

REPORT OF PART C COMPLAINT INVESTIGATION
Nevada Early Intervention Services
Administrative Complaint 201205

INTRODUCTION

A letter of complaint was received by the IDEA, Part C Office of Nevada Aging and Disability Services Division (ADSD) on October 9, 2011. The complaint was filed by the Nevada Disability Advocacy and Law Center (NDALC) on behalf of seven (7) specifically identified Complainants, as well as all similarly situated infants and toddlers with disabilities residing in the State of Nevada. The complaint alleges Nevada Early Intervention Services failed to meet the provisions of the Individuals with Disabilities Education Act (IDEA) and its regulations relative to requirements for providing early intervention services in the child's natural environment; providing appropriate Prior Written Notice to families regarding proposed changes to service provision; following procedures for development and review of Individualized Family Service Plans (IFSP); appropriately implementing the family's Individualized Family Service Plan (IFSP) including service location; and ensuring availability of services in all geographical areas.

Investigation Process:

Upon receipt of the letter, the IDEA Part C Office reviewed the complaint to determine whether the alleged violations met the requirements for investigation in accordance with IDEA procedural safeguard provisions (34 CFR §303.430-434). It was determined the issues noted came under the investigative responsibility of the IDEA Part C Office; therefore, a full investigation was conducted.

The investigation was initiated by scheduling dates for child record reviews with eight (8) local early intervention programs across the State. Time for focus groups with program personnel was scheduled at the time of these reviews or on alternate dates when necessary. Focus group members were asked to respond to each of the seven (7) areas of alleged violation specified in the complaint based on their role in service provision.

A structured selection of records was generated for each program from the Tracking Resources and Children (TRAC) database. The process included pulling a list of all children enrolled (point-in-time) in each program. The list was then narrowed to children with active IFSPs between July 1, 2011 and October 31, 2011 to ensure data gathered represented the most current program performance.

The first step for each program included a random selection of children of up to 10% of the total enrollment. In order to review all areas identified in the complaint, the random selection was reviewed to ensure all critical junctures were represented (Intake, Initial IFSP, 6-Month and Interim Reviews and Transition). The final total for record reviews across the State was 108 which represented 5% of the total enrollment (2,447) for all eight (8) programs reviewed. The highest percent of enrollment reviewed was in the Northwest region which is where the seven (7) children specifically identified in the

complaint were enrolled. Percentages reviewed for other programs varied based on time constraints. The range of percentages of enrollment reviewed for all programs was 3% to 8%. The categories for records reviewed and the percent of compliance in each area was as follows:

1. Procedural Safeguards:

Compliance in the area of Procedural Safeguards includes the subcategories of Parent Consent, Prior Written Notice provided at all decision making junctures and documentation in the child's record that rights were reviewed with families at all decision making junctures. Procedural Safeguards was applicable to all records reviewed - 83 of 108 (77%) relevant records were compliant for this category.

2. Evaluation/Eligibility:

Compliance in the area of Evaluation and Eligibility is based on documentation of appropriate multidisciplinary team (MDT) evaluation of the child in five (5) developmental areas, family assessment, and documentation of eligibility consistent with State definition. Three (3) of the total selection of records did not have evaluation and eligibility determination completed in the timeframe being reviewed. Of the 105 records that were applicable, 60 (57%) were compliant relative to procedures for evaluation and assessment.

3. IFSP Development/Reviews:

Compliance in the areas of IFSP Development/Reviews is based on the IFSP containing all required components, obtaining appropriate parent consent to implement the IFSP and the IFSP being reviewed at all required timeframes. One (1) child did not have an IFSP development or scheduled review in the timeline reviewed. Of the 107 remaining records, 66 (62%) were compliant for IFSP development and review.

4. Early Intervention Services are Provided in Natural Environments/Appropriate Justification for Alternative Setting:

Compliance in this area is based on required services on the IFSP being provided in the natural environment of the child and family unless appropriate justification is documented for providing the service in an alternative setting. One (1) of the 108 child records reviewed was not relevant to services in natural environment as services had not been initiated. Of the remaining 107 records, 76 (71%) were compliant for this category.

5. Timely Initiation of IFSP Services:

Compliance in this area is based on timely initiation of IFSP services (within 30 days from parent consent to implement the IFSP or as determined by the IFSP team) and whether a delay in service initiation is due to program or family circumstances. Of the 108 records selected for review, 93 had new services added to the IFSP (initial or review) within the timeframe being reviewed. Of the 93 relevant records, 45 (48%) were compliant for this category.

