



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

January 7, 2000

Honorable Michael E. Davis
State Superintendent of Public Instruction
New Mexico State Department of Education
300 Don Gaspar Avenue
Santa Fe, New Mexico 87501-2786

Honorable J. Alex Valdez
Secretary
New Mexico Department of Health
Harold Runnel Building
1190 St. Francis Drive
Santa Fe, New Mexico 87502-6110

Dear Mr. Davis and Mr. Valdez:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in New Mexico during the weeks of October 5 and December 7, 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 New Mexico State Department of Education (NMSDE), the New Mexico Department of Health (NMDH), and parents and advocates in New Mexico.

In conducting its review of New Mexico, OSEP applied the standards set forth in the IDEA 97 statute (20 U.S.C. §1400 *et. seq.*), 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 December 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 December 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 took effect on May 11, 1999. In planning and implementing improvement strategies to address the findings in this report, NMSDE and NMDOH 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 the Steering Committee of broad-based constituencies, including representatives from NMSDE, NMDOH and OSEP. The steering committee assessed the effectiveness of State systems in

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ensuring improved results for children with disabilities and protection of individual rights. In addition, the Steering Committee 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 that require corrective action because they represent noncompliance with the requirements of the 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.

OSEP has concerns with NMSDE's general supervision of the Part B program. New Mexico utilizes a comprehensive integrated review of education programs and facilities to evaluate whether State standards are met for all students. OSEP found that NMSDE does not have a procedure for follow-up monitoring, when necessary to verify that deficiencies have been corrected. In fact, OSEP found during its December 1998 visit continuing violations of special education requirements; even where NMSDE had closed out corrective action requirements for deficiencies it had previously identified in accreditation review reports.

NMSDE and NMDOH have indicated that this Report will be shared with members of the Steering Committee, the State Interagency Coordinating Council, the Part B IDEA State Advisory Panel, and members of the public. OSEP will work with your steering committee to develop corrective actions and improvement strategies to ensure improved results for children with disabilities.

Thank you for the assistance and cooperation provided by your staffs during our review. Throughout the course of the review, Dr. Robert Pasternack and Ms. Cathy Stevenson 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 Committee 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 parents from underrepresented groups), advocates, service providers, school and agency personnel, agency administrators, and special education administrators.

Thank you for your continued efforts toward the goal of achieving better results for infants, toddlers, children and youth with disabilities in New Mexico. Since the enactment of the IDEA and its predecessor, the Education of All Handicapped Children Act, one of the basic goals of the law, ensuring that children with disabilities are not excluded from school, has largely been achieved. Today, families can have a positive vision for their child's future.

While schools and agencies have made great progress, significant challenges remain. Now that 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,

Kenneth R. Warlick
Director
Office of Special Education Programs

Enclosures

cc: Dr. Robert Pasternack
Ms. Cathy Stevenson

EXECUTIVE SUMMARY

NEW MEXICO MONITORING 1998

The attached report contains the results of the first two steps (Validation Planning and Validation Data Collection) in OSEP's Continuous Improvement Monitoring of the Individuals with Disabilities Education Act (IDEA), Parts B and C, in the State of New Mexico during the weeks of October 5 and December 7, 1998. The process is designed to focus existing 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 the Part B 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 meetings with the steering committee 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 and program representatives, 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 New Mexico State Departments of Education and Health (NMSDE and NMDOH), parents, advocates, and members of the Steering Committee.

This 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 the core IDEA areas.

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

Strengths

OSEP observed the following strengths:

- Legislation is pending that will require certain qualifications for all providers of service to children 0-8 years of age from all agencies in the State.
- The State guarantees evaluation and assessment for children 0-5 through legislation whether or not they are suspected of a developmental delay.
- A variety of Public Awareness materials has been developed, including videotapes in Spanish and English, and audiotapes in Navajo, as well as English and Spanish.
- The New Mexico Medicaid funding formula supports the provision of services in home and other community placements, as appropriate, by recognizing, through higher reimbursement rates, the increased costs of services in those environments.
- The Family Infant Toddler Program is in partnership with Map to Inclusive Child Care, a pilot program to improve the State's ability to provide appropriate services to infants, toddlers and their families in natural settings.

- NMDOH has developed a “career lattice” that identifies competencies and credentials for early childhood workers, from assistants and paraprofessionals to professionals.
- State investment in families and children in New Mexico is historical and comprehensive. A sample of programs includes: the Parent Liaison Program, the Parent to Parent Program, and the Parent Involvement Project. The State has a Child and Family Office that develops Statewide standards for all programs providing services to children.
- In some local areas evaluation reports are written in language easily understood by parents and the general public.
- Several local programs provide training for parents to keep track of program activities and include a notebook to assist parents in organizing documents with the purpose of acting as advocates for their children.
- NMDOH and NMSDS have formed a committee to resolve issues around transition. A promising practice is the use of a memorandum of understanding in one area between the local provider and five of the school districts in that area to ensure a smooth transition.
- The State has supported a parent training program called “Keeping It All Together” for parents of children making the transition from early intervention services to preschool. This program is funded by the State and provided by Parents Reaching Out, the State’s parent training information center.

Areas of Noncompliance

- Supervision and monitoring procedures do not ensure compliance with Part C of IDEA, and all programs providing early intervention in the State are not monitored by the Part C program.
- Public Awareness information does not adequately reach the general public, and other agencies are not fully aware of their responsibility for referral to the early intervention program.
- Referrals are not made in a timely manner by primary referral sources in all areas of the state.
- Evaluations and assessments are not completed within the required 45 day timeline.
- Service coordinators do not fulfill all of the responsibilities of service coordination, particularly in assisting families to find all needed services and coordinating services across agency lines.
- The IFSP team does not fulfill its responsibility for deciding the appropriate services and locations of services for children on an individual basis.
- Services are not provided as required by the IFSP- some needed services are not listed on the IFSP, other services included on IFSPs are not provided.
- The transition meeting with parents, the early intervention program and the school system does not consistently occur 90 to 120 days prior to the child’s third birthday as required by Part C regulations.

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

Strengths

OSEP observed the following strengths:

- NMSDE supports the “Families as Faculty” project to “prepare quality future educators to view children within the context of their families and communities and interact with those families in a responsive manner as a commitment to change.”
- Results of the State level commitment to improving parental involvement is evidenced by extensive efforts by school staff to increase parent participation in IEP development, review, and revision.
- NMSDE has included representatives from the Parent Training Institute and other parents in its ongoing work at the State level to implement IDEA 1997. Parent representatives are involved as active participants in key policy work such as the IDEA State Advisory Panel, the IDEA Steering Committee, the various IDEA Implementation Work Groups, and the Secondary and Corrections Statewide Task Forces.
- NMSDE is continuing its practice of recognizing the needs of various cultural and linguistic populations through its outreach to members of the American Indian communities and by providing American Indian parents with opportunities to serve as active participants in key policy and advisory work that affects all children with disabilities in the State. Examples include the involvement of tribal communities and Bureau of Indian Affairs representatives on the IDEA State Advisory Panel, the New Mexico IDEA Steering Committee, the IDEA Implementation Work Groups, and the Secondary Transition Task Force. NMSDE’s State Director for Special Education also serves as a member of the Bureau of Indian Affairs IDEA Steering Committee.
- NMSDE is working closely with its State Advisory Panel to formulate policy and guidance for implementing the IDEA 1997 Amendments. Their initiatives include: a recommendation that “knowledge about students with disabilities and IDEA” be included in the State’s educational administrator competencies profile; establishment of Statewide task forces to study issues and recommend strategies for improving evaluation for students with limited English proficiency and cultural/linguistic differences; suggestions for test accommodations and alternate assessment guidelines; practices to improve the IEP process; and examination of the impact of high school diploma policies on drop-out rates and graduation requirements for students with disabilities.
- NMSDE collaborates extensively with NMDOH to improve Part B and Part C service coordination. For instance, NMSDE has created two positions for staff who will provide linkages to other State-level transition services for young children and their families.
- NMSDE has created a State Transition Coordinating Council to focus on planning, coordinating and developing data systems in order to identify indicators related to outcomes of children and youth with disabilities.
- NMSDE has expanded the age range for children who may be considered to have a disability because of “developmental delays.” The State now permits locals to use that definition for children, age three through nine, who are experiencing developmental delays in one or more of the following areas of development: physical, cognitive, communication, social or

emotional, or adaptive. This will give school districts the option of providing services to younger children without having to lock the child into an eligibility category which may be inappropriate or incorrect.

- To assist local districts with locating qualified personnel, NMSDE has developed a recruitment website. Local districts may post any position on this site.
- NMSDE has restructured its staff to include a Secondary Transition Coordinator at the State level.
- NMSDE has also worked with the Division of Vocational Rehabilitation, which has employed a State Transition Coordinator to work directly with school counselors across the State. The Division of Vocational Rehabilitation has also received a Federal grant for curriculum development, tutoring, job coaching, apprenticeship options and direct placement of eligible youth into competitive employment.
- NMSDE has expanded partnerships with community colleges to put needed supports in place to aid participation by students with disabilities. NMSDE is also working with the State's institutions of higher education as they expand efforts to provide rural transition training opportunities for teachers and families through university programs.
- As a State level partner and co-sponsor, NMSDE participated in the development and implementation of an "action plan for more inclusionary School-to-Work systems." The activities resulted from NMSDE's 1997 participation in the National Forum *Next Steps for Including Students with Disabilities in School-to-Work*. The partnership includes NMSDE, the Circle of Life Project (State transition systems change grant), the New Mexico School-to-Work Office, and the National Transition Alliance.
- Established through 1994 legislation, the Task Force on Transition to Postsecondary Education for Youth with Disabilities developed an agreement with the Governor's Interagency Coordinating Council on transition planning for youth with disabilities that is used as the framework for all State-level transition initiatives. Through the expansion of these and other State cooperative efforts, NMSDE expects to increase the post secondary options that are available to students with disabilities.
- Positive outcomes of communication and collaboration between NMSDE's Special Education Office and the IDEA State Advisory Panel include practical recommendations to address unmet needs for New Mexico's students and youth with disabilities. For example, NMSDE's leadership role in the State Board of Education's recent adoption of revised high school diploma requirements for all students was designed to remove barriers to earning a regular high school diploma, decrease drop-out rates, and increase options for transition to post secondary school activities.
- Each year, NMSDE sponsors a weeklong Summer Transition Institute to improve transition planning for youth with disabilities. Last year, over 150 parents and professionals attended from across the State.

Areas of Noncompliance

OSEP observed the following areas of noncompliance:

- NMSDE did not ensure that all educational placements were based on individual needs rather than disability category and funding or service level incentives. In the majority of districts that OSEP visited, supplemental aids and supports were not available to enable students with

mental retardation and emotional/behavioral disabilities to be educated in regular classrooms. In addition, regular and special education teachers were not appropriately trained to successfully educate students with mental retardation and emotional/behavioral disabilities in the regular classroom. Consequently, these students continue to be placed in segregated classes at a rate considerably higher than the national average. Parents, advocates, and school staff indicated that sometimes location, isolation, and salary levels were barriers to recruitment and retention of qualified paraprofessionals, teachers, and related service providers needed to make available a free appropriate public education in the least restrictive environment.

- Transition of young children from Part C to Part B services was not smooth and effective for all families of children turning three years of age. Collaboration among local staff was limited and communication often resulted in philosophical disagreements about evaluations, untimely or no transition meetings, and inappropriate breaks in services for young children.
- Extended school year services were not available for all children needing the services to progress toward achievement of their annual goals and objectives as a provision of a free appropriate public education. School staff indicated their interest in additional training to clarifying the process and criteria for extended school year eligibility.
- NMSDE did not ensure that IEP team decisions about secondary transition services were based on students' current interests and preferences, and that the IEP included the development of a coordinated set of activities within an outcome-oriented process and appropriate transition statements. School staff commitment to help each student age 16 years or older meet individual transition services needs and goals was often unclear or absent from student records.
- Effective movement from school to postschool activities was also limited by the lack of appropriate communication among parents, students, local public agency and adult services agency staff. Parents were not consistently notified when discussion of secondary transition services was a purpose of the IEP meetings, or that the students and other agency representatives were invited to participate in those meetings. Students and other agencies often neither were invited nor attended the meetings, and records of student interests and preferences were sometimes not updated for three years. Parents, advocates, other agency, and school staff reported that in many cases the realities of local unemployment rates, limited job opportunities, location, and isolation were also substantial barriers to implementation of the transition services requirements.
- Although NMSDE revised its Part B monitoring process and improved its ability to identify deficiencies, it does not ensure that those deficiencies are corrected in an effective manner.
- NMSDE did not ensure that all complaints were resolved within 60 days, except in those cases where an extension was granted due to exceptional circumstances with respect to a particular complaint.

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Introduction

New Mexico had a population of 1,515,069, according to the 1990 census data report. According to information supplied by New Mexico, the population grew by 11% between 1990 and 1995. Data for 1990 included 125,021 infants and toddlers, ages birth through 3 years and 435,989 children ages 3 and older enrolled in the State's public elementary-secondary schools. New Mexico teachers' average salaries rank 43rd lowest among all States. New Mexico is mostly rural with small towns and cities. There are only seven cities with a population greater than 30,000. The population is composed of approximately 44% non-Hispanic white, 38% Hispanic, 9% Indian and 9% other. Nationwide, New Mexico had the 48th lowest per capita income in 1990 and 47th lowest median household income in 1995. With 20.6 % of the population at or below the poverty level in 1990 increasing to 25.3% in 1995, New Mexico's poverty ranking moved from 3rd to 1st place among States. The national average of persons at or below poverty level is 13.1%.

