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

DIRECTOR

October 4, 2024

By Email

Honorable Jhone Ebert
State Superintendent of Public Instruction
Nevada Department of Education
700 East 5th Street
Carson City, Nevada 89701

Email: jebert@doe.nv.gov

Dear Superintendent Ebert:

The purpose of this monitoring report is to provide a summary of the results of the Differentiated Monitoring and Support (DMS) activities conducted by the U.S. Department of Education's (the Department's) Office of Special Education Programs (OSEP). As part of the DMS process, States are monitored on their general supervision systems which encompass States' responsibilities to ensure that States and their subgrantees and contractors meet the requirements of the Individuals with Disabilities Education Act (IDEA or the Act). Those requirements include: 1) Improving educational results and functional outcomes for all infants, toddlers, children, and youth with disabilities; and 2) Ensuring that public agencies meet the program requirements under Parts B and C of IDEA, with a particular emphasis on those requirements that are most closely related to improving educational results for infants, toddlers, children, and youth with disabilities. During the DMS process¹ OSEP examined the State's policies and procedures and State-level implementation of these policies and procedures regarding the following monitoring priorities and components of general supervision:

- Monitoring and Improvement
- Data including the State Performance Plan/Annual Performance Report (SPP/APR)
- Fiscal Management: Subrecipient Monitoring
- Dispute Resolution
- Significant Disproportionality

This DMS monitoring report summarizes OSEP's review of IDEA Part B requirements regarding these monitoring priorities and components. OSEP conducted virtual interviews with representatives from the State's educational agency (SEA), the Nevada Department of Education (NDE), during October and November 2023. The interviews included staff from the Office of Inclusive Education (OIE), OIE's Dispute Resolution Team, OIE's Fiscal Management Office, and OIE's IDEA Part C to B Transition Team. In addition to staff interviews, OSEP reviewed publicly available information, policies and procedures, and other related documents NDE

¹ For additional information on DMS, see [Resources for Grantees — DMS](#).

submitted to this office. Finally, OSEP solicited feedback from various groups of parents, the public, and local level staff in order to gather a broad range of perspectives on the State's system of general supervision.

Based on its review of available documents, information, and interviews conducted, OSEP has identified three findings of noncompliance with IDEA requirements, and two recommendations, described in further detail in the monitoring report, including any required actions.

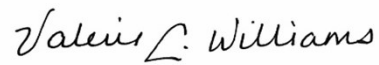
Finally, OSEP has not identified any noncompliance with the monitoring and improvement and data components, therefore these sections are not included in the narrative below. For the significant disproportionality component, OSEP has also included a recommendation for the State's consideration. OSEP's review of monitoring priorities and components of general supervision did not examine the implementation of the IDEA requirements by all local educational agencies (LEAs) within your State, and OSEP cannot determine whether the State's systems are fully effective in implementing these requirements without reviewing data at the local level.

Summary of Monitoring Priorities and Outcomes

MONITORING COMPONENT	FINDINGS SUMMARY
1. Fiscal Management: Subrecipient Monitoring	<p>1.1 OSEP finds that the State does not have a reasonably designed general supervision system, including policies and procedures, for subrecipient monitoring and fiscal management, consistent with 2 C.F.R. §§ 200.332(b), (d)-(f) and (h), 200.339, and 34 C.F.R. §§ 300.149, 300.600 through 602, and 300.604.</p> <p>1.2 OSEP finds that the State's grant award notifications (GANs) do not include the required information consistent with the requirements in 2 C.F.R. § 200.332(a).</p>
2. Dispute Resolution	<p>2.1 OSEP finds that the State does not have mechanisms in place to ensure due process hearing decisions are implemented within the timeframe prescribed by the hearing officer, or if there is no timeframe prescribed by the hearing officer, within a reasonable time set by the State as required by 34 C.F.R. §§ 300.149, 300.511 through 300.514, and 300.600.</p>

OSEP appreciates the State's continued efforts to improve the implementation of IDEA Part B and the development and implementation of a reasonably designed general supervision system which ensures compliance and improving results for students with disabilities. OSEP notes that having a consistent and transparent system for identifying and correcting noncompliance, particularly noncompliance that impacts the delivery of special education and related services in accordance with individualized education programs, and dispute resolutions systems that protect the rights of parents, are essential elements to ensuring improved results for children and youth with disabilities. If you have any questions, please contact your OSEP State Lead.