6. Complying with Provision of Frequency and Intensity of Services Specified on the IFSP:

Compliance in this area is based on verifying all services required on the IFSP have been delivered on schedule and intensity as specified in the IFSP. In the 94 records reviewed relevant to this area, 56 (60%) could be verified to be compliant in this area.

Group Personnel Interviews:

Focus groups were conducted with personnel from the following early intervention programs:

- Program staff and/or management for Nevada Early Intervention Service (NEIS) Programs – NEIS Northwest, NEIS Northeast and NEIS South
- Program staff and/or management for Community Provider Programs in the Northwest Region, Advanced Pediatric Therapies and The Continuum-Reno
- Program staff and/or management for Community Provider Programs in the Southern Region, Easter Seals, Nevada; Integrated Service Solutions; Therapy Management Group; and Positively Kids

Individual Interviews:

- Key Administrative Personnel for Nevada State Health Division

DOCUMENTS REVIEWED

The following documents were reviewed in the course of this investigation:

- Individual Child Records;
- The Individuals with Disabilities Education Improvement Act 2004;
- Nevada Aging and Disability Services Division Disability Services Grant Application Fiscal Year 2012;
- 34 Code of Federal Regulations (CFR), Part 303. – Published September 28, 2011;
- State of Nevada IDEA Part C Early Intervention Policy Document;
- Senate Finance and Assembly Ways and Means Committees Meeting Jointly Closing List #23, May 17, 2011;
- NEIS Program Communications.

INVESTIGATION RESULTS

Note: In cases where the citation of relevant regulatory language has changed based on new Part C regulations published in September, 2011, both the historical and new citation are noted.

Issues Specified in the Letter of Complaint:

Alleged Violations of Federal Law and State Policy:

- 1. Violation of 20 U.S.C §1435(a)(2) and (16)(A) and (B)**
(a) In General:

A statewide system described in section 1433 of this title shall include the following components:...

(2) A State Policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all families.....

(16) Policies and procedures to ensure that, consistent with section 1436(d)(5) of this title –

A. to the maximum extent appropriate, early intervention services are provided in natural environments; and

B. the provision of early intervention services for any infant or toddler with a disability occurs in a setting other than a natural environment that is most appropriate, as determined by the parent and the individualized family service plan team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

The issue raised in this area is compliance with IDEA requirements that the State have current policies in place:

1. Establishing early intervention services that are available for all children who are eligible for services (as established in the IFSP by the IFSP team), or are potentially eligible for services (service coordination and eligibility determination), under IDEA Part C;
2. Ensuring the method for providing services has been shown to be effective through scientifically based research, to the greatest degree possible; and
3. Ensuring the service delivery meets requirements for providing services in the natural environment of the child and family unless there is an appropriate justification by the IFSP team as to why an alternative location for service delivery is necessary based on the needs of the child and family.

FINDINGS OF FACT

State Policies for the Provision of Early Intervention Services

The State of Nevada has established policy for early intervention services as required by federal statute and regulations. The policy document is consistent with the federal regulations published by the U.S. Department of Education, Office of Special Education Programs in 1997 and amendments to the IDEA as reauthorized in 2004, including ensuring appropriate early intervention services to all families and provision of services in natural environments.

Implementation of State Policies:

Availability of Early Intervention Services for All Children and Provision of Services in Natural Environments

- A. A copy of the “Senate Finance and Assembly Ways and Means Committees Meeting Jointly Closing List #23, May 17, 2011” document presented to the State Interagency Coordinating Council (ICC) for Nevada Early Intervention Services in July 2011 was reviewed as part of the investigation. In the last paragraph of page five (5) of this document, under the Heading, “Health Division’s Efficiency Measures to Decrease

the Shortfall”, it is stated that “One of the efficiencies the agency identified includes providing services to children using a clinical model rather than in the home, which would reduce the number of hours in contract services and travel expenses, totaling \$974, 666 each year of the 2011-13.” It also states, “The agency is developing policies to determine which children would receive services in the home due to transportation challenges or medically fragile children.” The proposed clinical model and the projected savings are reiterated in the table at the top of page seven (7) of the document and a summary of four (4) options were presented as possible choices at the top of page eight (8) of the document. No documentation was found showing information was provided indicating the implementation of the proposed model would not meet IDEA requirements to provide services to eligible children and their families in their natural environments.