Administrative Structures

The Governor-designated Lead Agency for Part C in New Mexico is the Department of Health (NMDOH). The Family Infant Toddler Program, which is New Mexico's Part C early intervention program, is under the direction of the Child and Family Support Section of the Long Term Services Division within the Department of Health. The State is divided into five early intervention service areas consisting of several counties in each service area. In addition to other duties, central office staff is assigned responsibility for supervision and monitoring of each region. The current central office early intervention staff consists of the Coordinator, three regional planners, a management analyst, a part-time secretary and part-time clerk.

Early intervention services are provided to families through contracts with local provider agencies. There are currently 29 contractors providing services to infants, toddlers and their families. In addition to the central office staff, there are five regional technical assistance contractors to assist local programs in training and resource development. Realizing the difficulty of long distance supervision and administration, the State is in the process of hiring regional administrators to supervise local programs.

To be eligible for early intervention services in New Mexico, a child must demonstrate 25% or more discrepancy between chronological age after correction for prematurity, and developmental age. Children are also eligible if they have an established condition that has a high probability of resulting in developmental delay. New Mexico serves children who are at-risk for developmental delay, as well as children with developmental delay.

In 1992, New Mexico provided early intervention services to 1,082 children, 1.34% of the 0-3 population of children in the State. In 1996 this number increased to 2,156 (2.71%). However, the number for 1997 has decreased to 1,927 (2.43 % as compared to 1.7% nationally). This apparent decrease may be attributed to the Family Infant Toddler Program changing to a more sophisticated data collection system during this past summer. The Coordinator of the program is confident that future data will be more accurate than those collected in the past. The 1997 number includes only children served through the contract providers, and may not include

children served through private programs, the New Mexico School for the Deaf, or the New Mexico School for the Visually Handicapped.

The New Mexico State Constitution authorizes the New Mexico State Department of Education (NMSDE) to administer the Part B preschool and school-age services. Public education agencies are responsible for providing special education services—a free appropriate public education—for children with disabilities ages 3 through 21 years. Supervision of the administration of Part B State plan/eligibility documents, funds, and the establishment of State regulations and standards for providing services to exceptional children, as identified in New Mexico Statutes, are the responsibility of the New Mexico State Board of Education (State Board). The State Board-appointed Superintendent of Public Instruction is authorized by State law to appoint members of the New Mexico IDEA State Advisory Panel (IDEA Panel), which currently has 32 members.

Under the State Board's supervision, NMSDE's Special Education Office has program responsibility for general supervision of Part B services provided in 89 school districts and in State supported education programs that include: New Mexico School for the Deaf, New Mexico School for the Visually Handicapped, New Mexico Boys' School, New Mexico Youth Diagnostic and Development Center, Children's Psychiatric Hospital, Sequoiah Adolescent Treatment Center, and the Los Lunas Correctional Facility. To receive Part B funds, the school districts must receive NMSDE approval of single or consolidated district applications. Consolidated district applications are submitted for smaller districts that are provided services through regional education cooperative centers authorized by State law. State supported education programs serve children who are included in the child count for their school district of residence and receive no Part B funding directly from NMSDE.

Current NMSDE Special Education Office staff consists of the State Director of Special Education, two Assistant State Directors, Special Education Legal Counsel, and 13 consultants. Each consultant has two or more identified areas of expertise, serves as liaison to one or more Statewide long-range initiatives and other special projects, is responsible for special education monitoring as part of NMSDE's Educational Plan for Student Success system that requires joint accreditation visits with other NMSDE units, and provides technical assistance to assigned school districts, state supported education programs, or regional educational cooperative centers.

The 20th Annual Report to Congress shows that New Mexico served 31,265 children with disabilities ages 3 through 21 in 1987-88 and 49,124 in 1996-97. While the national data on percentage change in the number of children served within that period show a 29.24% increase, New Mexico data show a 57.12% increase in the number of children served within the same period.

For the 1997-98 school year, 8,300 students dropped out of school: 437, or 5.3 percent, of these were students with disabilities. New Mexico reports an overall graduation rate of 92 percent, but did not have data on the percent of students with disabilities who graduate with a diploma.

Leaders for New Mexico's two State public agencies responsible for Parts C and B services are working to increase Statewide communication and collaboration. State law authorizes the establishment of a joint powers agreements between two (or more) public agencies, such as the

Memorandum of Agreement among NMSDE, the Department of Health, Human Services Department, Head Start, and the Indian Health Service to support a Statewide child find system. Parts C and B state agency representatives on the current IDEA Panel advise the state's Legislative Education Study Committee on unmet needs for children with disabilities from birth through adulthood.

Statewide Assessment Program: Beginning with the 1999-2000 school year, NMSDE will require Statewide testing of all students in grades three through nine. The instrument used is the CTB Terra-Nova, a norm-referenced test. Statewide testing results are used as one of the accountability measures for local education agencies in meeting performance goals set by their locally-written (and State Department approved) Educational Plans for Student Success. The test results will have no impact on individual students.

In addition, the New Mexico High School Competency Examination is administered, beginning in 10th grade. Passing this test is required in order to receive a diploma, although the State has recently made provision for an alternative path to a diploma, in those instances where IEP teams conclude that it is appropriate for a particular student.

Students receiving special education and related services who cannot take a test during a standardized administration may take that same test under nonstandardized conditions if the specific modifications are noted in a student's IEP. IEP teams can exempt students from Statewide testing, but an alternate assessment must be conducted. Districts are encouraged to keep exemptions to a minimum, consistent with the State's goal to include all students in Statewide assessment. Currently, the State has no data on the number of students with disabilities who are exempted from Statewide testing. During the 1999-2000 school year, this information is being collected for the first time.

Test results for all students will be reported for the first time during the 1999-2000 school year. Scores will be disaggregated for the following categories: students receiving special education services who took the test under standard conditions; students receiving special education services who took the test under nonstandard conditions; and students receiving special education services who took a locally-determined alternate assessment. Beginning in 2000-2001, students taking an alternate assessment will be using the State-determined form of this test.

Validation Planning

In the summer and fall of 1997, the Family Infant Toddler Program completed a Part C (then referred to as Part H) Self-Study. After completion of that process, OSEP revised its monitoring process to include a mechanism to assist states in the collection of data for both Parts C and B of IDEA. After receiving this new monitoring information, the Family Infant Toddler Program staff reconfigured the original Self-Study information and results into the five cluster areas outlined in the OSEP monitoring materials. NMSDE staff formed work groups to collect and review materials needed as Part B self-assessment data sources. Then, NMSDE and NMDOH formed New Mexico's steering committee composed of members who reflect the State's cultural, geographic, and economic diversity. During the summer of 1998, they obtained technical assistance from Mountain Plains Regional Resource Center and compiled the *New*

Mexico Assessment Notebook. The document includes four major sections for data sources and summaries of strengths and concerns regarding: Student Outcomes, Family and Parental Involvement, Systems, and Personnel.

During the week of October 5, 1998, OSEP staff, steering committee representatives, and State administrators conducted 17 public input meetings for Parts B and C throughout the State to obtain information about implementation of IDEA in the State of New Mexico. Meetings consisted of 20 to 150 participants in the following areas: Albuquerque, Anthony, Española, Gallup, Las Cruces, Las Lunas, and Taos. OSEP conducted one of the sessions through video connection to three remote sites throughout the State. The Part C public sessions focused on child find and public awareness, family-centered services, early intervention services in natural environments, transition from Part C to other appropriate service, and general supervision of Part C by NMDOH. Part B public input focused on a free appropriate public education to children with disabilities from ages 3 through 21 in the least restrictive environment, parent involvement in special education decision-making, secondary transition from school to post-school activities for youth with disabilities, and general supervision of special education by NMSDE. At the end of the week, information from the public focus groups, along with information from the self-assessments, was discussed with the steering committee to identify specific issues which could be investigated by OSEP. Recommendations for site selection criteria, strategies, and locations for the Validation Data Collection visit were discussed.

Validation Data Collection

OSEP conducted its second visit to the State during the week of December 7, 1998, for the purpose of collecting data to validate the areas identified through the planning process, on implementation of new requirements under IDEA Amendments of 1997. OSEP visited the following public school districts for Part B: Albuquerque, Farmington, Gallup, Las Cruces, Roswell, and Santa Fe. Part C sites were: Albuquerque, Farmington, the Eastern Navajo Reservation in New Mexico, Espanola, Santa Fe, Ruidoso, Roswell, and Mescalero. Interviews were conducted with parents, service coordinators, service providers, and program administrators. In Albuquerque, OSEP interviewed administrators and service providers of several Statewide programs impacting services for children and families from birth through adulthood, and their families. At the end of the week, preliminary results were presented to State representatives, the State Advisory panel and Interagency Coordinating Council members during a meeting in Santa Fe.

Improvement Planning

Through collaboration among NMDOH, NMSDE, the steering committee, and OSEP, some areas of concern have been identified and work has already begun to address improvement strategies. During the week of January 4, 1999, upon the State's request, an OSEP representative participated in the IDEA Panel's sessions on strategic planning for children and youth with disabilities within New Mexico's education reform efforts. Subsequently, the Panel developed a Strategic Plan, which will function as the core for the Improvement Plan.

I. PART C: GENERAL SUPERVISION

The State lead agency 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

During the public input process, parents and program administrators throughout the State expressed concerns in the areas of supervision and monitoring. Several local program administrators reported they have not been monitored for compliance in recent years, and others stated they have never been monitored. According to Department of Health requirements, NMDOH monitors all early childhood programs using the State's Commission for Accreditation of Rehabilitation Facilities (CARF) monitoring system. This Statewide system monitors for health and safety issues as well program goals. However, this system does not monitor compliance with the IFSP process, a timely evaluation for children suspected of developmental delay, parents' rights, whether families and children receive all the early intervention services needed, or public awareness and primary source referral activities. In addition, this monitoring system does not provide for monitoring all agencies providing early intervention services, whether they receive Part C funds or not. The State administration agreed that monitoring of local programs consists mainly of reviewing reports from provider agencies to identify compliance issues, and assuring fiscal responsibility for service provision as outlined in contracts for providers, and does not address many Part C requirements.

New Mexico did not have a permanent Part C Coordinator for approximately 18 months prior to hiring a new coordinator in July of 1998. Since then, NMDOH has hired staff to fill vacant positions and instituted a process to examine the system to identify deficiencies and begin improvements. NMDOH has also initiated a new data collection system, in addition to clarifying staff duties and responsibilities. The State administrators told OSEP that there are plans to hire additional staff for each of the five regions of the State for administrative and monitoring purposes. The Lead Agency is aware of many of its supervision, administration and monitoring difficulties and has begun to take steps to correct identified problem areas. NMDOH and the

Family Infant Toddler Program are dedicated to a quality program of services for infants and toddlers with disabilities and their families.

Based on information obtained through New Mexico's Self-Study, completed in 1997 and updated in 1998 as part of the Steering Committee's self assessment, and the public input process, OSEP identified the following concerns: (1) lack of monitoring to ensure compliance with IDEA in several areas, including child find, public awareness, services to children, and discrepancies in the IFSP process, (2) service provider shortages, (3) concern that the State was not providing supervision and monitoring to local provider agencies, and (4) concern that the State does not have a comprehensive system to monitor compliance with Part C.

To investigate the issues identified through the validation planning process, OSEP collected data from parents, State agency staff, local program providers and administrators across New Mexico related to the Lead Agency's responsibility for supervision and administration of the early intervention program. Analysis of the data collected resulted in identification of the following strength, areas of non-compliance and a suggestion for improvement.

A. STRENGTH

Required Interagency Early Childhood Training

In the past year, the State has developed a new plan for training early childhood service providers. This system is designed to meet the requirements of pending State legislation that describes professional standards and certification for persons working with children birth through eight years of age, as well as standards for programs that provide services to this population. This legislation will apply to all agencies throughout the State, including the NMDOH, NMSDE, and the Department of Social Services, as well as Head Start.

B. AREAS OF NONCOMPLIANCE

Proper methods for supervision and monitoring not implemented

34 CFR §303.501(a) and (b)(1) state that each lead agency is responsible for the general administration and supervision of programs and activities receiving assistance under Part C; to meet the requirements, NMDOH is required to monitor all programs and activities that are used to carry out Part C, whether or not they receive assistance under Part C, to ensure the State complies with the requirements of Part C.

NMDOH has not met these supervision and monitoring responsibilities.

In the area of compliance monitoring, NMDOH informed OSEP that it uses several mechanisms to carry out monitoring responsibilities for Part C: (1) the Commission on the Accreditation of Rehabilitation Facilities monitoring process, (2) fiscal monitoring, and (3) quarterly reports from provider agencies. The Commission on the Accreditation of Rehabilitation Facilities monitoring addresses health and safety issues and consistency with the organization's goals, which overlaps some Part C requirements, but does not provide a method to ensure compliance with most Part C

requirements. Fiscal monitoring occurs through required budget submissions and funds expenditure reports, which ensures appropriate use of funds and also identifies frequency and intensity of services received by each eligible child. Each local contractor is required to submit quarterly reports that include information about referral, evaluation, and numbers of children served, and that identify areas of concern related to compliance issues. Although the Lead Agency has effective methods in place for fiscal monitoring and supervision of local programs in the areas of health and safety, as well as some program goals related to Part C through their Commission for Accreditation of Rehabilitation Facilities system, the State's monitoring for compliance with Part C is inadequate to ensure compliance with all Part C requirements.

