



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

March 30, 2001

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Dear Drs. Zelman and Baird:

The U.S. Department of Education's Office of Special Education Programs (OSEP) conducted a review in Ohio during the weeks of August 30, 1999 and October 18, 1999 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 Ohio Department of Education (ODE), the Ohio Department of Health (ODH), and parents and advocates in Ohio.

A critical aspect of the Continuous Improvement Monitoring Process is collaboration between the Steering Committee of broad-based constituencies, including representatives from ODE, ODH and OSEP. The steering committee assessed the effectiveness of State systems in 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

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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 regarding 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.

ODE and ODH have indicated that this Report will be shared with members of the steering committee, the State Interagency Coordinating Council and the IDEA State Advisory Panel. OSEP will work with your steering committee to develop corrective actions and improvement strategies to ensure improved results for children with disabilities in all areas identified in this Report.

We appreciate the assistance and cooperation provided by your staffs during our review. Throughout the course of the review, Mr. John Herner and Mr. Steve Gassman 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 underrepresented groups), advocates, service providers, school and agency personnel, agency administrators, and special education administrators. OSEP would also like to recognize the efforts that have taken place in Ohio to improve results for children with disabilities and the strong commitment of State staff to continue these efforts.

Thank you for your continued efforts toward the goal of achieving better results for infants, toddlers, children and youth with disabilities in Ohio. 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. The critical issue is to place greater emphasis on attaining better results. To that end, we look forward to working with you in partnership to continue to improve the lives of individuals with disabilities.

Sincerely,

Patricia J. Guard
Acting Director
Office of Special Education Programs

Enclosures

cc: Mr. Edward Kapel
Mr. Steve Gassman

EXECUTIVE SUMMARY

OHIO 1999

The attached report contains the results of the first two steps (Validation Planning and Validation Data Collection) in the Office of Special Education Program's (OSEP) Continuous Improvement Monitoring of the Individuals with Disabilities Education Act (IDEA), Parts B and C, in the State of Ohio during the weeks of August 30, 1999 and October 18, 1999. The process is designed to focus resources on improving results for infants, toddlers, and children with disabilities and their families through enhanced partnerships between the State agencies, OSEP, parents, and advocates. The Validation Planning phase of the monitoring process included a series of public input meetings with guided discussions around core areas of IDEA and the organization of the Steering Committees that provided further comments on the status of the implementation of IDEA. As part of the public input process, OSEP and the State made efforts to include multi-cultural and underrepresented populations. The Validation Data Collection phase included interviews with parents, agency administrators, local program and school administrators, service providers, teachers and service coordinators, and reviews of children's records. Information obtained from these data sources was shared in a meeting attended by the Ohio Department of Education, the Ohio Department of Health, members of the State Interagency Coordinating Council and members of the Steering Committees.

The report includes a detailed description of the process utilized to collect data, and to determine strengths, areas of non-compliance with IDEA, and suggestions for improved results for children.

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

Strengths

OSEP observed the following strengths:

- Ohio Early Start and Welcome Home initiatives support the early identification of infants and toddlers with disabilities.
- Hospital based services coordination provides information, education, and support to eligible families
- Family education and outreach through the Family Information Network.

Suggestion for Improved Results for Infants and Toddlers with Disabilities

OSEP provides the following suggestions for improved results for infants and toddlers with disabilities:

- Service coordinator training specific to their roles and responsibilities.

Areas of Noncompliance

OSEP observed the following areas of non-compliance:

- ODH has not fulfilled the general supervisory responsibility to ensure that all programs and activities used to implement the statewide early intervention system are consistent with Part C.
- ODH has not ensured that county collaborative group members, service coordinators, administrators and service providers receive accurate policy, procedures, and guidance regarding Part C requirements.
- Child find system is not coordinated in urban areas.
- ODH has not ensured the development and dissemination of culturally relevant materials that inform families of the availability of early intervention services, nor access to culturally competent services.
- Evaluations and assessments are not completed in all developmental areas, including the family assessment within 45 days after a referral is received.
- ODH has not ensured that one service coordinator is available for each child and that all service coordination activities are available for each child.
- IFSPs are not developed based on evaluation and assessments and early intervention services are not based on the unique needs of the child and the family.
- ODH has not ensured that IFSPs are developed based on the child's unique needs and that required early intervention services are provided due to waiting lists, lack of availability of personnel, and lack of payment sources.
- Lack of timely transition planning and implementation.

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

Strengths

OSEP observed the following strengths:

- Parent mentors that offer parent-to-parent support and assist in establishing strong relationships among school personnel and parents of children with disabilities.
- Collaboration with parents to develop a parent friendly parent's rights notice.
- Interagency cooperation through the "Ohio Family and Children First" initiative for coordinating and streamlining services for families.
- Technology Literacy Challenge Fund that provides technology for students with disabilities.
- Recipient of a State Improvement Grant to increase the adequate supply of qualified personnel available to provide a free appropriate public education in the least restrictive environment.
- Training of secondary transition teams to improve outcomes for students with disabilities.
- Increasing number of youth receiving services from the Ohio Rehabilitation Services Center.

- ODE's School Improvement Review process to encourage local district ownership of their continuous improvement.

Suggestions for Improved Results for Children with Disabilities

OSEP provides the following suggestions for improved results for infants and toddlers with disabilities:

- Inclusion of parents as full partners in the IEP team process.
- Funding mechanism as it impacts the provision of a free appropriate public education in the least restrictive environment for students with disabilities.

Areas of Noncompliance

OSEP observed the following areas of non-compliance:

- Persons assigned as surrogate parents are employees of an agency that is involved in the care of children with disabilities.
- All children in need of psychological counseling, positive behavioral interventions, strategies, and supports to benefit from special education are not provided these services.
- ODE does not ensure the availability of an adequate supply of qualified related service personnel to provide a free appropriate public education to children with disabilities.
- Provision of services to children entering Part B is not always timely.
- All children with disabilities in need of supports and services in the regular class setting to benefit from special education are not provided these services.
- All children with disabilities who require extended school year services as part of a free appropriate public education are not provided these services.
- Failure to make individualized decisions regarding placement in the least restrictive environment for children served by the County Board programs.
- A statement of transition services needs beginning at age 14 (or younger, if appropriate) is not provided to all students with a disability in need of one.
- Transition service needs not always addressed in IEP meetings.
- Lack of outcome oriented statements of transition services that include required components.
- A method for ensuring that outside agencies likely to be providing or paying for post-transition services are invited to the IEP meeting and a method for obtaining their input if they do not attend, is needed.
- ODE does not ensure effective methods for correcting deficiencies in programs providing services to children with disabilities.
- Procedural safeguards notice does not include a full explanation of all the available procedural safeguards.
- Complaint management procedures do not include all provisions required by Part B.
- ODE does not ensure adherence to complaint timelines and extensions.
- ODE does not ensure that complaint letters of findings address each violation of Part B.

OHIO MONITORING REPORT
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INTRODUCTION

Administrative Structures and Children Served

The Ohio Department of Health (ODH) was appointed as the lead agency for the implementation of Part C (formerly Part H) of IDEA. ODH administers the program through contracts with 87 County Collaborative Groups. Each of the groups is linked to a local agency that serves as the fiscal agent. These fiscal agents vary and include local health departments, mental retardation/developmental disability agencies, boards of education, community action programs and non-profit organizations.

Ohio was providing early intervention services to 5.161% of their infants and toddlers in 1999. The higher numbers of infants and toddlers reported as served in previous years has been attributed to duplicative counts. A new computerized data system is currently providing more accurate data.

ODH has several other initiatives, separate from Part C, that serve young children. Welcome Home provides a home visit by a registered nurse to all first-time and teen parents. Early Start is an intensive home visiting program for all families with children ages birth to three. In addition, the previous governor had a "Families and Children First" initiative, which established local councils that still exist in some counties.

The early intervention staff in the lead agency is comprised of 40 individuals with a combined Full Time Equivalent of 27.65. Staff includes Bureau Chiefs, supervisors, program consultants, analysts, interns, a family support specialist, a council coordinator, a training specialist, an audiologist, a nurse specialist, an epidemiologist, and clerical support personnel. At the time of OSEP's monitoring visit there were seven vacancies.

Ohio's total Part B 1999 child count for children with disabilities aged three through 21 is 233,923. There are 17,064 children with disabilities aged three through five and 216,859 children with disabilities aged six through 21. There are 611 school districts and sixteen Special Education Regional Resource Centers. Ohio's Special Education Regional Resource Centers fulfill a critical role in providing timely and specialized assistance to parents and school personnel by providing: 1) services to children with disabilities, through technical assistance and cooperative planning; 2) resources such as instructional materials and methodologies designed to meet the individual needs of children with special needs; and 3) staff development to local school district personnel and parents, on an individual and team basis, to improve the quality of instruction for children with disabilities.

The Ohio Department of Mental Retardation and Developmental Disabilities distributes funding and resources to local county boards of Mental Retardation and Developmental Disabilities (county boards) to provide services to infants, children and adults with mental retardation and developmental disabilities. County boards provide preschool services to children with disabilities aged three through five, with a focus on communication, play skills, and fine and gross motor skills. Some county boards also provide programs for school-age children with disabilities aged

six through 21, with a focus on academic, communication, self-care and vocational skills. The Ohio Department of Education is responsible for monitoring county boards that operate school-age programs.

The Ohio Department of Education (ODE) employs a Special Education Director and 32 professional special education staff. There were four vacancies at the time of OSEP's visit. In addition, there are thirteen support staff for special education. ODE's Division of Special Education is responsible for ensuring compliance of education programs for children with disabilities ages six through 21. ODE's Division of Early Childhood Education is responsible for ensuring compliance of preschool special education programs for children ages three through five. The Division of Early Childhood Education has monitored preschool programs since 1997. Prior to 1997, ODE's Division of Special Education was the responsible agency.

Statewide Assessment

The Ohio Proficiency Test (Test), administered in grades four, six, nine, and twelve, assesses reading, writing, math, science, and citizenship. The formats for testing include multiple choice, short written response, and extended written response. The test results are used for high school graduation (exit examination), identification of students at risk, curriculum planning, improvement of instruction, professional development, program evaluation, school performance reporting, and school awards or recognition. If the IEP team determines that the student will not participate in the Ohio Proficiency Test (or part of the Test), the IEP team includes a statement in the IEP of why the Test (or part of the Test) is not appropriate for the child and how the child will be assessed. The IEP team determines what, if any modifications and/or accommodations a student needs to take the Test, and documents those within the child's IEP. If the IEP team determines that the student cannot, even with modifications and/or accommodations, appropriately take the Test, the team designates the student as "exempt" from the Test, and indicates in the IEP how the child will be tested. Even if the IEP team determines that a child with a disability is exempt, the child's parents may choose to have the child take the Test. The State does not include the Test scores of "exempt" students whose parents choose to have them take the Test in calculating the pass rate for the district. ODE's self assessment reports that 32-36% of children with disabilities are exempted. Since OSEP's 1999 visit, the State has issued guidelines for alternate assessment and has begun to conduct alternate assessments.

Validation Planning and Data Collection

In preparation for the Validation Planning visit, OSEP reviewed previous Part B monitoring results for Ohio. An on-site monitoring review was conducted on September 26 through September 30, 1994 and the final report was issued on October 13, 1995. The report's findings of noncompliance addressed general supervision in monitoring, approval of local education agency applications for Part B funds, timely complaint management procedures, provision of a free appropriate public education in the least restrictive environment (see Section VII for details), and ensuring that a statement of needed transition services is provided. This is the initial OSEP monitoring of Part C in Ohio and preparation involved review of the State's Part C application, Annual Performance Reports, and data reports.

In preparation for the OSEP Validation Planning visit, ODH and ODE decided to establish a joint Part C and Part B Steering Committee. Subcommittees were formed to provide specific information for Part C and Part B.