Sincerely,

A handwritten signature in black ink that reads "Valerie C. Williams". The signature is written in a cursive style with a large, stylized "V" and "W".

Valerie C. Williams

cc: Part B State Director

Enclosure:

DMS Monitoring Report
Appendix

FISCAL MANAGEMENT

Legal Requirements	Noncompliant Policy, Procedure or Practice and OSEP Analysis	OSEP Conclusion/Finding	Next Steps/Required Actions
<p>1.1 Subrecipient Monitoring</p> <p>Under IDEA Part B and the Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (OMB Uniform Guidance),² SEAs are responsible for oversight of the operations of OMB Uniform Guidance at 2 C.F.R. § 200.332(d)–(f) and (h), and IDEA Part B in 34 C.F.R. §§ 300.149, 300.600 through 602, and 300.604.</p> <p>See also OSEP’s Question and Answer document 23-01, State General Supervision Responsibilities under Parts B and C of the IDEA: Monitoring, Technical Assistance, and Enforcement (July 24,</p>	<p><i>The State does not have a fiscal monitoring process that meets the fiscal monitoring requirements under IDEA and the OMB Uniform Guidance, consistent with 2 C.F.R. §§ 200.332, 200.339, 200.303, and 34 C.F.R. §§ 300.149, 300.600, and 300.604.</i></p> <p>Based upon the information provided by NDE, the State has policies and procedures for implementing a risk assessment as required under 2 C.F.R. § 200.332(b). However, NDE has not demonstrated that it has policies and procedures or implemented a system for fiscal monitoring of its subrecipients in accordance with 2 C.F.R. § 200.332(d).</p> <p>NDE provided copies to OSEP of completed fiscal risk assessments that were provided to its LEAs. The risk assessments are labeled, Financial Subrecipient Monitoring Reports (see for example, the report for Mineral County School District). As a result of the State’s risk assessments, NDE does issue corrective action plans (CAPs). The CAPs, however, do not identify noncompliance with specific IDEA or crosscutting fiscal requirements; rather the CAPs include <i>identified deficiencies</i>. For example, one district, included the following <i>identified deficiency</i> related to the development of financial management policies:</p>	<p>OSEP’s analysis is based on the documents and information provided by the State and interviews with State staff and other interested parties. Based on this analysis, OSEP finds that:</p> <p>The State does not have a reasonably designed general supervision system, including policies and procedures, for subrecipient monitoring and fiscal management, consistent with 2 C.F.R. §§ 200.332(b), (d)–(f) and (h), 200.339, and 34 C.F.R. §§ 300.149, 300.600 through 602, and 300.604.</p>	<p>Policies and Procedures—within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> 1. Policies and procedures for fiscal monitoring of IDEA Part B and the OMB Uniform Guidance requirements, consistent with 2 C.F.R. §§ 200.332(b), (d)–(f) and (h) and 200.339, and 34 C.F.R. §§ 300.149, 300.600 through 300.602, and 300.604. <p>The following requirements are examples of topics that could be included in fiscal monitoring policies and procedures:</p> <ul style="list-style-type: none"> • Allowable costs consistent with 2 C.F.R. § 200.403(a) and (g);

² In 2024, OMB released an updated 2 C.F.R. Part 200 (still referred to as the OMB Uniform Guidance). While the effective date for the revised OMB Uniform Guidance is generally Oct. 1, 2024, IDEA grant recipients may utilize the flexibilities in the 2024 OMB Uniform Guidance beginning on July 1, 2024. See, <https://www2.ed.gov/about/offices/list/fo/oaga/uniformguidancefaqs.pdf>.