State administrators and local program directors told OSEP that the State has not conducted an on site monitoring of early intervention programs for compliance with Part C regulations. On occasion, these local directors indicated that the State has asked for sample IFSPs, but has not conducted any systematic investigation of program records, appropriateness of services, timeliness of evaluations or other requirements of Part C. Local program administrators indicated that there was a lack of guidance from the State in the areas of compliance, training for service coordinators and providers, development of criteria for implementation of a sliding fee scale, and self-monitoring. NMDOH acknowledged that current monitoring practices do not ensure compliance with Part C and that corrective action plans have not been developed. State administrators further assured that an effective system for compliance monitoring will be instituted.

Failure to monitor all programs providing early intervention services

34 CFR §303.501(a) (2) requires each lead agency to monitor programs and activities in the State that are used to carry out Part C, whether or not these programs or activities are receiving Part C assistance to ensure that the State complies with Part C.

NMDOH does not ensure compliance with Part C by all of the entities providing early intervention services. Programs that provide Part C services, but that do not receive Part C or NMDOH funds, are not monitored by the lead agency.

Data collected from Statewide programs indicated that programs that do not receive Part C funds, but that are providing early intervention services to eligible infants and toddlers are not monitored by the lead agency for compliance with Part C. One director of a State-funded program that serves eligible children under the age of three and develops IFSPs for those children and their families, told OSEP that their program was not supervised or monitored by the lead agency as they "do not receive any funds from the Family Infant Toddler Program." This director further stated it was not the responsibility of the NMDOH early intervention program to monitor their activities. The Coordinator of the NMDOH Family Infant Toddler Program also stated that the lead agency does not monitor programs that do not receive funds through the NMDOH's Family Infant Toddler Program.

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

Training Activities

During data collection, local providers and administrators stated that training was needed in a variety of areas including IFSP development, service coordination, and transition, but has not been provided in recent years. These providers also reported that they have not received guidance in self-monitoring or parent training. State administrators told OSEP that local service providers do not take advantage of a variety of training offered throughout the State. State staff provided OSEP with examples of training materials and training sessions offered Statewide as part of their Comprehensive System of Personnel Development. State staff acknowledged that currently training is not mandatory, but will be as soon as new legislation is passed requiring minimum standards for all providers of services to children. The State has invested in development of training materials in a variety of areas and has developed training packets on specific topics; but training activities currently do not reach all providers. Methods for ensuring participation in required training in all areas of compliance could be beneficial to New Mexico's early intervention system, ensuring appropriately trained staff to provide services.

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 New Mexico Self-Study, completed in 1997, identified several areas of concern in child find and public awareness. Through the study, parents reported having difficulty finding out about the program, and stated that doctors do not refer children to the early intervention system, preferring to wait to see if the child "grows out of it." Parents also reported difficulty finding out about early intervention services that their child needed or other services that might be available to their families.

During the Validation Planning week, OSEP heard from parents and providers that there was a lack of easily understood public awareness materials, and materials for speakers of languages other than English, as well as very little public awareness activity directed towards non-readers. Parents and providers also expressed a concern that there are children who need early intervention services, but are not identified, particularly in rural areas and on reservations.

At the end of the Validation Planning process, the following concerns/issues were identified as areas that could be investigated during the Validation Data Collection week: (1) children not being served due to delays in referral by primary referral sources; (2) lack of available information designed for families to learn about early intervention services; (3) child find and public awareness activities not reaching all areas of the State; (4) and insufficient culturally competent public awareness materials.

To investigate these child find and public awareness issues, OSEP collected data from local programs and providers throughout New Mexico, from parents, service providers, local programs, Statewide programs and from central office staff personnel.

OSEP reviewed and analyzed the data and identified the following strengths and areas of non-compliance.

A. STRENGTHS

Supporting Legislation

The State has passed legislation that provides the right to an evaluation for all children birth to five years of age in the State whose parents wish to have their child evaluated. Children do not need to be suspected of a developmental delay in order to receive this evaluation.

Development of Public Awareness Materials

The State provided OSEP with the public awareness materials they use: including a kit for doctors, Spanish language materials, audiotapes in Navajo, as well as English and Spanish, and a variety of posters on the program and on child development. NMDOH explained how they distribute these materials to primary referral sources, programs and to the public. The State can be commended on the development of State level public awareness materials in both Spanish and English, and some easy to read materials on child development for families. However, the message is not reaching the general public.

In addition, the State provided funds to reservation tribes for development of culturally competent materials to foster child find activities for Indian families. State staff reported that these materials are available to all local programs.

B. AREAS OF NONCOMPLIANCE

1. Effective Public Awareness

34 CFR §303.320 requires States to establish a public awareness program that focuses on the early identification of eligible children and includes the preparation and dissemination to all primary referral sources of materials for parents on the availability of early intervention services. In addition, the note following this regulation indicates that an effective child find program would be ongoing, includes a variety of methods, and have coverage broad enough to reach the general public to inform them about the provision of early intervention services.

NMDOH has not met its responsibility to implement an effective public awareness program, that would include: providing a variety of materials to adequately inform the general public, including parents, about the provision of early intervention services; and disseminating materials broadly enough to reach the general public.

OSEP heard concerns about public awareness activities throughout the State from service providers, local administrators and parents. One local director commented that he was unaware of ongoing public awareness, stating it had been several years since the State had provided any public awareness activities or materials. In another area, providers told OSEP that methods to inform non-readers about early intervention services were not adequate, and radio or television announcements occurred rarely. Two local administrators said the State did not reach all families who needed services. They indicated that a lack of funds to allow travel to remote areas to ensure materials were reaching rural, non-English speaking, and Indian populations was a possible explanation for not identifying children who may be eligible for early intervention. Four parents in one area could not remember seeing any public awareness materials either before or after their children received early intervention services. In another area, service coordinators reported that available posters about early intervention were not current, and in their opinion, ineffective. In addition, they stated, except for an all-Spanish radio station, television or radio spots were not being utilized. In some areas of the State, parents stated that their child's physician did not know about the availability of early intervention services. OSEP was told by parents in various parts of the State that other primary referral sources, i.e., social workers from adoption agencies, hospitals, foster care agency, school districts, and the State's respite care agency, were unaware of early intervention services. In these instances, parents reported that they were referred to the wrong agency, told there were not services available until the child was three, or not told of any services at all. Parents in local programs told OSEP they were not included in the development or approval of materials for the general public. Without effective means of informing the public about referral procedures and services available, all eligible children may not be referred to the system to enable them to receive needed services to which they are entitled.

In spite of the variety of public awareness materials available at the State level, parents and providers in five areas visited reported seeing very few or no posters or brochures, and of rarely hearing announcements about the early intervention program. State staff reported that there were not regular announcements on radio or television designed for non-English speakers nor materials for non-readers, which concurs with data collected from local programs. The State indicated some activities, such as radio announcements in Navajo and some television advertisements had been more prevalent in the past, but had not occurred recently. NMDOH stated they are in the process of revising their public awareness plan so that materials to inform the general public of early intervention services will be in formats easily understood by families.

2. 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 NMDOH has not implemented their policies and procedures to ensure that all eligible children are identified and that primary referral sources make referrals in a timely manner.

Service coordinators, providers, parents and administrators across the State told OSEP that many physicians, pediatricians, private and public agencies either were unaware of the early intervention program or did not refer children for evaluations. One parent commented that they were not told about early intervention services at the hospital but were sent home without a contact for the State's program. Their child needed multiple services, but the parents did not learn of the early intervention program until four months later. In another area, provider agency staff stated they were not aware of ongoing child find activities. Service coordinators, service providers and a local administrator in one area stated that public medical providers were aware of the program but private doctors were not, therefore children from middle-income families were under-identified. In another area of the State, the social worker in the hospital informed the parents of a severely involved child about the availability of respite care but not about early intervention. The family received respite care, however, the respite care program did not inform the parents about early intervention services. Another parent told OSEP that the social worker at an adoption agency did not tell her about the availability of early intervention services, referring her instead to the local school system. The school system then told the parent that the child could get services at age three, but did not refer the family for early intervention services. Another parent reported that her child's physician had to search for an agency to provide services to her child as the physician was unaware of the early intervention program. A different parent stated that her child's physician waited until the child was six months old before making a referral for her medically-involved child with multiple delays, indicating his lack of awareness of the availability of services. Children who may be in need of early intervention services are frequently in contact with pediatricians, physicians, public service agencies and other primary referral sources; therefore, it is essential that these referral sources are adequately informed to make appropriate referrals for early intervention services.

NMDOH provided information on their outreach efforts to the medical community and public agencies. The doctor's referral kit, developed by the State, is supplied to local providers to distribute to medical professionals. Informational letters and program brochures have been sent to doctors and hospitals. NMDOH administrators told OSEP that informing doctors in local communities was the responsibility of local programs. NMDOH also stated that systematic monitoring of the effectiveness of these activities has not yet been conducted.

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's responsibilities include assisting families in understanding and exercising their rights under Part C, arranging for assessments and IFSP meetings, and facilitating the provision of needed services. The service coordinator coordinates required early intervention services, as well as medical and other services the child and the child's family may need. With a single point of contact, families are relieved of the burden of searching for essential services, negotiating with multiple agencies and trying to coordinate their own service needs.

Part C requires the development and implementation of an IFSP for each eligible child. The evaluation, assessment, and IFSP process is designed to ensure that appropriate evaluation and assessments of the unique needs of the child and 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 New Mexico Self-Study and the self assessment team identified the IFSP process and activities associated with development of the IFSP as an area needing attention based on information obtained through the self-assessment process and responses obtained on the Self-Study questionnaire. After the 1997 Self Study was completed, the team identified several areas in which to begin improvement strategies, which included developing a Statewide standardized

IFSP form, and developing and implementing uniform procedures for completing the IFSP process. Other areas of concern identified in the Self-Study results include: not enough service providers, parents not aware of service options, a lack of available services, waiting lists for children without Medicaid, and services dictated by the availability of service providers and their scheduling limitations.

Based on information from the self assessment and information obtained during the Validation Planning week, OSEP determined that it would investigate the following areas during the Validation Data Collection week: (1) failure to follow required IFSP procedures, including “writing extensions,” failure to put needed services on the IFSP, and failure to use the IFSP team process in determining location, frequency and intensity; (2) discrepancies in provision of services across the State; (3) failure to complete evaluations and assessments in a timely manner, or duplicating evaluations and assessments, and waiting lists; (4) inadequate service coordination activities; (5) needed services not provided, especially in rural and reservation areas; (6) shortage of personnel, including bilingual therapists; (7) discrepancies in fees for services; and (8) transportation.

OSEP visited areas throughout the State, interviewing providers, parents and administrators, and reviewing IFSPs to verify information in the areas of concern related to service coordination and the provision of services to eligible children and their families. OSEP reviewed and analyzed the data and identified the following strengths and areas of non-compliance.

A. STRENGTHS

Funding Formula to Support Natural Environments

The New Mexico Medicaid funding formula provides varying amounts of funding for early intervention services depending on the location of services and the number of children served with peers in a child care or preschool program. This differential funding arrangement reimburses a greater amount of funds for a home visit, and less for a center visit with other children present, e.g. \$40.00 for a home visit compared to \$15.00 for a center-based visit for each child. The NMDOH staff of the Family Infant Toddler program has worked diligently with Medicaid to ensure that service provision to eligible infants and toddlers can occur appropriately in a variety of settings through this differential payment formula.

Child Care Partnership, Natural Environments

The Family Infant Toddler Program is in partnership with the Map to Inclusive Child Care, a pilot program which assists States in developing child care programs to include infants and toddlers with disabilities. A priority of NMDOH is to develop these partnerships to improve their ability to provide appropriate services to families in natural settings.

Credentials for Early Interventionists

New Mexico’s Comprehensive System of Personnel Development includes the creation of a “career lattice” for Early Interventionists. This career lattice identifies competencies and degree

requirements for early childhood workers from assistants and paraprofessionals to professionals providing specialized early intervention and early childhood services, supervision, and training. These requirements concentrate on working with the whole child, and the integration of services in all areas of child development, a key element to providing a holistic approach to early intervention. This career lattice blends with New Mexico's pending legislative requirements for training of early childhood service providers, with the goal of providing well-trained professionals to work with the youngest children.

B. AREAS OF NONCOMPLIANCE

1. Timely Completion of Evaluation and Assessment Procedures

34 CFR §303.321 requires that a meeting to develop the IFSP must be held within 45 days after a public agency receives a referral, and §303.322 requires that each early intervention system must include the performance of a timely, comprehensive, multidisciplinary evaluation of each child referred for evaluation, and include an evaluation in each of the five developmental areas. This initial evaluation and assessment must be completed early enough to ensure that the initial IFSP meeting is held within 45 days of referral.

NMDOH has not ensured that each child referred for evaluation receives the required multidisciplinary evaluation and assessment and an IFSP meeting within the required 45 day timeline.

Parents, providers, and administrators in five of the seven sites visited stated that many children do not receive evaluations and assessments in a timely manner. In order to meet the requirement to hold an IFSP meeting within 45 days of referral, "global" evaluations are conducted by personnel that are not qualified to identify needed services in each specific developmental area, resulting in an IFSP that lists as outcomes the need for more evaluations. Frequently, a developmental specialist will complete a "global" evaluation and assessment and then develop an IFSP identifying evaluations needed in specific areas. These additional evaluations and assessments are not completed within the 45 day time limit. In these cases, the IFSP is developed without a complete evaluation, and there are insufficient data to identify all services needed by the child and family. The administrators and providers stated that the causes for this practice are related to staff shortages, distances traveled in rural areas, infrequent visits by the Preschool Infant Evaluation (PIE) team of the University of New Mexico, and difficulty with transportation. In four areas of the State, administrators, service coordinators and providers told OSEP that therapists also work for the public schools, and therefore are not always available for Part C evaluations. In rural areas, complete evaluations and assessments are delayed from three to six months, with one reported delay of more than 12 months beyond the 45 day limit.

