

|          |                                   |
|----------|-----------------------------------|
| STATE    | COLORADO                          |
| DATE     | MAY 16, 2024                      |
| IDEA     | PART B                            |
| CONTENTS | LETTER.....1                      |
|          | MONITORING AND IMPROVEMENT .....5 |
|          | FISCAL MANAGEMENT .....9          |
|          | DISPUTE RESOLUTION .....22        |
|          | APPENDIX.....34                   |



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

DIRECTOR

**May 16, 2024**

By Email

Honorable Susana Córdova  
Commissioner of Education  
Colorado Department of Education  
201 East Colfax Avenue, Room 500  
Denver, Colorado 80203

Email: [commissioner@cde.state.co.us](mailto:commissioner@cde.state.co.us)

Dear Commissioner Córdova:

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). 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 process<sup>1</sup> 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 on-site interviews with representatives from the State educational agency (SEA), the Colorado Department of Education (CDE), including staff from CDE's Office of Special Education, in December 2023. In addition to conducting staff interviews, OSEP reviewed publicly available information, CDE's special education policies, procedures, and guidance, written monitoring procedures, monitoring protocols, risk assessment, actual monitoring reports, sample forms, and other related

---

<sup>1</sup> For additional information on DMS, see [Resources for Grantees - DMS](#).

documents submitted by CDE. Finally, OSEP solicited feedback from various groups of interested parties and local level staff 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 twelve findings of noncompliance with IDEA Part B requirements described in further detail in the monitoring report, including any required actions.

OSEP has not identified any noncompliance with the data component or with significant disproportionality, therefore these sections are not included in the narrative below. OSEP’s review of monitoring priorities and components of general supervision did not include an examination of the implementation of the IDEA Part B requirements by all Administrative Units (AUs)<sup>2</sup> 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**

| <b>MONITORING COMPONENT</b>                   | <b>FINDINGS SUMMARY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Monitoring and Improvement                 | <p>1.1 OSEP finds the State was unable to provide evidence of the implementation of the State’s responsibility for programmatic monitoring under IDEA Part B that demonstrates compliance with the monitoring and enforcement requirements in 34 C.F.R. §§ 300.149, 300.600 through 300.602, and 300.606 through 300.608.</p> <p>1.2 OSEP finds that the State has not maintained a State Advisory Panel (SAP) that meets the membership requirements under 34 C.F.R. §§ 300.167 through 300.168. Further, the State has not given the SAP an opportunity to perform all of its duties under 34 C.F.R. §§ 300.169.</p>                                                                                          |
| 2. Fiscal Management: Subrecipient Monitoring | <p>2.1 OSEP finds that the State’s grant award notifications (GANs) do not include the required information consistent with the requirements under 2 C.F.R. § 200.332(a)(1)(xi).</p> <p>2.2 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>2.3 OSEP finds that the State has not established effective internal controls that provide a reasonable assurance that the SEA is managing those awards in compliance with Federal statutes,</p> |

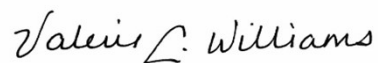
<sup>2</sup> The State’s Rules for the Administration of the Exceptional Children’s Educational Act (ECEA) defines Administrative Unit as a school district, board of cooperative services, multi-district administrative unit, a charter school network, a charter school collaborative, or the State Charter School Institute, that is providing educational services to exceptional children and that is responsible for the local administration of these Rules. In order to qualify as an administrative unit, an entity shall meet all minimum standards established in Section 3.01 of these Rules. All administrative units shall be approved by the Department of Education.

| MONITORING COMPONENT  | FINDINGS SUMMARY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                       | <p>regulations, and the terms and conditions of those IDEA Part B awards consistent with 2 C.F.R. § 200.303(a).</p> <p>2.4 OSEP finds that the State does not ensure that its local educational agencies (LEAs) are correctly calculating the proportionate share for parentally-placed private school children with disabilities ages three through five for IDEA Section 619 and three through 21 for IDEA Section 611 in accordance with 34 C.F.R. § 300.133(a)(1) and (2).</p> <p>2.5 OSEP finds that the State does not have a mechanism in place for ensuring the correction of noncompliance identified in a management decision letter to determine whether an auditee has completed any required corrective action, in accordance with 34 C.F.R. §§ 300.149, 300.600 through 602, and 300.604.</p>                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 3. Dispute Resolution | <p>3.1 OSEP finds that the State's complaint policies and procedures contain provisions that are inconsistent with 34 C.F.R. § 300.153(b).</p> <p>3.2 OSEP finds that the State's model form for filing a State complaint does not clearly state the requirements in 34 C.F.R. § 300.509(a).</p> <p>3.3 OSEP finds that the State's due process complaint procedures do not explain in the narrative, or through the referenced definitions, in the Colorado Code Regulations (CCR), Procedural Safeguards document, and other State guidance documents, that the procedures also apply to the SEA, as required by 34 C.F.R. §§ 300.33 and 300.507.</p> <p>3.4 OSEP finds that the State's model form and supporting question and answer document for filing a due process complaint do not clearly state the requirements in 34 C.F.R. § 300.509(a).</p> <p>3.4 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 under 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 cursive script that reads "Valerie C. Williams".

Valerie C. Williams

cc: Part B State Director

Enclosure:

DMS Monitoring Report

Appendix

## MONITORING AND IMPROVEMENT

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>1.1 SEA Responsibility for Monitoring</b></p> <p>To effectively monitor the implementation of IDEA Part B requirements, the State must have a system that is reasonably designed to ensure that the State can meet its general supervisory responsibility for monitoring the provision of IDEA Part B services as required under 34 C.F.R. §§ 300.149 and 300.600 through 300.602.</p> <p>Specifically, 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.</p> <p>See also OSEP’s Question and Answer document 23-01, <a href="#">State General Supervision Responsibilities under Parts B and C of the IDEA: Monitoring, Technical Assistance, and</a></p> | <p><i>The State provided an explanation of its monitoring procedures; however, the State has not fully implemented those procedures. The State is in the process of documenting its monitoring policies and procedures.</i></p> <p>During interviews with OSEP, the State acknowledged that prior to Federal Fiscal Year (FFY) 2022, its monitoring procedures only included the SPP/APR indicators when evaluating the compliance of the AUs with IDEA Part B. In FFY 2022, the State initiated a pilot of a new cyclical monitoring system identified as the Facilitated Assessment (FA). The State has begun to implement a revised version of the FA in FFY 2023. Using the AU Risk Factor Matrix, and integrating information from the other teams within CDE, the State intends to monitor every AU, every four years. The State provided a description of its monitoring processes, including its AU Risk Factor Matrix. In addition, the State provided OSEP with copies of both the pilot and revised FA monitoring protocols. The State also advised OSEP that another update of its protocols is currently in progress as it continues to improve its monitoring practices.</p> <p>As described to OSEP, the FA system would provide the State with the information necessary to exercise their responsibility for programmatic monitoring under IDEA Part B and ensure appropriate monitoring, technical assistance (TA), and enforcement regarding the AU’s compliance with IDEA Part B. However, at the time of OSEP’s monitoring the State was unable to provide evidence</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 was unable to provide evidence of the implementation of the State’s responsibility for programmatic monitoring under IDEA Part B that demonstrates compliance with the monitoring and enforcement requirements in 34 C.F.R. §§ 300.149, 300.600 through 300.602, and 300.606 through 300.608.</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"> <li>Written policies and procedures which provide a description of their programmatic monitoring under IDEA Part B that demonstrate compliance with the monitoring and enforcement requirements in 34 C.F.R. §§ 300.149, 300.600 through 300.602, and 300.606 through 300.608, including monitoring beyond the SPP/APR indicators.</li> </ol> <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"> <li>Evidence that the State has policies and procedures in effect and being implemented in</li> </ol> |