During the week of August 30, 1999, OSEP and the Steering Committee conducted four public meetings across the State to obtain information about issues and concerns about IDEA service delivery. Meetings were well attended in Cleveland, New Philadelphia, Portsmouth and Columbus. Discussion addressed, for Part C, child find and public awareness, family-centered services, early intervention services in natural environments, transition from Part C to other appropriate services, and general supervision of Part C by the Ohio Department of Health. For Part B, discussion centered on the provision of a free appropriate public education to children with disabilities from ages three through 21 in the least restrictive environment, parent involvement in special education decision-making, secondary transition for youth with disabilities from school to post-school activities, and general supervision of special education by ODE. At the end of the week, the information from the public meetings was discussed with the Steering Committee to identify specific issues that OSEP could investigate. Recommendations for data collection strategies and site selection were discussed. OSEP staff reviewed and analyzed data and documents relevant to meeting the requirements of IDEA.

OSEP visited the State during the week of October 18, 1999 for the purpose of collecting additional data on the issues identified in Validation Planning. For Part C, OSEP visited six counties: Cuyahoga, Franklin, Geauga, Hamilton, Knox and Ottawa. For Part B, OSEP visited programs including preschool, elementary, middle, and secondary schools, and three County Boards for the Mentally Retarded and Developmentally Delayed in Columbus, Cincinnati, Lima, Logan-Hocking, Kenston, Mad River, Geauga County, Allen County, and Montgomery County. OSEP presented preliminary results to the Steering Committee on Friday, October 22, 1999 and next steps were discussed which would begin the process of improvement planning.

I. PART C: GENERAL SUPERVISION

The State lead agency, ODH, 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

Using the results of Ohio's Part C Self-Assessment, the Steering Committee concluded that statewide analysis of the early intervention system is needed to identify common deficiencies that will enable ODH to plan for ongoing quality improvement. They recommended that ODH staff develop a cohesive system to continually assess and improve the quality of the statewide system, and develop strategies to evaluate the extent to which interagency collaboration occurs at the local level.

The Self-Assessment indicated that: 1) ODH has not regularly reviewed, disseminated, and enforced the State's early intervention policies; 2) coordination is weak among State agencies in assigning financial responsibility for early intervention services; 3) interagency collaboration has been limited at the State and local level; and 4) interagency agreements have been neither timely nor comprehensive in scope.

One of the questions asked during the public input meeting was, "*How is the State Lead Agency involved in assuring that appropriate services are provided to infants and toddlers with disabilities, (e.g., interagency coordination, monitoring, technical assistance, etc.)?*"

Participants in the meetings identified needs for: 1) increased funding; 2) more information on best practices; 3) materials in other languages; 4) training across systems and agencies; 5) adequate numbers of service providers; 6) training and support specific to the Early Trak data collection system; 7) more effective interagency collaboration; and 8) accurate policy guidance that is consistent, clear and timely. In a meeting at the end of the Validation Planning visit, the Steering Committee agreed with the needs identified at the public meetings and discussion focused on the importance of interagency collaboration, effective data collection, accurate

guidance and the importance of communication. To investigate the issues identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures. OSEP interviewed parents, service providers, service coordinators, local program administrators, county collaborative group members and State personnel. OSEP reviewed and analyzed the data and identified the following areas of non-compliance.

A. AREAS OF NONCOMPLIANCE

1. ODH has not fulfilled its general supervisory responsibility to ensure that all programs and activities used to implement the statewide early intervention system are consistent with Part C.

Under Part C, each lead agency is responsible for the general administration and supervision of programs and activities receiving assistance (34 CFR §303.501). To meet these requirements, ODH must adopt and use proper methods to monitor each program, including monitoring agencies, institutions, and organizations used by the State to carry out Part C, enforcing any obligations imposed on those agencies under Part C and its regulations, providing technical assistance, and correcting deficiencies. The State is obligated to monitor these programs and activities used to carry out Part C, whether or not they receive funds under Part C, to ensure the State complies with all requirements of Part C.

As discussed below, ODH has not ensured compliance with the requirements of Part C through adequate monitoring activities and procedures.

ODH's accountability system is based on a grant process. ODH issues grants to each of 87 counties that have formed a collaborative group, identified a fiscal agent, and addressed the following eight essential planning components: 1) mission and principles; 2) child-find/public awareness; 3) multidisciplinary evaluation and assessment; 4) individualized family service plan/service coordination/transition; 5) follow along (for those children who are not Part C eligible or whose families decline Part C services); 6) consumer involvement/family support; 7) parent and provider education/training; and 8) comprehensive service system/evaluation. In addition, each application must address six performance measures specific to the provision of core and direct services, the provision of a network of family support services and the coordination of Early Intervention and Early Start services.¹ The program narrative section of the grant requires applicants to provide information on the county's status, plans for the next fiscal year, and gaps and barriers to meeting goals for each of the six performance measures. Once ODH approves a grant, a regional consultant completes an Individual Technical Assistance Plan (ITAP) for each county collaborative group. OSEP's analysis of the eight essential components, six performance indicators and Individual Technical Assistance Plan guidelines reveals broad alignment with Federal requirements. Ohio has created an in-depth grant process that aligns with

¹ Early Start is an initiative of Ohio Family and Children First that provides direct services to children birth through three who are vulnerable due to their environmental, family or health circumstances. The Ohio Department of Health co-administers the initiative with the Ohio Department of Human Services and the Ohio Family and Children First Initiative.

Federal requirements but has not included a process or format to monitor individual requirements to ensure compliance. For example, the grantee ensures they will have in place a coordinated process for evaluating and assessing a child by a multidisciplinary team with family consent, and that the evaluation process will determine initial and continuing eligibility and the status of the child in each developmental area. But there is no method for the grantee to determine whether their evaluators are actually providing a comprehensive evaluation and assessment to each child. OSEP identified non-compliance with evaluation and assessment requirements in all counties visited. Neither the lead agency nor the county collaborative groups had identified the same non-compliance issues specific to evaluation and assessment that OSEP identified.

The Ohio Department of Mental Retardation and Developmental Disabilities is not a part of ODH, the State's Lead Agency for Part C, but is the predominant provider of early intervention services under Part C. As part of its supervision and monitoring responsibility under §303.501, ODH must ensure that all programs and activities used by the State to carry out Part C, including those implemented by the Ohio Department of Mental Retardation and Developmental Disabilities, comply with Part C requirements. The Ohio Department of Mental Retardation and Developmental Disabilities has its own set of State regulations that impact the provision of early intervention services. ODH must, as the lead agency, ensure that the Ohio Department of Mental Retardation and Developmental Disabilities regulations do not result in actions that are inconsistent with the requirements of Part C.

For example, service coordinators and providers affiliated with the Ohio Department of Mental Retardation and Developmental Disabilities in a large urban county told OSEP that they complete a developmental screening rather than a comprehensive evaluation and assessment and then write the IFSP within 45 days. All of the IFSPs reviewed in this county had IFSP outcomes to complete additional evaluations and assessments. Service providers, parents, and county collaborative group members in this county confirmed the existence of waiting lists for early intervention services to some infants and toddlers with disabilities served by the Ohio Department of Mental Retardation and Developmental Disabilities. An interview with a representative from the Ohio Department of Mental Retardation and Developmental Disabilities confirmed the existence of such waiting lists, provided rationale for the waiting lists and explained that Department policy permitted the waiting lists.

In response to OSEP's request for information regarding monitoring prior to the Validation Planning visit, ODH sent the formats for technical assistance telephone logs and site visit summaries, but did not send any actual logs or summaries. They also provided the guidelines for Individual Technical Assistance Plans. At the time of OSEP's visit, completed Individual Technical Assistance Plans were only available for nine of 87 county collaborative groups. ODH also provided a corrective action plan for one county but when questioned about the status of the plan, the Part C Coordinator was not sure who was monitoring progress on the required activities and could not provide a status report.

During the Validation Data Collection visit, the ODH Part C personnel that OSEP interviewed acknowledged that they had not conducted any monitoring of the IDEA Part C requirements. County collaborative group members interviewed in all sites reported that their counties had not

been monitored for Part C requirements. Based on this information, OSEP concludes that ODH has not fulfilled its general supervisory responsibility to ensure that all programs and activities used to implement the Statewide early intervention system are consistent with Part C of IDEA.

2. ODH has not ensured that county collaborative members, service coordinators, administrators and service providers receive accurate policy, procedures, and guidance.

As part of its responsibility under 34 CFR §303.501 for administering the State's early intervention programs and activities, ODH is responsible for providing any technical assistance that is needed to ensure that those programs and activities are in compliance with Part C requirements. ODH has not ensured that early intervention service providers have the current information and guidance they need regarding Part C and State requirements so that they clearly understand their obligations under the law. OSEP requested policy and procedure information prior to the Validation Planning visit, but ODH repeatedly informed OSEP that the policies were outdated and in the process of being revised. The draft policy revisions arrived a week before the Validation Data Collection visit and analysis revealed incomplete information. OSEP is currently working with ODH on policy revisions. ODH intends to submit new policies with its application for FY 2001 Part C funds.

In all sites visited during Validation Data Collection, county collaborative group members, service coordinators, administrators and service providers indicated that they have received limited policy guidance from ODH, and one site had never received policy guidance specific to transition. Participants indicated they are not clear on policies related to referral, evaluation/assessment, IFSP development/implementation, transition, due process and funding. An administrator in one county reported that ODH gives mixed messages on policy and described conflicting guidance specific to the utilization of Part C funds to pay for services. In another county, participants reported confusion over which rules govern services that children are receiving, those of the Ohio Department of Mental Retardation and Developmental Disabilities or Part C.

Nor has ODH provided current and complete guidance to county collaborative groups to meet their requirement to submit data through the Early Track data system to assist ODH in meeting its responsibility to compile data on the Statewide system as required at 34 CFR §303.540. In two counties, the service providers, administrators, and service coordinators all stated that the system for Early Track is in place, but it is not being utilized to its full extent because they need additional training and guidance to ensure that all data components are entered when required. ODH staff also stated that some counties are not reporting Early Trak data in a timely manner. ODH personnel reported that they did initial training for counties on the Early Track system but have not done any follow-up. They also indicated that rural counties do not value the Early Track reporting system and are not utilizing the Early Track reporting forms. In one county, the county collaborative members reported that they didn't think their Early Track numbers were accurate because there is a break down in communication between referral sources and the county collaborative group in submitting Early Track data. Since ODH has not provided adequate guidance about data reporting requirements, county collaborative groups do not appreciate the significance of submitting accurate data. This impacts the State's ability to

measure whether all eligible children are being identified and has resulted in significant inaccuracy in the data submitted to OSEP.

II. CHILD FIND AND 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

Ohio's Self-Assessment indicates that ODH is developing a system intended to achieve earlier identification and referral that includes Early Intervention, Early Start, Welcome Home, the Infant Hearing Screening and Assessment Program, and Hospital-Based Service Coordination. Providers in hospitals and communities actively participate in developing a consistent transition process from the hospital neonatal intensive care units and special care nurseries to the home and community. Ninety-nine percent of Ohio's counties are providing home visits to first time mothers and teen mothers through other State initiatives, with families being referred to community Part C systems when needed. Two conclusions in the Self-Assessment were: 1) that ODH needs to increase the availability of information in languages and formats that target multicultural populations and other underrepresented groups, and 2) a statewide Early Intervention awareness campaign is needed.

One of the questions asked during the public meeting was, "*Are there any barriers to the process of referring infants and toddlers to the Early Intervention system, or in obtaining evaluations?*" Participants in the meetings reported that they were concerned about obtaining referrals from the medical community because physicians were reluctant to refer children, instead telling parents that their child will eventually begin to develop appropriately. Participants also identified needs for increased public awareness, clarification on financial issues related to evaluation and assessment, need for bilingual materials, and the need for additional service providers, particularly bilingual.