Parents, administrators and service providers in three areas told OSEP that although they had developed an IFSP, children and families had to wait for services because the "Preschool Infant Evaluation team had not administered their evaluations," in order to write a "complete" IFSP. When asked why evaluations and assessments were not getting done, two program administrators stated they relied on the Preschool Infant Evaluation team to complete evaluations because they "do not have enough money for qualified" personnel in their local programs to

conduct the evaluations and assessments. Service providers told OSEP that if the Preschool Infant Evaluation team is going to administer an evaluation and assessment and is not available until a future time, one person from the local program, instead of a multidisciplinary team, will complete an evaluation and assessment and develop an IFSP that references future evaluation by the Preschool Infant Evaluation team. Further, even if local programs complete some of the evaluations, the Preschool Infant Evaluation team administers its complete evaluation and assessment, which sometimes results in duplications and delays in evaluations and assessments.

The Preschool Infant Evaluation team from the University of New Mexico schedules evaluations in areas of the State based on the estimated numbers of children in the area to be evaluated. For example, if an area has an average of six children a year to be evaluated, the Preschool Infant Evaluation team would schedule only one evaluation visit per 12-month period to that area. Children identified in this area would have to wait almost a year for an evaluation or the family could travel to an area scheduled for more frequent visits due to population. However, it may be a great distance to travel, and a child out of district would not be scheduled ahead of a child living in that district. The Preschool Infant Evaluation administrator stated that scheduling practices could result in delays of service to eligible children, unless the family could travel to another area. Because there are few local resources with which to complete evaluations for many children, these delays in PIE evaluations often result in a failure to provide a complete evaluation within the 45 days and to complete evaluations before development of the IFSP.

Part C regulations provide that an interim IFSP may be written when it is impossible to complete the evaluations and assessments within 45 days due to exceptional circumstances, such as illness of the child. See 34 CFR §303.322(e). A statewide shortage of evaluators is not an exceptional circumstance as envisioned by this regulation. In five of seven areas visited, OSEP was told by providers and administrators that it was common practice to develop an interim IFSP with outcomes to complete required evaluations at a later date in order to meet the 45 day time limit for holding an IFSP meeting. However, the evaluations and the initial IFSP were not completed within the timeline required by Part C. Local service providers administer a partial evaluation to be able to begin some services for a child, which is permitted under 34 CFR §303.345 only if all required evaluations are completed within the 45 day time limit. Program administrators and service providers stated they do not complete evaluations and assessments as locally completed evaluations and assessments will be repeated by the Preschool Infant Evaluation team.

Part C does not provide for an extension of the 45 day time limit to hold an IFSP meeting. In spite of this, service coordinators and providers in three areas of the State told OSEP that if evaluations and assessments cannot be completed within the time limit, “extensions” were written to lengthen the 45 day time restriction. Service coordinators and providers offered several reasons for writing extensions: unavailability of an evaluator, lack of time to complete the evaluation and assessment within 45 days, or “the child would receive a Preschool Infant Evaluation (PIE) within a few months,” and they did not “want to evaluate a child in an area that would be repeated by the PIE team.” One service coordinator stated that IFSPs with extensions were written in order to develop the IFSP within the required 45 days of referral. The practice of “extensions” effectively violates an eligible child’s right to a complete multidisciplinary evaluation and assessment and development of an IFSP in order obtain needed services within 45 days as required by IDEA regulations.

In all seven areas of the State visited, parents, administrators, advocates, service providers and service coordinators identified a shortage of professionals as the reason for delays in evaluations, assessments, proper IFSP development and services. Local administrators also stated that although they had qualified staff, those individuals were busy providing services, therefore they frequently waited for the Preschool Infant Evaluation team to complete evaluations and assessments.

2. Coordination of All Child and Family Services

34 CFR §303.23(a)(2) requires that each eligible child and the child's family must be provided with one service coordinator who is responsible for coordinating all services across agency lines and serving as the single point of contact to help parents obtain the services and assistance they need. Specific duties include coordinating the performance of evaluations and assessments, assisting families in identifying available service providers, and coordinating and monitoring the delivery of available services.

NMDOH does not ensure that service coordination includes coordinating all of the services children and families need.

Parents and service coordinators in three areas reported that if a child needed services not provided by that particular early intervention agency, parents had to find those services on their own. Parents stated that the service coordinator may have provided a resource list, but did not assist them in obtaining those services. Parents indicated they had to "fight to get the services" for their child and family. One parent said she "wished she had been told what was available." Parents also stated they learned more about the availability of services from other parents than from their service coordinator.

State administrators expressed concern that service coordination might not be working as well as expected for some medically fragile children, and indicated an intention to research these concerns in-depth to be able to remedy the situation. Some parents of medically fragile children stated they had to coordinate their own services, as their service coordinator was not providing such coordination. One local service coordinator explained that a care coordinator was assigned to a medically fragile child, but this person did not coordinate all services, and therefore, the early intervention services were coordinated by the local program. These parents stated they had two service coordinators but still coordinated their own services.

3. Lack of Individualized Decision Making by IFSP Team

The Part C regulations require, at 34 CFR §303.344(d)(1), that the IFSP for each infant or toddler with a disability 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 [34 CFR §303.344(c)] ...". An IFSP team, that includes the participants specified at 34 CFR

§303.343¹, must develop all of the content of each child's IFSP, including the statement of specific early intervention services.

In enacting the Part C program, Congress recognized the importance of family-centered services in improving results for infants and toddlers. Parents are essential team members in planning and implementing early intervention services. Part C requires that parents be a part of each IFSP team, and that assessments and IFSPs identify the resources, priorities, and concerns of the family, and the supports and services necessary to meet family's needs to enhance their capacity to meet the developmental needs of their infant or toddler with a disability, as well as to meet the unique needs of the child and family. Part C also recognizes the right of a family to decline early intervention services. This emphasis on the importance of the parents' role in developing and implementing their child's IFSP does not, however, in any way diminish the responsibility of the Lead Agency to ensure that each child's IFSP team as a team, rather than the parent or any other individual member(s) of the team, develops the child's IFSP, including decisions about the services to be provided and the natural environment(s) in which they will be provided. Thus, for example, if the IFSP team determines that the early intervention needs of an infant or toddler with a disability can be met in a natural environment or environments, the Lead Agency may not justify providing early intervention services in a setting that is not a natural environment because of "parent choice." Similarly, the Lead Agency must ensure that each infant or toddler referred for an evaluation receives a "...timely, comprehensive, multidisciplinary evaluation ..." (34 CFR §303.323), and cannot, based on "parent choice," conduct an evaluation that does not meet Part C requirements.

As explained below, many individuals that OSEP interviewed in New Mexico informed OSEP that: (1) service coordinators and local providers often asked parents to make unilateral, at times uninformed, decisions ("choices") about the early intervention services their child would receive; (2) parents were often asked to choose from among the options that were available, whether or not those options met the unique needs of the child and family, as determined through evaluation and assessment; (3) these parent choices, rather than the IFSP team, determined the services to be provided; and (4) parents were asked to make uninformed decisions about what methods would be used to evaluate and assess the child and family, at times resulting in evaluations and assessments that did not meet the requirements of 34 CFR §303.323. As explained above, a Lead Agency must ensure that parents are active participants in the evaluation, assessment, and IFSP processes, but may not use "parent choice" to justify decisions that are inconsistent with the requirements of Part C.

NMDOH has not ensured that decisions related to early intervention services are made by the IFSP team nor that decisions are based on evaluations and assessments related to the needs of the child and family. Administrators and providers in all areas of the State visited told OSEP that

¹ Consistent with 34 CFR §303.343(a)(1), "Each initial meeting and each annual meeting to evaluate the IFSP must include the following participants: (i) The parent or parents of the child. (ii) Other family members, as requested by the parent, if feasible to do so; (iii) An advocate or person outside of the family, if the parent requests that the person participate. (iv) The service coordinator who has been working with the family since the initial referral of the child for evaluation, or who has been designated by the public agency to be responsible for implementation of the IFSP. (v) A person or persons directly involved in conducting the evaluations and assessments in Sec. 303.322. (vi) As appropriate, persons who will be providing services to the child or family.

most decisions regarding the services, location and frequency of the early intervention services were made by “Parent Choice,” rather than by the team during the IFSP meeting. Parents told OSEP that in some instances, they were asked to choose which services they wanted for their child, and were not given sufficient information to determine which services their child and family needed. Further, parents stated they did not know if the services being offered were adequate to meet the needs of the child and family. Many parents reported being asked to choose whether they wanted one service instead of another, such as occupational therapy or physical therapy. Parents said they felt they were being asked to make professional decisions without professional knowledge. Part C requires that these decisions must be made by the IFSP team, not by parents alone. Even though administrators and service coordinators told OSEP that services were determined by parent choice, as explained in a later part of this section, these same individuals informed OSEP that services are determined by availability of services in a program, and children and families only received services that the program offered.

Service coordinators also told OSEP that they asked parents whether or not they wanted particular evaluations for their child, without explaining the program’s requirement to complete evaluations and assessments in all developmental areas. Similarly, when services were being determined, service coordinators stated they asked parents which services they wanted. Parents reported feeling inadequate to make these decisions. When OSEP asked about the responsibility of the IFSP team to make decisions, service coordinators, service providers, parents, and administrators told OSEP that evaluations, service determination and contents of the IFSP were determined by parent choice.

Parents are not given information needed to be effective IFSP team members. For example, parents reported that, for service locations, they were not informed of options such as the home or child care settings at the IFSP meeting.

The State staff agreed that “parent choice” was used throughout the processes of evaluation, assessment and development of the IFSP, including determination of services offered and the location of those services. Parent choice is pervasive throughout New Mexico’s early intervention system as noted earlier in this report. Part C requires that parents be a part of the IFSP team making decisions about early intervention services, however, those decisions cannot be based solely on parent choice.

4. Failure to Provide All Services Needed

a) Failure to provide all services identified on the IFSP. 34 CFR §303.344(d) requires the inclusion of a statement of specific early intervention services necessary to meet the unique needs of the child and family. NMDOH has not ensured that all services included on the IFSP are in fact provided.

Local Administrators, parents, service providers and service coordinators in five areas visited by OSEP stated that all services listed on the IFSP were not being provided due to lack of qualified personnel. Program administrators and service providers stated that due to the rural nature of the State and the fact that providers were not reimbursed for travel time, compounded by a shortage of providers, they could not always ensure services needed by children could be provided.

Parents in two areas told OSEP that it was frustrating when providers did not keep scheduled appointments, and then did not call or make other arrangements to provide all services on the IFSP. Parents and service providers for children on one Indian reservation stated that it was very difficult for Indian children to receive services due to the remote location of the reservation, and a reluctance on the part of staff to provide services on reservations, as corroborated by one provider who stated, "I'm not going to go out on that reservation." Another parent told OSEP her child did not receive occupational therapy listed on the child's IFSP "because there was no service provider."

Some services provided to children who received services in groups at centers were not provided consistently. Parents told OSEP that their child did not always receive the amount of service stated in their IFSPs because the large number of children attending a particular session did not allow sufficient time for the therapist to meet individual children's needs. Several parents told OSEP "it was a waste of their time" and "not worth the time and effort to come for services" in groups as it was "so crowded the therapist did not get to their child."

State personnel acknowledge many of the issues identified locally, such as the lack of options for services. They further stated that providing services to children in rural areas continues to present many challenges.

b) Failure to include all services needed on the IFSP. Services such as social services, other health services, special feeding services, and child care for special needs children – services not provided by the service coordinators' employing agency – were not included on the IFSP even if the child or family needed them. Parents, service coordinators and local administrators stated that, in most instances, there were no other services included in the IFSP document, just services provided by one agency. The service coordinators and administrators reiterated they did not include services on the IFSP that were not provided by their agency. In a review of 36 IFSPs, services in the "other services" section were noted in only three, and IFSPs seldom included a service from another agency.

Local administrators, service providers and parents told OSEP that sometimes children may need more service, but only the amount of service that could be provided was written on the IFSP. They further stated that if a service is not available it is not included on the IFSP. Administrators, service coordinators and providers stated that the provision of services is based on the availability of staff, rather than on the child's unique needs. Parents in all areas of the state said they believed their children needed more services than were being received.

Administrators in all seven areas visited stated there were not enough funds to hire sufficient staff, and they believed qualified providers were not available. Service providers in five of seven areas stated that if services were not available due to a lack of service providers, or a service not provided by their agency, it would not be put on the IFSP. They further stated that there were children who needed and would receive more services if there were adequate numbers of service providers. Parents stated that their children did not get more services because the therapists were too busy.