| Legal Requirements                                                                                                                                                                                                                                                                      | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | OSEP Conclusion/Finding                                                                                                                                                                                                                        | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><a href="#">Enforcement</a> (July 24, 2023) (OSEP QA 23-01).</p> <p>See Appendix for a listing of additional legal requirements.</p>                                                                                                                                                 | <p>of the full implementation of the State’s FA monitoring process. The State piloted the system during FFY 2022 and has continued to implement it during FFY 2023 (with revisions to its protocols throughout its implementation). However, the State has not verified the correction of noncompliance beyond the SPP/APR indicators. The State must be able to demonstrate that the policies and procedures are fully implemented.</p>                                                                                       |                                                                                                                                                                                                                                                | <p>compliance with the monitoring and enforcement requirements, as described under the corrective action above.</p> <p>Examples of evidence of implementation, including monitoring beyond the SPP/APR indicators, could include completed monitoring reports, checklists or other tools developed by the State to document 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><b>1.2 State Advisory Panel</b></p> <p>Under 34 C.F.R. §§ 300.167 and 300.168, the State must establish and maintain an SAP for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State. The</p> | <p><i>The State has not maintained an SAP that meets the membership requirements under 34 C.F.R. §§ 300.167 through 300.168. In addition, the State has not given the SAP an opportunity to perform its required duties, such as advising the SEA in developing evaluations and reporting on data to the Secretary under IDEA Section 618 and advising the SEA in developing and implementing policies relating to the coordination of services for children with disabilities, as required under 34 C.F.R. § 300.169.</i></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 has not maintained an SAP that</p> | <p>Within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. Evidence of an established SAP that meets the requirements under 34 C.F.R. §§ 300.167 through 300.169, to include an updated</li> </ol>                                                                                                                                                                                                                     |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>advisory panel must consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, be representative of the State population and be composed of individuals involved in, or concerned with, the education of children with disabilities. In addition, a majority of the members of the panel must be individuals with disabilities or parents of children with disabilities (ages birth through 26).</p> <p>Under 34 C.F.R. § 300.169, the advisory panel must – (a) Advise the SEA of unmet needs within the State in the education of children with disabilities; (b) Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities; (c) Advise the SEA in developing evaluations and reporting on data to the Secretary under IDEA Section 618; (d) Advise the SEA in</p> | <p>During interviews with OSEP, State staff acknowledged that they have not been able to fulfill the membership requirements, as specified in 34 C.F.R. § 300.168, for the SAP, the Colorado Special Education Advisory Committee (CSEAC). The State provided OSEP a copy of its current membership list for the CSEAC and a copy of its current recruitment notice, both of which confirm that the current membership does not meet IDEA Part B requirements. In its membership list, there are at least 15 positions identified as vacant. In its recruitment flyer, it lists at least 23 openings for SAP members. In the State’s notice, the CSEAC Notice of Vacancies (2023), provided to OSEP on December 5, 2023, the State identifies the need for: State and local education officials, administrators of programs for children with disabilities, parents, representatives of other State agencies involved in the financing or delivery of related services to children with disabilities, and representatives of private schools and public charter schools.</p> <p>Under 34 C.F.R. § 300.168, the SAP must consist of individuals involved in, or concerned with, the education of children with disabilities including; parents of children with disabilities (ages birth through 26); individuals with disabilities; teachers; representatives of institutions of higher education that prepare special education and related services personnel; State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, (42 U.S.C. 11431 <i>et seq.</i>); administrators of programs for children with disabilities; representatives of other State agencies</p> | <p>meets the membership requirements under 34 C.F.R. §§ 300.167 through 300.168. Further, the State has not given the SAP an opportunity to perform all of its duties under 34 C.F.R. § 300.169, such as advising the SEA in developing evaluations and reporting on data to the Secretary under Section 618 and advising the SEA in developing and implementing policies relating to the coordination of services for children with disabilities.</p> | <p>membership list for its SAP with all required members.</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"> <li>1. Evidence that the State has provided the SAP with an opportunity to advise the SEA in developing evaluations and reporting on data to the Secretary under IDEA Section 618.</li> <li>2. Evidence that the State has provided the SAP with an opportunity to advise the SEA on the development and implementation of policies related to the coordination of services for children with disabilities.</li> </ol> |



| Legal Requirements                                                                                                                                                                                                                                                                                                                    | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | OSEP Conclusion/Finding | Next Steps/Required Actions |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------------------|
| <p>developing corrective action plans to address findings identified in Federal monitoring reports under IDEA Part B; and (e) Advise the SEA in developing and implementing policies relating to the coordination of services for children with disabilities.</p> <p>See Appendix for a listing of additional legal requirements.</p> | <p>involved in the financing or delivery of related services to children with disabilities; representatives of private schools and public charter schools; not less than one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; a representative from the State child welfare agency responsible for foster care; and representatives from the State juvenile and adult corrections agencies.</p> <p>Finally, as part of its monitoring process, OSEP conducted feedback sessions with interested members of the CSEAC. Members of the CSEAC expressed concerns to OSEP that the panel is afforded a very limited role in advising the SEA and that the CSEAC is not given adequate opportunities to provide meaningful input. CSEAC members indicated finalized information is “presented” to the panel. The State was unable to provide OSEP with any documentation demonstrating how the State involved the CSEAC in the development of the State’s most recent general supervision process or the development of the corresponding policies and procedures, as required in 34 C.F.R. § 300.169.</p> |                         |                             |