Legal Requirements	Noncompliant Policy, Procedure or Practice and OSEP Analysis	OSEP Conclusion/Finding	Next Steps/Required Actions
<p>2023) (OSEP QA 23-01), Questions A-6, and B-4 through B-6.</p> <p>See Appendix for a listing of additional legal requirements.</p>	<p>[The School District] requires more robust financial management policies for the purposes of documenting policies and procedures related to the daily management of the district’s federal funds.</p> <p>The State’s CAP continued with an additional <i>identified deficiency</i> regarding development of internal control activities:</p> <p>[The School District] requires more robust internal controls for the purposes of securing the integrity of financial and accounting information, and specific controls are necessary responsive to audit findings 22-01, 22-02, 22-03, 22-04, 22-05, 22-06, and 22-07.</p> <p>The CAPs also do not include applicable IDEA-related Federal requirements or those included in the OMB Uniform Guidance in 2 C.F.R. Part 200. As a result, the CAPs do not constitute an identification of noncompliance (i.e., a finding) as required by 34 C.F.R. § 300.600(e). Further, although the State informs their LEAs in writing through their CAPs, their notice does not make clear the identified noncompliance, or contain the required elements, as required by 34 C.F.R. § 300.149 and OSEP QA 23-01 Question B-6. See also OSEP’s QA 23-01, Questions B-4 and B-5.</p> <p>Fiscal monitoring includes a review of whether or not the subrecipient meets a selection of the OMB Uniform Guidance and IDEA fiscal requirements. Despite it being labeled fiscal monitoring, NDE provided a risk assessment, addressing important risk factors, but their fiscal monitoring does not evaluate</p>		<ul style="list-style-type: none"> • Time and Effort charges for personnel duties consistent with 2 C.F.R. § 200.430(b); • Records and Information management to ensure fiscal records are maintained in compliance with 2 C.F.R. §§ 200.303(e), 200.334, and 200.336; • Equipment and inventory of items purchased using Federal IDEA Part B funds consistent with 2 C.F.R. §§ 200.313 and 200.314; and • The activities carried out in implementing CEIS under 34 C.F.R. § 300.226. <p>Evidence of Implementation—as soon as possible, but no later than one year from the date of this letter:</p> <ol style="list-style-type: none"> 1. Evidence that the State has policies and procedures in effect and

Legal Requirements	Noncompliant Policy, Procedure or Practice and OSEP Analysis	OSEP Conclusion/Finding	Next Steps/Required Actions
	<p>the LEAs' compliance with applicable IDEA requirements, or any specific IDEA grant award terms or conditions as required by 2 C.F.R. §§ 200.332(b), (d)-(f) and (h), 200.339, and 34 C.F.R. §§ 300.149, 300.600 through 602, and 300.604.</p>		<p>being implemented in compliance with the fiscal monitoring requirements, as described under the corrective action for policies and procedures above.</p> <p>Examples of evidence could include completed fiscal monitoring reports, checklists or other tools developed by the State to document fiscal monitoring activities, and any letters of findings and documentation to verify the correction of any noncompliance that the State has developed and implemented.</p>
<p>1.2 Grant Award Notifications</p> <p>Under 2 C.F.R. § 200.332(a), all pass-through entities must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes information as specified by 2 C.F.R. § 200.332(a)(1)(i)-</p>	<p><i>The State's Grant Award Notifications (GANs) do not include all of the information required by the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit requirements for Federal Awards (OMB Uniform Guidance).</i></p> <p>The State's GANs do not include all of the information required by the OMB Uniform Guidance, consistent with 2 C.F.R. § 200.332(a). Prior to the monitoring visit, NDE submitted to OSEP, GANs for</p>	<p>OSEP's analysis is based on the documents and information provided by the State, and interviews with State staff and other interested parties. Based on this analysis, OSEP finds that:</p> <p>The State's GANs do not include the required</p>	<p>Evidence of Implementation—within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> 1. Evidence of revised IDEA GANs that include all the information as required by

Legal Requirements	Noncompliant Policy, Procedure or Practice and OSEP Analysis	OSEP Conclusion/Finding	Next Steps/Required Actions
<p>(xiii), at the time of the subaward, and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. <i>Id.</i> at 2 C.F.R. § 200.332(a).</p> <p>See Appendix for a listing of additional legal requirements.</p>	<p>State fiscal year (SFY) 2023. In December 2023, NDE submitted GANs for SFY 2023 and SFY 2024.</p> <p>In the sample GANs provided to OSEP prior to the monitoring visit, OSEP identified that the following required elements were not included, or improperly included, on the GAN document:</p> <ol style="list-style-type: none"> 1. Subaward Period of Performance Start and End Date, which does not include the Tydings period. 2 C.F.R. § 200.332(a)(1)(v); and 2. The budget period for Federal fiscal year (FFY) 2023 is listed as June 30, 2022, which is outside the award period. 2 C.F.R. § 200.332(a)(1)(vi). 	<p>information consistent with the requirements in 2 C.F.R. § 200.332(a).</p> <p>Specifically, OSEP’s review found that the State’s GANs did not include, or improperly included, the following required elements:</p> <ol style="list-style-type: none"> 1. Subaward Period of Performance Start and End Date, which does not include the Tydings period. 2 C.F.R. § 200.332(a)(1)(v); and 2. The budget period for FFY 2023 is listed as June 30, 2022, which is outside the award period. 2 C.F.R. § 200.332(a)(1)(vi). 	<p>2 C.F.R. §§ 200.332(a)(1)(v) and 200.332(a)(1)(vi).</p>

