

**Joint Legislative Committee on Performance
Evaluation and Expenditure Review (PEER)**

Report to
the Mississippi Legislature



Mississippi's Utilization of Funds Provided by the Individuals with Disabilities Education Act (IDEA)

The federal Individuals with Disabilities Education Act (IDEA), Part B, allocates grant funds to state and local education agencies to provide special education and related services to eligible children. IDEA grant funding is not allocated based on an identified population of children with documented special education needs, but is allocated via a formula based on the prior year's grant allocations and additional amounts based on total student enrollment and the number of students receiving free and reduced lunches in Mississippi. IDEA grant funds supplement, not supplant, other sources of state and local funds to provide special education services. Local education agencies have final discretion in providing services to achieve the purposes of IDEA.

The current accountability structure for implementation of IDEA Part B, both nationally and in Mississippi, needs improvement. While the Mississippi Department of Education (MDE) does maintain an annual performance report to track compliance and progress on selected performance measures on a statewide basis, currently no correlation can be made between how MDE tracks and monitors performance and whether funds are being allocated to IDEA students or programs in the most effective manner (e. g., performance in relation to a specific IDEA program goal, disability type, or educational placement setting).

MDE and the local education agencies should shift the focus of IDEA Part B program implementation from compliance to incorporate evaluation of performance. This position aligns with the recent shift toward a Results-Driven Accountability system that is being implemented at the federal level. Focusing on performance would also align with the Legislature's ongoing effort to revitalize performance budgeting, which requires increased accountability for the efficient and effective use of public resources.

PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U. S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

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PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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The Mississippi Legislature

Joint Committee on Performance Evaluation and Expenditure Review

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July 14, 2015

Honorable Phil Bryant, Governor
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Members of the Mississippi State Legislature

On July 14, 2015, the PEER Committee authorized release of the report entitled **Mississippi's Utilization of Funds Provided by the Individuals with Disabilities Education Act (IDEA)**.

A handwritten signature in black ink that reads "Becky Currie".

Representative Becky Currie, Chair

This report does not recommend increased funding or additional staff.

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Mississippi's Utilization of Funds Provided by the Individuals with Disabilities Education Act (IDEA)

Executive Summary

Introduction

PEER conducted this review to:

- identify the services being provided to Mississippi students who are eligible to receive such services through the Individuals with Disabilities Education Act (IDEA); and,
- determine the adequacy or appropriateness of these services in producing positive outcomes.

PEER inquired into whether the Mississippi Department of Education and local education agencies¹ are efficiently and effectively spending IDEA grant funding to meet the needs of children identified by the Child Find² process and identifying children in need of access to the special education system and its services within Mississippi.

PEER focused solely on those individuals (ages six through twenty)³ and services provided through IDEA Part B Section 611 grant funding and limited the review to the information available from the Mississippi Department of Education, rather than contacting each individual local education agency directly.

This report does not comment on the adequacy or appropriateness of specific services provided through IDEA funding.

¹A *local education agency* (LEA) is a public board of education or other public authority legally constituted within a state to either provide administrative control or direction of, or perform a service function for, public schools in a state, city, county, township, school district, or other political subdivision. A local education agency may provide, or employ professionals who provide, services to children included in IDEA, such as physical, occupational, and speech therapy. A school district is a local education agency but not all LEAs are school districts (e. g., Roger McMurtry Specialized Treatment Facility, Walnut Grove Correctional Facility).

²*Child Find* is a continuous process of public awareness activities, screening, and evaluation designed to locate, identify, and evaluate children with disabilities who are in need of special education and related services.

³Federal IDEA law grants states the flexibility to establish their own eligibility requirements regarding children with disabilities in order to be consistent with state law or practice. MISS. CODE ANN. § 37-23-1 (1972) mandates free appropriate public education services and equipment for exceptional children in the age range three through twenty for whom the regular school programs are not adequate. Therefore, IDEA eligibility in Mississippi includes children aged three through twenty instead of three through twenty-one.

Background

Congress enacted the Individuals with Disabilities Education Act in 1975. The purpose of IDEA is to ensure that all students with disabilities are provided a free appropriate public education in the least restrictive environment that is appropriate to their individual special education needs and prepare them for further education, employment, and independent living. The U. S. Department of Education's Office of Special Education Programs authorizes IDEA funding.

In order to be eligible for IDEA in Mississippi, a student must be between the ages of three through high school graduation or age twenty, whichever comes first; have been determined to have a disability covered under IDEA; and, as a result of that disability, need special education and related services in order to make progress in school.

State education agencies administer the IDEA grants, provide technical assistance, and conduct fiscal and compliance monitoring. Local education agencies must conduct Child Find activities, allocate funds within their local education agencies to meet students' individualized education program⁴ (IEP) requirements, and ensure that IEP teams are established. IDEA requires local education agencies to provide related services necessary to assist an IDEA-eligible student in benefiting from his or her educational program (e. g., speech-language pathology, psychological services, physical and occupational therapy).

According to the Mississippi Department of Education (MDE) staff, services were provided to approximately 57,000 students (ages six through twenty) with IDEA Part B grant funding during the 2014-2015 school year.

⁴An *individualized education program* (IEP) is a written document that is required for each child who is eligible to receive special education services and that is specially designed to direct the provision of services and supports in order to enable each child to be involved and make progress.

How are IDEA funds expended to meet the needs of eligible students?

IDEA grant funding is not allocated based on an identified population of children with documented special education needs. Instead, it is allocated via a federal formula based on the prior year's grant allocations and additional amounts based on total student enrollment and the number of students receiving free and reduced lunches in Mississippi. These IDEA grant funds supplement, not supplant, other sources of state and local funds to provide special education services. The local education agencies have final discretion in providing services to achieve the purposes of IDEA.

IDEA funds are distributed to states through a federal allocation formula. Once IDEA funding reaches the local level, each local education agency individually determines how to use IDEA funds, in concert with state and local funds, to help carry out each child's IEP and ensure that each child receives a free appropriate public education in the least restrictive environment.

MDE does not track or maintain financial expenditure data for IDEA Part B grant funds in a manner that would allow the department itself or a third-party reviewer (such as PEER) to determine how IDEA funds were spent in relation to specific services. MDE's primary tool for capturing local education agencies' expenditures of IDEA grant funding is an annual expenditure report that provides expenditure data based only on broad budget categories (e. g., employee benefits, contractual services, instructional supplies). According to annual expenditure reports for FY 2014, local education agencies in Mississippi expended approximately 71% of their available IDEA grant funds on salaries and employee benefits.

Local education agencies must expend the same portion of local, state, and federal funds on the IDEA-eligible student as they would on any other child before a local education agency can expend IDEA funds on an IDEA-eligible child. IDEA only provides funds to cover the costs beyond the local, state, and federal funds spent to educate an IDEA-eligible child. Further, IDEA funds cannot be used to supplant other local, state, and federal funds already in place. State education agencies must expend IDEA funds provided to them on administering the IDEA grant or on monitoring, enforcement, mediation, and other state-level activities (e. g., training).

MDE has implemented fiscal policies to monitor local education agencies' compliance with federal spending requirements. However, MDE's current fiscal audits do not determine whether the local education agencies allocate funds in a manner that will best meet the students' needs (e. g., the quality or appropriateness of the services provided to the students).

What is MDE's role in ensuring that children with disabilities who are eligible for IDEA are identified and receive services?

MDE requires local education agencies to complete and submit annual Child Find reports. Local education agencies use these reports to track and report various output measures regarding their respective Child Find efforts, then MDE reviews these reports as part of its monitoring. Regarding the receipt of services, MDE's review process for individualized education programs focuses on monitoring local education agencies' compliance with IDEA mandates and regulations rather than on results and its dispute resolution process does not specify the issues or concerns that underlie each complaint.

IDEA includes the Child Find mandate, which requires all local education agencies to identify, locate, and evaluate children with disabilities. This requirement applies even if the local education agency is not providing special education services to the child. MDE uses various ways to announce that the state is providing educational opportunities to children with disabilities, including annual online publications and dissemination of brochures. Each local education agency must also conduct an annual Child Find publicity campaign.

IDEA requires the development of an individualized education program that outlines specially designed instruction necessary to allow each child with a disability to participate and progress in the same curriculum as all other children. IDEA requires that each IEP include certain information (e. g., annual performance goals) and states and local education agencies often include additional information for documentation purposes. Although MDE monitors local education agencies' implementation of IEPs through a four-year compliance monitoring cycle, the department's review is compliance-based rather than results-based.

The procedural safeguards in IDEA and the State Board of Education's policy establish three major resolution options to handle complaints of alleged violations of special education law: formal state complaints, mediation, and due process hearings. However, MDE does not analyze complaint data in a manner that would allow the Office of Special Education to identify and target potential recurring complaint issues or problem districts. Also, PEER found that the information was documented by such broad terms that an external reviewer would not be able to determine how or why a district would need to implement a corrective action plan.

How does MDE ensure accountability in the implementation of IDEA Part B in Mississippi?

The current accountability structure for implementation of IDEA Part B, both nationally and in Mississippi, needs improvement. While MDE does maintain an annual performance report to track compliance and progress on selected performance measures on a statewide basis, currently no correlation can be made between how MDE tracks and monitors performance and whether funds are being allocated to IDEA students or programs in the most effective manner (e. g., performance in relation to a specific IDEA program goal, disability type, or educational placement setting).

IDEA Part B has historically been implemented with the primary focus on compliance with the requirements of IDEA, rather than on improving results for children with disabilities and balancing those results with compliance. However, MDE, under guidance of the U. S. Department of Education, is in the process of implementing a new enhanced performance framework entitled Results-Driven Accountability (RDA) that will place increased emphasis on student performance, especially reading performance for K-3. Even though the national trend is to use this enhanced performance framework, RDA's performance measurability and impact are several years from full implementation, pending consistent data.

MDE maintains an annual performance report to track compliance and progress on selected performance measures on a statewide basis, not by IEPs. Therefore, no correlation can be made between how MDE tracks and monitors performance and whether funds are being allocated to IDEA students or programs in the most effective manner. By not capturing performance data in relation to a specific IDEA program goal, disability type, or educational placement setting, MDE cannot identify and implement best practices in providing special education services.

In June 2014, the U. S. Department of Education announced that it would shift the way it oversees the effectiveness of states' special education programs in making each state's annual determination under IDEA by changing its primary focus from compliance to a new framework known as Results-Driven Accountability, which focuses on improving results for children with disabilities while balancing those results with the compliance requirements of IDEA.

In implementing Results-Driven Accountability, MDE selected "increasing the percentage of third grade students with Specific Learning Disability and Language/Speech rulings in targeted districts who score proficient or higher on the regular statewide reading assessment to 75% by FFY 2018" as its IDEA focus area (i. e., state-identified measurable result) by which to measure educational results and functional outcomes in children with disabilities.

Summary Conclusion and Recommendations

MDE and the local education agencies should shift the focus of IDEA Part B program implementation from compliance to incorporate evaluation of performance. This position aligns with the recent shift toward a Results-Driven Accountability system that is being implemented at the federal level. Focusing on performance would also align with the Mississippi Legislature's ongoing effort to revitalize performance budgeting, which requires increased accountability for the efficient and effective use of public resources.

1. In order for MDE and local education agencies to identify cost-effective IDEA Part B programs, MDE should require local education agencies to develop goals and track and report the costs and program outcomes associated with IDEA Part B programs that have been implemented to improve educational services for children with disabilities.
2. In order to identify research-based or evidence-based programs under IDEA Part B, MDE should analyze the above-referenced performance and financial data to identify which IDEA programs could be transferable to other students and/or schools.
3. In order to provide a more effective problem-solving and dispute resolution process, MDE should maintain complaint data with increased specificity, especially with regard to the department's classification of issues and/or concerns that trigger complaints. This would also allow MDE to analyze complaint data in a manner that would identify and target potential recurring complaint issues or problem districts. Also, increased specificity in regard to complaint issues would allow an external reviewer such as PEER to determine the specific cause creating the complaint or how or why a district would need to implement a corrective action plan.
4. MDE should utilize its Parent Hotline intake forms to complement and improve on its overall dispute resolution process. While MDE staff note that an intake form is completed for each call received, the department should track and maintain a record of the issues/complaints/questions that are called in and analyze the information in a manner that would allow identification and targeting of recurring complaint issues or problem districts. This would allow MDE to direct technical assistance and training to targeted districts regarding services covered under IDEA Part B funding. Ideally, providing this technical assistance as early as possible could result in fewer formal state complaints.
5. In order to incorporate evaluation of performance with determination of compliance with IDEA requirements, MDE should modify its on-site monitoring record review form to require local education agencies to track and report substantive results-related data in each child's individualized education plan (IEP). This would allow MDE to measure the educational results and functional

outcomes for children with disabilities who are served by programs or services that receive funding from IDEA Part B.

6. In order to provide special education services to children with disabilities in the most efficient and effective manner, MDE should continue to seek appropriate programs and services that are evidence-based as defined by MISS. CODE ANN. § 27-103-159 (1972). MDE should also ensure that each local education agency is collecting the necessary data regarding these programs and services that receive IDEA Part B funding that can be used to support the benchmarks for special education within the Mississippi Statewide Strategic Plan.
7. In order to maximize available resources, MDE should identify and research the potential utility of additional resources or service mechanisms that could benefit the special education system as a whole (including IDEA Part B children) and/or that benefit a specific subset population or disability category covered under IDEA Part B. For example, MISS. CODE ANN. § 43-14-1 (2) (1972) requires the Interagency Coordinating Council for Children and Youth (ICCCY) to meet and conduct business at least twice annually, but it has not met since December 5, 2012, because no agency has opted to take the lead role as coordinator. MDE could pursue revitalizing this council in order to assist children with emotional/behavioral disorders.

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Mississippi's Utilization of Funds Provided by the Individuals with Disabilities Education Act (IDEA)

Introduction

Authority

The PEER Committee conducted this review pursuant to the authority granted by MISS. CODE ANN. Section 5-3-51 et seq. (1972).

Problem Statement

PEER was initially asked to review whether Mississippi's local education agencies¹ were expending federal grant funds allotted to them to implement the Individuals with Disabilities Education Act (IDEA) via allocation through the Mississippi Department of Education (MDE). Subsequently PEER determined, based on MDE reports and fiscal audit information, that local education agencies are, for the most part, expending the funds received from IDEA Part B Section 611 Grants to States (IDEA Part B) and Section 619 Preschool Grants (Preschool). According to PEER's preliminary inquiry and research of these reports, Mississippi's local education agencies expended all but the following amounts of IDEA funds for federal fiscal years 2010 and 2011:

- In FFY 2010 (School Year 2011), the grant amount allocated to Mississippi's local education agencies for IDEA Part B and IDEA Preschool was approximately \$110,449,868. Approximately \$10,800 of that amount was unspent.
- In FFY 2011 (School Year 2012), the grant amount allocated to Mississippi's local education agencies for IDEA Part B and IDEA Preschool was approximately \$110,037,633. Approximately \$5,400 of that amount was unspent.