## FISCAL MANAGEMENT

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>2.1 Grant Award Notifications</b></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)(xi) 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). See Appendix for a listing of additional legal requirements.</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>In the sample GANs provided to OSEP prior to the monitoring visit, OSEP identified the following issue with the State's GAN:</p> <ul style="list-style-type: none"> <li>The contact information for the awarding official is not included on the GAN document.</li> </ul> <p>On January 22, 2024, subsequent to the on-site monitoring visit, the State submitted to OSEP an amended GAN template, which included the contact information for the awarding official to reflect compliance with the requirements at 2 C.F.R. § 200.332(a)(1)(xi).</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 grant award notifications do not include the required information consistent with the requirements under 2 C.F.R. § 200.332(a)(1)(xi). Specifically, OSEP's review found that the State's GANs do not include the contact information for the awarding official of the pass-through entity.</p> | <p>Evidence of Implementation—OSEP acknowledges the State's amendment and correction of its GAN form to include the contact information for the awarding official of the pass-through entity. Based on that revision, OSEP requires 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"> <li>Examples of IDEA Part B GANs provided to AUs for FFY 2024 that include the required information in 2 C.F.R. § 200.332(a)(1)(xi), specifically, the contact information for the awarding official of the pass-through entity.</li> </ol> |
| <p><b>2.2 Subrecipient Monitoring</b></p> <p>Under IDEA Part B and OMB Uniform Guidance, SEAs are responsible for oversight of the operations of</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <p><i>The State does not monitor IDEA Part B fiscal requirements and ensure compliance with IDEA Part B and OMB Uniform Guidance fiscal requirements.</i></p> <p>During the monitoring visit, the State informed OSEP that it did not have a current fiscal monitoring system, including policies and procedures, that were</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</p>                                                                                                                                                                                                                                                                                                                                                | <p>Policies and Procedures—within 90 days of the date of this letter the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>Final policies and procedures for fiscal</li> </ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                     | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>IDEA supported activities under 2 C.F.R. § 200.332(d) and 34 C.F.R. §§ 300.149, 300.600 through 602, and 300.604. 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. <i>Id.</i> See OSEP QA 23-01, Question A-1.</p> <p>In order to meet its general supervisory responsibilities, the SEA 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 as required under 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 as required under</p> | <p>reasonably designed to ensure compliance with IDEA Part B and OMB Uniform Guidance requirements 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. The State did, however, describe its plans for implementing what appears to be a comprehensive fiscal monitoring system. The State shared draft policies and procedures with OSEP in preparation for implementing its new fiscal monitoring system in January 2024.</p> <p>While the State explained its application and reimbursement processes, staff also confirmed during interviews with OSEP that it did not have a mechanism in place to monitor its subgrantees, or AUs, to ensure compliance with applicable Federal fiscal requirements, under 2 C.F.R. § 200.332, such as the time and effort, procurement, physical inventory of property, use of IDEA Part B funds for coordinated early intervening services (CEIS), the purchase of equipment, and the financial and programmatic record retention requirements. Additionally, the State did not provide evidence that any of the actual expenditures are verified through supporting documentation, when State grant management staff review reimbursement requests in relation to the approved budget.</p> <p>Further, the State did not submit to OSEP any evidence of completed fiscal monitoring reports, letters of findings, corrective action plans, or closeout letters in accordance with 34 C.F.R. §§ 300.149, 300.600 through 300.602, and 300.604.</p> | <p>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>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> <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"> <li>• Allowable costs consistent with 2 C.F.R. § 200.403(a) and (g);</li> <li>• Time and Effort charges for personnel duties consistent with 2 C.F.R. § 200.430(b);</li> <li>• 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;</li> <li>• Equipment and inventory of items</li> </ul> |

| Legal Requirements                                                                                                                                                                                                                                    | Noncompliant Policy, Procedure or Practice and OSEP Analysis | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>the 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. See OSEP QA 23-01, Question A-6.</p> <p>See Appendix for a listing of additional legal requirements.</p> |                                                              |                         | <p>purchased using Federal IDEA Part B funds consistent with 2 C.F.R. §§ 200.313 and 200.314; and</p> <ul style="list-style-type: none"> <li>• The activities carried out in implementing CEIS under 34 C.F.R. § 300.226.</li> </ul> <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"> <li>1. Evidence that the State has policies and procedures in effect and being implemented in compliance with the fiscal monitoring requirements, as described under the corrective action for policies and procedures above.</li> </ol> <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</p> |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                           | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | documentation to verify the correction of any noncompliance that the State has developed and implemented.                                                                                                                                                                                                                                                                                                                             |
| <p><b>2.3 Internal Control</b></p> <p>Under 2 C.F.R. § 200.303(a), the SEA is required to establish and maintain effective internal control over its IDEA Part B grant awards that provides a reasonable assurance that the SEA is managing those awards in compliance with Federal statutes, regulations, and the terms and conditions of those IDEA Part B awards.</p> <p>See Appendix for a listing of additional legal requirements.</p> | <p><i>The State has not established or maintained effective internal control over its IDEA Part B grant award. Specifically, the State has one employee that is responsible for conducting and overseeing key fiscal requirements.</i></p> <p>During the monitoring visit, OSEP learned that the State has one employee that is responsible for reviewing AU budgets, applications, and overseeing key fiscal requirements. More specifically, the State’s fiscal monitoring specialist is solely responsible for manually reviewing and approving AUs’ annual budget narratives and assurances. The monitoring specialist is also responsible for conducting annual performance reviews to ensure AUs used funds appropriately; calculating the proportionate share for parentally-placed private school children; reviewing and approving prior approvals for participant support and equipment purchases, and ensuring those costs align with budget narratives; conducting fiscal monitoring; and providing technical assistance and training to staff and AUs.</p> <p>By only having one staff member responsible for key fiscal oversight, the State has failed to establish and maintain effective internal control over its IDEA grant awards that provides a reasonable assurance that the SEA is managing those awards in compliance with Federal statutes, regulations, and the terms and conditions of those IDEA awards in accordance with</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 has not established effective internal control that provide a reasonable assurance that the SEA is managing those awards in compliance with Federal statutes, regulations, and the terms and conditions of those IDEA Part B awards consistent with 2 C.F.R. § 200.303(a), because the State has only one staff member responsible for key fiscal oversight.</p> | <p>Policies and Procedures—within 90 days of the date of this letter the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. Final policies and procedures for approving budgets and annual applications and other fiscal duties that ensure effective internal control consistent with 2 C.F.R. § 200.303(a), including segregation of duties or alternative control activities to address the risk.</li> </ol> |