DISPUTE RESOLUTION

Legal Requirements	Noncompliant Policy, Procedure or Practice and OSEP Analysis	OSEP Conclusion/Finding	Next Steps/Required Actions
<p>2.1 Implementation of Hearing Officer Decisions</p> <p>Under 34 C.F.R. §§ 300.511 through 300.514, due process hearing decisions must be implemented within the timeframe prescribed by the hearing officer, or if there is no timeframe prescribed by the hearing officer, within a reasonable timeframe set by the State. The SEA, pursuant to its general supervisory responsibility under 34 C.F.R. §§ 300.149 and 300.600, must ensure that the public agency involved in the due process hearing implements the hearing officer's decision in a timely manner, unless either party appeals the decision. See Appendix for a listing of additional legal requirements.</p>	<p><i>The State is not, pursuant to its general supervisory responsibility under 34 C.F.R. §§ 300.149 and 300.600, ensuring that the public agency involved in the due process hearing, implements the hearing officer's decision in a timely manner, unless either party appeals the decision.</i></p> <p>At the time of OSEP's monitoring visit, NDE acknowledged that it did not have a formal mechanism in place to ensure that hearing decisions are implemented in a timely manner. NDE reported that it had recently revised its current tracking system to ensure that LEAs involved in the due process hearing are implementing the hearing officer decision, in accordance with timelines and actions required in the hearing officer's order. NDE did not provide evidence of this revised tracking system and indicated that implementation of the revised tracking system will occur moving forward.</p> <p>To ensure that children with disabilities are provided a free appropriate public education without undue delay, due process hearing decisions must be implemented within the timeframe prescribed by the hearing officer, or if there is no timeframe prescribed by the hearing officer, within a reasonable timeframe consistent with 34 C.F.R. §§ 300.511 through 300.514, unless either party appeals the decision.</p>	<p>OSEP's analysis is based on the documents and information provided by the State and interviews with State staff and other interested parties. Based on this analysis, OSEP finds that:</p> <p>The State does not have mechanisms in place to ensure due process hearing decisions are implemented within the timeframe prescribed by the hearing officer, or if there is no timeframe prescribed by the hearing officer, within a reasonable time set by the State as required by 34 C.F.R. §§ 300.149, 300.511 through 300.514, and 300.600.</p> <p>Specifically, the State has not provided evidence that its revised IDEA hearing decision tracking system has been implemented.</p>	<p>Policies and Procedures—within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> Revised policies and procedures which demonstrate that the State has a mechanism to: <ol style="list-style-type: none"> Track the implementation of the due process hearing decisions; and Monitor LEAs to ensure due process hearing decisions are implemented within the timeframe prescribed by the hearing officer, or if there is no timeframe prescribed by the hearing officer, within a reasonable timeframe set by the State in accordance with the requirements in 34 C.F.R. §§ 300.149,

Legal Requirements	Noncompliant Policy, Procedure or Practice and OSEP Analysis	OSEP Conclusion/Finding	Next Steps/Required Actions
			<p>300.511 through 300.514, and 300.600.</p> <p>Evidence of Implementation—as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> 1. Evidence of training for LEA personnel on the updated policies and procedures described above. 2. Evidence of the implementation of the revised tracking system for documenting the implementation of hearing officer decisions.