Based on Ohio's Self-Assessment and the public input data, OSEP investigated the following issues related to child find and public awareness: 1) lack of a coordinated child find system in urban areas; 2) the lack of access to culturally relevant child find materials; 3) low numbers and late referrals by primary referral sources; 4) delays in evaluation and assessment; and 5) evaluations and assessments not completed in five required areas.

To investigate the issues identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures. OSEP interviewed parents, service providers, service coordinators, local program administrators, county collaborative group members and State personnel. OSEP reviewed and analysed the data and identified the following strengths and areas of noncompliance.

A. STRENGTHS

1. Ohio Early Start and Welcome Home Initiatives

Ohio Early Start was designed to provide direct services to the birth to three population who are at risk of abuse, neglect, or developmental delay. The program is a collaborative and integrated system of services and supports to strengthen and preserve families experiencing problems before they become crises, based on concrete, early interventions delivered through a community-based flexible service mechanism by the Bureau of Early Intervention Services. Welcome Home is a statewide program implemented in January 1999 that provides home visits by a Registered Nurse to newborn infants of teen and first-time parents. The nurse answers questions and makes referrals to community resources. Since January 1996, Ohio Early Start and Welcome Home have served more than 7,137 high-risk infants and toddlers and their families in 99 percent of Ohio's counties. There is a strong collaborative partnership between Early Start, Welcome Home and Part C in Ohio which may help to increase the number of timely referrals to Part C so children and families can benefit from early intervention services as soon as possible.

2. Hospital Based Service Coordination

Eight Children's Hospitals covering all regions of the State provide in-hospital service coordination to families. Hospital-based Service Coordinators provide information, education and support services to eligible families. They facilitate discharge planning and family-centered transition to early intervention services in their homes and communities. Referrals to and from hospital-based service coordinators are increasing in all eight sites with 2,355 referrals during 1999. This resulted in referral of more than 1,700 infants, toddlers and their families for early intervention services in the counties where they reside.

B. AREAS OF NONCOMPLIANCE

1. Child Find System is Not Coordinated in Urban Areas

34 CFR §303.321 requires ODH, with assistance from the State Interagency Coordinating Council, to develop a comprehensive child find system. ODH must implement effective

procedures to ensure compliance with the State's policies and procedures by all participating public and private programs in carrying out child find activities. ODH must ensure that all infants and toddlers with disabilities are identified, located and evaluated. ODH must also ensure that the child find system is coordinated with all other major efforts (administered by relevant education, health and social service programs) to locate and identify children, and will not duplicate efforts.

OSEP found that ODH's policies and procedures are not effective to ensure that all eligible children who live in urban areas are identified and evaluated because child find efforts that the Ohio Department of Mental Retardation and Developmental Disabilities, other programs in ODH, and private providers administer are not coordinated with referral procedures into the Part C system of early intervention services. In Early Track data reported during July 1999, the average number of children served was 1.6% in urban counties, compared to an average of 2.7% for rural counties. Service providers, county collaborative members and service coordinators in all three urban sites visited described situations in which a child is referred for services through an initial point of contact with a medical provider when there is a known medical diagnosis. They reported that physicians refer children and families to private providers rather than into the Part C early intervention system and the child then receives individual services without receiving a comprehensive evaluation. Services are provided to the child without an IFSP and the child and his family are unable to benefit from the full range of early intervention services available according to Part C. In one urban county service providers and county collaborative group members reported that as many as 40% of children who would be eligible for Part C are never referred into the Part C system of early intervention services. In another urban county, service providers and service coordinators reported that 15-20% of children receive individual services rather than coordinated services on an IFSP because they are never referred into the Part C system. Service providers in that county reported that there are no "incentives" to enroll a child in Part C or to use an IFSP.

Based on this information, OSEP concludes that ODH, with assistance from the State Interagency Coordinating Council, has not fulfilled its requirement to develop an effective comprehensive child find system consistent with Part C of IDEA.

2. ODH has not ensured the development and dissemination of culturally relevant materials that inform families of the availability of early intervention services, nor access to culturally competent services.

Each State must have policies and procedures in place that ensure that traditionally underserved groups, including minority, low-income, and rural families are meaningfully involved in the planning and implementation of all the Part C requirements and have access to culturally competent services within their local geographic areas (§303.128). The State system must also include a public awareness program that focuses on the early identification of children and provides information to the public about how to make a referral, and how to gain access to a comprehensive, multidisciplinary evaluation and other early intervention services (§303.320).

After reviewing public awareness materials developed by ODH and local county collaborative groups, OSEP found a lack of access to culturally relevant child find materials. A county collaborative group in one site reported that the lack of Spanish speaking evaluators and or interpreters results in delays in evaluations and the implementation of services for non-English speaking families. In all sites visited (many of which serve areas of the State with many non-English speaking families), brochures and other printed material were not available in languages other than English. In another site, county collaborative group members and service coordinators reported that even though they were aware of neighborhood customs, they had not developed any specific child find and evaluation strategies to reach out to families in geographic areas of the city who prefer to stay in their homes and rarely leave their neighborhood.

All who were interviewed in three sites indicated that they need more training in cultural diversity due to the increased numbers of families moving to Ohio from other countries. All sites reported that in the last two years ODH has not provided any training, guidance or materials about identifying or serving children and families from other cultures or who are underrepresented in the early intervention system, in the last two years. Also, ODH acknowledged during Validation Planning that they needed to improve the availability of culturally relevant materials and activities.

3. Evaluations and assessments are not completed in all developmental areas, including the family assessment within 45 days after a referral is received.

Section 303.321(e) requires that ODH implement policies and procedures that ensure that within 45 days after a referral is received evaluation and assessment activities are completed and an IFSP meeting is held. Section 303.322 requires evaluation and assessment of the child that includes a review of pertinent records related to the child's current health status and medical history and an evaluation of the child's level of functioning in each of the following developmental areas: cognitive development, physical development, including vision and hearing, communication development, social or emotional development, and adaptive development. Also included in this requirement is the use of a voluntary family-directed assessment designed to determine the resources, priorities and concerns of the family and the identification of necessary supports and services to enhance the family's capacity to meet the child's developmental needs.

Service coordinators, service providers, county collaborative group members and parents in all sites described a process where after a child is referred, the child is screened by one person, and at the end of the 45 day timeline, an IFSP is written based upon the screening tool data. Therefore, the child and family enter the system and receive services without the benefit of a comprehensive evaluation and assessment in all five developmental areas that meets the requirements of 303.322. Further, service coordinators in three counties all confirmed that there is a lack of formalized family-directed assessment. They reported that they do not have the resources to meet family needs, so they do not ask. OSEP's IFSP reviews revealed goals for the completion of additional evaluations and assessments and child specific goals. Since family directed assessments are not completed there is no mechanism to identify the family's resources,

priorities and concerns nor the supports and services necessary to enhance the family's capacity to meet the developmental needs of their child.

Service providers, service coordinators and record reviews in all sites confirmed that evaluation and assessment in hearing and vision have been inconsistent and one county reported that evaluations in hearing and vision are not completed.

In two counties, service providers and service coordinators identified personnel shortages as impacting their ability to conduct evaluation and assessment within the 45-day timeline. Service coordinators and service providers in one of the counties reported that children are not being evaluated in a timely manner because the Part C Early Intervention system cannot find personnel to conduct evaluations. One barrier cited by interagency collaborators and administrators is that agencies that provide evaluations will only do an evaluation if they are designated to provide any identified services.

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 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 typically 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

Ohio's Self-Assessment listed the following concerns related to service coordination: 1) not enough service coordinators in the urban areas to provide adequate/appropriate service coordination for early intervention; 2) interagency discussions about the roles and responsibilities of service coordinators need to increase; and 3) ODH needs to utilize other funding sources to

pay for sufficient service coordination. The Self Assessment also identified the following additional concerns: 1) not enough Early Intervention providers, especially speech therapists, physical therapists, occupational therapists and child development specialists; 2) natural environment training needs; 3) waiting lists for evaluations; and 4) misunderstanding around screening versus evaluation to determine eligibility.

Questions asked during the public input meetings included, *“Do all infants and toddlers with disabilities and their families receive all the services they need, including service coordination?”*

“Where do children receive their services (community settings, child care, homes, libraries)?”

Participants identified the following concerns: 1) lack of flexible service system and options (e.g., time, providers, transportation, over-reliance on the Ohio Department of Mental Retardation and Developmental Disabilities); 2) cost of/payment for services; 3) lack of ongoing service coordination; 4) lack of services and providers; 5) lack of child care opportunities (including child care for medically fragile children); and 6) a need to increase availability of services delivered in natural environments, particularly the child’s home.

OSEP reviewed and analyzed the data from the self-assessment, public input, interviews, and policy and record reviews and identified the following areas of noncompliance.

AREAS OF NONCOMPLIANCE

1. ODH has not ensured one service coordinator is available for each child and that all service coordination activities are available for each child.

Sections 303.23(a) and 303.321(e) require that each State ensure that one service coordinator is available for each eligible child and the child’s family upon referral to the public agency and throughout the child’s eligibility for services. The service coordinator is responsible for coordinating all services across agency lines and serves as the family’s single point of contact in helping parents obtain the services and assistance they need. Service coordinators are further required to coordinate not only the provision of early intervention services, but also other services (such as medical services for other than diagnostic and evaluation purposes) that the child needs or is provided. Service coordinators must coordinate the performance of evaluations and assessments, facilitate and participate in the development, review, and evaluation of the IFSP, coordinate and monitor the delivery of services amongst all agencies, inform families of the availability of advocacy services, coordinate with medical health providers and facilitate the development of transition plans to preschool and other appropriate services.

Service Coordination is a critical element in ensuring that eligible children and families receive appropriate assistance to enable them to receive the rights, procedural safeguards, and the support and services needed by the child and family. Without this service coordination, needed services are delayed, not provided at all, or families must coordinate their own services (§303.23.)

ODH has not ensured that each family has one service coordinator who will act as the single point of contact for a child and family to assist families with all service coordination activities as required by Part C 34 CFR 303.23.

Administrators, service coordinators, and service providers in two of the counties visited confirmed that gaps exist in service coordination. Some children fail to make the transition from a service coordinator assigned at the hospital to a service coordinator who can assist the family in accessing early intervention services in the community. In one county, OSEP was told that when a child's services change from home-based to center-based programming, there is another change in the service coordinator at that time. Service coordinators, service providers and county collaborative group members indicated that preliminary service coordination is provided through the county system and/or through the hospital provider which could lead to duplicative service coordination by multiple community providers. The result is that many families have at least two individuals from different agencies who perform some, but not all, of the activities for service coordination required by the Part C regulations with no single individual who coordinates all of these functions for any particular child and family.

All parents that OSEP interviewed in one county reported that they were carrying out many of the service coordination activities on their own that typically would have been provided by a service coordinator because of inadequate numbers of service coordinators. All service coordinators interviewed in another county stated that service coordination activity is limited to their individual provider program services, rather than including "other services" such as medical, respite care, social services or physical, occupational, and speech therapies that might be needed by the child or family but not available from the agency that employs the service coordinator. All service coordinators and service providers in one county told OSEP that it was difficult to obtain information about services to meet the identified needs of infants and toddlers and their families, as there is not a system in place to ensure access to service availability, location, and financial information. All parents in this county confirmed that they were unaware of service options and the availability of additional community resources that they or their child might need.

Several county collaborative members in three counties reported that there are not enough service coordinators to meet the needs of the children and families they are presently serving so parents have to do many of the service coordination tasks on their own. In another county, an administrator stated that a lack of trained service coordination personnel is impacting their ability to meet the timelines and service coordination responsibilities required under Part C.

Service coordinators in one county reported that evaluations and assessments are delayed because "parents do not act on referrals" by making the necessary telephone contacts themselves with early intervention providers. Only one out of seven service coordinators interviewed in this county made the arrangements for scheduling evaluations and assessments with the family. The result of expecting parents to make all the arrangements for eligibility determination for early intervention services is that families are not receiving services in a timely manner and sometimes not receiving services at all.