| Legal Requirements | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | OSEP Conclusion/Finding | Next Steps/Required Actions |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-----------------------------|
|                    | <p>the requirements under the 2 C.F.R. § 200.303(a).</p> <p>Guidance on how to meet the internal control requirements under 2 C.F.R. § 200.303(a) is provided in the <a href="#">General Accountability Office (GAO) Standards for Internal Control in the Federal Government</a> (2014), GAO-14-704G. The following are examples of key principles in mitigating risk that can result from a single employee having fiscal responsibility of key fiscal requirements:</p> <p>Principle 3.08—Management determines what level of authority each key role needs to fulfill a responsibility. Management delegates authority only to the extent required to achieve the entity’s objectives. As part of delegating authority, management evaluates the delegation for proper segregation of duties within the unit and in the organizational structure. Segregation of duties helps prevent fraud, waste, and abuse in the entity by considering the need to separate authority, custody, and accounting in the organizational structure. As with assigning responsibility, those in key roles can delegate their authority for internal control to roles below them in the organizational structure.</p> <p>Principle 3.09—Management develops and maintains documentation of its internal control system.</p> <p>Principle 10.12—Management considers segregation of duties in designing control activity responsibilities so that incompatible duties are segregated and, where such segregation is not practical, designs alternative control activities to address the risk.</p> |                         |                             |



| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Principle 10.13—Segregation of duties helps prevent fraud, waste, and abuse in the internal control system.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><b>2.4 Parentally-placed Private School Children with Disabilities Proportionate Share Calculation</b></p> <p>Under 34 C.F.R. §§ 300.132 and 300.133(a), the LEAs proportionate share calculation must be based on the total number of children with disabilities who are enrolled in private elementary and secondary schools, including religious schools, located in the LEA, whether or not the children or their parents reside in the LEA. More specifically, each LEA must spend the following amounts on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:</p> <ol style="list-style-type: none"> <li>For children aged three through 21, an amount that is the same proportion of the LEA's</li> </ol> | <p><i>The State is not ensuring that LEAs are including children aged three through five for IDEA Section 611, and children aged three through five for IDEA Section 619 in their proportionate share calculations for parentally-placed private school children with disabilities, consistent with 34 C.F.R. § 300.133(a)(1) and (2).</i></p> <p>During the State's demonstration of its grants system, OSEP learned that the State does not ensure that its LEAs are correctly calculating the proportionate share for parentally-placed private school children with disabilities aged three through five. The State only included children aged five through 21, rather than children aged three through 21, for its IDEA Section 611 grant. Subsequently, the State provided documentation also demonstrating that they were not currently ensuring that LEAs are calculating parentally-placed private school children with disabilities aged three through five for its IDEA Section 619 grant.</p> <p>IDEA Section 611 provides formula grants to States to make available special education and related services for children with disabilities aged three through 21. An LEA must spend an amount that is the same proportion of the LEA's total subgrant under IDEA Section 611(f) as the number of private school children with disabilities aged three through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of</p> | <p>OSEP's analysis is based on the documents and information provided by the State, and interviews with State staff and stakeholders. Based on this analysis, OSEP finds that:</p> <p>The State does not ensure that its LEAs are correctly calculating the proportionate share for parentally-placed private school children with disabilities ages three through five for IDEA Section 619, and ages three through 21 (rather than only children ages five through 21) for IDEA Section 611, in accordance with 34 C.F.R. § 300.133(a)(1) and (2).</p> | <p>Policies and Procedures—within 90 days of the date of this letter, the State must provide documentation to OSEP that it has required its AUs to:</p> <ol style="list-style-type: none"> <li>Establish a count of parentally-placed private school children with disabilities that includes children with disabilities ages three through 21 for its IDEA Section 611 grant, as well as a count of parentally-placed private school children with disabilities aged three through five for its IDEA Section 619 grant: Using the best data available and in consultation with private school representatives and representatives of parents of parentally-placed private school children with disabilities, each AU in the State must determine the number of children with disabilities enrolled</li> </ol> |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>total subgrant under IDEA Section 611(f) as the number of private school children with disabilities aged three through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through 21.</p> <p>2. For children aged three through five, an amount that is the same proportion of the LEA's total subgrant under IDEA Section 619(g) as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in private, including religious, elementary schools located in the school district served by the LEA, is to the total number of children with</p> | <p>children with disabilities in its jurisdiction aged three through 21.</p> <p>IDEA Section 619 provides formula grants to States to make available special education and related services for children with disabilities aged three through five. An LEA must spend an amount that is the same proportion of the LEA's total subgrant under IDEA Section 619(g) as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in private, including religious, elementary schools located in the school district served by the LEA, is to the total number of children with disabilities in its jurisdiction aged three through five.</p> <p>As noted above, subsequent to the on-site monitoring visit, the State confirmed that its AUs do not currently spend an amount that is the same proportion of the LEA's total subgrant under IDEA Section 619(g) as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in private, including religious, elementary schools located in the school district served by the LEA as required under 34 C.F.R. § 300.133(a). However, in an e-mail to OSEP on January 22, 2024, the State indicated that:</p> <p>[B]ased on the feedback OSEP provided during the onsite monitoring [the State is] currently in the process of developing this and communicating to the field that [IDEA Section] 619 funds must be calculated as a part of an AU's proportionate share.</p> <p>The State included in the email to OSEP draft documents addressing the proportionate share for both IDEA Section 611 and Section 619 grants, which the State is currently developing, to</p> |                         | <p>by their parents in private elementary and secondary schools that are physically located in the AU. If home schools are considered private elementary schools and secondary schools, as determined under State law, children with disabilities who are homeschooled in the AU for FFY 2019 through FFY 2023 would need to be included in this count.</p> <p>The State must also ensure that nonresident children with disabilities who attend private schools located in the AU for FFY 2019 through FFY 2023 are included in this count.</p> <p>2. Recalculate the proportionate share: Using the revised child counts established above, each AU in the State must properly calculate the proportionate share of IDEA Part B funds, including funds from both IDEA Sections 611</p> |



| Legal Requirements                                                                                                                   | Noncompliant Policy, Procedure or Practice and OSEP Analysis | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>disabilities in its jurisdiction aged three through five.</p> <p>See Appendix for a listing of additional legal requirements.</p> | <p>communicate the IDEA Part B requirements to its AUs.</p>  |                         | <p>and 619 grants, required for the provision of equitable services under 34 C.F.R. § 300.133 for FFY 2019 through FFY 2023.</p> <p>3. Determine the amount of State, local, and IDEA Part B funds, including from both its IDEA Sections 611 and 619 grants actually expended: Each AU in the State must determine the amount of State, local, and IDEA Part B funds, including funds from both IDEA Sections 611 and 619 grants that the LEA expended in FFY 2019 through FFY 2023 to provide special education and related services to parentally-placed private school children with disabilities (including home-schooled children as consistent with State law). The amount of State and local funds and the amount of IDEA Part B funds, including funds from both IDEA</p> |