RECOMMENDATIONS
<p>Dispute Resolution</p> <p>Based on a review of documentation and interviews with State staff, OSEP is concerned that NDE has not developed State-specific resources (e.g., guides or manuals) to inform parents and the public of their IDEA dispute resolution rights. Based on a review of the State’s website, NDE’s procedural safeguard document is the only public-facing State document that informs parents of their IDEA dispute resolution rights. While the State’s procedural safeguard document meets the requirements in 34 C.F.R. § 300.504, the document addresses a broad range of topics, in addition to dispute resolution. The remaining manuals on NDE’s website that address dispute resolution options are linked from the Center for Appropriate</p>

RECOMMENDATIONS

Dispute Resolution in Special Education’s (CADRE) website. CADRE, an OSEP-funded Technical Assistance Center, provides support to States regarding IDEA dispute resolution requirements. The guides and manuals on CADRE’s website are general resources that do not include State-specific information. While CADRE’s guides are informative, they should be a supplement to State-developed guides, and not a substitute. Relying solely on CADRE’s manuals and guides could potentially mislead parents and the public in the State as those guides do not include State-specific information such as appeals for State complaints and due process complaints and the 2022 Nevada Revised Statute (NRS) § 388.467, which places the burden of proof and production on the LEA even if a parent files a due process complaint.

Additionally, the State’s procedural safeguard notice does not include its burden of proof provision found at NRS § 388.467, although NDE has reported NRS § 388.467 as one of its State-imposed rules in its FFY 2022 IDEA grant application. A Nevada parent may remain unaware of the State’s due process burden of proof provision if they are relying solely on the State’s procedural safeguards and the guides on CADRE’s website. Consequently, a parent may elect to not file a due process complaint, because that parent believes that they bear the burden of proof and production.

OSEP recommends that NDE develop State-specific dispute resolution guides and manuals for parents and the public. Additionally, the State should amend its procedural safeguards document to include the State’s burden of proof provision pursuant to NRS § 388.467.

SIGNIFICANT DISPROPORTIONALITY

Legal Requirements	Recommendations
<p>Significant Disproportionality</p> <p>Under 34 C.F.R. § 300.646, States are required to collect and examine data to determine whether significant disproportionality based on race and ethnicity is occurring in the State and LEAs of the State with respect to the identification of children as children with disabilities, including identification as children with particular impairments; the placement of children in particular educational settings; and the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.</p> <p>Where significant disproportionality is occurring, the State must provide for the annual review, and, if appropriate, revision of policies, procedures, and practices used in the identification, placement, or discipline of a child with a disability to ensure that they comply with the requirements of IDEA; require the LEA to publicly report on the revision of policies, practices, and procedures; and require the LEA to reserve 15 percent of its IDEA Part B funds to provide Comprehensive Coordinated Early Intervening Services (CCEIS) to identify and address the factors contributing to the significant disproportionality.</p>	<p><i>LEA review of policies, procedures, and practices, and use of CCEIS funds.</i></p> <p>During the DMS activities, OSEP reviewed the State’s documents addressing the implementation of the significant disproportionality requirements. In the State’s, Significant Disproportionality Technical Assistance Manual, NDE gives each LEA discretion to determine the most useful approach to conduct the required policies, procedures, and practices review, depending in part upon the nature of the significant disproportionality that has been identified. NDE also provided a CCEIS report, which was completed by an LEA identified with significant disproportionality. The report included a summary of the LEA’s root cause analysis, process for reviewing policies, procedures, and practices, and CCEIS budget and activities. During engagement the State explained it does not review this report until the CCEIS activities have been completed. The State, therefore, does not collect evidence or review the LEA’s review of policies and procedures, root cause analysis or expenditure of CCEIS funds until the year has concluded and the CCEIS funds have been expended. During discussions NDE acknowledged that reviewing these activities on the “front end” of the process would be more useful and provide better supervision over implementation of the regulatory requirements.</p> <p>Under 34 C.F.R. § 300.646(d)(1), LEAs identified with significant disproportionality must identify and address the factors contributing to the significant disproportionality. This requirement is fundamental to the use of CCEIS funds because it carries with it a practical limitation: an LEA may use CCEIS funds for training and professional development and behavioral evaluations and supports, but only to the extent that it is doing so to address the factors identified by the LEA as contributing to the significant disproportionality identified by the State. See Question C-3-3 of IDEA Part B Regulations-Significant Disproportionality (Equity in IDEA): Essential Questions and Answers (March 2017). Given that NDE is not involved in the implementation of these requirements until the CCEIS activities have been completed, OSEP recommends that NDE consider additional oversight of the implementation of LEAs’ CCEIS plans to ensure the reserved funds are spent in a timely and appropriate manner and that LEAs use these funds to address the factors they identified which contribute to significant disproportionality.</p>