In another county, OSEP found evidence of the need for "other services" in progress notes during record reviews but noted these services were not listed on IFSPs. The identified service coordinator reported that she was aware of the "other services" but that she does not provide any

coordination even though coordinating services across agencies and programs is one of the most important responsibilities of a service coordinator.

2. IFSPs are not developed based on evaluation and assessments and early intervention services are not based on the unique needs of the child and the family.

Section §303.340(b) requires that the IFSP must be developed in accordance with §§303.342 and 303.343 and must be based on the evaluation and assessment described in §303.322 and include the matters specified in §303.344. 34 CFR §303.344(d) states that the IFSP must include a statement of the appropriate early intervention services and supports that address the unique needs of eligible infants and toddlers and their families and the natural environments in which these services will be provided.

ODH has not ensured that IFSPs are based on evaluations and assessments and that early intervention services are based on the unique needs of the child and family. Administrators, service coordinators, service providers and parents in all counties visited told OSEP that “parent choice,” rather than a team decision, was a strong consideration in making decisions about services, frequency and location in developing the child’s IFSP. In one county, OSEP confirmed in record reviews and interviews that all parents were asked where they would like their child to receive services at the initial intake meeting. This procedure occurs before the evaluation and assessment process and the gathering of relevant data on child unique needs and family concerns, resources and priorities is completed. In three counties, all groups interviewed, agreed that frequency of services on the IFSP is also based on the availability of therapists rather than on the needs of the child.

Parents and service providers in all counties reported to OSEP that services offered to families are based on the availability of resources, such as staff, existing programs and payment, rather than solely on the identified needs of the child and their family. As a result, some infants and toddlers are not receiving physical or speech therapy services that they need in order to make developmental progress. For example, because of payment issues parents “choose” an identified therapy service only one time per week instead of the two times per week recommended by the IFSP team.

3. ODH has not ensured that IFSP s are developed based on the child’s unique needs and that required early intervention services are provided.

Section 303.340(c) requires that the lead agency ensure that an IFSP is developed and implemented for each eligible child in accordance with the requirements in 34 CFR Part 303. ODH has not ensured that IFSPs are developed based on the child’s unique needs and that early intervention services are provided due to waiting lists, lack of availability of personnel and lack of payment sources. ODH must ensure that sufficient numbers of adequately trained personnel are available to provide individually determined services with the frequency and intensity needed. Parents, service coordinators, service providers, administrators, and local early intervention county collaborative group members reported waiting lists for all early intervention services in all counties visited. All groups in two counties indicated that lack of payment sources

made services (such as therapies, transportation, respite care, and assistive technology) either unavailable or difficult to obtain. Service coordinators and service providers reported that if a service or other resource is not available to meet an individual child's needs they do not include the needed service on the IFSP regardless of the child's needs. They also stated, however, that a child's needs are often included in their case notes in the child's early intervention record. Service coordinators in two counties stated that they give information to parents about potential providers of speech, occupational and physical therapy, and all parents interviewed in these counties confirmed that they had to get their own therapy services in order to meet their child's needs. In seven of 13 records reviewed in one county, services such as vision, hearing, occupational and physical therapy that were identified as needed, were not provided.

Providers, service coordinators, parents, and administrators reported that local Ohio Department of Mental Retardation and Developmental Disabilities policy does not allow for direct therapy services, only the provision of a consultative model. Procedures for this model include consultation for one hour every six weeks for each eligible infant and toddler, regardless of individual need. Providers indicated to OSEP that the model is not sufficient to meet every child's identified needs and ODH has not identified any resources beyond the Ohio Department of Mental Retardation and Developmental Disabilities to provide the individual therapy needs identified on IFSPs. Parents stated that as a result of this practice, it was necessary for them to arrange for, and purchase, therapy services from private providers. A parent in one county reported that individual speech therapy services for her child provided by a local agency were withdrawn when she enrolled her child in, and paid for, a parent training and education program focusing on early communication. The parent reported that she was told that the services were duplicative. Service coordinators in one county told OSEP that if a child needed direct (as opposed to consultative services) or "hands on developmental therapy services" and other payors, such as Medicaid, Title V or private insurance were not available, the child would not receive the service. In two counties, participants who were interviewed confirmed that therapeutic services are outside of the early intervention services domain. Early intervention services appear to be limited to the role and service responsibilities of a teacher/service coordinator or the program in which the child is enrolled.

Parents in two counties told OSEP that transportation to and from services was difficult to obtain and often resulted in the child not receiving an early intervention service. For example, service coordinators and service providers reported that one provider denies children services when parents do not have transportation to attend the child's session. Although parents are required by this particular provider to participate in the child's service at a center, parents are not allowed to ride the center's bus that transports the child, and thus must make their own transportation arrangements. Parents and providers in all counties indicated that respite, when listed as a service on the IFSP, was generally not provided because of lack of funding. Interagency representatives in one county reported that funding for respite is not available for infants and that respite for infants is not considered an early intervention service. Local interagency representatives in another county reported that assistive technology is not provided as an early intervention service in their county due to lack of funds regardless of child need.

Year round services are not always available to all eligible children. All groups interviewed in all counties visited informed OSEP that many programs operate on a nine-month basis, regardless of individual child and family needs, and then offer a four-to-six week “recreation “ or “summer” program to families without making any changes to individual IFSPs. During the summer, most of the parents who want therapy services to continue for their child must pay for services from a private provider. Providers in one county indicated that they do not provide year round services to an eligible child regardless of the child’s needs. Parents and providers in one county stated that services for infants with hearing impairments were not available in the summer unless parents paid for the service. OSEP confirmed through the review of records the lack of ongoing services and the interruption in early intervention services in each county. In a review of eight early intervention records in one county, six-week “summer” programs were offered to all families rather than individualized 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 a family-centered system of services.

Validation Planning and Data Collection

Ohio is continually working to include families in planning and implementing the State system of early intervention services. The Family Information Network is one such notable effort to increase collaboration and family-centered practice. Further strategies to increase the extent to which families are active participants in all parts of the system are needed.

Questions asked during the public input meetings related to family-centered practices were: *"How are families included and supported in the process of developing the IFSP and in making decisions about their child's services? What family support services are available in your community?"* Participants described the lack of a team approach; providers take the lead in developing IFSPs rather than the family. They also described the impact of waiting lists for some services and how personnel shortages affect whether needed services are provided.

To investigate the issues identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures. OSEP interviewed parents, service providers, service coordinators, local program administrators,

county collaborative group members and State personnel. OSEP reviewed and analyzed the data and identified the following strength.

STRENGTH

Family Involvement

Ohio's efforts to involve families in early intervention are commendable. The Family Information Network (FIN) is a parent-directed organization created to provide education and support to families of children with developmental delays, disabilities or chronic illnesses. Family Information Network consultants strengthen Ohio's efforts to improve the quality and availability of early intervention services. In addition, families are offered information and resources in their respective counties by county parent coordinators. The Family Information Network is increasing its role as a provider of technical assistance and uses their "FINfacts" newsletter to disseminate information about training opportunities for parents.

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

Ohio's Self-Assessment revealed that ODH has not offered training in the transition requirements under 34 CFR §303.344(h) and §303.148 since 1995. ODH indicated that when the new transition interagency agreement is signed, training will be offered in 2000. An earlier Self-Assessment document from the county collaborative groups identified "IEP completed by the child's 3rd birthday" as a priority, critical indicator needing change.

One of the questions asked during the public input meetings was, "*By the child's third birthday, does transition planning result in the timely provision of needed supports and services to a child and a child's family?*" Participants described: 1) poor communication among early intervention, local education agencies and parents and lack of family support; 2) concerns about the timeliness of referrals to the local education agency; 3) children not receiving services on an IEP at age 3; and 4) services not available or provided in inadequate amounts at the school level.

OSEP reviewed and analyzed the data from the self-assessment, public input, interviews, and policy and record reviews and identified the following area of noncompliance.

A. AREA OF NONCOMPLIANCE

Lack of Timely Transition Planning and Implementation.

Section 303.344(h) requires that the IFSP must include the following steps to support the transition of the child to preschool or other appropriate services: 1) discussions with, and training of parents regarding future placements and other matters related to the child's transition; 2)

procedures to prepare the child for changes in service delivery, including steps to help the child adjust to, and function in, a new setting; and 3) with parental consent, the transmission of information about the child to the local educational agency, to ensure continuity of services, including evaluation and assessment information and copies of IFSPs that have been developed and implemented. Under 34CFR §300.148(b)(2), the lead agency must notify the local education agency for the area in which the child resides that the child will shortly reach the age of eligibility for preschool services under Part B of the Act, as determined in accordance with State law. In the case of a child who may be eligible for preschool services under Part B of the Act, the lead agency, with the approval of the family, must convene a conference among the lead agency, the family, and the local education agency at least 90 days, and up to 6 months, before the child is eligible for the preschool services, to discuss any services that the child may receive.

ODH has not ensured that effective transition planning occurs which explains why some eligible children in Ohio are not receiving a Free Appropriate Public Education when they turn three.

Even though there was a plan in one county OSEP visited to facilitate smooth transitions, the service coordinators and county collaborative group members reported that communication with local education agencies “doesn’t happen” and they are not sure who to contact in the suburban schools. In two sites parents reported that they did not receive assistance related to transition at age 3 from their service coordinator or anyone in the early intervention program, and had to contact the schools themselves.

The required conferences for transition planning must occur at least 90 days before the child turns three, but interview data and record review information indicate that transition planning was only being offered in one of the sites visited. In three of the sites visited, service coordinators and county collaborative group members reported that transition conferences are not being held because the local education agency will not send a representative. Local education agency personnel in two sites reported that they do not attend meetings and do not act on referrals until the child has turned three. The majority of the IFSPs reviewed in all sites for children almost 3 did not contain the required transition planning information. Service coordinators, parents and county collaborative group members in five sites reported that many children do not receive a Free Appropriate Public Education on their third birthday because the local education agencies wait until age three to begin evaluating the child. (See Section VII, B,c, of this report for further discussion.) In one site, service coordinators reported that a Free Appropriate Public Education is delayed as long as 4–6 months.

In one county, and in two other districts located in a different county, staff involved in the transition process reported to OSEP that a representative of the child’s school district does not attend the transition meetings. In another county the service coordinator does not notify the child’s school district of the meetings, if they are held. A parent in one program reported to OSEP that she did not have a transition meeting, and had to seek out preschool services herself. OSEP found, in a third county, that the district is notified, but the LEA administrators interviewed did not know that representatives from the LEA were required to attend. One LEA administrator stated that they had insufficient time and resources to attend transition meetings.

VI. PART B: PARENT INVOLVEMENT

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

Validation Planning and Validation Data Collection

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers, and parents. OSEP reviewed and analyzed the data and identified the following strengths, area of noncompliance, and suggestion for improved results for children.

As reflected in its 1995 monitoring report, OSEP found that ODE did not meet its responsibility to ensure that parents received a full explanation of procedural safeguards. Parents' rights notices given to parents in ten of the agencies visited by OSEP at that time omitted or incompletely addressed certain procedural safeguards.

During the Validation Planning visit, OSEP gathered information from the State's Part B Self-Assessment, public input meetings, and the Ohio combined Parts B and C Steering Committee. One of the focus questions asked at public input meetings was: "*How are parents involved in the education of their children with disabilities?*" OSEP reviewed additional data from advocacy groups and ODE. The following areas of concern were identified: 1) Parents often do not feel they are respected as members in IEP team deliberations, and feel that their input is ignored; 2) Public agencies did not provide parents adequate notice of initial placement or change in placement; 3) School staff brought completed IEPs to IEP meetings; 4) Public agencies do not accommodate the needs of parents with disabilities; 5) Public agencies schedule IEP meetings at the convenience of school staff, not at a time mutually agreeable to parents; 6) Foster parents do not have the right to advocate/represent the children in their care; 7) Parents must push to get services for their children, and those children whose parents do not push are more likely to receive inadequate/inappropriate services; 8) Parents are sometimes asked to do the job of teachers, and/or to research available resources like deaf interpreters; and 9) Parents need more training; joint training with educators is best.