¹A *local education agency* (LEA) is a public board of education or other public authority legally constituted within a state to either provide administrative control or direction of, or perform a service function for, public schools in a state, city, county, township, school district, or other political subdivision. A local education agency may provide, or employ professionals who provide, services to children included in IDEA such as physical, occupational, and speech therapy. A school district is a local education agency but not all LEAs are school districts (e. g., Roger McMurtry Specialized Treatment Facility, Walnut Grove Correctional Facility).

Based on the results of this preliminary inquiry, PEER refocused the review to include identifying the services being provided to IDEA-eligible students and determining the adequacy or appropriateness of these services in producing positive outcomes. Therefore, PEER inquired into whether the Mississippi Department of Education and local education agencies are efficiently and effectively spending IDEA grant funding to meet the needs of children identified by the Child Find² process and identifying children in need of access to the special education system and its services within Mississippi.

Scope and Purpose

PEER sought to address several questions with this project.

Regarding the Individuals with Disabilities Education Act:

- What is IDEA?
- What population receives services funded by IDEA?
- Who are IDEA's stakeholders and what roles do they play in implementing the act?

Regarding the expenditure of IDEA funds to meet the needs of eligible students:

- How are IDEA Part B Section 611 grant funds allocated and who is given spending authority at each level?
- How are/were funds spent to meet the needs of IDEA students?
- What expenditure restrictions are placed on IDEA Part B funds?
- Has MDE implemented IDEA monitoring and audit practices to oversee local education agencies' expenditures?

Regarding the Mississippi Department of Education's role in ensuring that IDEA-eligible children are identified and receive services:

- How are children with disabilities identified?
- How do children with disabilities receive necessary special education services?
- How does MDE address or resolve complaints and disputes involving special education matters under IDEA?

Regarding the Mississippi Department of Education's monitoring and tracking of IDEA results to ensure accountability:

²*Child Find* is a continuous process of public awareness activities, screening, and evaluation designed to locate, identify, and evaluate children with disabilities who are in need of special education and related services.

- How effectively does MDE track and monitor the performance of students who receive the benefits of IDEA funds?
- What changes in the IDEA accountability structure are being made, at the state and national level, to improve performance management?
- How will MDE implement the Results-Driven Accountability framework?

Scope Limitations

PEER focused solely on those individuals (ages six through twenty)³ and services provided through IDEA Part B Section 611 grant funding. As noted on page 5, this review does not include IDEA Preschool (ages three through five) or IDEA Part C (ages birth through two).

PEER limited this IDEA Part B review to the information available from the Mississippi Department of Education, rather than contacting each individual local education agency directly. For example, PEER reviewed the IDEA Part B annual expenditure reports for each of the local education agencies for FY 2014. Because this information was self-reported to MDE by the local education agencies, PEER cannot comment on the accuracy or validity of the expenditure data. Furthermore, the information available through MDE was grouped into major expenditure categories and did not specify the process of how each local education agency determined how to administer its portion of IDEA funds to meet the needs of students.

PEER does not comment in this report on the adequacy or appropriateness of specific services provided through IDEA funding. While PEER did review the Child Find process, the process and purpose of developing an individualized education program (IEP),⁴ and the options for filing a formal complaint with MDE, PEER did not review any individual case for any particular child. While MDE does serve in an administrative capacity at the state level, most of the above-noted processes are developed and monitored at the local education agency level.

³Federal IDEA law grants states the flexibility to establish their own eligibility requirements regarding children with disabilities in order to be consistent with state law or practice. MISS. CODE ANN. § 37-23-1 (1972) mandates free appropriate public education services and equipment for exceptional children in the age range three through twenty for whom the regular school programs are not adequate. Therefore, IDEA eligibility in Mississippi includes children aged three through twenty instead of three through twenty-one.

⁴An *individualized education program* (IEP) is a written document that is required for each child who is eligible to receive special education services and that is specially designed to direct the provision of services and supports in order to enable each child to be involved and make progress.

Method

In conducting this review, PEER reviewed applicable information pertaining to the Individual with Disabilities Education Act, including:

- reviewed applicable federal law;
- reviewed applicable Mississippi State Board of Education policies and procedures;
- interviewed Mississippi Department of Education staff;
- interviewed personnel and examined records of the Mississippi Department of Education regarding school districts' expenditures for FY 2014;
- interviewed personnel with the family resource, support, and advocacy groups Mississippi Parent Training and Information Center and Families as Allies;
- reviewed IDEA Part B annual expenditure reports submitted by local education agencies for FY 2014; and,
- reviewed compliance and performance monitoring tools, including fiscal audit tools, compliance audit tools, and annual performance reports.

Background

This chapter seeks to address the following questions:

- What is IDEA?
- What population receives services funded by IDEA?
- Who are IDEA's stakeholders and what roles do they play in implementing the act?

What is IDEA?

Congress enacted the Individuals with Disabilities Education Act in 1975. The purpose of IDEA is to ensure that all students with disabilities are provided a free appropriate public education in the least restrictive environment that is appropriate to their individual special education needs and prepare them for further education, employment, and independent living.

Initially created as the Education for All Handicapped Children Act (EHA) (P.L. 94-142) in 1975, the 1990 amendments to EHA changed the name of the act to the Individuals with Disabilities Education Act (IDEA). IDEA governs the provision of early intervention, special education, and related services to children with disabilities by states and public agencies. IDEA has the following parts:

- Infants and toddlers with disabilities (ages birth-2) and their families receive early intervention services under IDEA Part C. IDEA Part C is managed in Mississippi by the Mississippi State Department of Health.
- Children and youth (ages 3-21) and their families receive special education and related services under IDEA Part B, which is subdivided at the state and local level into IDEA Part B (ages 3-21) and IDEA Preschool (ages 3-5). IDEA Part B is managed in Mississippi by the Mississippi Department of Education and local education agencies. (For this review, PEER concentrated solely on IDEA Part B, children ages 6-20).

The purpose of the Individuals with Disabilities Education Act, as stated under CFR § 300.1, is fourfold:

- to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- to ensure that the rights of children with disabilities and their parents are protected;

- to assist states, localities, educational service agencies, and federal agencies in providing for the education of all children with disabilities; and,
- to assess and ensure the effectiveness of efforts to educate children with disabilities.

Appendix A, page 51, provides a glossary of terms and acronyms related to IDEA.

Free Appropriate Public Education

All eligible students with disabilities are entitled to receive a free appropriate public education paid for at public expense through the local public school system that will meet their needs as stated in their Individualized Education Program.

IDEA defines a “free appropriate public education” as:

Special education and related services that:

- *have been provided at public expense, under public supervision and direction, and without charge;*
- *meet the standards of the State educational agency;*
- *include an appropriate preschool, elementary school, or secondary school education in the State involved; and,*
- *are provided in conformity with the individualized education program required under section 614(d) of IDEA.*

To provide a free appropriate public education, schools must provide students with an “education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.”

Least Restrictive Environment

IDEA requires that, when appropriate, all students with disabilities be educated in settings with children without disabilities. Students with disabilities may be placed in more restrictive settings only when an appropriate education cannot be provided.

IDEA requires schools to provide a free appropriate public education to all students with disabilities, regardless of the institution they attend, in “the least restrictive environment.” Specifically, to the maximum extent appropriate, school districts must educate students with disabilities in the regular classroom with appropriate aids and supports, referred to as “supplementary aids and services,” along with their nondisabled peers in the school they would attend if not disabled, unless a student’s IEP requires some other arrangement. MISS. CODE ANN. Section 37-16-9 and 37-23-148 (1972) require that students with disabilities be included in the general education curriculum to the maximum extent possible

and in general statewide and district-wide assessments with appropriate accommodations where necessary.

In implementing IDEA's provisions for the least restrictive environment, the regular classroom in the school the student would attend if not disabled is the first placement option considered for each disabled student before a more restrictive placement is considered.

Related Services

IDEA requires local education agencies to provide related services necessary to assist an IDEA-eligible student in benefiting from his or her educational program (e. g., speech-language pathology, psychological services, physical and occupational therapy).

Per CFR § 300.34, IDEA also requires local education agencies to provide an IDEA-eligible student with any related or supportive services necessary to assist the child in benefiting from his or her special education. Such services must be determined necessary by the child's IEP in accordance with the child's disabilities.

Related services include, but are not limited to: transportation, speech-language pathology services, psychological services, physical and occupational therapy, counseling services, and medical services for diagnostic or evaluation purposes. These services may also include parent counseling and training.

What population receives services funded by IDEA?

In order to be eligible for IDEA in Mississippi, a student must be between the ages of three through high school graduation or age twenty, whichever comes first; have a diagnosed disability (as covered under IDEA); and, as a result of that disability, need special education and related services in order to make progress in school. According to the Mississippi Department of Education staff, services were provided to approximately 57,000 students (ages 6 through 20) with IDEA funding during the 2014-2015 school year.

IDEA addresses the educational needs of children with disabilities from ages three through high school graduation or age twenty (whichever comes first). IDEA lists thirteen different disability categories under which 3- through 20-year-olds may be eligible for services. The disability categories listed for IDEA are:

- autism;
- deaf-blindness;
- developmental delay;
- emotional disturbance;
- hearing impairment (including deafness);
- intellectual disability;

- multiple disabilities;
- orthopedic impairment;
- other health impairment (including attention deficit hyperactivity disorder [ADHD]);
- specific learning disability (including dyslexia, dyscalculia, and dysgraphia, among others);
- speech or language impairment;
- traumatic brain injury; and,
- visual impairment (including blindness).

Having a disability, however, does not automatically qualify a student for special education services under IDEA. The student must first have a qualifying disability and, as a result of his/her disability, must need special education and related services. For example, if a student has ADHD but is doing well in school, he might not be covered by IDEA.

According to MDE, during School Year 2014-2015, approximately 57,000 children, ages 6 through 20, in Mississippi received services provided by IDEA Part B funding. The two largest served populations in Mississippi were students who exhibited a language/speech impairment (26%) or a specific learning disability (24%). More than 95% of these students were served inside the general classroom setting with their non-disabled peers in School Year 2014-2015. Alternative placements included separate schools, resident facilities, homes or hospitals, and correctional facilities.

Who are IDEA's stakeholders and what roles do they play in implementing the act?

The U. S. Department of Education's Office of Special Education Programs authorizes IDEA funding. State education agencies then administer the grants, provide technical assistance, and conduct fiscal and compliance monitoring. Local education agencies must conduct Child Find activities, allocate funds within their local education agencies to meet students' IEP requirements, and ensure that IEP teams are established. Parents can be proactive in ensuring that their child is screened for special education needs and if their child is determined eligible under IDEA, parents are also members of the child's IEP team.

The U. S. Department of Education's Office of Special Education Programs (OSEP) is responsible for overseeing and administering the IDEA program, including authorizing the IDEA formula grants to states (discussed in more detail in the following chapter on pages 13 through 17). OSEP also conducts fiscal audits of the states, provides official OSEP policy briefs, and is in the process of revising performance monitoring standards.

At the state level, the state education agencies (i. e., the Mississippi Department of Education) administer the IDEA formula grants and allocate the funds to the local education agencies based on the IDEA formula (see page 14). They also

audit the local education agencies' expenditure of funds and monitor their compliance with providing a free appropriate public education in the least restrictive environment to their students. The state education agency should also provide training and technical assistance to the local education agencies.

Local education agencies must ensure that Child Find activities (see footnote, page 2) are conducted within their district to identify students who may have disabilities. Local education agencies must then ensure that IEP teams are established, meet regularly, make progress toward established annual goals, and that each student with disabilities has access to a free appropriate public education in the least restrictive environment. Local education agencies must also allocate IDEA funds, within grant restrictions, toward meeting students' IEP requirements.

Parents can be active stakeholders for ensuring that their IDEA-eligible children receive services provided by IDEA funds. While MDE and the local education agencies are required to provide a child a free appropriate public education in the least restrictive environment and pursue Child Find activities, parents can be proactive in ensuring that their children are screened for special education needs. If a child is determined to be eligible for IDEA (see page 7), CFR § 300.321 statutorily gives parents the opportunity to participate as active members on the child's IEP Team. Parents also have options for appeals (as noted on page 57) if they have concerns with how the school is handling their child's IEP, including mediation, requesting assistance via MDE's Parent Hotline (1-877-544-0408), filing a formal state complaint, or requesting a hearing.

For student advocacy and parental assistance, parents may also seek assistance from the Mississippi Parent Training and Information Center (www.mspti.org, 1-800-721-7255) or Families as Allies (<http://faams.org/>, 1-800-833-9671). Both organizations provide telephone support for families of children with disabilities who need assistance working with their local education agencies or working through questions and/or concerns about what is covered under IDEA. These organizations offer parents educational services (e. g., pamphlets, IEP "bootcamp") and offer to attend IEP meetings with them if they need assistance. Additional advocacy groups include Disability Rights Mississippi, The Arc of Mississippi, Coalition for Citizens with Disabilities, and LIFE of Mississippi.

Additional Stakeholders for Special Education and IDEA

Additional stakeholders can play key roles in how IDEA is implemented in the state. Primary examples include the Special Education Advisory Panel, the Special Education Task Force, and the Interagency Coordinating Council for Children and Youth.

Some stakeholders play a key role in implementation of IDEA in the state by looking at the special education system as a whole. These stakeholders can work toward improving educational opportunities for all students with disabilities, which would also include IDEA-eligible students. One primary example of this is the Special Education Task Force.

Other stakeholders can also play a key role in implementation of IDEA in the state by targeting a specific disability or special education need population. This would impact IDEA should this disability or need also be covered under IDEA. One primary example of this is the Interagency Coordinating Council for Children and Youth (ICCCY).

Special Education Advisory Panel

The Special Education Advisory Panel provides advice and guidance to the Mississippi Department of Education regarding the education and related services of children and youth with disabilities in local educational agencies.

The Special Education Advisory Panel is a twenty-member panel (with the chairperson elected from its membership) that meets bi-monthly to promote the education of children and youth with disabilities. The panel provides advice and guidance to the Mississippi Department of Education's Office of Special Education regarding the education and related services of children and youth with disabilities in local educational agencies.

The panel identifies unmet needs within the state in the education of children with disabilities and provides advice on the education of eligible students with disabilities who have been convicted as adults and incarcerated in adult prisons, even if, consistent with §300.600(d), a state assigns general supervision responsibility for those students to a public agency.

Special Education Task Force

The Special Education Task Force issued its report in December 2014 and is working with the Mississippi Department of Education to implement the report's recommendations.

In 2014, the State Superintendent of Education created the Special Education Task Force, consisting of forty-four members including legislators, district administrators, principals, parents, special education teachers, general education teachers, parent advocate groups, nonpublic agencies, and post-secondary representatives.

The Special Education Task Force's roles include:

- serving as a forum to strengthen coordination across the various stakeholder groups on the task force;
- providing a forum to inform the Mississippi Department of Education regarding special education issues;
- creating a professional learning community in which participants can share what is working and identify and replicate best practices in special education programs;
- providing the State Superintendent and the Mississippi Department of Education team with recommendations to improve quality education opportunities for students with disabilities; and,
- identifying areas that may require policy or legislative action.