| Legal Requirements | Noncompliant Policy, Procedure or Practice and OSEP Analysis | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------|--------------------------------------------------------------|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    |                                                              |                         | <p>Sections 611 and 619 grants must be determined and calculated separately for each fiscal year. The expenditures must be verifiable by the SEA or State and/or local auditors.</p> <p>4. Determine the amount of the shortfall in funds, if any, spent to provide services to parentally-placed private school children with disabilities: By subtracting the result calculated in #2 from the result determined in #3 above, each AU must identify the amount of the shortfall, if any, in funds spent to provide services to parentally-placed private school children with disabilities. The AU must perform this calculation separately and include IDEA Part B funds, from both IDEA Sections 611 and 619 grants, for FFY 2019 through FFY 2023.</p> <p>5. Remedy any shortfall by</p> |

| Legal Requirements | Noncompliant Policy, Procedure or Practice and OSEP Analysis | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------|--------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    |                                                              |                         | <p>using available State and local funds and IDEA Part B funds from both its section 611 and 619 grants, where available, to make up the difference: When remedying any shortfall, an AU may use State and local funds and/or IDEA Part B funds from both IDEA Sections 611 and 619 grants to the extent the AU has not already used an amount of such funds equal to its required proportionate share for the FFY. In addition, the State has the discretion to use a portion of its IDEA Part B funds from both IDEA Sections 611 and 619 grants reserved for State level activities to support AUs in remedying any shortfall.</p> <p>Evidence of Implementation—as soon as possible, but no later than one year from the date of this letter, the State must submit:</p> <ol style="list-style-type: none"> <li>1. The results of the AUs’ recalculation of the</li> </ol> |

| Legal Requirements | Noncompliant Policy, Procedure or Practice and OSEP Analysis | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------|--------------------------------------------------------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    |                                                              |                         | <p>proportionate share (i.e., revised child count data, amount of IDEA Part B funds used in the calculation with evidence that both IDEA Sections 611 and 619 grant funds were included, as appropriate, and the amount of proportionate share).</p> <p>2. The total amount of expenditures the AUs previously made with State, local, and IDEA Part B funds from both IDEA Sections 611 and 619 grants for FFY 2019 through FFY 2023 to provide services to parentally-placed private school children with disabilities.</p> <p>3. Evidence that the AUs have conducted meaningful and timely consultation with private school representatives and representatives of parents of parentally-placed private school children with disabilities on matters including, but not limited to, discussions of the child</p> |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | find process and the decisions reached concerning the use of any shortfall amount for equitable services.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p><b>2.5 Single Audit Responsibilities: Correction of Noncompliance</b></p> <p>A single State audit may result in findings of noncompliance related to fiscal requirements.</p> <p>To effectively monitor the implementation of IDEA Part B requirements, the State must have a system that is reasonably designed to ensure that the State can meet its general supervisory responsibility for monitoring the provision of IDEA Part B services as required under 34 C.F.R. §§ 300.149 and 300.600 through 300.602 and 300.604.</p> <p>In exercising its monitoring responsibilities under 34 C.F.R. § 300.600(e), the State must ensure that when it identifies noncompliance with IDEA Part B requirements by LEAs,</p> | <p><i>The State could not clearly articulate the audit closeout process nor provide policies and procedures used to follow-up on audit findings, consistent with 34 C.F.R. §§ 300.149, 300.600 through 300.602, and 300.604.</i></p> <p>The State’s school finance office (audit office) handles all single audit findings. The audit office shares the findings with the State’s program office. The State informed OSEP that it is currently updating its audit procedures, however, the State could not describe to OSEP its process for closing out single audit findings.</p> <p>When the State receives an audit finding, the State must determine whether to sustain the auditor’s finding (i.e., confirm the identified noncompliance with a fiscal requirement of IDEA Part B and/or the OMB Uniform Guidance), and ensure corrective action is taken, as required by 34 C.F.R. §§ 300.149 and 300.600 through 300.602, and 300.604.</p> <p>When the State is determining the steps required to verify correction of the noncompliance, the correction may depend on the nature of the fiscal finding of noncompliance. Whichever steps the State requires for correction, the State must ensure that corrective actions, included in a management decision for applicable audit findings, are implemented, as soon as possible, and in no case later than one year after the State’s written notification of noncompliance, as</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 mechanism in place for ensuring the correction of noncompliance identified in a management decision letter to determine whether an auditee has completed any required corrective action, in accordance with 34 C.F.R. §§ 300.149, 300.600 through 300.602, and 300.604.</p> | <p>Policies and Procedures—within 90 days of the date of this letter the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the State’s policies and procedures that demonstrate the State’s compliance with the requirements in 34 C.F.R. §§ 300.149, 300.600 through 602, and 300.604, for ensuring the correction of noncompliance identified in a management decision letter to determine whether an auditee has completed any required corrective actions.</li> </ol> <p>Evidence of Implementation—as soon as possible, but no later than one year from the date of this letter, the State must submit:</p> <ol style="list-style-type: none"> <li>1. Examples of close-out letters to AUs with previously identified</li> </ol> |

| Legal Requirements                                                                                                                                                                                                                                                                                                             | Noncompliant Policy, Procedure or Practice and OSEP Analysis                    | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|-------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>including findings made through a single State audit, the noncompliance is corrected as soon as possible, and in no case later than one year after the State’s written notification of noncompliance.</p> <p>See also OSEP QA 23-01, Question B-16.</p> <p>See Appendix for a listing of additional legal requirements.</p> | <p>required under 34 C.F.R. §§ 300.600(e) and OSEP QA 23-01, Question B-16.</p> |                         | <p>noncompliance demonstrating the identified noncompliance has been resolved in a timely manner in accordance with 34 C.F.R. §§ 300.149, 300.600 through 602, and 300.604.</p> <p>2. In the event that no Federal audits contain IDEA Part B related findings, the State must submit a sample of close-out letters issued to subrecipients demonstrating that the identified noncompliance has been resolved in a timely manner, even if they are unrelated to IDEA Part B.</p> |