APPENDIX

Monitoring and Improvement Legal Requirements

In order to effectively monitor the implementation of IDEA Part B, the State must have policies and procedures that are reasonably designed to ensure that the State can meet:

1. Its general supervisory responsibility as required in 34 C.F.R. § 300.149;
2. Its monitoring responsibilities in 34 C.F.R. §§ 300.600 through 300.602; and
3. Its responsibility to annually report on the performance of the State and of each LEA, as provided in 34 C.F.R. § 300.602(b)(1)(i)(A) and (b)(2).

A State's monitoring responsibilities include monitoring its LEAs' compliance with the requirements of IDEA Part B underlying the SPP/APR indicators, to ensure that the SEA can effectively carry out its general supervision responsibility under IDEA Part B, consistent with 34 C.F.R. § 300.149(a).

Under 34 C.F.R. § 300.600(b), the State's monitoring activities must primarily focus on:

1. Improving educational results and functional outcomes for all children with disabilities, and
2. Ensuring that public agencies meet the program requirements under IDEA Part B, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

In exercising its monitoring responsibilities under 34 C.F.R. § 300.600(d), the State also must ensure that when it identifies noncompliance with IDEA Part B requirements by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance. 34 C.F.R. § 300.600(e).

Further, under 34 C.F.R. § 300.149(b), the State must have in effect policies and procedures to ensure that it complies with the monitoring and enforcement requirements in 34 C.F.R. §§ 300.600 through 300.602 and 300.606 through 300.608.

In addition, under 34 C.F.R. § 300.600(a)(1), the State must monitor the implementation of IDEA Part B, and under 34 C.F.R. § 300.600(a)(4) must report annually on the performance of the State and each LEA on the targets in the State's Performance Plan. As a part of its monitoring responsibilities under these provisions, the State must use quantifiable and qualitative indicators in the priority areas identified in 34 C.F.R. § 300.600(d) and the SPP/APR indicators established by the Secretary, consistent with 34 C.F.R. § 300.600(c). Each State also must use the targets established in the State's performance plan under 34 C.F.R. § 300.601 and the priority areas described in 34 C.F.R. § 300.600(d) to analyze the performance of each LEA. 34 C.F.R. § 300.602.

Data Legal Requirements

To meet the data reporting requirements of IDEA Sections 616 and 618, and 34 C.F.R. §§ 300.601(b) and 300.640 through 300.646, the State must have a data system that is reasonably designed to collect and report valid and reliable data and information to the Department and the public in a timely manner and ensure that the data collected and reported reflects actual practice and performance.

Fiscal Management Legal Requirements

Under IDEA and the OMB Uniform Guidance, SEAs are responsible for oversight of the operations of IDEA-supported activities. Each SEA must monitor its own activities, and those of its LEAs, to ensure compliance with applicable Federal requirements and that performance expectations are being achieved. Specifically, the SEA must ensure that every subaward is clearly identified to the subrecipient as a subaward and includes required information at the time of the subaward. 2 C.F.R. § 200.332(a). The SEA also must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring. 2 C.F.R. § 200.332(b). The monitoring activities must ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. 2 C.F.R. § 200.332(d); also see 34 C.F.R. §§ 300.149 and 300.600. In addition, the SEA must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward, for the purposes of determining the appropriate subrecipient monitoring. 2 C.F.R. § 200.332(b). The SEA's monitoring activities also must verify that every subrecipient is audited in accordance with the OMB Uniform Guidance and must consider enforcement actions against noncompliant subrecipients as required under the OMB Uniform Guidance and IDEA. 2 C.F.R. §§ 200.339 and 200.332(f) and (h); 34 C.F.R. §§ 300.149, 300.600, and 300.604. Further, under 2 C.F.R. § 200.303, the SEA must establish effective internal controls that provide reasonable assurance of compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, and the SEA must monitor its compliance with the requirements of the Federal award.