The task force issued its *Special Education Task Force Summary Report* in December 2014. A summary of this report may be found in Appendix B on page 53 of this report. The task force will continue to work in both the large group and in subcommittees to assist the Mississippi Department of Education in implementation of the recommendations contained within the task force's report.

Interagency Coordinating Council for Children and Youth

The Legislature authorized development of the Mississippi Statewide System of Care and created the Interagency Coordinating Council for Children and Youth (ICCCY) to oversee its implementation, but did not name a coordinating agency. ICCCY has not met since December 5, 2012.

Seeing the need for coordinated services for those with emotional/behavioral disorders who require services from multiple providers operated by several different state entities, the Legislature authorized the development of the Mississippi Statewide System of Care (see MISS. CODE ANN. § 43-14-1 [1972]). Its purpose was to develop and oversee a coordinated interagency system of necessary services and care for children and youth with emotional/behavioral disorders.

H. B. 1275, 2001 Regular Session, created the fifteen-member Interagency Coordinating Council for Children and Youth (ICCCY) to oversee the implementation of the Mississippi Statewide System of Care (including the State Superintendent of Education), but did not name a coordinating agency. Although several agencies, including the Department of Human Services, Department of Rehabilitation Services, and Department of Mental Health at one time took the lead as coordinator of ICCCY, no agency currently has that role. As a result, even though MISS. CODE ANN. § 43-14-1 (2) (1972) requires ICCCY to meet and conduct business at least twice annually, ICCCY has not met since December 5, 2012.

How are IDEA funds expended to meet the needs of eligible students?

IDEA grant funding is not allocated based on an identified population of children with documented special education needs. Instead, it is allocated via a federal formula based on the prior year's grant allocations and additional amounts based on total student enrollment and the number of students receiving free and reduced lunches in Mississippi. These IDEA grant funds supplement, not supplant, other sources of state and local funds to provide special education services. The local education agencies have final discretion in providing services to achieve the purposes of IDEA.

This chapter seeks to address the following questions:

- How are IDEA Part B Section 611 grant funds allocated and who is given spending authority at each level?
- How are/were funds spent to meet the needs of IDEA students?
- What expenditure restrictions are placed on IDEA Part B funds?
- Has MDE implemented IDEA monitoring and audit practices to oversee local education agencies' expenditures?

How are IDEA Part B Section 611 grant funds allocated and who is given spending authority at each level?

IDEA funds are distributed to states through a federal allocation formula. Once IDEA funding reaches the local level, each local education agency individually determines how to use IDEA funds, in concert with state and local funds, to help carry out each child's IEP and ensure that each child receives a free appropriate public education in the least restrictive environment.

IDEA Part B Section 611 grant funds supplement state, local, and other federal funds to provide educational services for IDEA-eligible students. The act assigns the majority of planning and expending funds for implementing each eligible child's IEP to the local education agencies. IDEA also provides funds to state education agencies for administering IDEA funds, oversight, and monitoring.

Each federal fiscal year, the U. S. Department of Education's Office of Special Education Programs (OSEP) allocates IDEA grant funds to state education agencies and local education agencies via a formula outlined in 20 U.S.C. 1411 (d-f) for the purpose of carrying out the Individuals with Disabilities Education Act. In May of each year, each state education agency must submit its annual IDEA Part B state applications with supporting information to OSEP.

In applying for an IDEA Part B Section 611 grant, states must:

- describe how funds allocated to the state education agency for administration and monitoring, complaint investigation, mediation and other specified activities described in 20 U.S.C. 1411 (e) (1-2) will be used to meet the requirements of IDEA Part B;
- describe steps that the state proposes to take to ensure equitable access to, and participation in, activities under IDEA Part B; and,
- meet public participation requirements, including publishing the state IDEA Part B application for at least sixty days and accepting public comment for at least thirty days prior to submitting the application.

OSEP then reviews the IDEA state applications to verify compliance with the requirements set forth in Part B of the Individuals with Disabilities Education Act. As long as a state remains in compliance, it continues to receive grant funding upon submission of its annual application.

IDEA grant allocations are based on a federal fiscal year (October 1 through September 30). However, the state and local education agencies operate on the state fiscal year (July 1 through June 30). Therefore, a portion of the federal fiscal year's IDEA grant allocation must be available for use in preparation for the upcoming school year. For example, the IDEA grant funds allocated for Federal Fiscal Year 2015 may be expended beginning on July 1, 2015, in preparation for School Year 2015-16.

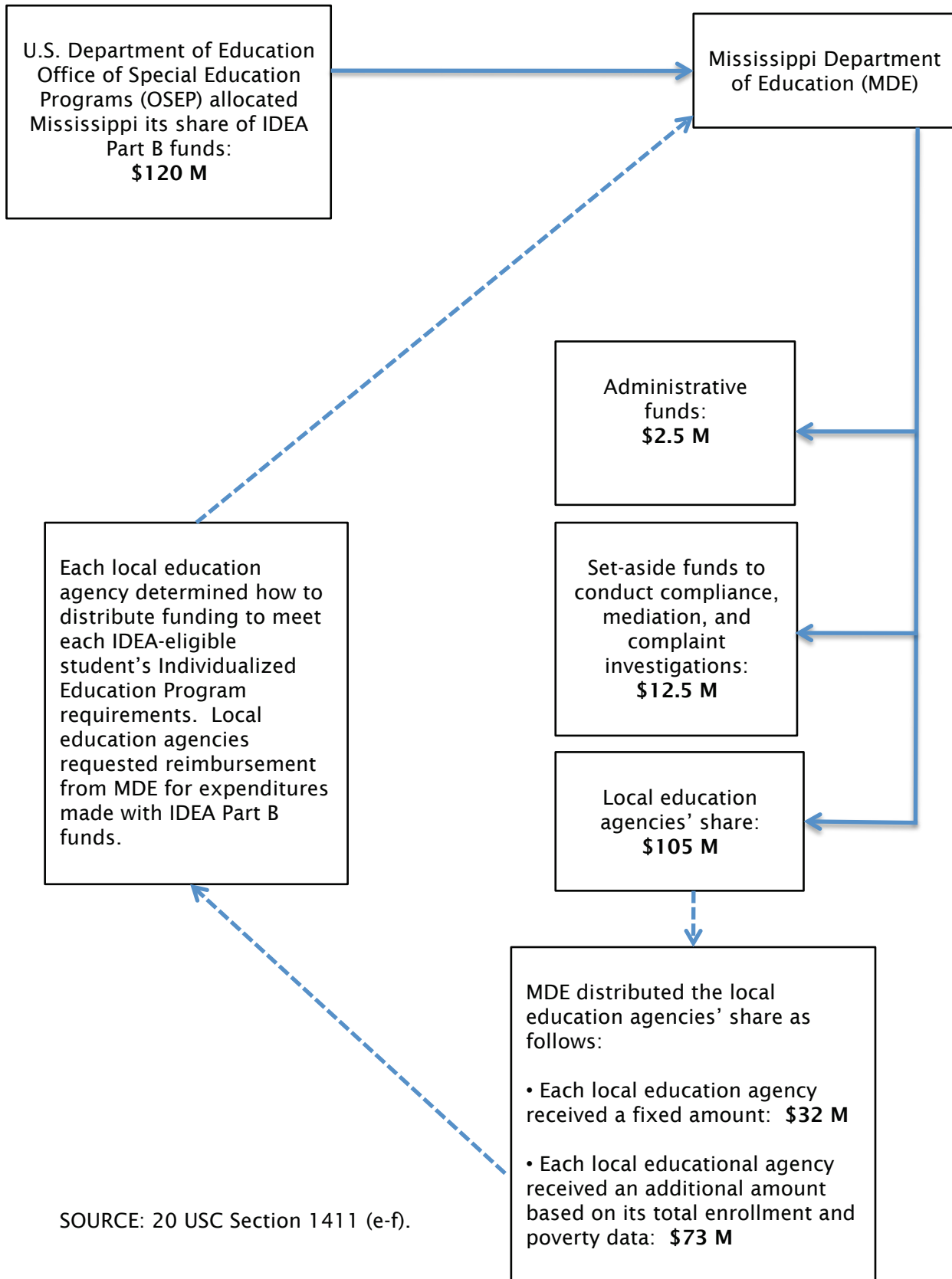
Any IDEA funds not spent within their initial allocation period remain available to carry over for an additional federal fiscal year. Essentially, a local education agency may have up to a total of twenty-seven months to expend IDEA Part B grant funds for a particular year's allocation. Any unspent IDEA funds must be returned to the U. S. Department of Education.

Formula for Allocation of IDEA Funds

Using the formula specified in IDEA, the U. S. Department of Education's Office of Special Education Programs allocates funding to each state's education agency. This funding includes money for state-level administration and set-asides (e. g., expenses for compliance, mediation, and complaint investigations), with the largest portion of IDEA funds being local education agencies' share. The state education agencies then apply the formula specified in IDEA to reallocate funds to the local education agencies.

Using the formula specified in IDEA and codified in 20 U.S.C. 1411 (e-f), the U. S. Department of Education's Office of Special Education Programs allocates IDEA funding to each state in three components: state administrative funds, state set-aside funds, and local education agency funds. Exhibit 1, page 15, shows this allocation of funds, using the amount of IDEA Part B

Exhibit 1: How IDEA Part B Funds are Allocated to the States (Using Mississippi's FFY 2012 IDEA Part B Funding Amount [Approximately \$120 Million] for Illustration)



SOURCE: 20 USC Section 1411 (e-f).

grant funds that Mississippi received in FFY 2012 (approximately \$120 million) to illustrate the allocation.

Regarding the formulated amounts, PEER notes the following:

- *Administrative funds*--IDEA requires that OSEP allocate administrative funds to a state based on the greater of FFY 2004 allocation amounts or \$800,000, increased by inflation as reflected by the Consumer Price Index for All Urban Consumers.
- *Set-aside funds*--According to IDEA, the amount of set-aside funds allocated to a state is contingent upon the amount set aside for administration and whether the individual state opts to establish a local education agency risk pool under IDEA section 611(e) (3). Since the Mississippi Department of Education has opted not to establish a risk pool and is allocated more than the \$850,000 threshold in administrative expenses for IDEA, MDE is allocated state set-aside funds based on 9% of its 2006 award, as adjusted for inflation based on the Consumer Price Index for All Urban Consumers.
- *Local education agencies' funds*--IDEA requires each state's education agency (e. g., MDE) to reallocate the local education agencies' share of the funds. Each local education agency is credited for its respective award of IDEA grant funds based on two components:
 - a fixed amount equal to its respective FFY 1999 IDEA grant allocation; and,
 - an additional amount based on the local education agency's population and poverty data. Eighty-five percent of this amount must be distributed on a pro-rata basis based on the total enrollment within the local education agency's jurisdiction. The remaining fifteen percent must be distributed based on the number of children in the local education agency's jurisdiction living in poverty, as defined by the state education agency. MDE defines *poverty* as the population of students receiving free and reduced lunches.

Local education agencies must then request reimbursement from MDE for their IDEA Part B expenditures.

Each Local Education Agency Must Determine How to Use IDEA Funds To Meet IEP Requirements and Conduct Child Find

Upon receiving notice of allocated funds, each local education agency must individually determine how to utilize its IDEA funding to provide services that meet each student's individual needs.

Each local education agency must individually determine how to utilize its IDEA funding to meet each student's IEP requirements as well as to conduct Child Find activities (as

discussed later on pages 23 through 25). To satisfy MDE and IDEA requirements, each local education agency must develop an annual budget as part of its IDEA project application regarding how it intends to spend funds.

How are/were funds spent to meet the needs of IDEA-eligible students?

MDE does not track or maintain financial expenditure data for IDEA Part B grant funds in a manner that would allow the department itself or a third-party reviewer (such as PEER) to determine how IDEA funds were spent in relation to specific services. MDE's primary tool for capturing local education agencies' expenditures of IDEA grant funding is an annual expenditure report that provides expenditure data based only on broad budget categories (e. g. employee benefits, contractual services, instructional supplies). According to annual expenditure reports for FY 2014, local education agencies in Mississippi expended approximately 71% of their available IDEA grant funds on salaries and employee benefits.

PEER requested that MDE provide detailed information regarding how local education agencies expend their respective allocations of IDEA Part B grant funds. PEER originally sought to determine what specific special education resources and services were being provided to IDEA-eligible students and whether any return on investment analysis could be performed using available data.

IDEA requires that each local education agency request reimbursement for expenditures and submit annual expenditure reports each September for the previous fiscal year by both budget category and history transaction listing. MDE staff provided PEER with the FY 2014 annual expenditure reports for 161 of the 163 local education agencies. PEER then manually compiled each of these annual expenditure reports to determine how IDEA Part B funds were expended statewide. Exhibit 2, page 18, shows these IDEA expenditures by category as reported by the local education agencies for FY 2014.

As shown in Exhibit 2, in FY 2014, the expended IDEA funds totaled \$109,632,007.38 (as reported by each of the local education agencies). Approximately 71% (\$78 million) of this funding was expended on the two budget categories of salaries and employee benefits. Some examples of positions covered within salaries included bus drivers, speech pathologists, teacher assistants, and special education directors. No further information could be distilled from these annual expenditure reports without on-site review of each of the local education agencies' local financial records.

Exhibit 2: Mississippi Local Education Agencies' IDEA Part B Expenditures by Category, Fiscal Year 2014

Expenditure Category	Total*
Salaries	\$ 56,306,341.84
Employee Benefits	21,723,433.28
Contractual Services	8,904,097.77
Coordinated Early Intervening Services	5,026,732.18
Private Placements	3,655,574.44
Instructional Supplies	2,897,887.92
Private School Participation	1,802,841.74
Professional Development Training	1,352,914.28
Indirect Cost	1,320,022.53
Staff Travel	1,220,602.35
Equipment	1,167,743.74
Equipment Repair/Maintenance	719,853.63
Salary Supplements (Contractual)	598,275.58
Office Supplies	548,149.60
Stipends (Non-Contractual)	448,964.96
Evaluation Supplies	402,906.68
Student Travel	321,078.53
Extended School Year	318,090.67
Cooperative Agreements	263,100.43
Substitute Pay	170,418.49
Other - Miscellaneous**	161,273.49
Parental Involvement	114,161.32
Other - Unspecified^	109,589.82
Communication	77,952.11
Total	\$109,632,007.38

*MDE provided FY 2014 annual expenditure reports for 161 of the 163 local education agencies. MDE did not provide the annual expenditure reports for Mississippi School for the Deaf and Walnut Grove Correctional Facility in time to be incorporated into this exhibit.

**The *Other- Miscellaneous* expenditure category is composed of multiple specified expenditures that varied within each local education agency. PEER totaled those expenditures into a single category for the purpose of this exhibit.

^The *Other - Unspecified* category is composed of multiple expenditures that were not specified by the local education agency on its respective annual expenditure report.