A. STRENGTHS

1. Parent Mentors

ODE provides grants to 56 school districts for Parent Mentor projects that offer parent-to-parent support and assist in establishing strong working relationships among school personnel and parents of children with disabilities. During the 1997-98 school year, mentors attended IEP meetings of 1,917 children and assisted additional parents to participate as informed IEP team members. In addition, mentors logged 31,949 parent contacts and 18,275 school personnel contacts.

2. Collaboration with Parents

Utilizing a Task Force made up of nine parents, four school personnel, and other interested parties, ODE's Division of Special Education is developing a parent-friendly parents' rights notice entitled "Whose IDEA is This?" to explain to parents their rights under IDEA. ODE's Division of Special Education has worked closely with this task force to ensure that the notice addresses the complex requirements of Part B in a clear, simple and complete manner.

B. AREA OF NONCOMPLIANCE

Surrogate Parents

Public agencies must ensure that a person assigned as a surrogate parent is not an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child. (IDEA '97 at Section 615(b)(2) and 34 CFR §300.515(c)(2)(i)).

In interviews with OSEP, State officials acknowledged that public agencies were still permitted to appoint public agency employees such as members of the Children's Services agency who are involved in the care of the particular child, despite the 1997 statutory revisions forbidding this practice. Districts visited by OSEP acknowledged that they were still assigning public agency personnel involved in the care of the child as surrogate parents, and that they had not been informed that this practice is no longer consistent with Federal requirements.

C. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN WITH DISABILITIES

Inclusion of Parents as Full Partners in the IEP Process

The perceptions that parents expressed in public meetings throughout the State, and in individual and group parent interviews during Validation Data collection, revealed that many parents do not feel included as full partners in the IEP team process. Although 56 school districts have parent mentor projects, the majority of districts do not. ODE may want to emphasize training with school district IEP team members, including principals and special education directors, along with parents in those districts, aimed at making the IEP process more parent-friendly. ODE may wish to consider focusing training on the districts that do not have parent mentor programs and districts.

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

As reflected in its 1995 monitoring report, OSEP found deficiencies in the provision of a free appropriate public education in the following areas: 1) Provision of occupational therapy, physical therapy, speech therapy, psychological counseling, assistive technology devices and services, and extended school year services according to the unique needs of the individual child; 2) Provision of special education and related services at public expense; 3) Consistent provision of educational services to students on long-term suspension or expulsion; and 4) Provision of special education and related services to all eligible youth with disabilities in facilities operated by the Ohio Department of Rehabilitation and Corrections, the Ohio Division of Youth Services, and for juveniles awaiting adjudication in local detention facilities. With the respect to education of children with disabilities in the least restrictive environment, OSEP found the following deficiencies: 1) Students were removed from regular education and placed in more restrictive placements based on the disability label, agency financial constraints, or because supplementary

aids and services were not available and; 2) A child's placement was determined prior to the development of the IEP, and therefore, not based on the needs specified in the IEP. During the Validation Planning visit OSEP gathered information from the State's Part B Self-Assessment, public input meetings and the combined Part B and Part C State Steering Committee. More than 500 parents, educators, service providers, and other stakeholders throughout the State attended the public input meetings. Focus questions asked at the public input meetings included the following: "*Are students with disabilities receiving the special education and related services they need?*" "*How do students with disabilities participate with nondisabled students? Do all students, regardless of placement, have access to the same curriculum as their nondisabled peers?*" and "*By the child's third birthday, does transition planning result in the timely provision of needed supports and services to a child and a child's family?*" OSEP reviewed additional data from parent advocacy groups and ODE and OSEP records. The following areas of concern were identified: 1) Inadequate support and accommodations provided to children with disabilities in the regular class setting; 2) Insufficient level of related services, or none provided in areas such as speech, occupational and physical therapy; 3) Students with multiple disabilities and emotional disturbance are disproportionately placed in restrictive settings and access to the general curriculum, regardless of setting, is a problem; 4) Identification of students with mental retardation and emotional disturbance is disproportionately high for African Americans; 5) Students with emotional disturbance receive inadequate services, and are too frequently referred to law enforcement and homebound services; 6) Extended school year services were not considered and not provided for children with disabilities in all disability categories and degrees of severity; 7) Services to foster children with disabilities are delayed; 8) Transition from early intervention services to preschool is not effective and parents are not prepared in advance, or informed of service options; 9) School evaluation procedures cause delays in transition to preschool services; 10) Insufficient options/slots for preschool children in many districts; and 11) Funding issues affect services on all levels, especially impacting preschool services and placement options.

To investigate the concerns identified during the Validation Planning process, OSEP collected information from the review of children's records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers, and parents. OSEP reviewed and analyzed the data and identified the following strengths, areas of noncompliance, and suggestions for improved results for children.

A. STRENGTHS

1. Interagency Cooperation

Through the "Ohio Family and Children First" initiative, ODE cooperates with several agencies in service provision to children who have demonstrated needs that are being addressed by two or more agencies. This initiative is a partnership of government agencies and community organizations committed to improving the well being of children and families. It focuses on streamlining and coordinating government services for families seeking assistance with their children.

2. Technology

The Technology Literacy Challenge Fund is a Federal grant program enacted to help stimulate local, State, and private sector partnerships. This project focuses on integrating technology into teaching and learning to help ensure that all students are technologically literate. Special consideration was to be made for schools with the highest numbers or percentages of children in poverty and with the greatest need for technology. ODE Staff secured the inclusion of special education students as “students with the greatest need for technology” in Ohio’s Technology Literacy Challenge Fund grant. In Ohio, this program has provided 102 middle schools with funding to address President Clinton’s four goals for technology, which are: Competency, Computers, Connectivity, and Content. This program will be extended into Ohio’s High Schools.

3. Personnel

Ohio was one of 18 States that was awarded a State Improvement Grant from OSEP in the first two years of that competition. This grant is being utilized to provide more qualified, certified special education and related services staff and to fund innovative preservice and inservice efforts throughout the State.

B. AREAS OF NONCOMPLIANCE

1. Provision of a Free Appropriate Public Education

The IDEA has always required that IEP teams consider the individual needs of children with disabilities and provide each child with the amount and kind of special education and related services the child needs as part of a free appropriate public education. These services are to be provided at public expense and under the supervision and direction of the public agency, without charge to the parent. (§§300.13, 300.121 and 300.300 - 300.309)

ODE has not ensured the provision of the following services, as components of a free appropriate public education: (a) Psychological counseling and other positive behavior interventions, strategies and supports; (b) Speech, occupational, and physical therapy; (c) Making a free appropriate public education available by the child’s third birthday; (d) Supports and services provided to children with disabilities in the regular class setting; and (e) Extended school year services.

a) Psychological Counseling, Positive Behavior Interventions, Strategies and Supports Provided When Needed to Benefit From Special Education

ODE is responsible under 34 CFR §300.300 to ensure that a free appropriate public education is provided to all children with disabilities. This right to a free appropriate public education

includes the provision of related services, including psychological counseling if needed to benefit from special education.

In order to better ensure that children with emotional or behavioral needs receive a free appropriate public education, IDEA 97 and the final Part B regulations added a specific requirement that the IEP team must, in the case of a child whose behavior impedes his or her learning or that of others, consider, when appropriate, strategies, including positive behavior interventions, strategies, and supports to address the behavior. Further, if, in considering these special factors, the IEP team determines that a child needs a particular device or services (including an intervention, accommodation, or other program modification) in order for the child to receive a free appropriate public education, the IEP team must include a statement to that effect in the child's IEP. (§300.346(a)(2)(i) and (c)) OSEP found two areas of deficiency that have a strong impact on children whose behavior impedes learning, including children with emotional needs as described, below.

1. None of the six school districts or three County Boards for the Mentally Retarded and Developmentally Delayed (county boards) that OSEP visited made psychological counseling available as a related service, regardless of student need. Special education teachers, psychologists, and administrators in these agencies informed OSEP that IEP teams did not include psychological counseling in students' IEPs as a component of a free appropriate public education, even if they needed such counseling to benefit from special education. They explained that the public agency would refer a student who needed such counseling to a local mental health agency, but would not include such services in the IEP or in any way oversee the services to ensure that they met the student's needs. Further, in these six school districts and one of the county boards, parents would be required to pay some or all of the cost of the counseling on a sliding fee scale. OSEP noted that none of the IEPs that it reviewed for 18 students identified as having an emotional disability included any psychological counseling services.
2. OSEP reviewed the IEPs and other records of 18 children identified as severely behaviorally disordered. The special education teachers and evaluations for these students confirmed that each student's behavior impeded his or her learning, or that of others in the classroom. The IEPs for 15 of these 18 students included no positive behavior interventions, strategies, or supports, and neither their IEPs nor any other part of their files provided any indication that the IEP team had considered whether the child needed such interventions, strategies or supports. (The IEPs for nine of these 15 students included behaviors that the student must achieve, but did not include any services that the public agency would provide to support the child in achieving those behaviors, and the other six IEPs did not address the students' behavioral needs). The special education teachers for these 15 students confirmed that the IEP team had not considered the students' needs for positive behavior interventions, strategies, or supports. They also told OSEP that they had not received training or guidance regarding the requirement to address the needs of students for positive behavior interventions, strategies, and supports.

b) Availability of an Adequate Supply of Qualified Related Service Personnel to Provide a Free Appropriate Public Education to Children with Disabilities

Section 300.300 requires that a free appropriate public education be made available to all children with disabilities. In addition, 34 CFR §300.380(a)(2) requires that each State develop and implement a comprehensive system of personnel development that is designed to ensure an adequate supply of special education, regular education, and related services personnel. OSEP found that three of the districts and one of the three county boards that OSEP visited provided speech, occupational, and physical therapy according to staff availability and/or administrative convenience, and not according to the unique needs of each child. This was confirmed by interviews with related services staff and other IEP team members, special education directors, and parents. OSEP reviewed 17 files of children who received speech, occupational and physical therapy. Files for all students in each of the districts included the same amount of service regardless of the needs of the child. In two districts, speech files all included the State minimum as the specific amount of service. Speech pathologists, special education teachers and principals told OSEP reviewers that they were limited to providing a certain amount of services per student based on their availability instead of student need. In one district, OSEP was told by related service providers, special education teachers, and the principal that any increase in frequency and amount of services could not be made by the IEP team, but had to be approved at the district office. In one county board, speech, occupational, and physical therapy were stated as a range --2 to 4 times a month for 1 to 2 hours. All IEPs reviewed stated the same range. Interviews with the central administrator and special education director confirmed that all students receive a standard amount, regardless of need. A parent of a child whose IEP was reviewed, confirmed that it was her understanding that all students got one session a week because they all had to have an equal amount. Occupational and physical therapists confirmed that students each received 30 minutes, one time a week based on the therapists' availability. In one of the districts, OSEP was told that increases in occupational therapy could not be determined by the IEP team, but were subject to central office approval.

c) Timely Provision of Services to Children Entering Part B

Section 612(a)(9) of IDEA requires that public agencies must ensure that children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under Part B, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(8). By the third birthday of such a child, an IEP or, if consistent with sections 614(d)(2)(B) and 636(d), an IFSP, must be developed and implemented for the child. The local education agency must participate in transition planning conferences arranged by the designated lead agency under section 637(a)(8).

ODE has not ensured that a free appropriate public education is made available to each eligible child with a disability by the child's third birthday, and that an IEP or IFSP is in effect by that date, as required at §300.121(c).