Administrators, service coordinators and providers in two areas stated that the provision of services in rural areas is based on the availability of staff, rather than on the child's unique needs. Service coordinators and administrators in two areas said children in rural areas received early intervention services from the staff member who made home visits, regardless of the child's needs. For example if only the early intervention teacher made home visits, the child would receive weekly or twice monthly visits from that staff member, even if the child needed weekly services from a physical therapist. In this instance, the physical therapist would make a home visit only every three to four months. In some instances, a therapist was available to provide a specific service weekly, or as the child required, but other early intervention service providers would only see the child occasionally, regardless of the child's need. In other words, service providers and coordinators told OSEP that only one type of service provider made regular visits to a child in a rural area even if the child also needed other services. Service coordinators and providers told OSEP that if the child lived closer to the program's location, the child would likely receive more services to address needs appropriately. The administrator stated that all families had weekly or biweekly contact, but apparently not children in rural areas, as this administrator further stated that the early interventionist would only travel once every two to three months to make a home visit, as they were currently "short staffed."

c) Lack of bilingual therapists. Bilingual therapists and teachers are in short supply according to service providers, service coordinators and administrators in five local areas. One parent living on an Indian reservation stated (through an interpreter) that the therapists come to her home, but cannot provide information to the family, as there is no interpreter present. Some providers stated that evaluations are delayed because of the shortage of interpreters. In one area, the service coordinator told OSEP there was no one qualified to work with a deaf child. According to parents and administrators, teachers of hearing impaired and visually impaired infants and toddlers provided services infrequently, and stated that sometimes service was provided only one time a month or less, regardless of need, as there are few providers for this service.

d) Respite care. Service providers and service coordinators in three areas reported to OSEP that there is a great need for respite care, but it was not available and was not included on IFSPs, whether a family needed it or not. Although a large number of parents throughout the State reported to OSEP that they were receiving respite care as stated in the IFSP, this was not uniformly the case in all areas. In one area, parents indicated great difficulty in obtaining respite services, and, as stated earlier, IFSP teams do not put needed services on an IFSP if they are not available. State administrators agree there is a need for more respite care workers and indicated they are diligently working to improve this situation.

e) Transportation. Early intervention services mean services that are designed to meet the developmental needs of each child eligible under this part and the needs of the family related to enhancing the child's development. Types of services include transportation and related costs, including mileage, travel by taxi, common carrier or other means, and other costs, such as tolls and parking expenses that are necessary to enable a child to receive early intervention services. See 34 CFR §303.12(d)(15).

The State of New Mexico has not ensured that transportation services are included on the IFSP and provided to all infants, toddlers and families who need this service.

Local programs have a wide variety of transportation practices, and at times children do not receive other early intervention services due to inability of parents to transport their child to early intervention services. Three program administrators stated that it was not their responsibility to provide transportation services, regardless of need. Service coordinators told OSEP that if children did not have transportation they would likely not receive services. They further stated that services were delayed for children until the family could get their own transportation, many times for several months. Two other local administrators stated they knew transportation was part of their contract, but did not have funds to ensure all families receive adequate transportation. Parents and service coordinators told OSEP that parents would choose less service due to parents' inability to transport the child to services as frequently as needed. Transportation as a service was found on only one of the 36 IFSPs reviewed by OSEP.

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

1. Capacity Building in Local Administration of Evaluations and Assessments

New Mexico can be commended on its legislation requiring that evaluations be available to all children birth to five whether or not they have a disability. However, the University of New Mexico's Preschool Infant Evaluations Team is the main provider, and sometimes the sole provider of evaluations to children under the age of five and, as explained above, there are not enough local evaluation resources to ensure timely and complete Part C evaluations and assessments. The Preschool Infant Evaluation Team has a highly trained group of evaluators that includes a pediatrician and other therapists needed by the child, which local program evaluation teams may not have. The size of the State often prevents the Preschool Infant Evaluations (PIE) team from timely responsiveness to requests for evaluations due to scheduling constraints and distances to be traveled. Some of the less populated areas of the State are visited only one time in a 12 month period, as noted earlier.

Building the capacity of local programs by training staff to be qualified evaluators throughout the State could ensure timeliness and responsiveness for families in all areas of the State. Sufficiently trained local personnel would reduce the time children and families currently wait to receive evaluations, and would also reduce reliance on a distant "expert" team. Building this local capacity could better ensure that comprehensive evaluations for all children occur in a timely manner in all areas of the State.

2. Services in rural areas

OSEP heard throughout New Mexico that providing services in rural areas is a challenge. Contributing to the challenge is the practice of payment for services. Service providers told OSEP they are reluctant to travel long distances to serve families, as they are only paid for direct hands on time, and if the family is not at home as scheduled, they will not be paid for their time. One provider stated she had traveled two hours to provide service to a family, the family was not

at home even though the visit was confirmed in advance, and since the service was not provided, the provider received no compensation for the four hours spent traveling. Therapists are unwilling to commit large blocks of time without payment and they stated they would be reluctant to commit to providing services in rural areas again, thus decreasing availability of service providers for rural areas. Administrators further stated it was difficult to locate and retain staff, especially in rural areas of the State as they were unable to pay therapists if services were not provided directly to the child, and therefore, the therapist's time could not be billed to a payment source. The State may want to examine their procedures and policies concerning payments to providers to ensure availability of services to families.

3. Efficacy of Sliding Fee Scale

NMDOH requires its 29 local service providers to include their own sliding fee scale for early intervention services in their application for a contract with the State, which identifies the service and cost to families. Many local programs did not develop a sliding fee scale. Also, OSEP noted a wide discrepancy in implementation of a sliding fee schedule across the State. Some local programs charge a co-pay for services and others do not. Transportation costs for parents also vary widely from program to program. Some programs provide transportation at no cost to parents. In other programs parents are reimbursed for providing their own transportation. Other programs pay a set amount per mile to parents for transportation, which may or may not cover the actual cost. In some areas of the State, parents are reimbursed through another social service agency, if the family is eligible. The result is that a variety of fees are charged to parents, which could, in some locations, permit fee scales that result in parents' inability to access needed services for their child, or place an undue burden on some families. New Mexico may want to develop Statewide policies concerning sliding fees to ensure that all families receive needed services, as well as the efficacy of using sliding scale fees in the provision of early intervention services, especially for transportation, as it impacts a family's ability to participate in other needed intervention services.

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 in a family-centered system of services.

Validation Planning and Data Collection

New Mexico's 1997 Self-Study indicated that parents are generally satisfied with the services provided in the early intervention program and this was confirmed during the self assessment process. The Self-Study found that, in most areas, families are involved in the IFSP process, and are asked about their concerns and hopes for their child. Parents stated that service coordinators included family information in planning for their child's program of services and developing the IFSP. Nevertheless, the Self-Study document also indicated some areas of concern from parents. The New Mexico self assessment committee identified the following areas as problematic: parents were unaware of services that may be available to them, and parents had difficulty locating needed services.

During the public input sessions, one of the questions asked was, "Are family and child outcomes enhanced by family-centered supports and systems of services?" Responses indicated that, in general, families are involved in the IFSP process in the central region of New Mexico, specifically in the geographic region of the Rio Grande River. Both parents and providers cited many instances of family involvement in the IFSP process. However, participants in the western regions of the State reported less involvement and participation as well as exclusion from the evaluation and the IFSP processes. In some instances, the evaluators did not speak the parents'

language and parents reported there was no interpreter present, therefore they could not participate in the evaluation. Participants in other remote areas of the State reported less involvement and participation, as well as a lack of availability of training opportunities for parents to support effective participation.

The following concerns/issues were identified during the public input sessions and from the self assessments as areas that could be investigated during the data collection week: (1) little or no effective parent input into the decisions about services for their children, because of set menu of services, (2) not enough supports for parents, (3) lack of training for parents on the IFSP process and the services available for their children, and (4) families might not receive necessary services unless they locate those services themselves.

To investigate the issues identified by public input participants and the State's self assessment, OSEP collected data from local programs and providers throughout New Mexico relative to the involvement of parents in the IFSP process and the training of parents and staff. Analysis of the data collected resulted in identification of the following strengths. Areas of non-compliance related to the Family Centered Cluster are included in other sections of this report. (See section II, B, 1- Effective Public Awareness, III, B, 2- Coordination of all Child and Family Services, and III, B, 3- Lack of Individualized Decision Making by the IFSP Team.

A. STRENGTHS

1. Commitment to Families

Historically, New Mexico has been sensitive to the needs of families and takes pride in including families in all areas of policy and decision-making at all levels of State government. New Mexico's Family Infant Toddler Program has invested State funds in promising initiatives to assist families in the early intervention system. These initiatives include the Parent Liaison Program, the Parent-to-Parent Program, and the Parent Involvement Project. These programs assist parents in navigating the system of services, provide a parent-to-parent support network, and train parents to be advocates and participants in improving New Mexico's services to families and children. In addition, the Child and Family office is developing Statewide standards for all programs providing services to children. The intent is to raise the level of professionalism for all who provide services to children birth through eight years, across all government agencies throughout the State including Head Start, the Departments of Health, Education, and Social Services, as well as other agencies providing services to children.

2. Family-Centered Practice

OSEP noted this promising practice in Española. The evaluation reports were written in language easily understandable to parents. Very little discipline-specific jargon was noted by OSEP and the reports were easy to read. Parents in this area reported no difficulty in reading these reports and said they believed the reports were written for them. When asked about the concern many professionals have about not using discipline-specific jargon in reports and, therefore, not being considered professional by their peers, one staff member replied, "We provide service to families, not to other professionals."

3. Assistance and Training for Parents

Another promising practice in some local programs is an annotated notebook provided for parents to help them keep track of evaluations, IFSPs, and other important documents generated during the IFSP process. This helps parents organize the evaluation and IFSP information to be better able to act as advocates for their children, both in the early intervention system and later, in the school system. The Parents Reaching Out parent support organization also provides training and a notebook to assist parents in the transition from the early intervention system into special education in the public school system. This training is available to programs throughout the State.

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 making reasonable efforts to convene a meeting to assist families in obtaining other appropriate community-based services. For all Part C children, States must review the child's program options for the period from the child's third birthday through the remainder of the school year and must establish a transition plan.

Validation Planning and Data Collection

The New Mexico Self-Study, the self assessment team and OSEP identified several strengths as well as areas of concern related to transition from Part C services to special education or other community services. Parents Reaching Out (the Parent, Training and Information center in New Mexico) has developed a training package and notebook to be used by parents as they transition into public school preschool programs. Some school districts work well with the local early intervention program and transition works smoothly for these families. However, parents and service coordinators expressed a general dissatisfaction about transition from Part C services to preschool services.

At the public input sessions held during the Validation Planning visit, the following question was asked: "Does transition planning result in needed supports and services being available and provided to a child by his/her third birthday, and to the child's family?" In response, providers, parents and advocates disclosed difficulties related to obtaining evaluations to determine eligibility for special education in a timely manner, problems communicating with school system personnel, and the repeat of evaluations already completed by the Preschool Infant Evaluation team. Other concerns related to lack of communication with school personnel during the summer months, three year olds not getting services, schools canceling or not scheduling IEP meetings, paperwork reportedly getting lost between the early intervention program and the school, and difficulty communicating with school staff to plan required activities to determine eligibility for Part B services.

To investigate the issues identified through the Validation Planning process, OSEP collected data from parents, service providers, service coordinators and local program administrators across New Mexico relative to transition planning and implementation. In addition, OSEP collected

information through review of IFSPs and other transition information provided by the State. Analysis of these data resulted in the identification of strengths and an area of non-compliance.

A. STRENGTHS

1. Commitment to Improve Transition

The staff from the State Departments of Health and Education stated they are committed to a seamless system of IDEA services and will work towards achieving that goal within the requirements of the regulations. This commitment is demonstrated by a joint committee composed of NMDE special education staff and the NMDOH Family Infant Program staff that has been formed to develop an interagency plan to improve transition activities that comply with IDEA. This is a broad-based committee of key staff from special education, the early intervention program, parents, local providers, Head Start, Indian Health Service and advocates.

2. Promising Transition Activity

One local early intervention program serving the northeast area of the State and all but one of the school districts in that provider's service area, have entered into memoranda of understanding concerning how transition will work. In this area, there is also a transition committee that meets on a regular schedule to address any transition issues that may arise.

3. Parent Training Program

“Keeping It All Together,” a state-wide training program funded with State dollars through the Parents Reaching Out program, is provided to parents whose children will be going to the preschool special education program. As noted earlier in this report, this program helps parents to understand the special education program, services that would be provided to children and how to navigate the system. The program also includes a transition notebook to help parents keep track of evaluations, IFSPs and IEPs, as well as a step-by-step guide for situations that may arise related to obtaining services for their child.

B. AREA OF NONCOMPLIANCE

Transition Conference Not Held at Least 90 Days Prior to the Child's 3rd Birthday

NMDOH has not effectively ensured that transition planning meetings were held at least 90 days to 120 days before the child's third birthday in accordance with Part C. See 34 CFR §303.148.

In four of the areas visited, OSEP found that the transition conference involving the lead agency, the family, and the local education agency is not consistently occurring at least 90 days before the child is eligible for preschool services. Parents stated that the transition meeting occurred just before or after the child turned three years of age in three of the areas visited. One program indicated that transition planning begins in January for all children who turn three in that calendar year. These children may be turning 3 in less than 90 days or in more than 120 days. In New Mexico, parents have the option by State law of keeping their child in the Early

Intervention Program after the child turns three until the beginning of the next school year. However, some programs determine that because the child is not leaving the early intervention program, he/she does not need a transition conference, disregarding the child's age and the requirement for the conference.

VI. PART B: PARENTAL 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

OSEP Monitoring: OSEP's 1995 Part B monitoring report did not include any findings regarding parental involvement.