SOURCE: PEER analysis of FY 2014 IDEA Part B annual expenditure reports, as reported by the local education agencies.

Although local education agencies are required to submit these annual expenditure reports, currently MDE only uses the reports to check for compliance of the expenditures with applicable provisions of IDEA and other federal requirements (see following section of this report) and to fulfill IDEA's reporting requirements. Ideally, MDE would, in coordination with the respective local education agencies, maintain state-level financial data in a manner that would allow it to track and monitor how IDEA funding is expended statewide, at the local level, or at the programmatic level toward meeting measurable performance outcomes or goals. For example, how much is it costing a local education agency to implement its electronic reading program? How are local education agencies choosing to make their make or buy decisions, especially when deciding when to switch programs (purchasing a electronic reading product versus hiring literacy coaches to improve reading skill levels)? While programs and/or services may vary between local education agencies, the intent is to identify how local education agencies are spending their funding toward achieving a programmatic purpose or service (e. g., Child Find, literacy, life skills/life adjustment, emotional behavior). Subsequently, the next step is to determine what returns the program generated, if and how the program can be improved, and whether the program needs to be replaced.

Furthermore, as noted on page 38, this financial data should also be analyzed in a manner that would allow MDE and each local education agency to determine whether the local education agencies are using IDEA funds to provide special education services efficiently and effectively.

What expenditure restrictions are placed on IDEA Part B funds?

Local education agencies must expend the same portion of local, state, and federal funds on the IDEA-eligible student as they would on any other child before a local education agency can expend IDEA funds on an IDEA-eligible child. IDEA only provides funds to cover the costs beyond the local, state, and federal funds spent to educate an IDEA-eligible child. Further, IDEA funds cannot be used to supplant other local, state, and federal funds already in place. State education agencies must expend IDEA funds provided to them on administering the IDEA grant or on monitoring, enforcement, mediation, and other state-level activities (e. g., training).

Local education agencies must develop and maintain internal controls to ensure that all personnel, contractual services, and goods (e. g., equipment and instructional supplies) are budgeted for and expended in accordance with the applicable provisions of IDEA and other federal requirements (see Appendix C, page 55). The two main requirements for IDEA expenditures are:

- IDEA only authorizes funds to cover the costs associated with the education of an elementary school or secondary

school student with a disability above the local education agency's average annual per-student expenditure. Hence, a local education agency must spend at least the average annual per student expenditure on a child with a disability before funds under Part B of IDEA are used to pay the costs of providing special education and related services.

- IDEA funds may not be used to reduce the level of expenditures for the education of children with disabilities made by the local education agency from local funds below the level of those expenditures for the preceding fiscal year.

Examples of covered state-level IDEA expenditures include:

- assisting local education agencies in providing positive behavioral interventions and supports and mental health services to children with disabilities;
- developing and implementing transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to post-secondary activities;
- assisting local education agencies in meeting personnel shortages; and,
- providing alternative programming for children with disabilities who have been expelled from school and services for children with disabilities in correctional facilities, enrolled in state-operated schools or state-supported schools, and in charter schools.

Examples of non-allowable uses of IDEA grant funds include:

- paying for attorney's fees and other legal fees;
- paying for direct services for non-special education students; and,
- paying for students with disabilities to participate in regular summer school programs.

Has MDE implemented IDEA monitoring and audit practices to oversee local education agencies' expenditures?

MDE has implemented fiscal policies to monitor local education agencies' compliance with federal spending requirements. However, MDE's current fiscal audits do not determine whether the local education agencies allocate funds in a manner that will best meet the students' needs (e. g., the quality or appropriateness of the services provided to the students).

Under IDEA, state education agencies must monitor and audit local education agencies to ensure fiscal compliance in spending IDEA funding. MDE has implemented fiscal oversight policies to oversee expenditure of IDEA funds by local education agencies. The department provides the following levels of oversight in overseeing the expenditure of IDEA Part B and Preschool funds.

- By September 30 of each year, each local education agency must also submit to MDE its "IDEA Part B and Preschool Annual Expenditure Report" with a printout of expenditures by fund, function, program, and object code.
- MDE conducts an on-site fiscal audit at each local education agency every four years. For School Year 2013-2014, MDE recaptured misspent funds totaling \$31,483 from on-site audits conducted at seven local education agencies.

MDE generally summarized the following areas of typical fiscal non-compliance that might arise during fiscal audits:

- not maintaining accurate time sheets for personnel who perform other job functions in addition to IDEA functions;
- paying for legal fees (e.g., attorney's fees, due process fees) associated with IDEA complaints;
- reporting expenditures from the wrong budget category (e.g., buying "Equipment" from the "Instructional Supplies" fund); and,
- entering into contracts without all elements needed (e.g., no beginning and ending dates, no specified rate of pay).

In an attempt to strengthen its financial compliance audits, beginning in the 2015-2016 school year, MDE will also conduct annual risk assessment audits on each of the local education agencies. The intensity of this additional audit protocol will increase based on each local education agency's risk score. This score may range from zero to one hundred, with a higher score reflecting a higher risk based on responses to a questionnaire completed by the local education agency. The risk ranges and corresponding types of audits MDE plans to conduct are:

- Low risk: 29 points or below. MDE will audit the history transaction expenditures by fund code.
- Medium risk: 30 through 59 points. MDE will conduct a desk audit to audit payroll, time and effort reports, and semi-annual certification forms, as well as history transaction expenditures by fund code.
- High risk: 60 through 100 points. MDE will conduct an on-site audit.

Risk assessment audits that are conducted during the 2015-2016 school year will include a review of 2014-2015 school year data and the 2015 IDEA project application.

However, MDE's fiscal audit process does not determine whether the local education agencies have allocated funds in a manner that will best meet their students' needs. For example, how the did the local education agencies opt to allocate their additional IDEA resources? Did the local education agency hire a new speech pathologist or did the local education agency start a new team teaching program?

What is MDE’s role in ensuring that children with disabilities who are eligible for IDEA are identified and receive services?

MDE requires local education agencies to complete and submit annual Child Find reports. Local education agencies use these reports to track and report various output measures regarding their respective Child Find efforts, then MDE reviews these reports as part of its monitoring. Regarding the receipt of services, MDE’s review process for individualized education programs focuses on monitoring local education agencies’ compliance with IDEA mandates and regulations rather than on results and its dispute resolution process does not specify the issues or concerns that underlie each complaint.

This chapter addresses the following questions:

- How are children with disabilities identified?
- How do children with disabilities receive necessary special education services?
- How does MDE address or resolve complaints and disputes involving special education matters under IDEA?

How are children with disabilities identified?

IDEA includes the Child Find mandate, which requires all local education agencies to identify, locate, and evaluate children with disabilities. This requirement applies even if the local education agency is not providing special education services to the child. MDE uses various ways to announce that the state is providing educational opportunities to children with disabilities, including annual online publications and dissemination of brochures. Each local education agency must also conduct an annual Child Find publicity campaign.

The Child Find Mandate

The Child Find mandate requires all states, through their local education agencies, to identify, locate, and evaluate all children with disabilities within their jurisdictions.

IDEA includes the Child Find mandate, which requires all states, through their local education agencies, to identify, locate, and evaluate all children with disabilities, regardless of the severity of their disabilities, from birth through twenty years of age. This obligation to identify all children who may need special education services applies even if the school is not providing special education services to the child. These requirements also apply to highly mobile children with disabilities (such as migrant and homeless children) and children who are suspected of having a disability and may be in

need of special education, even though they are advancing from grade to grade.

The Child Find mandate requires each state to devise a practical method to determine which children are and are not receiving needed special education services. Under the State Board of Education's policy, MDE's Office of Special Education (OSE) is responsible for statewide coordination of the planning and implementation of the Child Find process in Mississippi. According to OSE, the office's policy is that Child Find is an ongoing, year-round process not limited to the school year.

In order to announce that the state is providing educational opportunities to children with disabilities and that parents or other interested individuals should refer a child who may have a disability to local school authorities, MDE annually publicizes the process via its website and dissemination of brochures to regional and local offices of state agencies and non-profit social service agencies. MDE also maintains a Child Find referral system that serves as another referral avenue for parents.

Each local education agency must conduct a Child Find publicity campaign (i. e., letters or brochures to parents of all students, advertisements, or news articles). State board policy requires each district to contact the following agencies, which are required to work with the districts to determine special education eligibility: local juvenile correctional facilities, local welfare offices, local health departments, local Head Start agencies, and local mental health agencies.

For an overview of the process of how a student is identified as having a disability and needing services under IDEA, see Appendix D on page 59.

MDE's Monitoring of Local Education Agencies' Child Find Efforts

MDE requires local education agencies to complete and submit annual Child Find reports. Local education agencies use these reports to track and report various output measures (e. g., the number of children ruled eligible for special education) regarding their respective Child Find efforts. MDE then reviews these reports as part of its monitoring.

MDE requires local education agencies to complete and submit annual Child Find reports to the OSE. Each local education agency must include in its Child Find report the contacts made with each of the required agencies, the type of contact (i. e., personal or written contact) made, and the date of the contact. Local education agencies must also use the report to track and report the numbers of:

- initial cases referred to the Multidisciplinary Evaluation Team (MET) as a result of in-school Child Find activities;
- initial cases referred to the MET as a result of out-of-school Child Find activities;
- initial cases ruled eligible for special education;

- initial cases ruled ineligible for special education;
- reevaluations conducted;
- reevaluation cases with continued IDEA eligibility under any disability category;
- reevaluation cases ineligible for special education; and,
- initial and reevaluation cases receiving special education services after an eligibility ruling.

How do children with disabilities receive necessary special education services?

IDEA requires the development of an individualized education program that outlines specially designed instruction necessary to allow each child with a disability to participate and progress in the same curriculum as all other children. IDEA requires that each IEP include certain information (e. g., annual performance goals) and states and local education agencies often include additional information for documentation purposes. Although MDE monitors local education agencies' implementation of IEPs through a four-year compliance monitoring cycle, the department's review is compliance-based rather than results-based.

The Role of Individualized Education Programs

IDEA requires the development of an individualized education program that outlines specially designed instruction necessary to allow each child with a disability to participate and progress in the same curriculum as all other children.

IDEA requires that the special education provided to a child with disabilities be specially designed to meet the unique needs resulting from that disability and that it enable the child to be involved and make progress in the general education curriculum. The IEP guides the delivery of special education supports and services for the student with a disability.

Under IDEA, the IEP has two general purposes:

- to establish measurable annual goals for the child; and,
- to state the special education and related services and supplementary aids and services that the public agency will provide to, or on behalf of, the child.

To create an effective IEP, by IDEA law, members of the IEP team (e. g., parents, teachers, other school staff, and sometimes, the student) must work together to share their information to help understand the child and what services are needed in order to write the child's IEP. When constructing an appropriate educational program for a child with a disability, the IEP team broadly considers the child's involvement and participation in three main areas of school life: general

education curriculum,⁵ extracurricular activities, and nonacademic activities.⁶

The IEP team must also design the student's IEP to:

- indicate what the child is expected to be able to achieve within one year;
- provide high expectations and educational benefit for children with disabilities;
- ensure access to the general education curriculum and standards in the general classroom, to the maximum extent possible; and,
- provide effective transition services to promote successful postsecondary experiences, including college or career, to prepare children with disabilities to lead productive and independent adult lives.

IDEA requires that each IEP include certain information. States and local education agencies often include additional information in IEPs in order to document that they have met certain aspects of federal or state law (e. g., placing the child in the least restrictive environment). For a description of the content required by IDEA to be included in an IEP, see Appendix E, page 62.

State and Federal Requirements Regarding State Monitoring of Local Education Agencies' Implementation of IEPs

Although IDEA requires states to monitor the local education agencies' implementation of and performance under IDEA, the act's regulations grant states some discretion in establishing quantifiable indicators and using qualitative indicators as needed to measure performance adequately.

IDEA requires states to monitor the local education agencies' implementation of IDEA Part B and annually report on performance under IDEA Part B to the U. S. Department of Education. As stated previously, according to IDEA, the primary focus of a state's monitoring activities must be "improving educational results and functional outcomes for all children with disabilities."

IDEA regulations establish broad mandates for state monitoring, enforcement, and annual reporting that grant states some discretion in establishing quantifiable indicators in each of the following priority areas and using qualitative indicators as needed to measure performance of local education agencies located in the state in the following priority areas: (1) provision of a free appropriate public education in

⁵According to the National Association of Special Education Teachers (NASSET), "general education curriculum" means "the subject matter provided to children without disabilities and the associated skills they are expected to develop and apply"--e. g., math and history.

⁶According to the NASSET, "extracurricular and nonacademic activities" mean voluntary and social school activities that are not related to the general curriculum--e. g., band and school sports.

the least restrictive environment; (2) state exercise of general supervision, including Child Find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services; and (3) disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

While monitoring of the implementation of IDEA Part B is required, MDE has the discretion to establish specific monitoring requirements as it sees fit. The following section briefly describes how MDE monitors the implementation of IEPs by the local education agencies.

MDE's Monitoring of Local Education Agencies' Implementation of IEPs

Although MDE monitors local education agencies' implementation of IEPs on a four-year compliance monitoring cycle, the review is primarily compliance-based rather than results-based. OSE monitors review and track results of IEPs through the Present Levels of Academic Achievement and Functional Performance (PLAAFP), which is the first step taken by an IEP team in documenting a student's present levels of academic achievements and functional performance at the time the IEP is written.

MDE selects each local education agency for on-site compliance monitoring at least once every four years. Prior to the on-site visit, each local education agency must complete an annual self-review of its programs for students with disabilities. The local education agency must analyze data, utilize MDE's monitoring protocols for the identified areas to review records, and develop improvement plans. OSE also reviews IEPs for various reasons, including when a party (e.g., a parent) escalates a complaint or issue from the local level to the state level via one of MDE's dispute resolution process options, which are discussed on pages 29 through 32. Also, according to OSE, certain data that is missing or incomplete that must be reported in annual performance reports (discussed on page 36), such as the percentage of children who were evaluated within sixty days of receiving parental consent for an initial evaluation, can trigger the office's review of IEPs. OSE's on-site reviews include reviewing a random sample of student records (including IEPs) to evaluate local education agencies' practices in several areas, specifically the decisionmaking process for making "least restrictive environment" decisions as documented in an IEP, as well as the delivery of services and alignment with IEPs. The on-site reviews include the local education agencies' self-review process, OSE's review of student records, interviews with local education agencies' personnel, and verification of data reported by local education agencies in the Mississippi Student Information System, which is used to collect and store educational data about teachers, administrators, students, and school board members.

The Office of Special Education's on-site review of local education agencies' implementation of IEPs is primarily compliance-based rather than results-based. OSE monitors use an on-site monitoring record review form to review a student's IEP and determine whether the local education agency is in compliance with regard to a specific record review question by checking for potential sources of documentation, as prescribed by the form, that applies to the specific record review question. OSE monitors also make additional inquiries of teachers and principals that may arise as the result of conducting interviews or reviewing files that are not included on the on-site monitoring record review form in order to clarify information. For example, in reviewing a student's records, an OSE monitor may notice that the student has multiple unexcused absences and may ask the student's teacher to explain the reasons for the student's nonattendance.