OSEP reviewed 18 student records of children receiving preschool services, and interviewed staff members who provide preschool services to children with disabilities in four districts and one

county board school. OSEP also interviewed State staff responsible for the oversight of both Part B and Part C services. In 13 of the preschool student records reviewed, OSEP found that initial IEPs had not been in effect by the children's third birthday. In 12 of the files, the review of IFSPs revealed that early intervention services terminated at the child's third birthday and there were delays in the provision of a free appropriate public education. Delays in the effective date of the IEP and provision of a free appropriate public education ranged from one month to two years after the child's third birthday. Seven of the delays were for six months or more.

OSEP interviewed preschool teachers, psychologists, special education directors, preschool coordinators, and parents as well as Part C program staff from two counties. They told OSEP that a free appropriate public education is not made available to all eligible children with disabilities on their third birthday. In two of the school districts and one county Part C program, staff told OSEP that the districts either did not initiate evaluations until after the child turned three, or initiated but did not complete them by the child's third birthday, delaying the provision of a free appropriate public education.

In one county, three parents reported to OSEP that they had been told by districts that a full range of options to meet the unique needs of their children would not be made available on the child's third birthday. One of the three parents whose child would turn three the following month reported to OSEP that she had been informed by the district that there were no full day slots available for her child, regardless of the child's needs. She was told that the only option for her child was to receive services at home from an itinerant teacher or wait until next year to go to a center program. The other two parents, whose children would turn three in three months, reported to OSEP that they were told by the district that the only slots available were for full day programs. Both of these parents believed their child would benefit from a half-day program, which was not an option. The placement of these children was not determined based on the unique needs of the individual child, but rather on the available service delivery model.

d) Supports and Services Provided to Children with Disabilities in the Regular Class Setting

Section 300.347 (a)(3), requires that the IEP must include a statement of the special education and related services and supplementary aids and services to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child to advance appropriately toward attaining the annual goals; to be involved and progress in the general curriculum and participate in extracurricular and other nonacademic activities; and to be educated and participate with other children with disabilities and nondisabled children.

Following the passage of IDEA 97 and approximately two years before OSEP's 1999 visit, ODE sent supplemental revisions to the Ohio Model Policies and Procedures to all of the Ohio school districts and public agencies. These revisions included a sheet that was to be attached to the IEP form so that IEP teams could check to ensure that all of the new requirements were addressed. OSEP found that not all schools visited used the supplementary sheet, and that members of IEP teams OSEP interviewed were not always aware of the new requirements.

OSEP found that public agencies were not providing students with disabilities with supplementary aids and services, or services provided on behalf of the child, including program modifications or supports for school personnel, to enable the child to be involved and progress in the general curriculum.

In four districts, none of the 29 files reviewed at the middle and high school levels of students who were educated for at least part of the school day in regular classes, included supports and services the students would need to be successful in their regular class placement. Special education and regular education teachers reported significant problems supporting these students in the regular education environment. There was no time scheduled during the school day for regular education and special education teachers to confer, and no program modifications and supports for regular education teachers were included in the IEP, regardless of student need.

In a fifth district, assistive technology adaptations were included in the IEP of a visually impaired student, but the teacher informed OSEP that this equipment was not always available to support the child. A teacher of students with severe behavior disorders in another district stated that the lack of time and the absence of a qualified aide, prevented his ability to make the necessary modifications and provide the appropriate supports to enable his students to be involved and progress in the general curriculum. The director of that district stated that special education students have been provided a separate curriculum in the past and that they are now requesting materials from textbook publishers that will incorporate the general curriculum. She reported that elementary school teachers have been trained to incorporate the general curriculum into their special education classes, but that the middle and high school teachers have not yet been trained.

Two of the districts placed children with disabilities in regular vocational education programs without the input or participation of the IEP team. In one district, the work study coordinator reported that he submits the student's IEP, psychological profile and other evaluations to the vocational counselor at the joint vocational center. The vocational counselor, together with the vocational instructor, places the student in the program that they believe is best suited for the student. In a second district, a similar procedure was described to OSEP by the work study coordinator; with the final determination for placement being made by the vocational instructor. After that determination is made, the IEP team can determine supports and modifications necessary to assist the student to succeed in the program; however, they do not have an opportunity beforehand to determine how a vocational class could be modified and/or students could be supported in order to have the opportunity to be involved and progress in a regular vocational program. In both districts, the special education director confirmed this practice.

e) Extended School Year Services

Children with disabilities must receive extended school year services if necessary to ensure they receive a free appropriate public education. Section 300.309(b) of the final Part B regulations issued March 12, 1999 provided additional clarification with the following definition: Extended school year services means special education and related services that are provided to a child with a disability -- beyond the normal school year of their public agency; in accordance with the child's IEP; and at no cost to the parent; and meet the standards of the State education agency.

Extended school year services were not considered by the IEP team, or provided when necessary for the provision of a free appropriate public education in four of the districts and one of the county boards visited by OSEP. Special education teachers and principals who served on IEP teams were unfamiliar with the concepts, or with the standards for consideration, and did not consider or recommend these services for any students regardless of individual needs.

The special education director of one of the districts reported that of 7,000 special education students in the district, only 15 or 16 were receiving extended school year services. The director expressed the belief that IEP teams were not identifying all of the children who needed these services in order to receive a free appropriate public education.

In another district, a special education teacher stated that it was her belief that children should play in the summer, and so she never discussed or considered extended school year services at IEP meetings, regardless of student needs. The parents OSEP interviewed in that district had never heard of extended school year services. Another teacher in that district reported that she felt she would get in trouble if she included extended school year services on the IEP. The special education director of that district stated that it was district policy to consider these services, and provide them when the IEP team determined that they were needed. This policy, however, had not been effectively communicated to the school IEP team members interviewed by OSEP.

In one county board school, OSEP was told by parents and teachers that the county board school was closed during the summer months and that no IEP services were provided, although summer camp was available. The superintendent and director of that county board reported to OSEP that students that transferred from out of State often had extended school year services in their IEPs, and that these students received those services. They reported that the provision of these services varied in the districts served by the center, and that, if parents were pushy, they could obtain extended school year services from certain districts. The special education director in a district served by the county board reported that she believed that more students should be receiving extended school year services. She also stated that ODE did not provide clarity regarding the provision of extended school year services and that too few children were served. Some teachers in that district reported that they checked the extended school year section on the State IEP forms, but it was a perfunctory activity and they routinely checked that the child did not need the services. Parents interviewed by OSEP in this district had never heard of extended school year services.

In another district, the special education teacher of a class for students with multiple disabilities was unfamiliar with the concept of extended school year services and told OSEP that these services were not included in the IEPs. However, she also reported that she had arranged with a community health agency for one of her students to receive services last summer, and had worked free of charge to transport him to the service herself. The principal of that school, who was an active IEP team member, reported to OSEP that he was unfamiliar with the concept of extended school year services, and that these services had not been considered or provided at any IEP meeting that he had attended.

f) Failure to Make Individualized Decisions regarding Placement in the Least Restrictive Environment for Children Served by the County Board Programs

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, must be educated with children who are nondisabled, with any removal occurring only when the nature and severity of the disability is such that education in regular classes with supplementary aids and services cannot be achieved satisfactorily. Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities, that placements are determined at least annually based on the child's IEP, as close as possible to the child's home, and in the school the child would attend if not disabled unless the IEP requires some other arrangement, and that each child with a disability participates with nondisabled children in nonacademic and extracurricular activities to the maximum extent appropriate to the needs of the child. (§§300.550-553).

OSEP interviewed educational personnel at three county boards that serve school-aged children with disabilities and found that individualized decisions regarding placement in the least restrictive environment are not made for children served by two of the three county board programs. The two county boards serve, respectively, 82 and 92 school-aged children age six through 21. The principal of one of the county board schools reported that there are no regular education settings or opportunities for extracurricular or nonacademic activities with nondisabled peers for students placed in the center. He reported that the county board staff has tried in the past to establish satellite classrooms in school district buildings, but there is no space available for these programs. Also, there is no collaboration with the students' home schools to provide integration opportunities. The principal further stated that there are students in the county board school that could succeed in the general education environment with proper supports. As a result, a continuum of alternative placements, including the provision for supplementary services (such as resource room or itinerant instruction), is not available as required under §300.551(b)(1) and (2).

In the other county board school, two special education teachers explained to OSEP that their students were placed 100 percent of the time in special education with no general education involvement, or involvement with nondisabled peers in nonacademic and extracurricular activities. The special education director and superintendent of that county board told OSEP that only two of the school-aged students attended regular classes at the high school (they each attended a computer class). The director and superintendent further stated that they probably had other students in the county board school who could be served in the local schools, but issues of money, space and transportation precluded their involvement. The district's decision not to place a student in his/her local school was driven by space availability and administrative convenience, not by the individual needs of the child. The districts were not making available a continuum of alternative placements to meet the needs of the children in the district, nor did each child have the opportunity to participate in nonacademic and extracurricular programs with nondisabled peers to the maximum extent appropriate to his or her needs, as required under §300.353.

C. SUGGESTION FOR IMPROVED RESULTS FOR CHILDREN

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

Funding Mechanism

Ohio uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served and must ensure that the funding mechanism does not result in placements that violate the requirements of §§300.550-556 including the provision in §300.551 requiring a continuum of alternative placements. (§300.130(b)). In light of the above finding regarding placement in the least restrictive environment, it is important that ODE review the State's funding mechanisms to determine whether the new funding formula results in placements that violate the requirements for provision of services in the least restrictive environment. It may be that the funding formula is providing unintended financial incentives to local districts for placing or maintaining their students in programs operated by the county board. ODE has a responsibility to ensure that county boards and school districts collaborate to enable their students to have the opportunity for integration into the general education classes and participation in nonacademic and extracurricular activities with their nondisabled peers, as well as to provide services in the school the child would attend if nondisabled. However, ODE has not ensured that this collaboration is successfully achieved, as illustrated by the two county boards reviewed by OSEP.

OSEP obtained data from interviews with officials in the ODE Divisions of Special Education and Early Childhood Education, and State staff who oversee the county boards, as well as from fiscal records, and from interviews with staff in local education programs. OSEP learned that 70 of the 89 county boards continue to provide education services for school-aged children aged six through 21, and 77 of the county boards continue to provide educational services for preschool children, aged three to five. On December 1, 1998, 3,582 children aged six through 21 received educational services from county board programs. This accounted for 1.7% of the total population of eligible students in Ohio's total child count for children with disabilities aged six through 21, which was 211,583. A significantly higher percentage (17.4%) of preschool children aged three to five, 3,228 of a total child count of 18,572, received educational services from county boards. The State funding mechanisms are different for preschool children than for school-aged children, but in each case, there are factors in the mechanism that may provide a financial benefit for certain local districts to utilize the county boards rather than provide services directly through the local districts. Utilization of the county boards results in programming that may be more restrictive than that provided by the local district, and is less likely to take place in the school nearest the child's home and/or the school the child would attend if he/she were not a child with a disability.

The State funding mechanism for school-aged children receiving educational services from the county boards varies from that of the local school district, although the county boards, like the school districts, no longer receive unit funding for school-aged children. As part of the new funding mechanism, an equitable base amount of \$4,000 per pupil was set, applicable to each school child in Ohio, as well as a weighted multiple of .22 or 3.01 for each child with a

disability, depending upon the severity of the child's disability. The State makes up the difference in local revenues to ensure that the funding is available for each child in a school district. For example, if the district's local revenues provide \$3,000, the State provides the other \$1,000. The local level of funding also reduces the weighted special education amount provided by State share. If the district revenues provide \$4,000 per child or more, the State does not provide that district with any additional funds. In the case of children served in the county board programs, the State provides the entire \$4,000 plus the applicable special education multiple for each school-aged pupil. Absent some special agreement or contract between the county board and school district, the child's school district does not have any financial responsibility for children served by the county boards. Although county boards levy a local tax, and therefore have local funds as well, these funds are not considered education funds since the centers also provide other programming. Therefore, the amount of local funds available to county boards is not deducted from their State grant.

