and services.

Teachers and administrators in two districts reported that staff shortages (special educators, related services personnel, and trained paraprofessionals) limit the amount of time and numbers of children with disabilities that IEP teams can place in regular education environments, regardless of the individual needs of the child. NDDPI reported that funding considerations affect the ability of districts to provide sufficient staff. Teachers and administrators in six districts reported that due to lack of training in behavior management for both special and general education teachers, some children with behavior problems were not educated in the regular education environment to the maximum extent appropriate.

Teachers and administrators in two districts reported that many children with mental retardation are excluded from the general education environment based solely on their category of disability because teachers are often not trained to appropriately support children with mental retardation in either regular or special education classrooms. Teachers in three other districts reported that IEP teams don't consider placement in some regular classes because of the attitudes of the regular teachers and the lack of training in behavior management.

OSEP reviewed IEPs in the agencies visited and noted that most IEPs included an explanation for the child's placement. Examples in IEPs reviewed included: "Expectations in the regular classroom are paced too fast;" "Material is given too fast and is beyond her abilities;" "...services in the EMH room are necessary for him to meet his...needs;" "regular classroom is not least restrictive and doesn't meet ____'s needs;" and "____ is too easily distracted to comprehend academics in a regular classroom." When OSEP inquired of teachers and administrators what actions could be taken to allow these children to participate in regular education classes, they said that general education teachers require training in order to accommodate children with disabilities in their classrooms and that attitudes, as well as staffing issues, prevented successful placements in regular classes.

Therefore, because of the unavailability of appropriate supplementary aids and services, including adequate numbers of appropriately-trained staff, children with disabilities are not educated in regular education environments with nondisabled children to the maximum extent appropriate.

C. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

OSEP made the following observations about improving the provision of a free appropriate public education in the least restrictive environment.

1. CERTIFICATION REQUIREMENTS THAT SUPPORT PLACEMENT IN THE LEAST RESTRICTIVE ENVIRONMENT

The Self-Assessment identified categorical certification of special education teachers as a significant barrier to implementation of the least restrictive environment provisions of IDEA. Continued efforts on the part of the State's IDEA Advisory Panel and NDDPI to effect changes in these requirements could have a significant positive impact on both the availability of qualified personnel and the placement of children with disabilities in the least restrictive environment.

IDEA does not require categorical services to children with disabilities or categorical certification of teachers. See section 612(a)(3)(B). In fact, it is inconsistent with IDEA to base the services provided to children with disabilities on their category of disability rather than on their unique needs.

2. TIMELY TRANSFER OF RECORDS FROM PART C TO PART B

Records for children with disabilities transitioning from Part C to Part B did not identify dates when records were transferred. Identification of transfer dates would assist NDDPI in determining whether such transfers are delayed and could assist in identifying problems associated with record transfers. Timely transfer of records is critical in ensuring that transition teams make appropriate decisions about service provision. OSEP recommends that NDDPI and NDDHS work together to facilitate the consistent recording of this information and the actual timely transfer of records. OSEP did not identify any significant changes in the types or amounts of services when children transitioned from Part C to Part B services.

VIII. PART B: SECONDARY TRANSITION

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

VALIDATION PLANNING AND DATA COLLECTION

MONITORING:

OSEP's 1994 monitoring report did not include any findings of noncompliance related to transition and commended NDDPI on efforts related to transition including: intensive training and technical assistance activities; since 1986, the inclusion of transition planning for students beginning at age 14; and regional training for staff funded jointly by NDDPI and the Department of Vocational Rehabilitation.

SELF-ASSESSMENT:

Section 10 of the North Dakota Part B Self-Assessment addresses "Post-School Transitions." It discusses two documents in which transition is addressed: *Special Education in North Dakota: Guidelines for the Individualized Education Program Planning Process (1995)* and *Bridging the Gap (1995)*. In addition, the Self-Assessment summarizes local school district monitoring data from 1992-1997 relative to transition. Data reviewed for the most recent monitoring cycle (1997-1998) indicate that districts are not consistently meeting State standards and that considerable training and technical assistance will be necessary in order for local school districts to meet those standards.