## DISPUTE RESOLUTION

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| STATE COMPLAINTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><b>3.1 Required Content for a State Complaint</b></p> <p>Under 34 C.F.R. § 300.153, the complaint, among other requirements, must be in writing and signed and contain a statement alleging that a public agency has violated a requirement of IDEA Part B or its implementing regulations, including the facts on which the statement is based.</p> <p>Under 34 C.F.R. § 300.153(b), the complaint must include the complainant's signature and contact information. If the complaint alleges a violation with respect to a specific child, the complaint also must include the name and address of the residence of the child; the name of the school the child is attending; in the case of a homeless child or youth, available contact information for the</p> | <p><i>The State complaint policies and procedures exceed IDEA Part B requirements in a manner that could limit a parent's right to file a State complaint under 34 C.F.R. § 300.153(b).</i></p> <p>CDE's State complaint policies and procedures are embodied in a separate document, embedded as a link within the Special Education State Complaint Question and Answers (2023), and posted on the State's website. CDE's State-Level Complaint Procedures (May 4, 2010), p. 1, state the following:</p> <p>3. <u>Required Content of the Complaint</u>: The Complaint <b>must</b> contain the following information:</p> <p>b. The background information (including copies of all IEPs and other documents relevant to the Complaint) and facts on which the statement is based that identify persons, actions, and/or omissions that serve as the basis for the Complaint;...</p> <p>The requirement to include background information, including copies of all IEPs, is inconsistent with IDEA's Part B requirements for filing a State complaint and could improperly limit an individual or organization's ability to file.</p> <p>The State's Question and Answer document on State complaints (2023), p. 2, contains the</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 complaint policies and procedures contain provisions that are inconsistent with 34 C.F.R. § 300.153(b).</p> <p>Specifically, the State complaint policies and procedures require the following additional content:</p> <ul style="list-style-type: none"> <li>• Background information (including copies of all IEPs and other documents relevant to the complaint); and</li> <li>• Facts on which the statement is based that identify persons, actions, and/or omissions that serve as the basis for the complaint, which is not required by 34 C.F.R. § 300.153(b).</li> </ul> <p>While the State has not dismissed any complaints based on the lack of this additional information, the</p> | <p>Policies and Procedures— with the State's FFY 2024 IDEA Part B grant application due May 22, 2024, the State must submit to OSEP:</p> <p>1. A copy of CDE's revised State-Level Complaint Procedures, and any other State documents that contain the additional content requirements for filing a State complaint or reference the State-Level Complaint Procedures. The policies and procedures must make clear that providing this additional content in the State complaint is optional and not grounds for dismissing the complaint, to be consistent with 34 C.F.R. § 300.153(b).</p> <p>OR</p> |

| Legal Requirements                                                                                                                                                                                                                                                                                                                             | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | OSEP Conclusion/Finding                                                                                                                                                                    | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>child and name of the school the child is attending; a description of the problem of the child, including facts related to the problem; and a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.</p> <p>See Appendix for a listing of additional legal requirements.</p> | <p>following language:</p> <p>After a state complaint is received by the CDE, an SCO [State complaint officer] will determine whether the complaint is accepted. Only state complaints that satisfy the requirements of the State-Level Complaint Procedures and contain the required content of the state complaint form will be accepted for investigation.</p> <p>Additionally, in the Colorado State Complaint Officer Handbook (revised June 2023), CDE’s State complaint procedures are mentioned several times as the applicable regulations that State complaint offices must follow when processing a State complaint.</p> <p>Based on those statements, the SEA could inappropriately dismiss complaints that do not include the additional information but otherwise meet IDEA’s Part B filing requirements. OSEP does note that when speaking with the State staff, they articulated that, although the instructions require the background information, in practice, the State has not dismissed any complaints based on this extra written requirement.</p> | <p>State must revise its policies and procedures to make clear that providing this additional content in the State complaint is optional and not grounds for dismissing the complaint.</p> | <p>2. A specific written assurance from the State that shows—</p> <p>(1) The State will revise its complaint procedures included in the State-Level Complaint Procedures, and any other State documents that contain the additional content requirements for filing a State complaint or reference the State-Level Complaint Procedures, as soon as possible but in no case later than one year from the date of OSEP’s 2024 DMS report, to ensure they are consistent with the requirements in 34 C.F.R. § 300.153(b);</p> <p>(2) The State will issue a memorandum or other directive to all AUs/BOCEs, parent advocacy groups,</p> |