One of the districts that OSEP reviewed is among the 25 most affluent Ohio districts. These districts do not receive any State funds under the new formula. The superintendent of this district told OSEP that he did not favor bringing any students back to the district from the county board because it would cost the district extra money. State money, in that case, would not follow the child from the county center to the local district. Even in less extreme cases, for example, districts for whom local funding covered \$2,000 or \$3,000 of the per child amount, plus a similarly reduced percentage of the special education weighted multiple, the district would only receive a portion of the funds from the State for bringing back a child that could, in many cases, require quite expensive services. Only districts that have no local funds receive the full \$4,000 and special education weighted funds from the State, whereas the county boards receive the \$4,000 and special education weighted multiple in all cases.

The preschool special education funding is based on a unit system. The unit funding is applicable to both school district and county board programs. Districts and county board programs receive funding for special education and related services personnel based upon the number of children they serve in various categories. No State basic funds are provided to preschool programs. Therefore, those school districts with no local funding available have very limited opportunities for providing preschool services. County boards on the other hand can use available funds from their local levy, in addition to the State unit funding, on preschool programming. Some school districts provide no preschool programming. The only preschool programs available are those provided by the county board.

Efforts have been made by the State to discourage county board programs from accepting additional preschool and school-aged children from local districts. If the county boards request funding increases for additional children above the previous year's count, they do not receive these additional amounts. The funding remains at the previous level. An exception to this is those preschool programs in districts that have no local district preschool programs. If the county board preschool programs are the "only game in town" they continue to receive increased funding from the State for additional children. State staffs who oversee the programs at the county board centers reported to OSEP that, because the centers receive local money from tax

levies, they often feel an obligation to continue to accept additional children, even in cases where they do not receive additional State funds.

The State funding mechanism may, for certain districts, result in a decrease in State funding when students are moved back into their home districts from the county boards, and therefore, provide a disincentive for returning students to their home districts. In addition, especially in the case of preschool programming, it has the potential to result in new children being placed in programs operated by the county boards. Once placed in the program, funding for those children can continue throughout their entire school careers, if the county board is one of the 70 that continue to operate school-aged programs. In many cases, placement in these programs reduces the child's opportunity to be educated as close to home as possible, and in the school the child would attend if the child were not disabled, as well as limits opportunities for participating in general education, nonacademic and extracurricular activities with nondisabled peers. Therefore, it is important that ODE examine the results of this funding mechanism, and ensure that policies and procedures are developed to ensure compliance with the requirements of §§300.550-300.556, and, if necessary, provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that this mechanism does not result in placements that violate these requirements.

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

As reflected in its 1994 monitoring report, OSEP found that ODE did not meet its responsibility to ensure that: (1) Parents were sent a notice that informed them that a purpose of the meeting was to discuss transition services; (2) All required participants, including the student and outside agency representative likely to be responsible for providing or paying for transition services, are invited to attend and participate; and, (3) A statement of needed transition services is included in the IEP.

Section 4 of Ohio's Part B Self-Assessment addresses "Secondary Transition." It presents data from the Ohio Project LIFE follow-up Survey, and Ohio Rehabilitation Services Commission Transition Youth Quarterly Reports. The Self-Assessment states that 50% of 39 districts surveyed have indicated the need for continuous monitoring and improvement in the area of describing and initiating appropriate transition services to children with disabilities, beginning at age 14.

During the Validation Planning visit, OSEP gathered information from Ohio's Part B Self-Assessment, public input meetings, and the Ohio combined Parts B and C Steering Committee. Focus questions asked at public input meetings included the following: "*Describe the planning process that takes place for students aged 14 and older to ensure a successful transition to work, independent living, or additional education services (e.g. college, technical school)? Are students receiving the services needed?*" OSEP examined additional data from parent advocacy groups and ODE records. The following areas of concern were identified: 1) Transition services plans not done by age 14; 2) Infrequent interagency involvement; often agency representatives are not invited; 3) Student's interests and preferences not considered; 4) Plans are not adequate – a checklist on paper; 5) Parents have to carry out transition activities themselves; and 6) Difficulty developing and implementing appropriate transition goals and objectives for students with emotional disturbance and autism.

To investigate these issues, OSEP collected information from the review of children's records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers and parents. OSEP reviewed and analyzed the data and identified the following strengths, areas of noncompliance, areas needing further review by the State, and suggestions for improved results for children.

A. STRENGTHS

1. Training

The Ohio Coalition for the Education of Children with Disabilities (OCECD) and Project Linkages for Individual and Family Empowerment (Project LIFE) have trained over 100 transition teams throughout the State. Twenty-two percent of the participants who received training were parents, consumers, and family members; 22% were general educators; 41% were special educators; and 15% were agency personnel.

2. Ohio Rehabilitation Services Center

The local interagency transition teams reported that 87% of the students served graduated, 72% of the students were employed prior to exiting high school, and, 74% of the students were employed 6 months after completing their program. There is a continued increase in the numbers of transitioning youth receiving services from Ohio Rehabilitation Services Center. Over 25% of all Ohio Rehabilitation Services Center referrals come from the transition group.

B. AREAS OF NONCOMPLIANCE

1. Statement of Transition Service Needs Beginning at Age 14 (or younger, if appropriate).

Section 300.347 (b)(1) of the regulations requires that, for each student with a disability beginning at age 14 (or younger, if determined appropriate by the IEP team), and updated annually, the IEP must include a statement of the transition service needs of the student under the applicable components of the student's IEP that focuses on the student's courses of study (such as participation in advanced placement courses or a vocational education program).

OSEP reviewed 10 student records of students aged 14 in three of the school districts OSEP visited, and found that only one of the ten IEPs included a statement of the student's transition services needs. Teachers and a work-study coordinator reported that while "vocational preferences are surveyed prior to 9th grade," identification of course work is not done. A middle school principal stated that, generally speaking, transition is for 16 year olds. A special education teacher in a high school reported that she was unclear about how to address transition for 14 year olds. Another special education teacher stated "the process for ensuring transition statements for students 14 and older are currently not identified." A special education director stated, "transition statements for age 14 is an area that needs to be worked on."

2. Statement of Needed Transition Services Developed in IEP meeting

Section 300.347 (b) (2) of the regulations requires that, for each student beginning at age 16 (or younger, if determined appropriate by the IEP team), the IEP must include a statement of needed transition services for the student.

In two districts, at three schools, two teachers and the work study coordinator reported that the statement of needed transition services was developed outside the IEP meeting. The parents and district representative were not involved in developing the statement of needed transition services. The work-study coordinator wrote the transition plan (i.e. the portion of the IEP addressing transition) with information from the special education teachers. On some occasions, the special education teacher and the work-study coordinator would sit and write the students' transition plans all at one time. The special education director verified this information. In another district, the special education teacher reported that the work-study coordinator takes care of all transition services.

3. Outcome Oriented Statements of Transition Services that Include the Required Components

Transition services are defined at §300.29 as a coordinated set of activities for a student with a disability that is designed within an outcome-oriented process, that promotes movement from school to post-school activities, and includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

In four school districts, IEPs for 21 out of 28 students' records OSEP reviewed for students aged 16 or older did not include outcome-based, coordinated activities designed to provide movement to post-school activities. Additionally, statements of needed transition services were not coordinated with the rest of the students' educational program.

Examples of transition services in the IEPs reviewed include:

“Employment outcome: Vocational Education.” “Paid Employment” was included as an activity, but there were no statements of needed transition services to meet this employment goal, nor did the IEP include services necessary to make the transition to vocational education.

“Postschool outcome: Independent Living.” The IEP included the statement, “No information provided” in this area. The only activity listed was “Daily Living Skills.” The IEP did not reflect a coordinated set of activities within an outcome-oriented process to achieve independent living in moving from school to post-school living.

4. Method for Ensuring that Representatives of Outside Agencies Likely to be Responsible for Providing or Paying for Transition Services are Invited to the IEP Meeting and that There is a Method for Obtaining Their Input if They do not Attend

To facilitate the student's movement to post-school activities, a representative of any agency that is likely to be responsible for providing or paying for transition services for the student must be invited to the meeting and participate in the planning of transition services, and if the representative does not attend, other steps shall be taken to obtain the participation of the agency in the transition planning process. (§300.344(b))

OSEP continues to find areas of noncompliance consistent with previous monitoring findings regarding the inclusion of outside agencies in the planning of transition services for students with disabilities. Of the 28 student record files OSEP reviewed for the students aged 16 or older in four districts, only three had other agencies involved.

OSEP found that representatives of agencies that were likely to be responsible for providing or paying for transition services, were not in all cases invited to attend meetings where transition services would be considered. Special educators and special education unit directors in school districts visited reported that they did not invite agency representatives who were likely to be responsible for paying for or providing transition services because it was their belief that the representatives would not attend. Two special educators reported that agency representatives from vocational rehabilitation only worked with special education students during their senior year of school. The work-study coordinator and a vocation education coordinator reported that outside agencies, such as vocational rehabilitation and/or the county boards of mental retardation and developmental disability send counselors to the senior year IEP exit conference. A special educator and a principal at a county board school serving students with multiple disabilities stated they take a "family-driven" approach to transition. For example, if a parent says that the child will remain at home after exiting school, outside agencies are not contacted.

A regional rehabilitation services manager in Ohio explained to OSEP that vocational rehabilitation will get involved with schools when schools cannot provide adequate services, adding that many 14 year old students receive services from vocational rehabilitation. In response to OSEP's request for an explanation regarding statements made by school personnel about the lack of participation of vocational rehabilitation in planning transition services, the rehabilitation services manager stated that some schools do not know that they have a rehabilitation counselor, or how to access these services.

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

To investigate these issues, OSEP collected data from local school districts across Ohio, interviewed parent groups, and obtained information at the State educational agency relative to ODE's responsibility to ensure that all education programs for children with disabilities meet Part B requirements and State education standards. Analysis of the data collected resulted in identification of the following area of strength, and areas requiring improvement.

OSEP's 1995 onsite review report of ODE's implementation of Part B of the Individuals with Disabilities Education Act (Part B) showed that ODE did not consistently meet its responsibility to ensure that: 1) effective methods were adopted for the correction of deficiencies identified through monitoring; 2) complaint management procedures were implemented to ensure that within 60 days after a complaint was filed, requirements under §300.661, were met; 3) final due process hearing decisions were reached within 45 days; and 4) parents receive a full explanation of all procedural safeguards available to parents under §§300.500, 300.502-300.515, and 300.562-300.569.

In the Spring of 1999, ODE convened a group of stakeholders to evaluate ODE's revised monitoring process to ensure compliance with Part B. Implementation of the new monitoring process produced results that identified the following areas that require systemic improvement: child find; behavior plans; multi-factored evaluations and instructionally relevant evaluation reports; continuum of alternative placements; participation and involvement in the general curriculum; IEP requirements, including parent participation in IEP meetings, and transition services beginning at age 14. ODE's Division of Early Childhood Education's monitoring identified referral and transition at age three, as major issues.

According to ODE's Self-Assessment, 310 complaints were "open" regarding education issues that involved students with disabilities, from October 1998 to July 15, 1999. Data from July

1998 to July 1999 show that of 22 due process hearings only four exceeded timelines, expedited hearings were consistently within the 45-day timeline, and all State-level reviews met their extended timelines. Between July 1998 and July 1999, ODE conducted 101 mediations of which 91 resulted in signed agreements. Sixty-two of the 91 mediations led to the dismissal of due process hearings.