Self-Assessment: The issue of parental involvement was addressed in Section 2 (*Family and Parent Involvement*) of the State's Self-assessment. NMSDE's IDEA Implementation Work Group Status Report for October 1998 emphasized the importance for all members of a child's IEP team to have a basic foundation of knowledge of the IEP process in order to participate effectively. The following areas of need were identified: (1) include parents on the regional and local school district committees that develop staff inservice calendar; (2) develop local school-based information/resource centers staffed by parents, with a school staff member designated as parent liaison, to facilitate all parents having access to assistance and materials; (3) conduct regional training through the State's Comprehensive System of Personnel Development plan, involving the State's Regional Education Centers and Regional Cooperative Centers; and (4) train parents, district administrators, teachers, and related service staff on parental involvement in the IEP process.

NMSDE's monitoring data summary on parent participation concluded that districts improved their provision of prior notice during 1995-1997. A major area of noncompliance focused on parent participation in IEP meetings. Revised monitoring procedures in 1998 included requirements for school districts to: conduct a self-study, including a review of current IEP documents, to determine how the parent's input is documented and included in the IEP process; and to document and solicit parent involvement "as early as the Student Assistance Team procedure" which occurs before referring a child to special education.

Public Input Process: As a part of its public meeting process, OSEP asked the following question: "Is the provision of a free appropriate public education facilitated through parent partnerships?" Responses by parents included that: parent concerns and information about their children did not always appear to be considered when IEPs were developed, reviewed, or revised; parents did not always feel treated as equal partners for decision-making nor that they were viewed as knowledgeable about their child's educational needs; school staff, especially building administrators, do not have adequate skills to mediate disputes; and school staff did not have adequate knowledge about the training and support needed to meet the needs of children with disabilities. Parents also reported that limited formal training opportunities were available to

increase their knowledge about parents' rights and other IDEA requirements. Parents of American Indian children reported that school staff did not adequately appreciate cultural differences, such as allowing time for thinking about the information presented during IEP meetings and honoring periods of silence when needed before requesting agreement with school district proposals.

At the end of the Validation Planning week, the Steering Committee discussed with OSEP some of the parental involvement initiatives and generally agreed with investigation of concerns identified in the Self-Assessment and by the public. To investigate the concerns and issues 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 with State personnel, local program administrators, teachers, related service providers, and parents. OSEP reviewed and analyzed the data and identified the following strengths and suggestions for improved results for children.

A. STRENGTHS

1. Institute of Higher Education and Parent Training Initiative

NMSDE supports the "Families as Faculty" project funded through the State's Parent Training Institute, Parents Reaching Out to Help (PRO), in partnership with the University of New Mexico's Department of Special Education and Early Childhood Education. The project involves team-teaching strategies, with teams composed of parents and university faculty providing preservice teacher training. The goal of the project is "to prepare quality future educators to view children within the context of their families and communities and interact with those families in a responsive manner as a commitment to change."

2. Improving Parent IEP Participation

Parents and school personnel across all districts visited by OSEP reported that in the vast majority of cases, schools made extensive efforts to ensure that IEP meetings were held at times and in locations convenient to parents. This sometimes included travel to homes, in order to involve parents as IEP team participants.

3. Parent Participation in Work Groups and Task Forces

NMSDE has included representatives from the Parent Training Institute and other parents in its ongoing work at the State level to implement IDEA 1997. Parent representatives are involved as active participants in key policy work such as the IDEA State Advisory Panel, the IDEA Steering Committee, the various IDEA Implementation Work Groups, and the Secondary and Corrections Statewide Task Forces.

4. Outreach to Diverse Groups

NMSDE is continuing its practice of recognizing the needs of various cultural and linguistic populations through its outreach to members of the American Indian communities and by

providing American Indian parents opportunities to serve as active participants in key policy and advisory work that affects all children with disabilities in the State. Examples include the involvement of tribal communities and Bureau of Indian Affairs representatives on the IDEA State Advisory Panel, the New Mexico IDEA Steering Committee, the IDEA Implementation Work Groups, and the Secondary Transition Task Force. NMSDE's State Director for Special Education also serves as a member of the Bureau of Indian Affairs IDEA Steering Committee.

B. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

Positive changes in the following areas of parental involvement could lead to improved results for children with disabilities and their families.

1. Parent Perceptions of Unequal Partnerships

Parents in three of the six districts visited by OSEP reported that they were not seen as equals or were not made to feel that they were part of the team process, even when they were present at IEP meetings. Some parents of American Indian children reported that school personnel do not allow enough time to ensure that parents clearly understand the summary data and/or proposed IEP team actions. As a result, these parents did not have an opportunity to make informed decisions. Some parents across different ethnic groups also described IEP meetings as "rushed." Guidance and collaboration with districts could lead to improved sensitivity to parents' needs, including cultural awareness and diversity.

2. Information Dissemination and Training Opportunities

In the districts visited by OSEP, school personnel and parents confirmed that information shared with parents was primarily "ad hoc or one-to-one," and that even where some formal training opportunities for parents were available, improved opportunities were needed. Although OSEP interviewed a number of parents in the school districts that it visited, parents in only two districts reported they were aware of training opportunities and that school districts can be requested to pay for parents to participate in training sponsored by the Parent Training Institute. In one district, staff reported that they did not make parent training opportunities available because parents had not always attended in the past. Parents reported that building-level administrators were not well versed in IDEA requirements and could not always provide parents with appropriate district information about special education policies and procedures. Parents stated that building-level administrators did not have appropriate knowledge and training to resolve special education issues, and to advise IEP teams about services, supports, and placement options. Technical assistance with more effective ways to disseminate information and training for all parties could lead to improved involvement of parents in their children's education, including the IEP process.

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

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

The IDEA '97 Committee Reports of the Senate Committee on Labor and Human Resources and the House of Representatives Committee on Education and the Workforce emphasized that too many students with disabilities are failing courses and dropping out of school. Those Reports noted that almost twice as many children with disabilities drop out as compared to children without disabilities. They expressed a further concern about the continued inappropriate placement of children from minority backgrounds and children with limited English proficiency in special education. The Committees stated their intention that "once a child has been identified as being eligible for special education, the connection between special education and related services and the child's opportunity to experience and benefit from the general education curriculum should be strengthened. The majority of children identified as eligible for special education and related services are capable of participating in the general education curriculum to varying degrees with some adaptations and modifications. This provision is intended to ensure that children's special education and related services are in addition to and are affected by the general education curriculum, not separate from it."

Validation Planning and Data Collection

OSEP Monitoring: The 1995 Part B monitoring report included findings that NMSDE did not meet its responsibility to ensure that: (1) all children receiving special education and related services had current IEPs; (2) children were receiving the type and amount of related services in accordance with what was specified on their IEPs, based on individual need and not on the availability of resources; and (3) the need for extended school year services was considered on an individual basis and made available as needed to ensure a free appropriate public education. The report did not include findings about systemic noncompliance in the area of least restrictive environment.

Self-Assessment: Sections 1, 3, and 4 (*Student Outcomes, Personnel, and Systems*) of the Self-Assessment addressed the provision of a free appropriate public education in the least restrictive environment. Issues included: unmet assessment and instructional needs of culturally and linguistically diverse students; problems with the provision of evaluations and reevaluations due to personnel shortages; limited systematic training for local administrators and other school

personnel; poor transitions of children from Part C to Part B services; inadequate services to children with emotional and behavioral needs due to the absence of State certification for behavioral and mental health personnel; inconsistent interpretation of extended school year services resulting in children not receiving extended school year when necessary; and limited local support for including students with disabilities in the general curriculum and regular education classrooms. The 1997-98 State Advisory Panel also reported historical concerns about the shortage of qualified personnel—speech/language pathologists, diagnosticians, school psychologists, occupational therapists, physical therapists, and bilingual special education teachers—to meet the needs of students with disabilities in New Mexico.

NMSDE's Statewide placement data for 1994-95 indicated that, for all students with disabilities ages 6 through 21 years, 35.23% were placed in separate classes and 32.05% in regular classes. For 1997-98, 33.77% were placed in separate classes and 34.07% in regular classes. The national and Statewide data from the Twentieth Annual Report to Congress show that New Mexico places students with emotional disturbance, intellectual or multiple disabilities in separate classroom at rates considerably higher than the national average.

Intellectual Disabilities (Mental Retardation), Ages 6-21

| | Regular class | Resource | Separate Class | Separate Facility |
|------------|---------------|----------|----------------|-------------------|
| New Mexico | 7.56 % | 14.20 % | 77.80 % | .20 % |
| Nation | 10.25 % | 28.55 % | 54.20 % | 6.42 % |

Multiple Disabilities, Ages 6-21

| | Regular class | Resource | Separate Class | Separate Facility |
|------------|---------------|----------|----------------|-------------------|
| New Mexico | 8.40 % | 14.64 % | 68.68 % | 4.74 % |
| Nation | 9.42 % | 14.80 % | 48.86 % | 24.62 % |

Emotional Disabilities (Emotional Disturbance), Ages 6-21

| | Regular class | Resource | Separate Class | Separate Facility |
|------------|---------------|----------|----------------|-------------------|
| New Mexico | 22.76 % | 15.69 % | 52.95 % | 6.00 % |
| Nation | 23.47 % | 23.64 % | 34.31 % | 16.96 % |

New Mexico's *Part C Self-Study* (1997), "Additional Highlights," included data on preschool children with disabilities transitioning from Part C to Part B services and summarized needs identified by families, including "better interagency awareness and communication with families about transition." Needs identified by service coordinators and evaluation personnel included: better communication and collaboration among early intervention teams and the public schools; better tracking to ensure that needed services continue; and intensive interagency training on transition to Part B services.

NMSDE's monitoring data summary for 1995-1997 included the following local agency noncompliance areas: placement and service delivery decisions are based on availability, rather than the individual needs of the child; children are placed in separate service settings without

stating a justification, as required by the State; students with disabilities excluded from district-wide testing; and evaluations/reevaluations completed within required timelines.

Public Input Process: One of the four 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?” Issues included: (1) failure to consider cultural and linguistic diversity factors during eligibility determinations; (2) initial evaluation delays; (3) poor transitions from Part C to Part B services, resulting in delayed Part B services; (4) different interpretations of the State’s funding formula restrict placement options considered; (5) classroom supports unavailable to increase participation in the general curriculum and regular education classes with children who do not have disabilities; (6) inappropriate exclusion from participation in district and Statewide assessment programs; (7) confusion about extended school year services that results in children not always receiving needed services; and (8) teachers without training and necessary supports to help children succeed in regular classes.

At the end of the Validation Planning week, OSEP determined that the Steering Committee and members of the public participating in the OSEP focus meetings raised similar concerns and issues. The Committee recommended that OSEP should collect data regarding those concerns and issues, implementation of the new IDEA requirements, and provision of special education and related services to incarcerated youth in facilities located within districts visited. To investigate these concerns and issues, OSEP collected information from the review of student records, State and local policies, procedures and placement data, and interviews of State personnel, local program and building administrators, teachers, parents, and related service providers in six districts. OSEP reviewed and analyzed the data and identified the following strengths and areas of noncompliance.

A. STRENGTHS

1. IDEA State Advisory Panel Initiatives

NMSDE is working closely with its State Advisory Panel to formulate policy and guidance for implementing the IDEA 1997 Amendments. Their initiatives include: a recommendation that “knowledge about students with disabilities and IDEA” be included in the State’s educational administrator competencies profile; establishment of Statewide task forces to study issues and recommend action regarding the improvement of evaluation and assessment for students with limited English proficiency and cultural/linguistic differences who may also be suspected to have a disability; suggestions for test accommodations and alternate assessment guidelines; practices to improve the IEP process; and examination of the impact of high school diploma policies on drop-out rates and graduation requirements for students with disabilities.

2. Increased State Level Preschool Personnel

In order to better serve preschool children with disabilities, NMSDE’s has created two positions for staff who will provide linkages to other State-level transition services for young children and

their families, such as Headstart programs and Children, Youth and Family Department - Early Childhood Division. They will also provide State-level leadership for special projects, including preschool grant awards and contract oversight, preschool performance indicators, IDEA Implementation Work Group Developmental Delay Definition, and the Early Literacy and Preschool Resource Library.

3. Expansion of Developmental Delay Category to Age Nine

NMSDE has expanded the age range for children who may be considered to have a disability because of “developmental delays.” The State now permits locals to use that definition for children, age three through nine, who are experiencing developmental delays in one or more of the following areas of development: physical, cognitive, communication, social or emotional, or adaptive. This will give school districts the option of providing services to younger children without having to lock the child into an eligibility category which may be inappropriate or incorrect.

4. Recruitment Website

To assist local districts with locating qualified personnel, NMSDE has developed a recruitment website. Local districts may post any position on this site.

B. AREAS OF NONCOMPLIANCE

1. Placement in the Least Restrictive Environment with Supports

Part B requires that, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled. Removal of children with disabilities from the regular education environment may occur only when the nature and severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily (34 CFR §300.550(b)). In addition, the educational placement of each child with a disability must be based on his or her IEP (34 CFR §300.552(a)(2)).

OSEP determined that NMSDE did not always ensure that children were removed only when the nature and severity of disability is such that education in regular classes, with the use of supplementary aids and supports, cannot be achieved satisfactorily. OSEP determined that placement decisions were often based on the intensity of service level and disability category rather than on the unique needs of each child. Although NMSDE’s revised service delivery system was intended to remove funding incentives for inappropriately placing children in more restrictive environments based on amount of services and disability category, students identified with emotional disturbance, intellectual, or multiple disabilities continued to be inappropriately placed in segregated classes and were not always provided opportunities for placement in regular classes to the maximum extent appropriate with the needed supports, supplemental aids and services.