According to MDE, if an OSE monitor notes areas of noncompliance beyond the review form, MDE assigns corrective actions. Also, MDE may initiate an investigative audit due to the outcome of a cyclical monitoring visit. If during the review the monitor finds that the prescribed potential source of documentation is available, the local education agency is determined to be compliant. However, the form does not provide for a review of the quality of the documentation presented or require a review of a measure of performance attributable to the evidence.

For example, the form includes a record review question to determine whether each sampled IEP identifies "accommodations provided to enable a child to be involved in and make progress in the general education curriculum." According to the record review form, if the IEP "describes the accommodations provided to the child to measure academic achievement and functional performance of the child," then the local education agency is determined to be in compliance with the review question. The record review form only cites a description of specially designed services accommodations in the sampled IEP as a potential source of documentation to determine whether the local education agency is compliant in regard to the record review question.

However, the form does not allow MDE to question the necessity or appropriateness of the accommodation or require an OSE monitor to measure the student's performance before and after the accommodation was implemented. Such inquiries could be used to fulfill the state's primary focuses for monitoring according to IDEA: "Improving educational results and functional outcomes for all children with disabilities."

According to MDE, the department plans to make changes to the cyclical monitoring review for the 2015-2016 school year; however, as of the date of this report, MDE was unable to elaborate on these changes.

It should be noted that OSE monitors and tracks results of IEPs through the Present Levels of Academic Achievement and

Functional Performance (PLAAFP), which is the first step taken by an IEP team in documenting a student's present levels of academic achievements and functional performance at the time the IEP is written. The PLAAFP describes a student's current strengths, preferences, and interests and explains how the student's disability affects his/her involvement and progress in the general education curriculum. Thus, the PLAAFP serves as a baseline for the coming year's IEP from which an IEP team develops the IEP's measurable annual goals. OSE monitors review results of the PLAAFP through on-site file reviews of students' IEPs, along with an accompanying review of grades, progress monitoring, and educational benefit reviews. OSE monitors also develop monitoring reports with corrective actions that address PLAAFP development.

MDE should modify its on-site monitoring record review form to require local education agencies to track and report substantive results-related data in each child's IEP in order to comply with the primary focus of IDEA and measure the educational results and functional outcomes for children with disabilities.

How does MDE address or resolve complaints and disputes involving special education matters under IDEA?

The procedural safeguards in IDEA and the State Board of Education's policy establish three major resolution options to handle complaints of alleged violations of special education law: formal state complaints, mediation, and due process hearings. However, MDE does not analyze complaint data in a manner that would allow the Office of Special Education to identify and target potential recurring complaint issues or problem districts effectively. Also, PEER found that the information was documented by such broad terms that an external reviewer would not be able to determine how or why a district would need to implement a corrective action plan.

IDEA Part B Dispute Resolution Process

The procedural safeguards in IDEA and State Board of Education policy establish three major resolution options to handle complaints of alleged violations of special education law.

Both IDEA and MDE State Board Policy require states to establish, maintain, and implement procedural safeguards to protect the rights of children with disabilities and their parents. These rights include the opportunity to examine records, participate in all meetings, and resolve disputes. The procedural safeguards in IDEA and board policy establish three major resolution options to handle complaints of alleged violations of IDEA:

- formal state complaints;
- mediation; and,
- due process hearings.

MDE also has a Parent Hotline. Any person with potential concerns or questions may call this hotline for technical assistance provided by MDE staff or to file a formal complaint. According to MDE staff, an intake form is completed for each call received. However, some people also use this hotline to notify MDE of potential concerns while the complainant remains anonymous.

Formal State Complaints

A formal state complaint must be written and contain specific and detailed information about an alleged violation of state law and/or IDEA that occurred within one year of the date of submitting the complaint.

MDE maintains a complaints management system whereby parents or guardians may request help in filing a complaint with the Parent Hotline or other legal resources (e. g., Southern Poverty Law Center or the Mississippi Center for Justice).

A parent or guardian has the right to file a formal state complaint with MDE's Office of Special Education for alleged violations of state law or IDEA that occurred within one year of the date of submitting the complaint (e. g., the identification, evaluation, or placement of a special education student). Complaints must be written and contain specific and detailed information about the alleged violation as well as the parent's contact information. Parents must sign the complaint and forward a copy to MDE and the local school district where the child attends school. Under board policy, MDE must generally review, investigate, and resolve complaints within sixty calendar days.

Within that period, MDE must issue a report to the complainant and to the local education agency that includes findings of fact and conclusions, reasons for the decision, any corrective action that must be taken, and requirements for a corrective action plan, where appropriate.

According to MDE, if the department finds that the school district is noncompliant or failed to provide appropriate services, the district has up to twelve months to complete all corrective actions from the date that MDE issued the findings. However, some corrective actions (e. g., student-centered IEP decisions) have shorter timeframes, ranging from thirty, sixty, and ninety days.

Mediation

Mediation is an informal and voluntary alternative to a due process hearing whereby an impartial mediator helps the parent and school try to resolve a dispute.

Mediation is an alternative to a due process hearing whereby MDE assigns an impartial mediator to help the parent and school try to resolve a dispute. Mediation is an informal and voluntary process; however, both parents and the school district must agree to participate. Parents must submit written requests for mediation to MDE and may call MDE's Parent Hotline for help with such a request. Parents' requests for mediation must include certain information (i. e., the child's name and grade, name of the school district, parents' contact information, and a brief description of the issues subject to mediation). If mediation is successful, the mediator develops an agreement that is legally binding on both parties. However, if mediation is unsuccessful and no agreement is reached between the parties, a parent or guardian can file a formal state complaint or request a due process hearing.

Due Process Hearing

A due process hearing is a formal way of resolving disagreements between parents and schools, which begins when one party files a due process complaint notice to the opposing party and MDE.

A due process hearing is a formal way of resolving disagreements between parents and schools, which begins when a parent or school district (typically a parent or the parent's attorney) files a due process complaint notice to the opposing party and MDE. The notice must include the child's name, address, and school district, as well a description of the issue in dispute and a proposed resolution. The opposing party must send a response within ten days of receiving the due process complaint that includes:

- an explanation of why they proposed or refused to take the action described in the complaint;
- a description of other options considered and the reasons why those options were rejected;
- a description of the evaluations, assessments, records, or reports used as a basis for action; and,
- a description of the factors relevant to the school's proposal or refusal.

Before conducting a due process hearing, the school must convene a resolution meeting with the parents, a school representative, and any other interested parties (e. g., members of the child's IEP team) within fifteen days of receiving the complaint. The purpose of the resolution meeting is to give the parents the opportunity to discuss their complaint and provide

the school with an opportunity to resolve the complaint. The resolution meeting is required unless both parties agree in writing to waive the meeting or they agree to mediation. If the school has not resolved the complaint within thirty days of receiving it, the due process hearing will immediately proceed at a time and place set by the hearing officer.

Afterward, a due process hearing is held in which the parent and school present arguments and evidence to an impartial hearing officer. After the hearing and the submission of briefs by all parties, the hearing officer issues a written decision. If either side is unsatisfied with the ruling of the hearing officer, that party can appeal the decision to state or federal court within forty-five days from the date of the ruling. Parents should consider obtaining legal representation before filing due process complaints.

MDE's Documentation of Complaints

MDE does not analyze complaint data in a manner that would allow the Office of Special Education to identify and target potential recurring complaint issues or problem districts effectively. Furthermore, while MDE staff may be aware of the specific details of a particular complaint, PEER found that the information was documented by such broad terms that an external reviewer would not be able to determine how or why a district would need to implement a corrective action plan.

A complaints resolution process should be designed to provide transparent, efficient, and effective complaints handling with available documentation. The objective of such a system should be to provide a prompt, fair, and effective means of addressing complaints, as well as to make complaints easier to coordinate, monitor, track, and resolve, and to provide an entity such as MDE with an effective tool to identify and target problem areas, monitor performance, and make improvements.

To determine the primary reasons behind IDEA-related complaints in the state, PEER requested a compilation of all formal state complaints, mediations, and due process hearings filed during school years 2011–2015. PEER sought to (1) document the frequency of specific types of cases; (2) identify the originating school districts of those cases; and, (3) identify the resulting actions, if any, undertaken by MDE for each case.

After reviewing MDE's compilation of complaints by each dispute resolution process option and interviewing MDE staff, PEER determined that the information maintained by MDE was documented in such broad terms that an external reviewer such as PEER would not be able to determine the specific cause creating the complaint or how or why a district would need to implement a corrective action plan. This is attributed to the fact that while IDEA requires that schools provide processes for resolving parent complaints and grievances, the act does not specify what data states should maintain.

For example, MDE categorized one issue/concern in the information provided to PEER as “Child Find.” However, a multitude of issues or concerns could be a Child Find issue. For example, a complaint that a school refuses to recognize certain indicators--e. g., bullying, extended absences--as possible basis for a needs assessment of a suspected disability under Child Find and an allegation that a school is delaying a needs assessment because the school has implemented Response to Intervention (RtI) and is waiting to see how the affected student responds are separate Child Find concerns.

MDE should use the IDEA complaint resolution process to determine and address specific, prevalent, and reoccurring issues. For example, by specifying the issue behind the creation of the complaint and noting the school district of origin of the complaint, MDE could identify historical trends in the data that could result in showing potential problem districts. This would allow MDE to provide technical assistance to these identified districts and hopefully reduce future formal complaints that reach the state level.

PEER’s Review of Complaints Filed with MDE

PEER analyzed complaint information filed during School Years 2013–2014 and 2014–2015 (as of February 2015) and found that the majority were formal state complaints concerning the primary issues of free appropriate public education and Child Find. The majority of cases that went to mediation had a high success rate. Due to that success rate, MDE should consider efforts to lead more cases to mediation.

In order to gain some perspective on the frequency and types of cases, as well as the resulting actions by MDE for each case that formed the basis of a formal state complaint, mediation, and due process hearing filed during School Years 2013–2014 and 2014–2015, PEER reviewed the compiled list of cases submitted by MDE.

- Eighty-three cases were filed during School Year 2013–2014, sixty-six of which were formal state complaints. The primary issue in cases filed during this period concerned free appropriate public education (approximately 63%) and Child Find (approximately 13%). Of the eighty-three cases filed, sixteen (or 19.3%) went to mediation. Twelve (75%) of the sixteen cases that advanced to mediation were successful.
- As of February 10, 2015, forty-eight cases had been filed during School Year 2014–2015, most of which (thirty-seven) were formal state complaints. The primary issue in cases filed during this period concerned free appropriate public education (approximately 67%) and Child Find (approximately 19%). Of the forty-eight cases filed, fourteen (29%) went to or were scheduled for mediation. Twelve (92%) of the fourteen cases that advanced to mediation were successful.

Due to the success rate of cases that made it to mediation (i. e., 75% and 92%, respectively, for SY 2013-2014 and SY 2014-2015), MDE should consider efforts to lead more cases to mediation.

How does MDE ensure accountability in the implementation of IDEA Part B in Mississippi?

The current accountability structure for implementation of IDEA Part B, both nationally and in Mississippi, needs improvement. While MDE does maintain an annual performance report to track compliance and progress on selected performance measures on a statewide basis, currently no correlation can be made between how MDE tracks and monitors performance and whether funds are being allocated to IDEA students or programs in the most effective manner (e. g., performance in relation to a specific IDEA program goal, disability type, or educational placement setting).

IDEA Part B has historically been implemented with the primary focus on compliance with the requirements of IDEA, rather than on improving results for children with disabilities and balancing those results with compliance. However, MDE, under guidance of the U. S. Department of Education, is in the process of implementing a new enhanced performance framework entitled Results Driven Accountability (RDA) that will place increased emphasis on student performance, especially reading performance for K-3. MDE selected the state's IDEA focus area as proficient or higher on the third-grade statewide reading assessments for children with disabilities. Even though the national trend is to use this enhanced performance framework, RDA's performance measurability and impact are several years from full implementation, pending consistent data.

This chapter seeks to address the following questions:

- How effectively does MDE track and monitor the performance of students who receive the benefit of IDEA funds?
- What changes in the IDEA accountability structure are being made, at the state and national level, to improve performance management?
- How will MDE implement the Results-Driven Accountability framework?

As stated previously, the requirements of IDEA are designed to ensure that all schools, school districts, and states provide a free appropriate public education to children with disabilities. IDEA focuses on the individual child--e. g., requiring the development of an IEP outlining the specially designed instruction necessary to allow the child to participate and progress in the same curriculum as all other children.

IDEA, in laying out its purpose under 20 U.S.C. 1400(d), also requires state education agencies and local education agencies to assess and ensure the effectiveness of efforts to educate children with disabilities.

How effectively does MDE track and monitor the performance of students who receive the benefit of IDEA funds?

MDE maintains an annual performance report to track compliance and progress on selected performance measures on a statewide basis, not by IEPs. Therefore, no correlation can be made between how MDE tracks and monitors performance and whether funds are being allocated to IDEA students or programs in the most effective manner. By not capturing performance data in relation to a specific IDEA program goal, disability type, or educational placement setting, MDE cannot identify and implement best practices in providing special education services.

MDE Tracks Selected IDEA Performance Measures on a Statewide Basis

MDE maintains an annual performance report to track compliance and progress on selected performance measures for the state's IDEA students as a whole, not on an individual basis.

At the state level, MDE tracks student performance using annual performance reports required by OSEP. The reauthorized Individuals with Disabilities Education Act, signed on December 3, 2004, required that, not later than one year after the date of enactment of the reauthorized IDEA, each state is required to have in place a performance plan evaluating that state's implementation of IDEA Part B and describing how the state will improve such implementation. This plan is called the IDEA Part B State Performance Plan (SPP).

Also, each state reports annually to the public on the performance of each of its local education agencies according to the targets in its State Performance Plan. The state also reports annually to the Secretary of Education on its performance in meeting its State Performance Plan targets. This report is called the IDEA Part B Annual Performance Report (this report must also be posted on the state's website). OSEP initially set eighteen indicators to monitor performance and compliance. MDE did not add additional indicators.

Of the eighteen indicators, PEER determined MDE's annual performance reports only track performance for students with disabilities based on six generic measures with no correlation as to how those performance measures have improved under IDEA. MDE uses the remaining twelve measures to track MDE's and the local education agencies' performance in ensuring compliance with IDEA requirements.

The six performance measures are as follows:

- four-year graduation rate;
- dropout rate;
- proficiency in reading literacy assessment;
- proficiency in math assessment;

- preschool related performance improvement (six subcategories); and,
- the tracking of post-secondary outcomes to track transition of youth with IEPs who are no longer enrolled in secondary school.

For FFY 2012 (School Year 2012–2013), Mississippi did not meet the performance targets in any category except the dropout rate category.