Several transition-related initiatives are described in the Self-Assessment, including:

- (1) Follow-up Information on North Dakota Education and Training (FINDET), an interagency collaborative effort to provide follow-up information on North Dakota education and training programs to improve instructional and program planning and to avoid duplication of resources among agencies;

- (2) Student Information Automation Feasibility Study, a student information system to be used in support of FINDET;
- (3) School-to-Work Opportunities System providing inclusion and outreach to students with disabilities in community settings; and
- (4) the Interagency Transition Agreement update with particular emphasis on addressing concerns for students in the 18-21 age group.

PUBLIC INPUT PROCESS:

One of the focus questions asked during the public input meetings was: “Do students with disabilities, ages 14 and older, receive instruction and coordinated services that facilitate successful transition from school to work or from school to post-secondary education?” Responses indicated that there is great variation from special education unit to special education unit. Some parents reported that they had not heard of transition, even though their child was older than 14. Some parents reported that transition was a strength in their school district and that significant efforts were made to prepare their children for post-secondary activities. Many parents recalled discussions about post-school activities but were uncertain of the context or outcome of those discussions. School personnel reported that linkages with adult service providers were difficult and that the Departments of Vocational Rehabilitation and Developmental Disabilities refused to participate until students were over 18.

While noting several initiatives related to transition in the Self-Assessment, the Steering Committee expressed concerns that students, including those on American Indian reservations, are not adequately prepared for post-secondary activities and independent living. At the end of the Validation Planning week, after discussing information obtained through the Self-Assessment and public input process, the Steering Committee requested that OSEP investigate the following concerns/issues: reports that

- (1) agency linkages are not facilitated, particularly with Vocational Rehabilitation, Developmental Disabilities, Job Service, Vocational Education and Institutions of Higher Education, and the appropriateness of involvement of those agencies at various ages;
- (2) students are kept in school beyond the age of 18 because adult service provision is unavailable until students reach age 21;
- (3) appropriate transition goals, services and activities are not addressed in IEPs;
- (4) Independent Living Centers are not involved or available to the extent necessary;
- (5) students are not informed at age 17 of rights and responsibilities that will become theirs upon turning age 18; and
- (6) opportunities for agency involvement, community experiences, and the development of independent living skills are insufficient on American Indian reservations.

It should be noted that because the requirement that students, at age 17, be informed of rights and responsibilities that will become theirs upon turning age 18 did not take effect until July 1, 1998, OSEP did not collect Statewide data related to this requirement. It is recommended that the State examine policies and procedures outlining the transfer of rights to ensure compliance with IDEA requirements. The State's monitoring procedures must include a process to determine appropriate implementation of the State's policies.

In reviewing the concerns identified by the Steering Committee, OSEP determined that the appropriate mechanism to address concerns related to Independent Living Centers was to investigate the linkages being made between local school districts and other agencies. To investigate the remaining five issues, OSEP collected information from the review of children's records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers, and parents.

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

A. STRENGTHS

1. FUNDING FOR TRANSITION COORDINATORS

The North Dakota Department of Vocational Rehabilitation agreed to continue funding positions for Transition Coordinators beyond the expiration of North Dakota's Transition-related systems change grant. These individuals are available to assist school districts in planning and coordinating transition activities.

2. INTERAGENCY COORDINATION FOR TRANSITION

NDDPI's Departments of Special Education and Vocational Education, Vocational Rehabilitation, Developmental Disabilities, and representatives of Institutions of Higher Education meet regularly as a task force to identify and attempt to resolve issues of concern related to transition and to refine the interagency agreement related to transition.

3. LONGITUDINAL FOLLOW-UP STUDY

NDDPI continues to collect longitudinal follow-up data on students who have left school in order to evaluate the effectiveness of transition planning.