Teachers and parents in two districts and administrators in four districts reported that school personnel did not always interpret the State’s service level system appropriately to increase

opportunities for children with disabilities to be educated with their students who do not have disabilities. They reported that IEP teams made segregated class placements because of a belief that placing children with disabilities in regular class placements would create a perception that no additional special education teaching staff were needed. Administrators in two different districts reported difficulty changing “the old way of doing things” (i.e., separate class placements). This resulted in those children needing a maximum level of service (particularly children with mental retardation and emotional disturbance) being placed in separate classes full-time based on the category of disability, without individual determinations about the appropriateness of such placements.

Administrators and teachers in two districts reported that placement decisions were based, in large part, on the perceived willingness of regular educators to accept students with disabilities into regular classrooms. Staff from these districts told OSEP that IEP teams did not know whether regular education teachers were willing or able to work with the children with mental retardation or emotional disabilities for any part of the school day, and therefore students with these disabilities were often placed inappropriately in separate classrooms. Seven of ten IEPs for students placed in self-contained classes stated regular class “and /or” separate class for the service location. The remaining three IEPs included no statement about students’ removal from participation in regular education. An administrator indicated that school personnel were told to write “and/or” to “cover themselves” in case special education teachers were unable to recruit regular education teachers who were willing to accept children with disabilities in their classes.

Administrators and teachers in each of the six districts visited by OSEP reported unmet needs for teacher training, additional teachers and related service providers, and qualified classroom assistants to facilitate the placement of students with disabilities in regular education settings. An administrator explained further that the district did not have adequate personnel and other resources to ensure that students with disabilities were placed in the regular classroom to the maximum extent appropriate. NMSDE’s own summary of its 1994 and 1997 accreditation reviews includes similar findings on noncompliance with the least restrictive environment requirements.

2. Delayed Transition of Children from Part C to Part B: Service Delays and Evaluations

Part B requires the State education agency to ensure that local educational agencies participate in transition planning conferences arranged by the designated lead agency for Part C early intervention programs (20 U.S.C. 1412(a)(9)). The purpose of these conferences is to ensure that young children with disabilities make a smooth and effective transition to Part B services. By a child’s third birthday an IEP (or IFSP) must be developed and implemented for the child consistent with all of the requirements for the provision of a free appropriate public education.

OSEP determined that young children with disabilities were not consistently ensured a smooth and effective transition to Part B services. Parents reported that public school staff did not consistently participate when invited to transition planning meetings and that initial IEP/IFSP meetings were delayed. Administrators in three different school districts reported that transition for all children (i.e., a free appropriate public education becomes available) occurs at the beginning of the school year after the child turns three, regardless of the child’s birthday.

Administrators confirmed teachers' reports that this results in some children not receiving their needed services until well after they turn three years of age.

Delays in transition from Part C to Part B services were further exacerbated by school districts' insistence on conducting their own evaluations, even where current and appropriate evaluations of the child had already been conducted while the child was receiving Part C services. Section 1414(c)(1) permits, as part of an initial evaluation (if appropriate), the IEP team and other qualified professionals to review existing evaluation data on the child, and on the basis of that review, and input from the child's parents, identify what additional data, if any are needed to determine: whether the child has a particular category of disability, the present levels of performance and educational needs, whether the child needs special education and related services, and whether any additions or modifications to the special education and related services are needed to enable the child to meet IEP goals and to participate, as appropriate, in the general curriculum.

Administrators in four of the school districts reported that the preschool transition process is sometimes delayed because schools conduct their own evaluations rather than use evaluation data available through the early intervention programs. In one of the districts, two administrators told OSEP that although they were unable to report how many children were involved, the district had a heavy backlog of preschool screening that resulted in delays in IEP meetings. Similar issues were identified by public input participants, Part C parents, providers, and coordinators, as well as by a stakeholders' group focusing on the Part C to Part B transition process.

3. Consideration and Provision of Extended School Year Services

Part B requires that a free appropriate public education is made available to all eligible children with disabilities (34 CFR §300.300). In addition, 34 CFR §300.8 (now 34 CFR 300.13) requires that the State educational agency ensures that special education and related services are provided at public expense, under public supervision and direction without charge, and that they meet State standards, including Part B requirements for preschool, elementary and secondary education. The free appropriate public education must be provided in accordance with an appropriate IEP developed, reviewed or revised by each child's IEP team.

In three of the six districts visited by OSEP, administrators indicated that the students were not receiving extended school year services, regardless of need, and that IEP teams were not given authority to make decisions about those services and whether or not to include them in students' IEPs. The teams could send names and recommendations regarding extended school year services to district level staff who authorized funding and made final decisions often based on funding availability. District-level staff informed school principals, or their designees, of the district's decision regarding provision of extended school year services. Teachers and administrators in four of the six districts visited by OSEP indicated that additional training, interpretation, and guidance from NMSDE on the provision of extended school year services were needed to supplement written materials already disseminated by the Special Education Office.

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 1995 Part B monitoring report included a finding that NMSDE's monitoring system did not include methods and written procedures for determining implementation of Part B requirements at 34 CFR §§300.346(b)(2) [basis for determining IEP services not needed], and 300.347 [agency responsibilities]. Also, NMSDE's monitoring system did not ensure that in two agencies identified deficiencies regarding the inclusion of a statement of needed transition services were corrected. Also, OSEP found in its 1995 monitoring report that NMSDE's instructions for local education agency applications did not require that public agencies include the secondary transition requirements at §300.346(b)(1).

Self-Assessment: Section 1 (Student Outcomes) and Section 4 (Systems) address secondary transition in three documents: *NMSDE Transition Initiatives for Youth with Disabilities in New Mexico (1986-1998)*, *Transition Task Force Findings (1994-1996)*, and *IDEA State Advisory Panel Report (1997-98)*. The *Statewide Task Force on Transition Report (1996)* identified needs at the local level, including that: few students with disabilities were moving into postsecondary programs or were prepared for suitable employment; the elements for successful transition were "neither universally available nor implemented;" training was needed to ensure systemic implementation across local districts; systemic transition support was ineffective in most locations; connections among schools, agencies, post secondary institutions, employers, and families are very difficult to achieve, thus interfering with potential transition options for students in transition.

NMSDE's monitoring summary for 1994-1997 showed that transition was not listed as a purpose in IEP meeting notices for students aged sixteen and older, students were not invited to IEP meetings addressing transition, student preferences and interests were not considered, other agencies were not invited, and local educational agencies were not providing services if other agencies failed to provide agreed upon services. The 1997-1998 accreditation reviews did not include IDEA findings. Instead the reports included concerns and recommendations regarding

the transition requirements; therefore, corrective actions in school districts visited by the State accreditation teams during that year were not required.

Public Input Process: A focus question asked during the public input meetings was: “Do students with disabilities, ages 14 years and older, receive instruction and coordinated services that facilitate transition from school to work or from school to post-secondary education?” Responses indicated that: eligible students were not always appropriately involved in IEP development; local district staff generally had little training on implementation of all secondary transition requirements; other agencies were usually not invited to participate until the senior year of high school and rarely earlier, even when linkages were needed; school district staff did not always communicate with other agencies when contact was needed; IEP teams often addressed transition services based on disability category, rather than on individual needs; barriers included personnel shortages, geographic isolation, high general unemployment, and limited economic development, especially in rural areas and communities with high populations of American Indian, newly arrived Hispanic and other immigrants.

At the end of the Validation Planning week, the Steering Committee identified State-level secondary transition initiatives and efforts, and local-level needs to increase awareness of Part B requirements through training on how to adequately prepare youth with disabilities for post-secondary activities and independent living. The Steering Committee also agreed that OSEP should collect data on the new Part B requirements and issues raised by public input participants. OSEP collected, reviewed, and analyzed data from its review of student records, interviews, and a meeting of Statewide secondary transition stakeholders and identified the following strengths, areas of noncompliance, and suggestions for improved results for children.

A. STRENGTHS

1. State Transition Coordinating Council

New Mexico has created a State Transition Coordinating Council with representation from the following State agencies: Department of Labor; Social Security Administration; Department of Health; Department of Vocational Rehabilitation; Department of Children, Youth and Families, Commission on Higher Education, Department of Corrections, Governor’s Committee on Concerns of the Handicapped, and the Developmental Disabilities Planning Council. The activities of the Council will focus on planning, coordinating and developing data systems in order to identify indicators related to outcomes of children and youth with disabilities. This will allow the State to more effectively evaluate the impact of its transition efforts across the State.

2. State Staffing for Secondary Transition

As recommended by the Statewide Task Force on secondary transition, NMSDE has restructured its staff to include a Secondary Transition Coordinator at the State level. The coordinator will be funded by NMSDE to carry out key recommendations, build upon earlier initiatives, and to coordinate and provide support to local districts. The intent is to broaden the transition services options available for students with disabilities. Similarly, a recent restructuring of the Division of Vocational Rehabilitation provided for the employment of a State Transition Coordinator who

works directly with counselors across the State to help them improve their work with the local schools.

3. Grant to Expand Transition Services

In an effort to increase options available to meet secondary students' transition needs across the State, the New Mexico State Division of Vocational Rehabilitation recently received a federal grant for curriculum development, tutoring, job coaching apprenticeship options, and direct placement of eligible youth into competitive employment.

4. Higher Education Linkages

NMSDE has expanded partnerships with community colleges to put needed supports in place to aid participation by students with disabilities. NMSDE is also working with the State's institutions of higher education as they expand efforts to provide rural transition training opportunities for teachers and families through university programs.

5. School-to-Work State Partnership

As a State level partner and co-sponsor, NMSDE participated in the development and implementation of an "action plan for more inclusionary School-to-Work systems." The activities resulted from NMSDE's 1997 participation in the National Forum *Next Steps for Including Students with Disabilities in School-to-Work*. The partnership includes NMSDE, the Circle of Life Project (State transition systems change grant), the New Mexico School-to-Work Office, and the National Transition Alliance.

6. Task Force on Transition to Postsecondary Education for Youth with Disabilities

Established through 1994 legislation, this Statewide group developed an agreement with the Governor's Interagency Coordinating Council on transition planning for youth with disabilities that is used as the framework for all State-level transition initiatives. State-level initiatives and partnerships involve NMSDE, the University of New Mexico, New Mexico State University, Parents Reaching Out, Regional Education Centers, the State's Division of Career Development and Transitions, the National Transition Network, and the New Mexico Council for Exceptional Children. Through the expansion of these and other State cooperative efforts, NMSDE expects to increase the post secondary options that are available to students with disabilities.

7. Summer Institute

Each year, NMSDE sponsors a weeklong Summer Transition Institute to improve transition planning for youth with disabilities. Last year, over 150 parents and professionals attended from across the State.

8. New Diploma Pathways to High School Graduation

The collaborative efforts of NMSDE, a Statewide Task Force on IEP Graduation Issues, and the IDEA State Advisory Panel resulted in the State Board of Education's adoption of revisions to the State regulations (Standards for Excellence), regarding the New Mexico high school diploma and graduation requirements. The revisions became effective December 2, 1998. This was accomplished with active involvement by parents and advocates for youth with disabilities. A single and meaningful high school diploma can be attained by the vast majority of all students in the State and will be recognized by employers and continuing education entities. Students with disabilities can participate in graduation ceremonies and can earn the New Mexico high school diploma through one of three programs of study—standard program, career readiness program, and ability program (meeting or surpassing all IEP goals and objectives). The task force to provide support to local districts for implementing the new State regulation has drafted a technical assistance manual and NMSDE is continuing work on expansion of the standards. Each pathway to the New Mexico high school diploma will be aligned with appropriate State standards for completion, in collaboration with work on State and district-wide assessments and accountability being conducted by another NMSDE group.

An intended result is to decrease the high dropout rate that persisted in the past for many youth with disabilities who did not have access to earning the New Mexico high school diploma. On an individual basis, a student whose disability prevents pursuit of the New Mexico high school diploma can continue to be provided Part B services through age 21 years and earn a certificate of completion that prepares him/her for transition into appropriate adult services with ongoing assistance. Decisions will be made by each student's IEP team and reviewed and revised appropriately, on at least an annual basis. An overall anticipated result for all students with disabilities is to improve readiness for continued education or training, competitive or supported employment and independent or assisted living, as appropriate.

B. AREAS OF NONCOMPLIANCE

1. Transition Services Statement

Part B requires that the IEP for each student 16 years and older (or younger if appropriate) must include a statement of the needed transition services – a coordinated set of activities for a student with a disability, designed within an outcome-oriented process, that promotes movement from school to post-school activities—including, postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation (34 CFR §300.18 (now §300.29) and §300.346 (now §300.347)). The transition services statement must be based on the individual student's needs, taking into account the student's preferences and interests and includes instruction, community experiences, development of employment and other post-school adult living objectives, and if appropriate, acquisition of daily living skills and functional vocational evaluation.

OSEP found that NMSDE did not consistently ensure that public agencies met these requirements. In three of the five school districts where IEPs for students age 16 and older were reviewed by OSEP, administrators and teachers confirmed that the statements were absent or unclear. One administrator held teachers responsible and said that the information was not being

included in IEPs “on a consistent basis.” With one exception, the student records reviewed by OSEP in this district did not include any of the required components. In a different district, none of the IEPs identified school staff or anyone other than the students as “responsible persons” for implementation of transition service components. School district commitment of personnel or resources to help the all students meet their secondary transition goals and objectives were not indicated. In another of the five districts, two administrators confirmed school personnel reports that in most cases transition services were not provided to students with mild disabilities. One of these administrators explained that there was an assumption that the students with mild disabilities “will be able to assist themselves” and confirmed also that there was “not really a coordinated set of transition services taking place within an outcome-oriented process.” Reports made by administrators in the two remaining districts were similar.