Although each local education agency is required to track student performance through each child’s IEP, MDE has not implemented reporting criteria to monitor and track the progress of students toward achieving their educational goals, as stipulated by their IEP or other metrics of IEP performance, as part of the annual performance reports--i. e., how well are students progressing toward making educational gains, given their disabilities?

MDE Does Not Track Performance in Relation to Allocation of Resources

Because MDE does not require local education agencies to track IDEA expenditures in relation to a particular IDEA program goal, no correlation can be made between how MDE tracks and monitors performance and whether funds are being allocated to IDEA students or programs in the most effective manner.

MDE does not require local education agencies to track expenditures in relation to how they allocate them toward a particular IDEA program goal. However, MDE does audit local education agencies’ expenditures for legal compliance and requires each local education agency to submit requests for reimbursements and end-of-year annual expenditure reports (as noted on page 17).

While MDE has performance reports to monitor the local education agencies’ performance, MDE does not know how each of the local education agencies are allocating their IDEA funds to meet specific programmatic goals, since MDE only receives broad budget category information on expenditures. Because local education agencies (on a statewide basis) do not consistently track their funds in relation to performance, they do not know if they are allocating IDEA funds to meet performance targets effectively and efficiently. For example, what impact has an electronic reading program had on improving performance of its intended target special education population? If a local education agency is interested in literacy coaches instead, what would be the cost to the local education agency to implement literacy coaches to replace the electronic reading program? How does the local education agency make that make or buy decision? Is hiring additional literacy coaches an effective use of resources to improve reading or should funds be reallocated?

As a result, because there is no programmatic or financial tracking of IDEA funds, no correlation can be made between how MDE tracks and monitors performance and whether funds are being effectively allocated to IDEA students or programs. More significantly, neither MDE, OSEP, or the local education agencies have performance measures in place to track how special education programs and funds are being used to improve performance, including tracking intermittent student progress.

MDE Does Not Incorporate IEPs When Measuring State Progress

Although IEPs serve as the main instrument for planning, implementing, and measuring a child's progress toward meeting his or her academic needs, MDE does not have measures in place for capturing the performance data or financial impact data associated with IEPs. Capturing this type of data could help both MDE and local education agencies to identify and implement best practices regarding special education services.

MDE does not have measures in place for capturing the performance data or financial impact data associated with the IEPs. For example, while the annual performance reports track the IDEA dropout rate and graduation rate, MDE does not track the statewide or district progress of IDEA students in making progress toward meeting their academic needs. How many students in each of the disability categories are making progress? How many students in each of the educational placement settings are making progress?

Because performance is not tracked in relation to the IEP, to a financial expenditure, or to a particular program, there is no indicator as to what led to any increase or decrease in performance. This is especially important since performance of a special education student could also be affected by performance in the general education classroom or outside the school environment. Further, because IDEA students also receive local and state funds, it is difficult to track what educational services the IDEA funds provided to the IDEA-eligible child to generate a gain in performance and whether those services could be transferable to another student (and at what cost).

MDE and local education agencies are missing the potential for educational performance information that could be analyzed to yield benefits for monitoring success within the special education population as a whole or in certain disability groups. Capturing this type of data could help both MDE and local education agencies to identify and implement best practices regarding available special education services.

What changes in the IDEA accountability structure are being made, at the state and national level, to improve performance management?

In June 2014, the U.S. Department of Education announced that it would shift the way it oversees the effectiveness of states' special education programs in making each state's annual determination under IDEA by changing its primary focus from compliance to a new framework known as Results-Driven Accountability, which focuses on improving results for children with disabilities while balancing those results with the compliance requirements of IDEA.

In June 2014, the U. S. Department of Education, in an effort to improve the educational outcomes of the nation's children and youth with disabilities, announced that the department would shift the way it oversees the effectiveness of states' special education programs in making each state's annual determination under IDEA by changing its primary focus from compliance and determining whether states were meeting procedural requirements (e. g., timelines for evaluations, due process hearings, and transitioning children into preschool services) to a new framework known as Results-Driven Accountability (RDA). Results-Driven Accountability focuses on improving results for children with disabilities while balancing those results with the compliance requirements of IDEA.

Impetus for Change

While the U. S. Department of Education, in working with states to ensure access to special education and related services for students with disabilities, noted significant improvements in compliance by states in implementing the requirements of IDEA over the last several years, the department has remained concerned with educational outcomes in reading and math, as well as lagging graduation rates for students with disabilities.

Presently, IDEA regulations do not require states and local education agencies to track and report on the progress and performance of children with disabilities beyond aggregated state and district data. While approximately 95 percent of Mississippi IDEA students participate in statewide testing, the performance of individual IDEA students is not tracked statewide beyond graduation rates and statewide reading and math testing to determine progress toward making educational gains, given their disabilities or potential best practices for improving services. Although IDEA's primary focus of federal and state monitoring is on improving educational results and functional outcomes for all children with disabilities and the act requires that districts establish procedural safeguards that allow parents to challenge the adequacy of special education services, the law does not contain any measures of total school performance for IDEA-eligible students.

The U. S. Department of Education, in working with states to ensure access to special education and related services for students with disabilities, has noted significant improvements

in compliance by states in implementing the requirements of IDEA over the last several years. However, the department has remained concerned with educational outcomes in reading and math, as well as with lagging graduation rates for students with disabilities.

In making the 2014 IDEA Part B determinations for each state, the department used both compliance and results data for the first time, giving each equal weight in making each state's determination. The department used multiple outcome measures that include students with disabilities' participation in state assessments, proficiency gaps between students with disabilities and all students, as well as performance in reading and math on the National Assessment of Educational Progress to produce a more comprehensive and thorough picture of the performance of children with disabilities in each state.

When the department considered only compliance data in making annual determinations, forty-one states and territories met IDEA compliance and results requirements. However, when the department included the RDA framework data on how students are actually performing, only eighteen states and territories met requirements. Under the results-based approach, the department determined that Mississippi's status changed from "meets the requirements and purposes of IDEA" to "needs assistance in implementing the requirements of IDEA" as stated in the state's annual determination letter issued by the U. S. Department of Education.

As part of the move to Results-Driven Accountability, the U. S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) will fund a new \$50 million technical assistance center--the Center on Systemic Improvement--to help states leverage the \$11.5 billion in federal special education funds that they currently receive to improve outcomes for students with disabilities. In addition, OSERS will be working with states to support them in developing comprehensive plans designed to improve results for children with disabilities.

The Components and Principles of the RDA Framework

The U. S. Department of Education has identified three components of a Results-Driven Accountability framework that incorporate the department's new focus on improving the education of children with disabilities while fulfilling IDEA requirements. One of those components--the State Performance Plan/Annual Performance Report--will include the state's IDEA focus area (i. e., state-identified measurable result). Also, the U. S. Department of Education has identified core principles (e. g., transparency) that will guide Results-Driven Accountability.

The U. S. Department of Education has identified the following three components of the RDA framework that incorporate the department's new focus on improving educational results while fulfilling the requirements of IDEA:

- *State Performance Plan/Annual Performance Reports* (SPP/APR) will be combined and designed to align the Results-Driven Accountability vision and goals to measure results and compliance and will include the State Systematic Improvement Plans, which will be designed to improve educational and functional outcomes in targeted areas;
- *Annual Determinations*, which reflect state performance on results, as well as compliance; and,
- *Differentiated monitoring and support* for all states, especially low-performing states.

As stated previously, the proposed State Performance Plan/Annual Performance Report will include a multi-phase State Systematic Improvement Plan, which is a five-year plan focused on improving results for children with disabilities. The State Systematic Improvement Plan will include one IDEA focus area, selected by each state, on which to focus for improvement, which is called the state-identified measurable result.

The State Systematic Improvement Plan will contain the following three phases:

- *Phase 1*--analysis phase, which includes a plan to describe how the state analyzed data to determine areas for improvement; identify infrastructure necessary to support improvement and build capacity in local education agencies/Early Intervening Services (EIS) programs to implement evidence-based practices to improve performance of children with disabilities; and, a theory of action to describe necessary changes in the state system and school practices to achieve the state-identified measurable result. Phase 1 was to have been submitted on April 1, 2015, with the State Performance Plan/Annual Performance Report for 2013-14.
- *Phase 2*--planning phase, which includes a plan to implement necessary infrastructure to build capacity to implement and improve evidence-based practices; support local education agencies/EIS programs in identifying and implementing the evidence-based practices that will result in changes to school/local provider practices to advance the state-identified measurable result; and, describe how the state will evaluate the implementation of its State Systematic Improvement Plan. The plan for Phase 2 must be submitted in 2016 with the State Performance Plan/Annual Performance Report for 2014-15.
- *Phase 3*--evaluation phase, which will include a plan that reports: the results of ongoing evaluation of strategies in the State Systematic Improvement Plan; the extent of implementation of strategies; progress toward established goals; and, any revisions made to the State Systematic Improvement Plan in response to the evaluation. The plan

for Phase 3 must be submitted in 2017 with State Performance Plan/Annual Performance Report for 2015-16.

In addition, according to the department, the following core principles underlie and will guide its Results-Driven Accountability work:

- The U. S. Department of Education's Office of Special Education Programs (OSEP) is developing the Results-Driven Accountability system in partnership with the office's stakeholders.
- The Results-Driven Accountability system is transparent and understandable to states and the general public, especially individuals with disabilities and their families.
- The Results-Driven Accountability system drives improved outcomes for all children and youth with disabilities regardless of their age, disability, race/ethnicity, language, gender, socioeconomic status, or location.
- The Results-Driven Accountability system ensures the protection of the individual rights of each child or youth with a disability and their families, regardless of his/her age, disability, race/ethnicity, language, gender, socioeconomic status, or location.
- The Results-Driven Accountability system provides differentiated incentives, supports, and interventions based on each state's unique strengths, progress, challenges, and needs.
- The Results-Driven Accountability system encourages states to direct their resources to where they can have the greatest positive impact on outcomes and the protection of individual rights for all children and youth with disabilities and minimizes state burden and duplication of effort.
- The Results-Driven Accountability system is responsive to the needs and expectations of the ultimate consumers (i. e., children and youth with disabilities and their families) as they identify them.

How will MDE implement the Results-Driven Accountability framework ?

In implementing Results-Driven Accountability, MDE selected "increasing the percentage of third grade students with Specific Learning Disability and Language/Speech rulings in targeted districts who score proficient or higher on the regular statewide reading assessment to 68% by FFY 2018" as its IDEA focus area (i. e., state-identified measurable result) by which to measure educational results and functional outcomes in children with disabilities.

On April 1, 2015, MDE submitted Phase 1 of the State Systematic Improvement Plan and identified its state-identified measurable result, or measure to focus on in improving educational results. According to MDE, OSE staff and various

stakeholder groups⁷ conducted data analysis to determine the state-identified measurable result and identify the root causes contributing to low performance of students with disabilities. MDE selected “increasing the percentage of third grade students with Specific Learning Disability [SLD] and Language/Speech [L/S] rulings in targeted districts who score proficient or higher on the regular statewide reading assessment to 68% by FFY 2018” as its state-identified measurable result.

According to the State Systematic Improvement Plan Phase 1, MDE is currently in the process of targeting districts for participation in professional development and technical assistance activities based on the improvement strategies developed as part of the State Systematic Improvement Plan. MDE is giving priority to districts that have the lowest proficiency rates for students with disabilities (i. e., lowest 25%) on the statewide assessment, as well as districts with literacy coaches. MDE plans on adding districts in subsequent years based on district reading proficiency data.

MDE expects that addressing the state-identified measurable result will have a positive impact on improving results for students with disabilities in the state and will help address one of the primary focuses of IDEA (i. e., improving educational results), with the most direct improvement in reading occurring in the targeted districts that will receive the most intensive supports from MDE. When selecting districts for the State Systematic Improvement Plan, MDE plans to take into account the number of students with disabilities within each of the districts in addition to reading proficiency rates in order to improve statewide data. MDE anticipates that by including a selection of districts of various sizes that are lower performing, it is more likely that state-level data can be improved.

How MDE Selected Its IDEA Focus Area (i. e., State-Identified Measurable Result)

MDE selected its focus area (i. e., improving reading proficiency in students with specific learning disability and language/speech rulings) based on data and infrastructure analysis and qualitative data that revealed low reading proficiency scores for students with disabilities.

According to the State Systematic Improvement Plan Phase 1 submitted in April 2015, MDE’s selection of its state-identified measurable result was based on data and infrastructure analyses (i. e., analysis of the capacity of the state system to support local education agencies in implementing, scaling up,

⁷According to MDE’s SSIP, the following stakeholder groups were engaged in all components of the data analysis: the Special Education Advisory Panel, the Mississippi Special Education Directors’ Workgroup, the MDE Office of Special Education, the Special Education Task Force and an internal group composed of staff from the Office of the Chief Academic Officer and the offices of Elementary Education, Secondary Education and Career and Technical Education, Student Assessment, Technology and Strategic Services, Accreditation, Federal Programs, Early Childhood, and Literacy.

and sustaining the use of evidence-based practices to improve results for students with disabilities) conducted by departmental staff and various stakeholders. According to MDE, the results of data analyses indicated that proficiency rates for students with disabilities, based on statewide assessments during the 2013-2014 school year, are higher in math (26.8%) than reading (19.5%) and there is a significant gap in the reading proficiency of students with disabilities (19.5%) and all student groups (56.2%).

MDE's data analysis also showed that although a relatively high number of students with disabilities were in the regular education classroom for 80% or more of the day, there was no correlation to higher proficiency levels for those students. Also, MDE's analysis of assessment data by disability showed that the students most likely to be in the regular classroom for more than 80% of the day, such as students with specific learning disabilities and language/speech rulings, were not performing at substantially higher levels than other disability categories.

According to MDE, qualitative data provided by stakeholders also indicated strong concerns about low reading proficiency scores for students with disabilities. Stakeholders reported that reading impacts all areas of the curriculum and can have a strong impact on graduation status and post-school outcomes.

MDE explained in the State Systematic Improvement Plan Phase 1 that the selected state-identified measurable result is directly related to the various ongoing state and departmental initiatives. MDE cited the strong commitment by state leadership to improve reading, which it attributes to the MDE Strategic Plan⁸ and the Literacy-Based Promotion Act,⁹ as well as to the state's adoption of the Mississippi College and Career-Ready Standards for English Language Arts and Literacy¹⁰ in all content areas, including reading. Finally, MDE cites the department's hiring of literacy coaches to support reading instruction in the lowest-performing districts.

⁸According to MDE, the state-identified measurable result is closely related to the following three goals in MDE's Strategic Plan: (1) increasing proficiency in all assessed academic areas, including reading; (2) providing every child with access to a high-quality early childhood program; and, (3) improving teacher and leader effectiveness.

⁹The Literacy-Based Promotion Act was passed in an effort to improve the reading skills of kindergarten through third-grade students so that every student completes third grade reading at or above grade level.