B. AREAS OF NONCOMPLIANCE

1. INVOLVEMENT OF STUDENT AND PARTICIPATING AGENCY REPRESENTATIVES IN TRANSITION PLANNING

34 CFR §300.344(c) of the regulations in effect at the time of the monitoring visit required that, if a purpose of the meeting is the consideration of transition services for a student, the public agency shall invite the student and a representative of any other agency that is likely to be responsible for providing or paying for transition services. If the student does not attend, the

public agency shall take other steps to ensure that the student's preferences and interests are considered. If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain the participation of the other agency in the planning of any transition services.

As discussed below, OSEP found that NDDPI did not ensure that IEP notification and invitation meet IDEA requirements regarding transition.

Based on records reviewed and interviews with teachers and administrators, in all seven of the school districts visited, students and agency representatives who were likely to be responsible for providing or paying for transition services, were not consistently invited to attend meetings where transition services would be considered. Representatives at the State level from the Department of Vocational Rehabilitation and the Developmental Disabilities Division of the Department of Human Services reported that there is no regulation or policy preventing their agencies from being involved prior to age 21, that students may be eligible for services prior to age 21, and that implementation of existing policies vary greatly from region to region. Special educators and special education unit directors in school districts visited reported that they did not invite representatives of agencies who were likely to be responsible for paying for or providing transition services because the representatives would not attend. They further stated that services are not made available to students until students approach age 21. No IEPs reviewed reflected participation of outside agency personnel nor did notice reflect they were invited. OSEP found no other methods used to obtain agency participation in transition planning.

2. NOTIFICATION TO PARENTS OF TRANSITION PLANNING MEETING REQUIREMENTS

34 CFR §300.345 of the regulations in effect at the time of the monitoring visit required that if a purpose of an IEP meeting is the consideration of transition services for a student, the notice must indicate this purpose, indicate that the agency will invite the student, and identify any other agency that will be invited to send a representative.

NDDPI does not ensure that parents are properly notified that transition is a purpose of an IEP meeting, when applicable, and that the student and representatives of other agencies will be invited to attend.

In all seven of the school districts visited, teachers and administrators reported that parents were not routinely informed that, even for students ages 16 or older, transition was to be a purpose of the meeting or that the student or any other agency representatives would be invited. The State has provided a model form that includes a "menu" of purposes for a meeting. This form includes transition as one purpose. In most districts, the form used was the State model; however, the transition option was not consistently checked even when it was to be a purpose. In the remaining districts, the invitation form was not the State model and required that the purpose of the meeting be indicated in a blank section with no prompts given. The parent IEP meeting notices reviewed for students aged 16 and older did not indicate that a purpose of the meeting was to consider transition services. Parents reported that they did not feel prepared to discuss transition as part of the IEP review meeting, a concern that could be addressed, in part, by properly informing them that transition services would be discussed at the meeting.

3. STATEMENT OF NEEDED TRANSITION SERVICES BEGINNING AT AGE 16 (OR YOUNGER, IF APPROPRIATE)

34 CFR §300.346 of the regulations in effect at the time of the monitoring visit required that the IEP for each child must include a statement of the needed transition services including, if appropriate, a statement of each public agency's and each participating agency's responsibilities for linkages, or both, before the student leaves the school setting. The statement of needed transition services in IEPs must be a coordinated set of activities within an outcome-oriented process that promotes movement from school to post-school activities.

In all seven of the school districts visited, needed services for transition were not clearly delineated in IEPs and, therefore, were not provided. Agency linkages were absent for reasons cited above in paragraph B.1 of this section. Special educators reported efforts to identify and provide appropriate transition services that were not identified in the IEPs. When asked why this information was not documented in the IEP, these teachers reported that they were concerned about including services they might not be able to provide (through lack of availability, coordination or agency involvement). Special educators reported a lack of understanding about the kinds of goals that are appropriate for transition as well as how to consider a student's preferences and interests. This lack of understanding is reflected in the examples of transition goals listed below.