| Legal Requirements | Noncompliant Policy, Procedure or Practice and OSEP Analysis | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|--------------------|--------------------------------------------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    |                                                              |                         | <p>and other interested parties advising them of the changes proposed to the State-Level Complaint Procedures, and any other State documents, to ensure they are consistent with the IDEA Part B requirements as described above and provide a copy to OSEP; and</p> <p>(3) The State will comply with 34 C.F.R. § 300.153(b) throughout the remainder of the FFY 2023 grant period and throughout the FFY 2024 grant period.</p> <p>If the State chooses to provide the specific written assurance above, then as evidence of implementation, as soon as possible, but no later than one year from the date of this monitoring report, the State must</p> |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. Final approved copies of the State-Level Complaint Procedures, and any other State documents that were revised to make clear that providing additional content in the State complaint is optional and not grounds for dismissing the complaint.</li> </ol>                                                                                                                                |
| <p><b>3.2 State Model Forms: Filing a State Complaint</b></p> <p>Under 34 C.F.R. § 300.509(a), each State must develop model forms to assist parents and other parties in filing a State complaint under 34 C.F.R. §§ 300.151 through 300.153. However, the SEA or LEA may not require the use of the model forms. Parents, public agencies, and other parties may use the appropriate model form or another form or other document, so long as the form or document that</p> | <p><i>The State’s model form for filing a State complaint does not clearly state the requirements in 34 C.F.R. § 300.509(a). Specifically, the model form states that the use of this model form is not required and lists the information that must be provided, however the Contact Information page includes data fields beyond those required by the IDEA Part B regulation at 34 C.F.R. § 300.153(b), without individually marking the additional information asked for as optional.</i></p> <p>OSEP reviewed the State’s Model State Complaint Form (2023) available for use when filing a State complaint, which includes a description of the required components and can be found on the State’s website, under “How do I file a State Complaint?”</p> <p>The State’s model form includes several content requirements for filing a State complaint that are</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 model form for filing a State complaint does not clearly state the requirements in 34 C.F.R. § 300.509(a).</p> <p>Specifically, the Contact Information page of the State’s model form (which is optional) includes the following information, which is beyond what is required by 34 C.F.R. § 300.153(b), and are not individually marked as</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"> <li>1. A copy of the State’s revised model State complaint form, and any other State documents that contain additional information requests for State complaints, that clearly identifies as optional any additional information requested that is not required by 34 C.F.R. § 300.153(b)</li> </ol> |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                       | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                         | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>is used meets, as appropriate, the content requirements in 34 C.F.R. § 300.153(b) for filing a State complaint.</p> <p>See Appendix for a listing of additional legal requirements.</p>                                                                                                                                                                                                               | <p>not required under IDEA Part B and do not specify that each of the additional items are optional on the contact information page. The additional components on the model form, p. 2 (Contact Information) include:</p> <ol style="list-style-type: none"> <li>1) the child’s date of birth;</li> <li>2) the child’s grade level; and</li> <li>3) the contact information for the school district or [board of cooperative educational services] BOCES.</li> </ol> <p>An SEA may request information not required by 34 C.F.R. § 300.153(b) but may not require it and must ensure that the failure to provide the additional information does not delay the resolution of the complaint.</p>             | <p>optional:</p> <ol style="list-style-type: none"> <li>1) the child’s date of birth;</li> <li>2) the child’s grade level; and</li> <li>3) the contact information for the school district or [board of cooperative educational services] BOCES.</li> </ol>                                                                                                                                                                                     | <p>).</p> <ol style="list-style-type: none"> <li>2. Notice that the State has posted the revised model form on the SEA’s web site and other appropriate methods to ensure wide dissemination to all AUs/BOCESs, parent advocacy groups, and other interested parties.</li> </ol>                                                                                  |
| DUE PROCESS                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                   |
| <p><b>3.3 Parties to a Due Process Complaint</b></p> <p>Under 34 C.F.R. § 300.33, IDEA defines the term <i>public agency</i> to include the SEA, LEAs, ESAs, nonprofit public charter schools that are not otherwise included as LEAs or ESAs and are not a school of an LEA or ESA, and any other political subdivisions of the State that are responsible for providing education to children with</p> | <p><i>The State’s regulation and due process procedures restrict the parties subject to the due process complaint. By using the terms “Administrative Unit” and State operated programs, parents do not have notice that the IDEA Part B due process procedures are available to resolve allegations against not only those entities, but also the SEA, which is included in the definition of public agency at 34 C.F.R. § 300.33.</i></p> <p>OSEP found, during its review of the State submitted documentation, that the State provides the following description of the difference between a due process hearing complaint and the State complaint procedures in their Procedural Safeguards Notice</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 due process complaint procedures do not explain in the narrative, or through the referenced definitions, in the Colorado Code Regulations (CCR), Procedural Safeguards document, and other State guidance documents, that the</p> | <p>Policies and Procedures— with the State’s FFY 2024 IDEA Part B grant application due May 22, 2024, the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of CDE’s State procedural safeguards, Due Process Question and Answer document, State-level procedures, State regulations and any other State documents that</li> </ol> |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                   | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | OSEP Conclusion/Finding                                                                  | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>disabilities.</p> <p>Under 34 C.F.R. § 300.507(a), a parent or a <i>public agency</i> may file a due process complaint on any of the matters described in 34 C.F.R. § 300.503(a)(1) and (2) (relating to the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child). (Emphasis added).</p> <p>See Appendix for a listing of additional legal requirements.</p> | <p>(Aug. 2, 2023, as amended July 2011), pg. 10 and 11:</p> <p>Only a parent or an Administrative Unit may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of a child with a disability, or the provision of a Free Appropriate Public Education (FAPE) to the child.</p> <p>The Procedural Safeguards (2023) also states on p. 13:</p> <p>You or the Administrative Unit may file a due process complaint on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation, or educational placement of your child, or the provision of Free Appropriate Public Education (FAPE) to your child.</p> <p>The Procedural Safeguards (2023) also define “Administrative Unit” on p. 1 in the following footnotes:</p> <p>Footnote 1. An administrative unit means a school district, board of cooperative services, or the state charter school institution, that is providing educational services to exceptional children.</p> <p>Footnote 2. State-Operated Program means an approved school program supervised by the Department and operated by the Colorado School for the Deaf and the Blind, the Department of Corrections, or the Department</p> | <p>procedures also apply to the SEA, as required by 34 C.F.R. §§ 300.33 and 300.507.</p> | <p>explain the State’s due process complaint procedures, which are revised to be consistent with the requirements in 34 C.F.R. §§ 300.33 and 300.507(a), including that the procedures also apply to the SEA.</p> <p>OR</p> <p>2. A specific written assurance from the State that shows—</p> <p>(1) The State will revise its procedural safeguards, Due Process Question and Answer document, State-level procedures, State regulations and any other State documents that explain the State’s due process complaint procedures, as soon as possible but in no case later than one year from the date of</p> |

| Legal Requirements | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | <p>of Human Services, including but not limited to the Division of Youth Corrections and the Mental Health Institutes at Fort Logan and Pueblo.</p> <p>Footnote 3. For purposes of this document, whenever the term “Administrative Unit” is used it also means the State Operated Programs.</p> <p>Further, the State’s Rules for the Administration of the Exceptional Children’s Educational Act (ECEA) (effective June 30, 2023) at CCR § 301-8- 6.02(7.5) refer to administrative units and state-operated programs in the section on due process hearings, but not the SEA.</p> <p>The ECEA (2023) within the CCR § 301-8-2.02 provides a definition of Administrative Unit on p. 1:</p> <p><i>Administrative Unit</i> means a school district, board of cooperative services, multi-district administrative unit, a charter school network, a charter school collaborative, or the State Charter School Institute, that is providing educational services to exceptional children and that is responsible for the local administration of these Rules. In order to qualify as an administrative unit, an entity shall meet all minimum standards established in Section 3.01 of these Rules. All administrative units shall be approved by the Department of Education.</p> <p>The State’s Due Process Complaint and Request for Hearing Questions and Answers (2023) (Due process question and answer document), p.1, document also refers to a parent, guardian, or Administrative Unit in</p> |                         | <p>this monitoring report to be consistent with the requirements in 34 C.F.R. §§ 300.33 and 300.507(a), including that the procedures also apply to the SEA; and</p> <p>(2) The State will issue a memorandum or other directive to all AUs/BOCEs, parent advocacy groups, and other interested parties advising them of the changes proposed to the State regulations, due process procedures, and guidance to ensure they are consistent with the IDEA requirements as described above and provide a copy to OSEP; and</p> <p>(3) The State will comply with 34 C.F.R. §§ 300.33 and 300.507 throughout the</p> |

| Legal Requirements | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    | <p>its explanation of the procedures.</p> <p>OSEP notes that the ECEA (2023), CCR § 301-8-2.35, includes a definition of public agency, but it is not referenced in CCR § 301-8-6.02(7.5) or the Procedural Safeguards (2023). The following definition of <i>public agency</i>, included in the ECEA (2023) at CCR § 301-8-2.35, also does not refer to the SEA:</p> <p>The term “<i>Public Agency</i>”:</p> <ol style="list-style-type: none"> <li>(1) When used in connection with out of district placements, shall have the meaning given it in Section 9.01(5) of these Rules.</li> <li>(2) When used in 34 C.F.R. Part 300, shall mean an administrative unit, as defined in Section 2.02 of these Rules, and a state-operated program as defined in Section 2.49 of these Rules.</li> </ol> <p>The State’s due process complaint procedures outlined in the State’s Procedural Safeguards (2023), ECEA (2023) and due process question and answer document do not include the SEA in its narrative, and the references to the definitions of administrative unit and state-operated programs do not include the SEA. The State’s definition of public agency at CCR § 301-8-2.35 also does not include the SEA and is not referenced in the due process procedures.</p> <p>IDEA’s due process complaint and hearing procedures are available to resolve allegations that a <i>public agency</i> violated a requirement of IDEA Part B or its implementing regulations. (<i>Emphasis added</i>).</p> |                         | <p>remainder of the FFY 2023 grant period and throughout the 2024 grant period.</p> <p>If the State chooses to provide a specific written assurance above, then as 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"> <li>1. Final approved copies of the State’s regulation, and the other State documents listed above that are revised to address this issue.</li> </ol> |



| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>The term public agency as defined in 34 C.F.R. § 300.33, includes not only Administrative Units and State Operated Programs, but also the SEA and any other political subdivisions of the State that are responsible for providing education to children with disabilities.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><b>3.4 State Model Forms: Filing a Due Process Complaint</b></p> <p>Under 34 C.F.R. § 300.509(a), each State must develop model forms to assist parents and other parties in filing a due process complaint in accordance with 34 C.F.R. §§ 300.507(a) and 300.508(a) through (c). However, the SEA or LEA may not require the use of the model forms. Parents, public agencies, and other parties may use the appropriate model form or another form or other document, so long as the form or document that is used meets, as appropriate, the content requirements in 34 C.F.R. § 300.508(b) for filing a due process complaint.</p> | <p><i>The State’s model form and supporting question and answer document for filing a due process complaint does not clearly state the requirements in 34 C.F.R. § 300.509(a). Specifically, the model form for filing a due process complaint says the “use of the form is not required,” however the form includes data fields that go beyond those required by the IDEA regulation at 34 C.F.R. § 300.508(b), without individually marking the additional information asked for as optional.</i></p> <p>OSEP reviewed the State’s Due Process Complaint Model Form (Oct. 2012) available for use when filing a due process complaint, found on the State’s website, just above, the State’s Due Process Complaint and Request for Hearing Question and Answers (2023) (question and answer document).</p> <p>The State’s model form for filing a due process complaint includes several content requirements for filing that are not required by 34 C.F.R. § 300.508(b). The additional components that are not individually marked as optional include:</p> <ul style="list-style-type: none"> <li>(1) the name, address, and phone number of person filing the complaint;</li> <li>(2) the contact information for an attorney or</li> </ul> | <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 model form and supporting question and answer document for filing a due process complaint do not clearly state the requirements in 34 C.F.R. § 300.509(a).</p> <p>Specifically, the model form for filing a due process complaint requests the following information, beyond what is required by 34 C.F.R. § 300.508(b), and does not individually mark the items as optional:</p> <ul style="list-style-type: none"> <li>(1) the name, address, and phone number of person filing the complaint;</li> <li>(2) the contact information for an attorney or advocate if the</li> </ul> | <p>Policies and Procedures—within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ul style="list-style-type: none"> <li>1. A copy of the State’s revised model form, question and answer document, and any other State documents that contain references to additional information for filing a due process complaint, which clearly mark as optional any information requested that is not required by 34 C.F.R. § 300.508(b).</li> <li>2. Notice that the State has posted the revised model form on the SEA’s website and other appropriate</li> </ul> |

| Legal Requirements                                                                                                                                                                                                                                                                                                                                                                            | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | OSEP Conclusion/Finding                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>See Appendix for a listing of additional legal requirements.</p>                                                                                                                                                                                                                                                                                                                           | <p>advocate if the requesting party will be represented;</p> <p>(3) indicating if the requesting party is also requesting mediation; and</p> <p>(4) the signature of complainant.</p> <p>In addition, the State’s supporting question and answer document, includes an additional filing requirement on p. 1, that is not individually marked as optional:</p> <ul style="list-style-type: none"> <li>Name, address, and phone number of the person filing the complaint</li> </ul> <p>An SEA may request information not required by 34 C.F.R. § 300.508(b) but may not require it and must ensure that the failure to provide the additional information does not delay the resolution of the complaint.</p> | <p>requesting party will be represented or assisted;</p> <p>(3) indication if the requesting party is also requesting mediation; and</p> <p>(4) the signature of complainant.</p> <p>In addition, the State’s supporting question and answer document for filing a due process complaint includes a requirement to include, the name, address, and phone number of the person filing the complaint, which goes beyond what is required by 34 C.F.R. § 300.508(b) and is not marked as optional.</p> | <p>methods to ensure wide dissemination to all AUs/BOCESs, parent advocacy groups, and other interested parties.</p>                                                                                                                                                                                                                                             |
| <p><b>3.5 Due Process Hearing Decisions</b></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</p> | <p><i>The State is not ensuring that the hearing officers’ decisions are being implemented in a timely manner, as required under 34 C.F.R. §§ 300.149, 300.511 through 300.514, and 300.600.</i></p> <p>During an onsite discussion with the State, CDE staff demonstrated the use of an internal database used for tracking the timelines of all due process complaints filed. The State’s demonstration of their State-level database revealed that implementation of hearing order decisions is not included in the tracking system, therefore the State has no way of ensuring that the hearing officer decisions are being implemented in a timely manner.</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</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"> <li>Revised policies and procedures which demonstrate that the State has a mechanism to: <ol style="list-style-type: none"> <li>Track the implementation of the due process hearing</li> </ol> </li> </ol> |



| Legal Requirements                                                                                                                                                                                                                                                                          | Noncompliant Policy, Procedure or Practice and OSEP Analysis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | OSEP Conclusion/Finding                                                                                                                                                                                                               | Next Steps/Required Actions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>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.</p> <p>See Appendix for a listing of additional legal requirements.</p> | <p>Although CDE has not had a hearing officer's decision ruled in favor of the parents since 2018, during the discussion with OSEP, the State confirmed that it does not have a formal mechanism in place to ensure that the public agency involved in the due process hearing is implementing the hearing officer's decision in a timely manner, as required by under 34 C.F.R. §§ 300.149 and 300.600.</p> <p>To ensure that children with disabilities are provided a free appropriate public education (FAPE) 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>State as required under 34 C.F.R. §§ 300.149, 300.511 through 300.514, and 300.600.</p> <p>Specifically, the State's database revealed that the implementation of hearing officer decisions is not being tracked by the State.</p> | <p>decisions; and</p> <p>b. Monitor AUs 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, 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> <p>1. Evidence of the State's tracking mechanism and monitoring activities which ensure due process hearing</p> |

| Legal Requirements | Noncompliant Policy, Procedure or Practice and OSEP Analysis | OSEP Conclusion/Finding | Next Steps/Required Actions                                                                                                                           |
|--------------------|--------------------------------------------------------------|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|
|                    |                                                              |                         | decisions are being implemented in a timely manner in accordance with the requirements in 34 C.F.R. §§ 300.149, 300.511 through 300.514, and 300.600. |

## 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 §§ 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.