¹⁰Implementation of the Mississippi College and Career-Ready Standards for English Language Arts and Literacy set requirements not only for English language arts, but also for literacy in history/social studies, science, and technical subjects. According to MDE, the focus on literacy and reading based on the implementation of the Mississippi College and Career-Ready Standards will be aligned to and will support the implementation of the professional development and technical assistance activities provided through the SSIP.

Targets and Baselines for the State-Identified Measurable Result

In the State Systematic Improvement Plan Phase 1 submitted on April 2015, MDE established targets for FFY 2014 through FFY 2018 to reflect measurable improvement on the state-identified measurable result over the FFY 2013 baseline data of 37.5%. MDE also identified improvement strategies (e. g., collaboration with other MDE offices to provide literacy development for educators in order to reach the targets).

In the State Systematic Improvement Plan Phase 1 submitted on April 2015, MDE established the baseline of 37.5% by which to measure progress made in its state-identified measurable result. MDE explained that the baseline and targets established for the state-identified measurable result are based on FFY 2013 state-level data, because MDE had not identified the targeted districts that will participate in State Systematic Improvement Plan professional learning and technical assistance during the drafting of the State Systematic Improvement Plan. MDE, however, noted that once targeted districts have been identified, a new baseline will be established and targets will be revised based on the new districts, which MDE planned to confirm in the spring of 2015.

MDE, in conjunction with stakeholders, also established targets for FFY 2014 through FFY 2018. According to MDE, the FFY 2018 target reflects measurable improvement over the FFY 2013 baseline data.

Exhibit 3, page 46, details MDE's targets for the percent of third-grade students with Specific Learning Disability and Language/Speech rulings who are proficient and above on the regular statewide reading assessment.

Finally, MDE identified the following three improvement strategies, based on its data and infrastructure analysis, to reach the targets:

- collaborate with other MDE offices to provide literacy professional development for educators to support the delivery of high quality, evidence-based literacy instruction for students with disabilities;
- collaborate with other MDE offices to align efforts and resources to support the delivery of aligned, differentiated technical assistance to targeted districts to improve high quality, evidence-based literacy instruction for students with disabilities; and,
- develop and disseminate resources to support districts in implementing inclusive practices.

**Exhibit 3: Federal Fiscal Year 2014 through Federal Fiscal Year 2018
Targets to Measure Progress in the Percentage of Students with Specific
Learning Disability or Language/Speech Rulings who Score Proficient or
Higher on the Third Grade Regular Statewide Reading Assessment**

Federal Fiscal Year	Target
2014	48%
2015	53%
2016	58%
2017	63%
2018	68%

SOURCE: Mississippi Department of Education.

Summary Conclusion and Recommendations

Summary Conclusion

MDE and the local education agencies should shift the focus of IDEA Part B program implementation from compliance to incorporate evaluation of performance. This position aligns with the recent shift toward a Results-Driven Accountability system that is being implemented at the federal level. Focusing on performance would also align with the Mississippi Legislature’s ongoing effort to revitalize performance budgeting, which requires increased accountability for the efficient and effective use of public resources.

PEER does not question MDE’s compliance with the federal IDEA law. Historically, the IDEA Part B program has been funded primarily by each state having to perform a series of routine tasks or reporting requirements that focus on compliance with the law. However, PEER does take the position that MDE and the local education agencies should shift the focus of IDEA Part B program implementation solely from compliance to incorporate evaluation of performance. This position aligns with the recent shift toward a Results-Driven Accountability system that is being implemented at the federal level.

A focus on performance would also align with the Mississippi Legislature’s ongoing effort to revitalize performance budgeting, which requires increased accountability for the efficient and effective use of public resources. This would include the expenditure of IDEA Part B funds by both MDE and the local education agencies. As part of the state’s performance budgeting effort, MISS. CODE ANN. § 27-103-159 (1972) identifies the Mississippi Department of Education as one of four pilot agencies for which a program/activity inventory--including associated performance measures and expenditure data--must be completed. Creation of this comprehensive program inventory to track the efficient and effective utilization of public dollars flowing through the Department of Education requires the development and maintenance of a comprehensive program inventory not only at the department level, but also at the level of local education agencies.

The Special Education Task Force’s report, issued in December 2014, also notes the need for improved transparency and accountability regarding IDEA Part B funds. One strategy listed within the report is to “[i]ncrease transparency of special education accountability” in regard to services provided by IDEA Part B and other state funds. One example of an action step noted in the report to help accomplish this would be to redesign the MDE project application process to require districts to specify the training provided to parents so that this

information can be compared directly to district expenditure reports.

The Pew-MacArthur Results First Initiative¹¹ is in the process of inventorying public school programs, including special education programs and services, according to their research basis (e. g., evidence of their effectiveness or ineffectiveness or no basis in research) and developing the model that will allow for the calculation of a return on investment for each evidence-based program. Mississippi's legislative staff is working with the State Department of Education and individual school districts to identify all programs, including the subset of those programs that are "evidence-based," as a first step toward ultimately testing their efficiency and effectiveness in achieving expected outcomes.

While PEER acknowledges that each child is unique and that no two may have the exact same special education needs established through their respective IEPs, it is critical that MDE require that the necessary data be collected and analyzed at each level in order to identify which services result in positive student performance outcomes. This should also complement the IDEA Part B expenditure data in order to identify which special education services or intervention strategies may be provided in the most efficient and effective manner. This will allow MDE and each local education agency to identify best practices regarding services tailored to children served by IDEA Part B funding and ideally improve the educational services provided to all children with disabilities by implementing evidence-based programs.

Recommendations

1. In order for MDE and local education agencies to identify cost-effective IDEA Part B programs, MDE should require local education agencies to develop goals and track and report the costs and program outcomes associated with IDEA Part B programs that have been implemented to improve educational services for children with disabilities.
2. In order to identify research-based or evidence-based programs under IDEA Part B, MDE should analyze the above-referenced performance and financial data to identify which IDEA programs could be transferable to other students and/or schools.
3. In order to provide a more effective problem-solving and dispute resolution process, MDE should maintain complaint data with increased specificity, especially with

¹¹The *Pew-MacArthur Results First Initiative* (also known as Results First) seeks to direct public resources to cost-effective programs that are proven to work through evidence-based research. Implementation of Results First is another critical component of Mississippi's performance budgeting effort.

regard to the department's classification of issues and/or concerns that trigger complaints. This would also allow MDE to analyze complaint data in a manner that would identify and target potential recurring complaint issues or problem districts. Also, increased specificity in regard to complaint issues would allow an external reviewer such as PEER to determine the specific cause creating the complaint or how or why a district would need to implement a corrective action plan.

4. MDE should utilize its Parent Hotline intake forms to complement and improve on its overall dispute resolution process. While MDE staff note that an intake form is completed for each call received, the department should track and maintain a record of the issues/complaints/questions that are called in and analyze the information in a manner that would allow identification and targeting of recurring complaint issues or problem districts. This would allow MDE to direct technical assistance and training to targeted districts regarding services covered under IDEA Part B funding. Ideally, providing this technical assistance as early as possible could result in fewer formal state complaints.
5. In order to incorporate evaluation of performance with determination of compliance with IDEA requirements, MDE should modify its on-site monitoring record review form to require local education agencies to track and report substantive results-related data in each child's individualized education plan. This would allow MDE to measure the educational results and functional outcomes for children with disabilities who are served by programs or services that receive funding from IDEA Part B.
6. In order to provide special education services to children with disabilities in the most efficient and effective manner, MDE should continue to seek appropriate programs and services that are evidence-based as defined by MISS. CODE ANN. § 27-103-159 (1972). MDE should also ensure that each local education agency is collecting the necessary data regarding these programs and services that receive IDEA Part B funding that can be used to support the benchmarks for special education within the Mississippi Statewide Strategic Plan.
7. In order to maximize available resources, MDE should identify and research the potential utility of additional resources or service mechanisms that could benefit the special education system as a whole (including IDEA Part B children) and/or that benefit a specific subset population or disability category covered under IDEA Part B. For example, MISS. CODE ANN. § 43-14-1 (2) (1972) requires the Interagency Coordinating Council for Children and Youth (ICCCY) to meet and conduct business at least twice annually, but it has not met since

December 5, 2012, because no agency has opted to take the lead role as coordinator. MDE could pursue revitalizing this council in order to assist children with emotional/behavioral disorders.

Appendix A: Glossary of Terms Related to the Individuals with Disabilities Education Act

CFR--Code of Federal Regulations

Child Find--a continuous process of public awareness activities, screening, and evaluation designed to locate, identify, and evaluate children with disabilities who are in need of special education and related services.

Consumer Price Index For All Urban Consumers--a measure that examines the changes in the price of a basket of goods and services purchased by urban consumers.

EDGAR (Education Department General Administrative Regulations)--contains regulations for administering discretionary and formula grants awarded by the Department of Education, as contained under 34 CFR Parts 74-99.

FAPE (Free Appropriate Public Education)--all eligible students with disabilities are entitled to receive a free public education paid for at public expense through the local public school system that will meet their needs as stated in their Individualized Education Program and that meets the standards of the state education agency.

ICCCY (Interagency Coordinating Council for Children and Youth)--a fifteen-member council created by the Legislature to develop the Mississippi Statewide System of Care (MISS. CODE ANN. § 43-14-1 [1972]), a coordinated plan for state and other federal services to provide an interagency system of necessary services and care for children and youth with emotional/behavioral disorders.

IEE (Independent Educational Evaluation)--an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question.

IDEA (Individuals with Disabilities Education Act)--a federal law designed to provide services to children with disabilities. IDEA governs how states and public agencies provide early intervention, special education, and related services to eligible infants, toddlers, children, and youth with disabilities.

IDEA Part B (IDEA Part B Section 611 Grants to States)--a federal program to allocate funding to state education agencies and local education agencies to provide special education and related services to eligible children. In order to be eligible for IDEA Part B, a student must be between the ages 3 through high school graduation or 21, whichever comes first; have a diagnosed disability (covered under the IDEA statute); and, as a result of that disability, need special education and related services in order to make progress in school.

IEP (Individualized Education Program)--a written document that is required for each child who is eligible to receive special education services and that is specially designed to direct the provision of services and supports in order to enable each child to be involved and make progress.

LEA (Local Education Agency)--a public board of education or other public authority legally constituted within a state to either provide administrative control or direction of, or perform a service function for, public schools in a state, city, county, township, school district, or other political subdivision. A local education agency may provide, or employ professionals

who provide, services to children included in IDEA such as physical, occupational, and speech therapy.

LRE (Least Restrictive Environment)--when appropriate, all students with disabilities must be educated in settings with children without disabilities. Students with disabilities may be placed in more restrictive settings only when an appropriate education cannot be provided.

MET (Multidisciplinary Evaluation Team)--a group of individuals that includes the parent and a group of qualified professionals that varies from evaluation to evaluation, depending on the evaluations, assessments, observations, and procedures necessary for determining the eligibility and educational needs of a student with disabilities.

OSEP (U. S. Department of Education Office of Special Education Programs)--the federal agency responsible for overseeing and administering the IDEA program, including authorizing IDEA grants to states.

RDA (Results-Driven Accountability)--a new accountability framework implemented by the U.S. Department of Education aimed at improving outcomes for students with disabilities by (a) requiring each state to identify an IDEA focus area on which to measurably improve; (b) annual determinations (e. g., grades) based on each state's performance and compliance; and, (c) differentiated levels of federal monitoring and support for each state, pending need.

RtI (Response to Intervention)--a comprehensive, problem-solving, and multi-tiered strategy designed to enable early identification and intervention for all students who may be at academic or behavioral risk. The multiple tiers provide increasingly intense student-focused interventions. RtI should be applied to decisions and result in a well-integrated system of instruction with interventions guided by student outcome data. It is a systematic determination of how students respond to curricula and instructional procedures that are: demonstrated in applied research as highly robust in producing improved outcomes for all students; viewed as an educational initiative encompassing general education, remedial education, and special education; and, viewed as a school-wide process that provides, as its core, universal screening of all students, the provision of effective instruction in a core curriculum supported by scientifically based research, and the provision of immediate interventions based on student needs.

SEA (State Education Agency)--state board of education or other agency or officer that is primarily responsible for the state supervision of public elementary schools and secondary schools.

SSIP (State Systematic Improvement Plan)--part of the new RDA framework, it is a five-year plan focused on improving results for children with disabilities. The State Systematic Improvement Plan will include one IDEA focus area, selected by each state, on which to focus for improvement, which is called the state-identified measurable result.

SOURCES: *Code of Federal Regulations*, IDEA.ed.gov, U. S. Department of Education, U. S. Department of Labor Bureau of Labor Statistics, MISS. CODE ANN. § 43-14-1 (1972), and Mississippi Department of Education.

Appendix B: Summary of the Special Education Task Force's December 2014 Report

In July 2014, the State Superintendent formed the Special Education Task Force with the purpose of improving Mississippi's educational system for students with disabilities. The Special Education Task Force consists of forty-four members including legislators, district administrators, principals, parents, special education teachers, general education teachers, parent advocate groups, nonpublic agencies, and post-secondary representatives.

The task force examined the state's disaggregated data for students with disabilities and focused attention on the priority areas that were identified as likely to improve results (see Exhibit 4, below). The task force developed a problem statement for each priority area, as well as strategies and action steps, and formed subcommittees that conducted the research and gathered background information needed to provide evidence-based recommendations. These recommendations were provided to the State Superintendent on December 16, 2014.

The Task Force will continue to meet throughout 2015 to help formulate and carry out the recommendations made.

Exhibit 4: Priority Areas Identified by the Special Education Task Force

Priority A. Accessing the general education curriculum in the general education environment

Problem Statement: While many students with disabilities have physical access to general education classrooms, the achievement gap suggests they are not accessing the general education curriculum at an acceptable level.

Strategy 1: Increase awareness of "inclusion" and "access" by providing a common definition

Strategy 2: Increase the supports provided to students with disabilities in the general education setting

Strategy 3: Increase supports to all students through a multi-tiered support system

Strategy 4: Increase transparency of special education accountability

Strategy 5: Increase the capacity of all educators and administrators

Priority B. Increasing graduation rates and decreasing dropout rates

Problem Statement: When comparing the graduation data of students with disabilities to nondisabled peers, there is a discrepancy between students with disabilities that graduate with a standard high school diploma and nondisabled peers.

Strategy 1: Increase awareness of requirements for graduation, graduation options, and how to raise test scores

Strategy 2: Increase awareness of outcomes for students with disabilities to inform IEP team decisions

Strategy 3: Increase student access to kindergarten and high quality pre-kindergarten programs

Priority C. Improving post-secondary enrollment and workforce readiness skills

Problem Statement: Based on post-secondary data, students with disabilities are not exiting school with the skills necessary to be college and career ready.

Strategy 1: Improve the Mississippi Occupational Diploma

Strategy 2: Increase the number of transition specialists available to provide services to students with disabilities

Strategy 3: Increase the awareness for students with disabilities to develop post-secondary goals

Strategy 4: Improve communication to institutions of higher learning regarding state initiatives, trainings, and webinars

SOURCE: *Special Education Task Force Summary Report*. Mississippi Department of Education, Office of Special Education. December 2014.