Examples of transition services in the IEPs reviewed include:

- “___ will graduate from high school with the skills necessary to obtain gainful employment and/or to go on for more education.” While the IEPs included designated sections for objectives related to transition requirements, completed IEPs reflected “NA” (not applicable) in all designated areas, with the exception of the “Work/Vocational Placement/Education” goal which was to refer the student for vocational evaluation. None of the goals/objectives or services reflected on the IEP were reasonably calculated to achieve the identified goal. Therefore, the IEP did not reflect a coordinated set of activities within an outcome-oriented process and required transition planning was not reflected.
- “___ will graduate from high school with the skills necessary to obtain gainful employment and/or to go on for more education. ___ plans on joining the armed services (ARMY).” The initial goal statement was the same for all IEPs reviewed in this particular district. Objectives in all areas identified on the IEP were “to be discussed and needs determined within the ED room” or “NA.” Therefore, objectives were not determined by the IEP team. There were no goals/objectives or services directed toward fulfillment of any of the three possible goals. Therefore, the IEP did not reflect a coordinated set of activities within an outcome-oriented process and required transition planning was not reflected.
- “___ will develop life skills and development of prevocational skills.” Objectives consisted of exploring career interests (the student is in 10th grade) and continuing “academic programming to enable him to prepare for vocational life.” “Vocational life” is not defined. No additional goals/objectives or services were included in the IEP nor were any potential

linkages or responsibilities of agencies identified. Therefore, the IEP did not include a statement of needed transition services that was a coordinated set of activities within an outcome-oriented process.

C. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

OSEP made the following suggestions about improving the provision of transition services.

1. DETERMINATION OF APPROPRIATE AGENCY LINKAGES

34 CFR §300.346(b)(1) of the regulations in effect at the time of the monitoring visit requires that beginning at age 16, *or younger if appropriate*, the IEP of each child with a disability must include a statement of needed transition services including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting. Since 1986, NDDPI has required that the IEP for each child with a disability, beginning at age 14, include a statement of needed transition services that describes such responsibilities and linkages. NDDPI continues to encourage provision of transition services as early as possible, but is concerned that school districts are having difficulty making individual determinations about what responsibilities and linkages are appropriate prior to age 16. It is important that NDDPI continue efforts to assist school districts in the identification of appropriate linkages to maximize the use of resources.

2. INTERAGENCY MEMORANDUM OF UNDERSTANDING FOR TRANSITION

The work being done by the task force of State agencies to review and revise the memorandum of understanding does not, at this time, appear to include mechanisms for ensuring consistency across regions of the State in implementing the agreement. This may have significant impact on differences in the effectiveness of the involvement of various agencies from region to region.

3. INDEPENDENT LIVING CENTER INVOLVEMENT AND AVAILABILITY

While the issue of Independent Living Center involvement and availability to provide sufficient services to students leaving the school environment is beyond the purview of IDEA, the Steering Committee may find it appropriate to investigate whether changes are needed to facilitate service provision to students exiting the school system. In addition, the Steering Committee, having identified this as a Statewide concern, should explore barriers and solutions.

4. COMMUNITY EXPERIENCES ON AMERICAN INDIAN RESERVATIONS

OSEP found limited opportunities for community experiences on American Indian reservations. NDDPI should identify alternative mechanisms to ensure that children on American Indian reservations have these opportunities. Individual efforts are being made by teachers to provide career exploration, to obtain the cooperation of outside agencies and to provide instruction and opportunities to develop independent living skills. It will require a significant effort at both the State and regional levels, by all relevant agencies, to ensure that

these efforts result in appropriate transition services for students on American Indian reservations.

IX. PART B: GENERAL SUPERVISION

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

VALIDATION PLANNING AND DATA COLLECTION

MONITORING:

OSEP's 1994 monitoring report stated that NDDPI did not meet its responsibility to determine compliance with IDEA requirements by special education units, public school districts and private schools providing services to children with disabilities, including extended school year services, surrogate parent provisions and the opportunity for children placed by public agencies in private schools to participate with nondisabled children to the maximum extent appropriate. In addition, OSEP found that NDDPI did not adopt and utilize proper methods for the correction of deficiencies identified through monitoring nor ensure that complaints were investigated and resolved within 60 days.