2. Notice Content and Other Agency and Student Participation in Meetings

Part B requires that if a purpose of an IEP meeting is the consideration of transition services for a student, the notice must show this purpose (34 CFR §300.345(b)). In five of six districts visited, OSEP reviewed records for 19 students, age 16 years or older, for whom transition services was a purpose of their IEP meetings. (In the sixth district, OSEP reviewed only files for elementary school aged students.) In four of the five districts none of the meeting notices included transition on the districts’ lists of possible meeting purposes nor was any information provided on the line designated to indicate “transition as a purpose” of the meeting. A result was that parents and students were not always aware prior to IEP meetings that transition services would be discussed and were often unprepared for meaningful participation in the discussions.

Part B requires that, if a purpose of an IEP meeting is the consideration of transition services for a student, the public agency shall invite the student (34 CFR §300.344(c) (now §300.344(b))). If the student does not attend, the public agency shall take other steps to ensure that the student’s preferences and interests are considered. OSEP found that not all students were always invited and often, the invited students did not always attend.

34 CFR §300.343(d) (now §300.343(c)) requires that each public agency review, and if appropriate revise, the IEP at least annually, including the statement of needed transition services. Four of the five districts reported that they used inventories or questionnaires about student interests and preferences. However, this information was not updated at least annually so that current data could be considered when IEPs were reviewed and revised. When students did not attend the IEP meetings, districts used no other method to obtain and consider up-to-date data about student preferences and interests. For example, administrators in two of the districts confirmed that the information typically obtained in 10th grade or at age 16 years is used each year until the student exits school. For those students who remain in school through age 21, this data might be as much as five years out of date. Administrators reported that this occurs for students with more severe disabilities who were most frequently not invited to IEP meetings at all or not until their last year of school. A result was that not all students who remained in school through age 21 years were provided appropriate annual reviews of their transition service needs with consideration of their individual preferences and interests.

Part B requires that, if a purpose of the meeting is the consideration of transition services for a student, the public agency shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services (34 CFR §300.344(c) (now §300.344)(b)). Part B also requires that the meeting notice must identify any other agency that was invited to send a representative (34 CFR §300.345). OSEP found that NMSDE did not consistently ensure that these requirements were met.

None of the IEP meeting notices reviewed in the five districts included that other agencies were invited, even when IEP meeting summaries and other IEP meeting notes identified students' needs for other agency linkages or services. In three of the districts OSEP was told by teachers and administrators that other agency representatives were not invited or involved in transition services until students' last year of high school. Administrators and school personnel reported the "refusal of some agencies" to attend IEP team meetings and to participate prior to the final year of high school. They also confirmed reports that IEP teams did not always invite other agency representatives even when it had been determined that such agencies might be responsible for providing or paying for needed transition services. Other agencies were invited to make presentations to groups of students and parents regarding the available adult services and linkages, but were not usually invited to participate in individual transition service needs until the students' last year of school. Individual meetings often took place outside the IEP team process with only the student and, at times, the parent participating. A result was that not all students' who needed other agency linkages earlier than their last year of high school were ensured public agency assistance with making appropriate contacts through the IEP team process. This finding was consistent with the Self-Assessment report that students were not leaving school prepared for employment, continued education, training, and other postsecondary school adult living areas.

C. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

Positive changes in the following areas could lead to improved transition services results for students with disabilities in New Mexico.

1. Local Implementation of Interagency Memoranda of Understanding

Nearly three-fourths of New Mexico school districts have Memoranda of Understanding intended to support transition service linkages with other agencies. Public input participants and the Steering Committee indicated that not all school districts utilize the available resources or understand the role of the New Mexico Division of Vocational Rehabilitation in this area. A Statewide secondary transition stakeholders' group reported that improving implementation of existing Memoranda of Understanding will also require staff training on "how to deal with confusion" about provisions, policies, and practices related to the different laws impacting transition to post-school living. School personnel in five of the school districts visited by OSEP confirmed that they had current Memoranda of Understanding, but implementation and awareness about available options relevant to students varied across the districts. They also reported that this information did not always reach IEP teams and attitudes about the need to plan for transition services differed across communities.

2. Alternate Collaboration Strategies with the Division of Vocational Rehabilitation

When OSEP discussed school personnel reports that vocational rehabilitation counselors were not being invited to IEP meetings because they “refused to attend,” two administrators in the Division of Vocational Rehabilitation indicated that although the Division would like to serve more students and attend the IEP meetings, there were only 60 counselors to serve all persons with disabilities across the State. OSEP asked Division of Vocational Rehabilitation representatives whether their State policies prohibited rehabilitation counselors from involvement with IEP teams, including participation in IEP team meeting. Division of Vocational Rehabilitation representatives told OSEP that State laws, regulations, and policies did not prohibit their counselors’ involvement with IEP teams and that alternate means for involvement in IEP team transition planning could be arranged, if counselors could not attend meetings. For example, districts could request and invite consultation by telephone. This was not a strategy being used in the districts that OSEP visited. The impact for students was that needed linkages were often delayed or did not occur.

3. Need for Increased Local Level Collaboration with Other Agencies

OSEP collected data about postsecondary transition services at a round table discussion with a group of Statewide secondary transition and postsecondary stakeholders during the Validation Data collection week. These stakeholders reported the status of various State-level initiatives intended to improve transition outcomes and shared their perspectives on challenges to transition implementation. Although efforts to improve transition options recently increased and were ongoing at the State level, participants in the group reported that: practical and essential information on transition and adult services does not always get down to the level of personnel who are closest to the student; capacity has been limited for sustaining transition projects and getting local support, including building linkages for continued collaboration; and leadership at the local school level needs improvement. Two of the participants offered this summary of intentions in New Mexico: “People’s hearts are in the right place—teachers, parents, other agencies—and [we] have a willingness to learn from one another. We are all in this together.” Positive changes in local community collaborative efforts for transition services could lead to the improved results that NMSDE seeks, including a decrease in the drop-out rate and a focus on increasing the rate of high school completion with readiness for continuing education, employment, and adequate skills needed for adult living.

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 1995 monitoring report stated that NMSDE did not meet its responsibility to determine compliance of public school districts in meeting the IDEA requirements. NMSDE had not implemented revised monitoring procedures required by the 1988 monitoring visit regarding least restrictive environment, individualized education program development, review, or revision, full explanation of procedural safeguards to parents, and local educational agency applications. In addition, OSEP found that NMSDE did not adopt and utilize proper methods to identify and correct deficiencies through monitoring.

Self-Assessment: Section 4 (*Systems*) of the New Mexico Self-Assessment addressed needs in the area of general supervision. The Comprehensive System of Personnel Development Report (1996-99 Draft) identified critical shortages of qualified staff. The IDEA State Advisory Panel identified needs for: qualified personnel to provide needed services; training on educating students with disabilities as a required public school administrator competency; and the Education Plan for Student Success – a long-range local plan - that coordinates resources and professional development to promote the inclusion of students with disabilities.

NMSDE's analysis of the State's accreditation reviews between 1994 and 1998 concluded that the number of noncompliance citations decreased overall, with a slight increase in 1996-97. The deficiencies were relatively similar across program years. NMSDE's analysis indicated that IEP content documentation and quality had improved in 1996-97, as compared to the data from the previous two years' monitoring reports. From 1994 to 1997, there was evidence of continuing noncompliance with the requirements addressing provision of a free appropriate public education and placement in the least restrictive environment. Secondary transition service was an area of noncompliance from 1995-97.

For the 1997-1998 accreditation cycle, NMSDE provided technical assistance and reported areas of strength, as well as made comments and recommendations. During that year, it did not make

any findings of noncompliance nor did it require districts to take corrective action. Instead, NMSDE assisted local educational agencies with the implementation of the amended IDEA requirements. For the 1997-98 school year, public agencies were required to submit signed statements of assurance.

Public Input Process: During the public input sessions for Part B, participants were asked: “Does the State exercise effective general supervision of the implementation of IDEA? Does this occur 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?” Respondents identified the lack of needed enforcement and follow-up to ensure that deficiencies identified through monitoring, complaint management and due process hearing procedures were corrected. Concerns were also raised about teacher qualifications, certification, and the use of personnel on waivers to provide special education and related services.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of State and local policies and procedures, including monitoring, State complaint and due process logs, monitoring reports, personnel certification data, and interviews with State personnel, local program administrators, teachers, related service providers, and parents. OSEP reviewed and analyzed the data and identified the following areas of noncompliance and suggested areas for improved results for children.

A. AREAS OF NONCOMPLIANCE

1. Ensuring Correction of Part B Deficiencies Identified Through Monitoring

Part B requires that the State ensure that 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 educational agency (34 CFR §300.600). OSEP found that although NMSDE revised its Part B monitoring process since OSEP’s 1995 Part B report and is now more effective at identifying noncompliance, it does not ensure that identified deficiencies are corrected in an effective manner.

New Mexico implements a comprehensive integrated review of education programs and facilities to evaluate whether State standards are met for all students. OSEP found that NMSDE does not have a procedure for follow-up monitoring, when necessary to verify that deficiencies have been corrected.

OSEP reviewed NMSDE’s documentation that corrective action plans were closed after written verification of actions taken by districts. Although, NMSDE’s records showed that corrective actions had been completed by local districts, OSEP identified continuing deficiencies when it visited those same districts during its December 1998 review [see Sections VII (Provision of a Free Appropriate Public Education in the Least Restrictive Environment) and VIII (Secondary Transition Services)]. Consistent with concerns expressed during public input sessions and in the Self-Assessment, State staff told OSEP: “We do not do a good job of following up on the corrective action plan.”

In five of the six districts visited by OSEP, State and local administrators and teachers reported that NMSDE makes technical assistance available but does not include follow-up monitoring needed for deficiencies identified through accreditation reviews, complaint investigations, or due process hearing orders. State and local staff, parents and advocates reported that: (1) Unlike current practice, “technical assistance personnel should be given the findings and match technical assistance with the findings;” (2) Districts can receive accreditation despite findings of noncompliance with Part B requirements. For example, NMSDE staff reported that in two different districts, superintendents who objected to noncompliance citations requested that the NMSDE special education consultant be removed. In both of these instances, the requests were granted. Also, “when citations are made in some school districts, school boards have been known to let superintendents remove them, and that leads other districts to fight to have citations removed.” (3) Accreditation teams need ongoing training about the Education Plan for Student Success. Non-special education members of the accreditation team did not understand the reason that special education staff brought Part B noncompliance findings to their attention and, in some cases, “clearly have not been supportive.” For example, in one district accreditation team members openly agreed with a superintendent’s request for removal of Part B noncompliance findings “because the same areas were cited during the previous visit.”

2. Complaint Management

Part B requires that State education agencies investigate and resolve complaints that a public agency has violated a requirement of Part B within 60 days, unless extensions are granted due to extraordinary circumstances (34 CFR §300.660-662). NMSDE receives approximately 40 complaints per year. At the time of OSEP’s on-site visit in December 1998, NMSDE reported that it had 13 open complaints that had not been resolved within the 60-day time line. For these complaints, the 60-day timeline had been exceeded by as little as a few weeks to approximately 90 days. Although NMSDE does permit extensions, in none of these cases had it determined that extensions of the timeline were appropriate. NMSDE staff attributed the backlog to the simultaneous departure of two consultants in September 1998. The staff member handling complaints at the time of OSEP’s visit reported that he was unable to conduct on-site investigations due to the volume of complaints and shortage of personnel. At the time of OSEP’s review, it was reported that 10 of the 13 overdue cases were “either ready for disposition or on the verge of being resolved informally.” NMSDE also told OSEP that it was in the process of filling the positions vacated by the two consultants who had handled complaints.

B. SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

1. Personnel Qualifications

Public input participants and the Self-Assessment raised concerns that qualified personnel were not always available to meet students’ needs. While IDEA does not define “qualified,” States are required to ensure that all personnel providing special education and related services for students with disabilities meet entry-level criteria that are based on the State’s highest entry-level requirements. To respond to questions about personnel on waivers, NMSDE had to submit a special query of the State’s database. There was no other system outside the accreditation review

to determine whether personnel on waivers across the State who provided special education and related services to students with disabilities were meeting certification and licensure requirements within required time lines. A system that would allow routine access to the data can: (1) provide data-based follow-up strategies that assist school reform goals set forth in the Standards for Excellence, and (2) guide collaboration with district recruitment efforts, targeting critical disciplines that increase local capacity to meet the needs of students with disabilities through qualified staff.

2. Complaint Log Summary Data

At least half of all complaints registered with NMSDE in 1996-97 and 1997-98 involved services not being provided and problems with placement in the least restrictive environment. The complaint logs reviewed by OSEP do not include whether districts were found in violation of Part B requirements or were required to carry out corrective actions for the complaints. Including this information in the logs, rather than only in individual files, could improve NMSDE's recognition of problems and alignment with technical assistance provided to local agencies.

3. Evaluation of Regional Center Cooperatives and Regional Education Cooperatives

Except for the 29 larger districts in the State, local school districts in New Mexico do not receive Part B flow-through funds. Instead, those funds go directly to Regional Center Cooperatives and Regional Education Cooperatives. Cooperatives use Part B flow-through funds to provide related services, diagnostic services, and technical assistance and training to local school districts. Given the significant funding that Cooperatives receive, NMSDE is encouraged to evaluate the effectiveness of services, training and technical assistance provided by Cooperatives, as well as the impact on local district compliance and improved results for students with disabilities. In addition, NMSDE may want to consider linking needs identified through monitoring with technical assistance made available through the Cooperatives.