ODE's revised monitoring system, the School Improvement Review Process, focuses on technical assistance and continuous improvement while ensuring compliance with Federal and State regulations. The monitoring process emphasizes partnership with stakeholders, district accountability, self-assessment, and data that focus on improved results for children and youth with disabilities. Monitoring activities include a self-assessment process for which ODE provides technical assistance to school districts on how to conduct a self-assessment, a meeting between ODE and district stakeholders to validate issues identified in the self-assessment, an onsite validation of the district's self assessment, and a plan, jointly developed by ODE and school districts, of corrective actions and continuous improvement activities. ODE's monitoring system also includes follow-up reviews to ensure implementation of corrective actions and selective reviews that target districts based on complaints filed with ODE, or the Office for Civil Rights. ODE monitors 611 school district once every seven years with the intent of monitoring a minimum of one school district from each of 88 counties, annually. ODE also monitors 241 programs in other agencies. ODE's Division of Early Childhood Education monitors preschool programs for all preschool-aged children including those with and without disabilities, using four different processes: 1) Facilitated self-reviews; 2) Preschool grant review; 3) Program improvement plan reviews; and 4) Child count verification.

The Division of Early Childhood Education is responsible for ensuring compliance of preschool special education programs for children ages three through five. The Division of Early Childhood Education has monitored preschool programs since 1997. Prior to 1997, ODE's Division of Special Education was the responsible agency. The Division of Early Childhood Education describes its leadership role as setting standards for monitoring programs as required by legislation, and setting standards for quality, and supporting ongoing improvement within programs. The Division of Early Childhood Education's monitoring system, Program Evaluation for Continuous Improvement and Strategic Planning, is described in the Program Evaluation Handbook as "data-driven." The Program Evaluation for preschool special education may consist of any of the following four types of program reviews: 1) Federal review; 2) Self-review facilitated by a representative from the Division of Early Childhood Education; 3) Improvement plan verification in which a representative from the Division of Early Childhood Education, upon completion of program evaluations or data verifications, may visit a program to confirm completion of program improvement plan activities; and 4) Data verification in which a representative from the Division of Early Childhood Education may inspect the fiscal records of a program to verify implementation of approved funds or confirm data submitted to ODE for programs under the jurisdiction of the Division of Early Childhood Education.

One focus question asked during the public input meetings was: "How is the State involved in assuring that appropriate services are provided to students with disabilities, e.g., monitoring, training, technical assistance, etc.?" Additional data from parent advocacy groups and ODE and

OSEP records were examined. Concerns expressed by administrators and parents concerned the impact of the new State funding formula. Participants stated that funding for special education would be reduced and placements in separate programs run by the County Board of Mental Retardation and Developmental Disability would increase because funds were available for those programs to provide needed services. Participants also expressed concern about the lack of services provided to students with disabilities in local juvenile detention centers and to students in adult local jails. Parents and representatives from Ohio's Protection and Advocacy organization told OSEP that the State complaint system is perceived as ineffective because they believe that decisions are made in favor of the district, and corrective actions, when ordered, are either ineffective or unenforced. Participants agreed that mediation is excellent, but many districts refuse it, and due process is too expensive for most parents. Participants also stated that ODE should provide more training to regular education teachers and administrators, and stronger enforcement to school districts. Parents and school officials praised the quality of ODE's technical assistance, adding that ODE needs to be more proactive. To investigate these issues, OSEP collected information from the review of children's records and State and local policies and procedures, and interviews of State personnel, local program administrators, teachers and parents. OSEP reviewed and analyzed the data and identified the following strengths, areas of noncompliance, areas needing further review by the State, and suggestions for improved results for children.

A. STRENGTHS

1. School Improvement Review

ODE developed the School Improvement Review process to encourage local district ownership of their own continuous improvement. A survey of school districts monitored during the 1996-97 school year indicated that 83% (66 of 80) of the districts surveyed believed that the on-site process was effective in assisting them to make positive changes in improving services for students with disabilities.

B. AREAS OF NONCOMPLIANCE

1. Effective Methods for Identifying and Correcting Deficiencies in Programs Providing Services to Children With Disabilities

Section 300.600(a)(2) requires States to ensure that each educational program for children with disabilities administered within the State is under the general supervision of the persons responsible for educational programs for children with disabilities in the State education agency. One method that the State must utilize to ensure its general supervision over educational programs to children with disabilities is the effective utilization of a monitoring system.

OSEP finds that ODE has made improvements in its monitoring system by being proactive in helping school districts to self-identify areas of need and address those areas of need through specific action plans. This activity assists school districts to come into compliance before ODE completes its monitoring review. OSEP further finds that ODE has not yet implemented a

system that is effective in identifying deficiencies and in ensuring that the correction of deficiencies that it has identified through monitoring.

OSEP visited nine sites that ODE had monitored and to which ODE had issued reports with corrective actions. ODE monitored three of the nine sites during the 1997-98 and 1998-99 school years using its revised monitoring system. The remaining sites were monitored during school years 1990-1991, 1991-1992, 1993-1994, and 1995-1996 using various processes. OSEP reviewed ODE's monitoring reports and corrective action requirements for the nine sites. At the time of OSEP's review, corrective actions had been completed in seven of the nine sites OSEP visited.

As discussed below, OSEP found that ODE's monitoring system is not always effective in determining whether school districts meet Part B compliance requirements, and does not ensure that deficiencies that it has identified during its monitoring, are corrected.

OSEP collected data and compared it with the results of ODE's monitoring of the same seven sites in which corrective actions were completed. OSEP found some of the same compliance issues identified by ODE. Therefore, identified problems remain uncorrected in the following areas: 1) psychological counseling and other behavior interventions, strategies, and supports; 2) availability of speech, occupational and physical therapy; 3) supports and services provided to children with disabilities in the regular class setting; 4) extended school year services; and 5) statement of transition service needs beginning at age 16 (or younger, if appropriate).

OSEP also finds that ODE's monitoring procedures were not sufficient to ensure compliance with all Part B requirements. As noted above in Section VII and Section VIII of this Report, OSEP found that in three school districts monitored over the last two years using ODE's revised monitoring procedures, that ODE did not identify noncompliance identified by OSEP in the following areas: 1) Making a free appropriate public education available by the child's third birthday; 2) Considering and providing needed extended school year services; 3) Making available the full continuum of alternative placements; 4) Providing opportunities to participate with nondisabled children in nonacademic and extracurricular activities; and 5) Including in the student's IEP, a statement of transition service needs beginning at age 14 (or younger if appropriate). Also, none of the three monitoring reports that ODE issued for these districts (after IDEA '97 went into effect), included information on transition service needs beginning at age 14 (or younger, if appropriate).

OSEP visited three preschool sites that the Division of Early Childhood Education monitored and issued a report and corrective actions. At the time of OSEP's visit, corrective actions had been completed in two of the three sites. The third site was in the process of completing activities to correct noncompliance according to its approved corrective action plan.

The Division of Early Childhood Education identified noncompliance with the provision of extended school year services in two of the three sites OSEP visited. OSEP visited the same three sites and found that extended school year services were not offered in the district where the Division of Early Childhood Education did not identify noncompliance with this requirement.

OSEP also found that extended school year services were not considered and not provided in one of the districts where the Division of Early Childhood Education identified the problem but determined that it had been corrected through corrective actions.

ODE special education administrators informed OSEP that the Division of Special Education had 12 unfilled vacancies. They acknowledged that this serious staff shortage made it very difficult to implement ODE's monitoring and complaint resolution systems, seriously limiting, for example, the extent to which ODE could conduct on-site follow-up visits to ensure that public agencies have corrected identified noncompliance.

2. Content of Procedural Safeguards Notice

Section 300.504(b) requires that the procedural safeguards notice include a full explanation of all the procedural safeguards available under §§ 300.403, 300.500-300.529, and 300.560-300.577, and the State complaint procedures available under §§300.660-300.662.

In order to meet the content requirements of §300.504(b), ODE's Division of Early Childhood Education provides the parents of children aged three through five in their program, with a brochure that includes an abbreviated statement of procedural safeguards. OSEP examined the brochure and found that it was incomplete. For example, it was not updated to include all the applicable provisions under IDEA '97, such as an explanation of the State complaint procedures.

ODE's Division of Special Education has developed a model document, entitled, "Whose IDEA Is It?" that public agencies may choose to use to provide procedural safeguards notice to parents of children aged 6 through 21. As noted above in the "Areas of Strength" in this section, ODE has worked with a diverse group of stakeholders over several months to develop a user-friendly document. Although that document does address most of the content requirements at §300.504(b) in language that is easy to understand, the document does not yet completely address all of the required content. OSEP is continuing to work with ODE to ensure that document meets the requirements of §300.504(b).

3. Complaint Management

a) Complaint Procedures

As set forth in §§300.660- 300.662, ODE is required to have written procedures for resolving any complaint, including a complaint filed by an organization or individual from another State. As discussed below, OSEP found that ODE's complaint management procedures do not include all of the provisions required by Part B, or the additional provisions in the regulations implementing IDEA '97. ODE is currently in the process of revising and updating its complaint procedures.

ODE does not have written complaint procedures for: 1) Resolving complaints by an organization or individual from another State; 2) Resolving complaints alleging a public agency's failure to implement a due process decision; and 3) Effective implementation of the State

education agency's final decision, such as technical assistance, negotiations and corrective actions.

b) Complaint Timelines and Extensions

Section 300.661(a) requires State education agencies to investigate complaints, including an on-site investigation if necessary, and issue a written decision within 60-days of the date a complaint is filed. 34 CFR §300.661(b) permits extensions of this timeline only if exceptional circumstances exist with regard to a particular complaint.

A review of ODE's complaint logs from January 1998 to September 1999, a total of 107 complaints, showed that 52 complaints were resolved within the 60-day timeline, and 55 were resolved beyond the 60-day timeline. Nine of the 55 complaints were overdue with no extensions granted. While 46 complaints were granted extensions, ODE granted extensions in situations that were not exceptional circumstances with regard to a particular complaint. Eight extensions were granted when complainants filed additional issues, resulting in written decisions as late as 120 days from the date of filing. ODE's complaint procedures automatically treat additional issues added to the complaint as a reason for an extension and provide that an investigator may either treat the new issues as a new complaint or may add 60 days to the initial timeline. ODE has informed OSEP that it will revise its procedures to eliminate this blanket extension.

c) Complaint Letters of Findings

As set forth in 34 CFR §300.661 (a)(4), ODE must issue written decisions that address each allegation of a violation of Part B. In addition, §300.660(b) requires ODE, in resolving a complaint in which it has found a failure to provide appropriate services, to address the remediation of the denial of those services and the appropriate future provision of services for all children with disabilities.

OSEP reviewed, in detail, 12 complaints and their written decisions chosen at random. Eight of these written decisions failed to address all of the allegations raised in the complaints. For example, in one letter the complainant raised the following issues: 1) a request for evaluation was ignored; 2) an IEE was not considered by IEP team; 3) parents were excluded from meetings pertaining to their child's eligibility and evaluations; 4) parents were not given their notice of procedural safeguards; and 5) the school would not administer their child's medications. Allegations "2" and "5" were not addressed. In another example, the complaint letter contained 11 allegations of violations involving two different local educational agencies. More than half of the allegations were not addressed. The written decision omitted allegations that the public agency violated a requirement of Part B that occurred less than a year before the complaint was filed, such as: 1) there was a three month delay between the IEP and implementation, 2) while the child was hospitalized, he was evaluated and an IEP written without the parent's knowledge or consent; 3) the child was not evaluated for the suspected disability; 4) an IEP was improperly written and not individualized; 5) the same IEP was used for more than one year; and, 6) home instruction was delivered without an IEP.

ODE's written decisions did not address the remediation of findings of a denial of services as required by §300.660(b)(1). Although ODE identified denials of services, there were no corrective actions noted in the letters of findings. Also not addressed in the letters of finding were the appropriate future provision of services to all children with disabilities. Three written decisions contained corrective action plans, but did not include timelines for their completion. ODE staff informed OSEP, during OSEP's monitoring visit, that it does not follow up on whether corrective action plans have been completed.