SELF-ASSESSMENT:

Section 9 of the North Dakota Part B Self-Assessment addressed "General Supervision." The Self-Assessment concluded that there appear to be systemic issues that will require further analysis, including:

- (1) understanding the concept of least restrictive environment;
- (2) acceptable justification for placement determinations;
- (3) use of meaningful measures of student progress;
- (4) provision of information to parents regarding their child's disability and the procedural safeguards that are guaranteed under IDEA; and
- (5) use of local internal monitoring.

In addition, NDDPI is working on issues related to monitoring, complaint resolution, mediation and interagency cooperation. NDDPI has hired a part-time staff person to investigate and resolve complaints. This has resulted in significant improvement in the completion of complaint resolutions within required time lines. NDDPI has also begun the implementation of a State-funded mediation process. The Self-Assessment indicated that interagency agreements are not in place for Medicaid or early childhood special education and need to be revised for secondary transition.

PUBLIC INPUT PROCESS:

One of the focus questions asked during the public input meetings for Part B was: “Does the state exercise effective general supervision of the implementation of IDEA through the development and utilization of tools, mechanisms and activities that result in all eligible students having an opportunity to receive a free appropriate public education in the least restrictive environment?” Responses indicated lack of knowledge about State-level responsibilities for general supervision. Parents responded that they believed the State should take a more active leadership role in the implementation of special education by local school districts. Some parents stated that funds currently being expended on the special education administrative units could be better spent in direct services to students. School system personnel viewed monitoring as thorough and extensive but ineffective in improving educational results for children with disabilities. Personnel in one special education unit expressed concern regarding complaint resolution.

The Part B Steering Committee reported general improvement in the resolution of complaints and an improvement, identified through monitoring, in the documentation of special education process requirements. The Committee requested that OSEP investigate the following concerns/issues:

- (1) whether NDDPI has authority under State law to take enforcement actions as a result of monitoring, due process hearings and complaint resolution;
- (2) reports that the complaint resolution process is ineffective including ensuring that corrective actions are implemented; and
- (3) reports that the monitoring system is ineffective and does not improve educational results for children with disabilities.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children’s records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers, and parents.

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

AREA OF NONCOMPLIANCE

MONITORING TO ENSURE CONSISTENT IMPLEMENTATION OF PART B REQUIREMENTS

34 CFR §300.600 requires that the State ensure the requirements of IDEA are carried out and that each educational program for children with disabilities is under the general supervision of the State educational agency and meets the education standards of the State education agency.

As discussed below, OSEP found that while NDDPI utilizes effective methods to determine whether school districts meet Part B requirements, it does not ensure that identified deficiencies are corrected in an effective and timely manner.

Teachers and administrators in six of seven districts report that State monitoring of Part B is ineffective in improving educational results for children with disabilities. Teachers and administrators in four districts reported that monitoring resulted in changes in paperwork and file contents but did not address systemic issues that affect educational programs for children with disabilities, such as personnel shortages, certification issues, or funding.

OSEP analyzed monitoring reports prepared by NDDPI for seven special education units visited during Validation Data Collection. OSEP found that:

- NDDPI's monitoring instrument addresses all Part B requirements;
- NDDPI made many findings of noncompliance and had, in most cases, made findings closely related to the areas in which OSEP made findings in their 1998 review;
- when NDDPI required the implementation of corrective actions regarding findings, those corrective actions result only in a change in documentation without a real change in how decisions are made or implemented for children with disabilities. For example, one district reported that NDDPI had required that the school district change their forms but that no changes were required in outcome-related areas such as placement in the least restrictive environment or provision of secondary transition services; therefore, noncompliance with LRE requirements continues. NDDPI does not always ensure the implementation of corrective actions regarding findings. For example, in three districts monitored by NDDPI between October and December 1996, corrective action plans had not been completed and one had not yet been submitted. In five of the seven districts visited, violations identified by NDDPI were also identified by OSEP. Corrective action plans from these districts indicated that these violations could have been corrected had the plans been implemented; and
- Although the school districts OSEP visited had deficiencies previously identified by NDDPI, noncompliance persisted. Therefore, OSEP concludes that to the extent corrective actions were implemented, corrective actions were ineffective.