Dispute Resolution Legal Requirements

The State must have reasonably designed dispute resolution procedures and practices if it is to effectively implement:

1. The State complaint procedures requirements in 34 C.F.R. §§ 300.151 through 300.153;
2. The mediation requirements in 34 C.F.R. § 300.506; and
3. The due process complaint and impartial due process hearing and expedited due process hearing requirements in 34 C.F.R. §§ 300.500, 300.507 through 300.518 and 300.532.

Mediation

Under 34 C.F.R. § 300.506(a), each SEA must ensure that procedures are established and implemented to allow parties to dispute involving any matter under this part, including matters arising prior to the filing of a due process complaint, to resolve disputes through a mediation process. Under 34 C.F.R. § 300.506(b)(1), the State's procedures must ensure that the mediation process:

1. Is voluntary on the part of the parties;
2. Is not used to deny or delay a parent's right to a hearing on the parent's due process complaint, or to deny any other rights afforded under IDEA Part B; and
3. Is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

Under 34 C.F.R. § 300.506(c)(1)(i)–(ii), an individual who serves as a mediator may not be an employee of the SEA or the LEA that is involved in the education or care of the child and must not have a personal or professional interest that conflicts with the person's objectivity.

State Complaint Procedures

Under 34 C.F.R. § 300.151, each SEA must adopt written procedures for resolving any complaint, including a complaint filed by an organization or individual from another State, that meets the requirements of 34 C.F.R. § 300.153. Under 34 C.F.R. § 300.153, the complaint, among other requirements, must be signed and written and contain a statement alleging that a public agency has violated a requirement of Part B of the Act or the Part B regulations, including the facts on which the statement is based. Under 34 C.F.R. § 300.153(c), the complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received. Under 34 C.F.R. § 300.152(a), the minimum State complaint procedures must include a time limit of 60 days after the complaint is filed to:

1. Carry out an on-site investigation, if the SEA determines that an investigation is necessary;
2. Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;
3. Provide the public agency with the opportunity to respond to the complaint, including, at a minimum—
 - a. At the discretion of the public agency, a proposal to resolve the complaint; and
 - b. An opportunity for a parent who has filed a complaint and the public agency to voluntarily engage in mediation consistent with 34 C.F.R. § 300.506;
4. Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of IDEA Part B or of this part; and
5. Issue a written decision to the complainant that addresses each allegation in the complaint and contains—
 - a. Findings of fact and conclusions; and
 - b. The reasons for the SEA's final decision.

Under 34 C.F.R. § 300.152(b)(1), the State's procedures must permit an extension of the 60-day time limit only if:

1. Exceptional circumstances exist with respect to a particular complaint, or
2. The parent (or individual or organization, if mediation or other alternative means of dispute resolution is available to the individual or organization under State procedures) and the public agency involved agree to extend the time to engage in mediation under 34 C.F.R. § 300.152(a)(3)(ii), or to engage in other alternative means of dispute resolution, if available in the State.

Due Process Complaint and Hearing Procedures: Resolution Process

Under 34 C.F.R. § 300.510(a), the LEA must convene a resolution meeting within 15 days of receiving notice of the parent's due process complaint, and prior to the initiation of a due process hearing under 34 C.F.R. § 300.511. Under 34 C.F.R. § 300.510(a)(3), the resolution meeting need not be held if the parent and the LEA agree in writing to waive the meeting; or the parties agree to use the mediation process described in 34 C.F.R. § 300.506.

Under 34 C.F.R. § 300.510(b)(1), if the LEA has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the due process complaint, the due process hearing may occur. Under 34 C.F.R. § 300.510(c), the 30-day resolution period may be adjusted to be shorter or longer if one of the circumstances identified in that paragraph are present. Under 34 C.F.R. § 300.515(a), the public agency must

ensure that not later than 45 days after the expiration of the 30-day resolution period under 34 C.F.R. § 300.510(b), or the adjusted time periods described in 34 C.F.R. § 300.510(c), a final decision is reached in the hearing; and a copy of the decision is mailed to the parties, unless, under 34 C.F.R. § 300.515(c), a hearing officer grants a specific extension of the 45-day timeline at the request of either party.