Appendix C: Expenditure Controls for IDEA Funds

Each local education agency must make expenditures from its IDEA grant funds within certain parameters of federal law and regulations. The following sections summarize internal controls for local education agencies, allowable uses of IDEA funds, and non-allowable uses of IDEA funds.

Internal Controls for Local Education Agencies

Local education agencies must develop and maintain sound internal controls to ensure that all personnel, contractual services, and goods (equipment and instructional supplies) funded and purchased with IDEA subgrants are budgeted for and expended in accordance with the applicable provisions of IDEA and other federal requirements. Internal controls must include an accounting system that focuses on accountability of how the funds are used (i. e., fund accounting). Accounting records must be supported by source documentation, including payroll, time and attendance records, and contract and subgrant award documents. Fiscal controls and accounting procedures of each local education agency must be sufficient to: (1) permit preparation of required reports; and (2) permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibition of applicable statutes. Actual expenditures must be compared with budgeted amounts in state-approved grant applications.

Also, the financial management system in each local education agency must be able to:

- prepare reports as required by EDGAR and IDEA;
- provide a complete disclosure of financial results (e. g., cash flow, expenditures, amendments);
- ensure that there is accountability in how IDEA funds are used;
- ensure that IDEA funds are not commingled with state funds and/or local funds; and,
- ensure that IDEA funds are used to supplement and not supplant state, local, and other federal funds.

Local education agencies are permitted to amend their IDEA grants within the approved direct cost budget to meet unanticipated needs and to make limited program changes. However, post-award changes to budgets and projects will require prior approval of OSE. Also, local education agencies must secure board approval to amendments.

Allowable Uses of IDEA Funds

In order for costs to be allowable, local education agencies must ensure that all costs incurred are necessary, reasonable, and allocable. The following list illustrates allowable uses:

- Local education agencies are permitted to use IDEA funds only to pay the excess costs of providing special education and related services to children with disabilities.
- Local education agencies must ensure that costs incurred and funded through the IDEA grant are necessary, reasonable, and allocable.
- Local education agencies are permitted to use IDEA funds to pay for special education teachers, special education administrators, related service providers, instructional assistants, and secretarial support staff that *directly* provide services or support services to students with disabilities.
- Local education agencies are permitted to use IDEA funds for special education staff to attend out-of-district or out-of-state meetings and conferences, only to the extent such costs are *reasonable and necessary* to accomplish the goals and objectives of the grant. The number of attendees and the approval process should be carefully considered and fully documented as related to the special education responsibilities of each potential attendee. In addition, costs for all conference attendance must be included in the local education agency's grant application and receive prior approval from OSE.
- Local education agencies are permitted to use IDEA funds for travel expenses only to the extent such costs are *reasonable and necessary* and do not exceed charges normally allowed by the local education agency in its regular operations consistent with its written travel policies. Local education agencies should follow their own travel and per diem rules and cost guidelines when charging travel expenses to their IDEA grant.
- Local education agencies are permitted to use IDEA funds to purchase instructional materials to be used by special education teachers and related service providers to meet the unique educational needs of children with disabilities.
- Local education agencies are permitted to use IDEA funds to purchase, lease, or otherwise provide for the acquisition of assistive technology devices to maintain or improve the functional capabilities of children with disabilities.

- Local education agencies are permitted to purchase food only as those purchases directly relate to instructional activities involving food shopping and preparation. Food purchases and activities must be supported by teacher lesson plans and be necessary for student IEPs related to independent living goals and objectives.
- Local education agencies are permitted to contract for services only if (1) there is a written contract specifying the terms of the vendors' services; (2) the contract providers are appropriately licensed; (3) the fees are determined to be reasonable and customary for the provision of such services in the area; (4) the local education agency has determined that the services cannot be provided by district employees; and, (5) the local education agency has internal controls in place to verify the delivery of contracted services as specified in contracts and on submitted invoices.

Non-Allowable Uses of IDEA Funds

There are numerous non-allowable uses of federal funds, including IDEA grant funds. The OSE may seek to recover any federal funds identified in an audit or through onsite monitoring as having been used for non-allowable costs. If OSE determines that a local education agency must return funds, those funds *cannot* be returned out of federal funds. The following is a list of specific non-allowable expenses. However, the list is not exhaustive.

- IDEA funds *may not* be used to pay attorneys' fees or costs of a party related to any action or proceeding under Section 615 of the act (including attendance at IEP meetings, due process hearings, appeals of due process hearings to federal court, court recordings).
- IDEA funds *may not* be used to reduce the level of expenditures for the education of children with disabilities made by the local education agency from local funds below the level of those expenditures for the preceding fiscal year.
- IDEA funds *may not* be used to support activities under Section 504, including allocation of staff time, purchase of materials, or in support of direct services to non-special education students.
- IDEA funds *may not* be used to purchase or support the use of computer networks and servers or cell phones.
- IDEA funds *may not* be used to pay for students to participate in SAT or ACT college entrance exams or for preparatory classes related to these exams.

- IDEA funds *may not* be used to pay for students with disabilities to participate in regular summer school programs.
- IDEA funds *may not* be used to pay for contracted employees' continuing education classes and/or conferences related to securing or maintaining their certification.
- IDEA funds *may not* be used to pay for student medications or for medical devices that are surgically implanted.

SOURCES: *IDEA Part B Fiscal Tool Kit for Special Education Directors*, Mississippi State Department of Education; Office of Management and Budget Circular A-87; Education Department General Administrative Regulations; Individuals with Disabilities Education Act; *Code of Federal Regulations*.

Appendix D: The Basic Special Education Process Under IDEA

The writing of each student's Individualized Education Program (IEP) takes place within the larger picture of the special education process under IDEA. Before taking a detailed look at the IEP, it may be helpful to look briefly at how a student is identified as having a disability and needing special education and related services and, thus, an IEP.

Step 1. Child is identified as possibly needing special education and related services (“Child Find”). The state (through the state's local education agencies) must identify, locate, and evaluate all children with disabilities in the state who need special education and related services. To do so, states conduct “Child Find” activities. A child may be identified by “Child Find” and parents may be asked if the “Child Find” system can evaluate their child. Parents can also call the “Child Find” system and ask that their child be evaluated. A school professional may ask that a child be evaluated to see if he or she has a disability. Parents may also contact the child's teacher or other school professional to ask that their child be evaluated. This request may be verbal or in writing. Parental consent is needed before the child may be evaluated. The evaluation needs to be completed within a reasonable time after the parent gives consent.

Step 2. Child is evaluated. The evaluation must assess the child in all areas related to the child's suspected disability. The evaluation results will be used to decide the child's eligibility for special education and related services and to make decisions about an appropriate educational program for the child. If the parents disagree with the evaluation, they have the right to take their child for an Independent Educational Evaluation (IEE). They can ask that the school system pay for this IEE.

Step 3. Eligibility is decided. A group of qualified professionals and the parents look at the child's evaluation results. Together, they decide if the child is a “child with a disability” as defined by IDEA. Parents may ask for a hearing to challenge the eligibility decision.

Step 4. Child is found eligible for services. If the child is found to be a “child with a disability,” as defined by IDEA, he or she is eligible for special education and related services. Within thirty calendar days after a child is determined eligible, the IEP team must meet to write an IEP for the child.

Step 5. IEP meeting is scheduled. The school system schedules and conducts the IEP meeting. School staff must: contact the participants, including the parents; notify parents early enough to make sure they have an opportunity to attend; schedule the meeting at a time and place agreeable to parents and the school; tell the parents the purpose, time, and location of the meeting; tell the parents who will be attending; and, tell the parents that they may invite people to the meeting who have knowledge or special expertise about the child.

Step 6. IEP meeting is held and the IEP is written. The IEP team gathers to talk about the child's needs and write the student's IEP. Parents and the student (when appropriate) are part of the team. Before the school system may provide special education and related services to the child for the first time, the parents must give consent. The child begins to receive services as soon as possible after the meeting. If the parents do not agree with the IEP and placement, they may discuss their concerns with other members of the IEP team and try to work out an agreement. If they still disagree, parents can ask for mediation or the school may offer mediation. Parents may file a complaint with the state education agency and may request a due process hearing, at which time mediation must be available.

Step 7. Services are provided. The school makes sure that the child's IEP is being carried out as it was written. Parents are given a copy of the IEP. Each of the child's teachers and service providers has access to the IEP and knows his or her specific responsibilities for carrying out the IEP. This includes the accommodations, modifications, and supports that must be provided to the child, in keeping with the IEP.

Step 8. Progress is measured and reported to parents. The child's progress toward the annual goals is measured, as stated in the IEP. His or her parents are regularly informed of their child's progress and whether that progress is enough for the child to achieve the goals by the end of the year. These progress reports must be given to parents at least as often as parents are informed of their nondisabled children's progress.

Step 9. IEP is reviewed. The child's IEP is reviewed by the IEP team at least once a year, or more often if the parents or school ask for a review. If necessary, the IEP is revised. Parents, as team members, must be invited to attend these meetings. Parents can make suggestions for changes, can agree or disagree with the IEP goals, and agree or disagree with the placement. If parents do not agree with the IEP and placement, they may discuss their concerns with other members of the IEP team and try to work out an agreement. There are several options, including additional testing, an independent evaluation, or asking for mediation (if available) or a due process hearing. They may also file a complaint with the state education agency.

Step 10. Child is reevaluated. At least every three years, the child must be reevaluated. This evaluation is often called a “triennial.” Its purpose is to find out if the child continues to be a “child with a disability,” as defined by IDEA, and what the child’s educational needs are. However, the child must be reevaluated more often if conditions warrant or if the child’s parent or teacher asks for a new evaluation.

SOURCE: “A Guide to the Individualized Education Program.” The U. S. Department of Education’s Office of Special Education and Rehabilitative Services. July 2000. (Website last modified on March 23, 2007.)

Appendix E: Content of Individualized Education Plans Required by IDEA

Current performance. The IEP must state how the child is currently doing in school (known as present levels of “academic achievement and functional performance”). This information usually comes from the evaluation results, such as classroom tests and assignments, individual tests given to decide eligibility for services or during reevaluation, and observations made by parents, teachers, related service providers, and other school staff. The statement about “current performance” includes how the child’s disability affects his or her involvement and progress in the general curriculum.

Annual goals. These are goals that the child can reasonably accomplish in a year. The goals are broken down into short-term objectives or benchmarks. Goals may be academic, address social or behavioral needs, relate to physical needs, or address other educational needs. The goals must be measurable--meaning that it must be possible to measure whether the student has achieved the goals.

Special education and related services. The IEP must list the special education and related services to be provided to the child or on behalf of the child. This includes supplementary aids and services that the child needs. It also includes modifications to the program or supports for school personnel--such as training or professional development--that will be provided to assist the child.

Participation with nondisabled children. The IEP must explain the extent (if any) to which the child will not participate with nondisabled children in the regular class and other school activities.

Participation in state and district-wide tests. Most states and districts give achievement tests to children in certain grades or age groups. The IEP must state what modifications in the administration of these tests the child will need. If a test is not appropriate for the child, the IEP must state why the test is not appropriate and how the child will be tested instead.

Dates and places. The IEP must state when services will begin, how often they will be provided, where they will be provided, and how long they will last.

Transition service needs. Beginning when the child is age fourteen (or younger, if appropriate), the IEP must address (within the applicable parts of the IEP) the courses he or she needs to take to reach his or her post-school goals. A

statement of transition services needs must also be included in each of the child's subsequent IEPs.

Needed transition services. Beginning when the child is age sixteen (or younger, if appropriate), the IEP must state what transition services are needed to help the child prepare for leaving school.

Age of majority. Beginning at least one year before the child reaches the age of majority, the IEP must include a statement that the student has been told of any rights that will transfer to him or her at the age of majority.

Measuring progress. The IEP must state how the child's progress will be measured and how parents will be informed of that progress.

SOURCE: "A Guide to the Individualized Education Program." The U. S. Department of Education's Office of Special Education and Rehabilitative Services. July 2000. (Website last modified on March 23, 2007.)



MISSISSIPPI DEPARTMENT OF EDUCATION

Carey M. Wright, Ed.D.
State Superintendent of Education



July 10, 2015

James Barber, Executive Director
Joint Legislative PEER Committee
Woolfolk Building
501 North West Street, Suite 301A
Jackson, Mississippi 39201

Dear Mr. Barber,

The Mississippi Department of Education appreciates the time and effort that went into the development of the report "Mississippi's Utilization of Funds Provided by the Individuals with Disabilities Education Act (IDEA)". The field of special education is complex and nuanced based on the individual needs of our students. The PEER staff made a genuine effort to learn about the Individuals with Disabilities Education Act (IDEA) and the work of the Office of Special Education. However, we do have concerns with some aspects of your report.

First, on page 23, you state that the MDE does not monitor results of students with disabilities. Student learning outcomes are measured for each student by the student's performance on grade level measures, such as the Mississippi Statewide Assessment System and graduation. In addition, learning outcomes for students with significant cognitive delays are also measured using the state's alternate assessment.

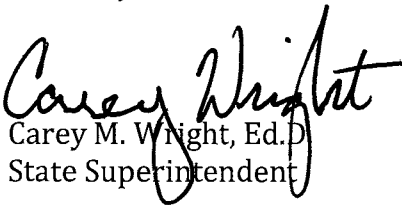
Student outcomes are also measured through each student's IEP in the Present Levels of Academic Achievement and Functional Performance (PLAAFP), which serves as the baseline measure, with progress reported quarterly against the baseline measures. Under the Mississippi Accountability System, every district and school must report publically the progress of their students with disabilities in all assessed areas. Additionally, in the Annual Performance Report of the State Performance Plan, the results of both compliance and results indicators are published for each district. The results indicators include performance on statewide assessments and graduation rates for students with disabilities. All of the aforementioned information was provided to the PEER committee both during the investigation and during the drafting of this report as verified on page 30 which

states, "It should be noted that OSE monitors and tracks results of IEPs through the Present Levels of Academic Achievement and Functional Performance..." Therefore, we believe that the MDE has demonstrated that we monitor the results of students receiving special education services. We do, however, acknowledge that we could utilize this data in additional ways and plan to incorporate the recommendations accordingly.

Second, on page 30, is a statement that when asked about changes to be made to the 2015-2016 cyclical monitoring review the report states that "MDE was unable to elaborate on these changes." The actual response was that the OSE is conducting an evaluation of the instrument after the conclusion of this year's monitoring cycle and will make revisions accordingly. The PEER investigation concluded before the end of the cycle; therefore, the evaluation and revisions had not begun.

Again, we appreciate the feedback provided through PEER's review of the agency's utilization of IDEA funds to support services for students with disabilities. We were pleased that you were able to note that we are in compliance with all state and federal regulations. We will review the recommendations provided within the report and incorporate as appropriate within the continuous improvement process we are currently undertaking in the Office of Special Education.

Sincerely,


Carey M. Wright, Ed.D.
State Superintendent

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