Expedited Due Process Complaint and Hearing Procedures

Under 34 C.F.R. § 300.532(a), the parent of a child with a disability who disagrees with any decision regarding placement under 34 C.F.R. §§ 300.530 and 300.531, or the manifestation determination under 34 C.F.R. § 300.530(e), or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to 34 C.F.R. §§ 300.507 and 300.508(a) and (b). Under 34 C.F.R. § 300.532(c)(1), whenever a hearing is requested under 34 C.F.R. § 300.532(a), the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of 34 C.F.R. §§ 300.507, 300.508(a) through (c), and 34 C.F.R. §§ 300.510 through 300.514, except as provided in 34 C.F.R. § 300.532(c)(2) through (4). Under 34 C.F.R. § 300.532(c)(2), the SEA or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the due process complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.

Under 34 C.F.R. § 300.532(c)(3), a resolution meeting must occur within seven days of receiving notice of the due process complaint, unless the parties agree in writing to waive the meeting or agree to use mediation. Under 34 C.F.R. § 300.532(c)(4), a State may establish different procedural rules for expedited due process hearings than it has established for other due process hearings, but, except for the timelines as modified in 34 C.F.R. § 300.532(c)(3) (governing the resolution process), the State must ensure that the requirements in 34 C.F.R. §§ 300.510 through 300.514 are met.

Significant Disproportionality Legal Requirements

Under 34 C.F.R. § 300.646, States are required to collect and examine data to determine whether significant disproportionality based on race and ethnicity is occurring in the State and LEAs of the State with respect to the identification of children as children with disabilities, including identification as children with particular impairments; the placement of children in particular educational settings; and the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

Where significant disproportionality is occurring, the State must engage in a review, and, if appropriate, revision of policies, procedures, and practices used in the identification, placement, or discipline of a child with a disability to ensure that they comply with the requirements of IDEA; require the LEA to publicly report on the revision of policies, practices, and procedures; and require the LEA to reserve 15 percent of its IDEA Part B funds to provide CCEIS to identify and address the factors contributing to the significant disproportionality.

Under 34 C.F.R. § 300.646(d), any LEA identified with significant disproportionality is required to reserve the maximum amount of funds to provide CCEIS to address factors contributing to the significant disproportionality. In addition, an LEA that is required to use 15 percent of its IDEA Part B allocation on CCEIS because the SEA identified the LEA as having significant disproportionality under 34 C.F.R. § 300.646 will not be able to reduce local maintenance of effort under Sections 616(f) and 613(A)(2)(C) of the Act.

In determining whether significant disproportionality exists in a State or LEA the State must set a reasonable risk ratio threshold; reasonable minimum cell size; reasonable minimum n-size; and standard for measuring reasonable progress if a State uses the flexibility described in 34 C.F.R. § 300.647(d)(2).

34 C.F.R. § 300.647(b). These standards must be based on advice from interested parties, including State Advisory Panels, as provided under Section 612(a)(21)(D)(iii) of the Act; and are subject to monitoring and enforcement for reasonableness by the Secretary consistent with Section 616 of the Act.

Except as provided in 34 C.F.R. § 300.647(d), the State must identify as having significant disproportionality based on race or ethnicity under 34 C.F.R. § 300.646(a) and (b) any LEA that has a risk ratio or alternate risk ratio for any racial or ethnic group in any of the categories described in paragraphs 34 C.F.R. § 300.647(b)(3) and (4) that exceeds the risk ratio threshold set by the State for that category. 34 C.F.R. § 300.647(b)(6). If an LEA is identified with significant disproportionality, the State must provide for the annual review, and, if appropriate, revision of policies, procedures, and practices used in the identification, placement, or discipline of a child with a disability to ensure that they comply with the requirements of IDEA; require the LEA to publicly report on the revision of policies, practices, and procedures; and require the LEA to reserve 15 percent of its IDEA Part B funds to provide CCEIS to identify and address the factors contributing to the significant disproportionality. 34 C.F.R. § 300.646(c) and (d).

The State must report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, and standards for measuring reasonable progress selected under paragraphs 34 C.F.R. § 300.647(b)(1)(i)(A) through (D), and the rationales for each, to the Department at a time and in a manner determined by the Secretary. Rationales for minimum cell sizes and minimum n-sizes not presumptively reasonable under paragraph 34 C.F.R. § 300.647(b)(1)(iv) must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disparities, based on race and ethnicity, in the identification, placement, or discipline of children with disabilities.

Finally, under 34 C.F.R. § 300.173, the State must have in effect, consistent with the purposes of Part B of IDEA and with Section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 C.F.R. § 300.8.