- B. A chain of email communications between State of Nevada, Early Intervention Service (NEIS) Programs in all three (3) regions and the Nevada State Health Division (NSHD) verified programs were notified by NSHD that full implementation (100%) of therapy services were to be implemented within the clinic setting by September 2011, with the exception of those children who are medically fragile or have documented transportation issues. The NEIS programs have traditionally provided early intervention services to the child and family in the home or other community settings which were identified as natural environments for the individual child and family. A representative of the NSHD, interviewed during this investigation acknowledged understanding the criteria of exempting children from clinic services based on medical and transportation issues was not consistent with the IDEA requirements. The IDEA requires justification by the IFSP team for any service that would not be provided in the natural environment of the child and family.
- C. Data gathered during this investigation through child record reviews from the period of July 1, 2011 through October 31, 2011 and focus groups conducted with early intervention personnel in the NEIS programs confirm all three (3) state programs have attempted to implement the directive issued by the NSHD. Data averaged for the NEIS programs only (this does not include community providers) show the programs had 42% of services that did not meet the requirement for provision of services in natural environments and did not have appropriate justification for providing the services in more restrictive settings. During focus groups with both State operated and community provider early intervention programs, personnel noted they were aware of the inconsistencies in the directive to provide therapy services in clinic settings and the IDEA requirement to provide services in settings considered natural for the individual child and family. Since this directive was not included in Provider Agreements between the Community Partners and NSHD, the majority of the community programs have continued to provide services in the natural environment of the child and family.

Therefore, based on the results of this investigation, it is determined the adoption of a clinic-based service delivery model for provision of early intervention services by the NSHD and the directive to state-operated early intervention service providers to implement this model does not comply with Federal Statute and Regulations and State Policy for provision of services to Part C eligible

children and families. Therefore, the IDEA Part C Office is issuing a finding of noncompliance relative to the provision of early intervention services in the natural environment of the child and family. This finding also includes the failure to implement the requirement to provide appropriate justification, based on the needs of the child and family, as to why the outcomes cannot be achieved in the natural environment if the service is to be provided in an alternative setting.

Alleged Violations of Federal Law and State Policy:

2. Delivery of services in a timely manner

34 CFR §303.525 (previous regulation cited);

Each lead agency is responsible for the development of procedures to ensure that services are provided to eligible children and their families in a timely manner, pending the resolution of disputes among public agencies or services providers.

34 CFR §303.511 (d) (current regulations – September 2011)

The methods adopted by the State under this section must –

- (1) Include a mechanism to ensure that no services that a child is entitled to receive under this part are delayed or denied because of disputes between agencies regarding financial or other responsibilities (emphasis added); and*
- (2) Be consistent with the written funding policies adopted by the state under this subpart and including provisions the State has adopted under §303.520 regarding the use of insurance to pay for Part C services.*

The issue raised in this area is compliance with IDEA requirements for the State to have Policies and Procedures in place to ensure early intervention services needed by the child and family are not delayed when there is a dispute between Agencies (or Divisions) regarding payment or other responsibilities for the provision of early intervention services.

FINDINGS OF FACT

State Policies Regarding Interagency Agreements and Resolution of Disputes to Ensure Timely Services

The State of Nevada has established policies regarding interagency agreements relative to agency responsibilities for provision of early intervention services as required by federal statute and regulations. The policy document is consistent with the federal regulations published by the US Department of Education, Office of Special Education Programs in 1997 and amendments to the IDEA as reauthorized in 2004, including timely resolution of disputes. Review of existing agreements, including current provider agreements, pass-through grants between the IDEA Part C Office and the NSHD, and publically adopted policy or Administrative Code has identified the need to update the agreement procedures and ensure all requirements for this area are included.

Implementation of State Policies:

- A. Assignment of responsibility for various components of the early intervention system has been tasked to Divisions within the Nevada Department of Health and Human Services (DHHS).
- i. The IDEA Part C Office in the ADSD is assigned oversight and general supervision of the Statewide System of Early Intervention Services and is funded solely through IDEA Grant funds.
 - ii. The NSHD is assigned responsibility for management of service provider programs that coordinate and provide direct early intervention services. The payment for direct services is a combination of State Allocation and IDEA Grant pass-through funds. The total budget for the NSHD in SFY2011 for implementation of early intervention services statewide was approximately \$25.7 million. This included approximately \$4.9 million of IDEA funds (General Grant and ARRA) passed through to the NSHD by the ADSD to support the provision of direct early intervention services. The budget for early intervention services for SFY2012 is approximately \$24.8 million which includes approximately \$2.8 million of IDEA funds (General Grant and ARRA). There was a reduction in the overall budget for early intervention services from SFY2011 to SFY2012 of approximately \$1 million.
 - iii. Other Divisions within DHHS (ex., Medicaid) provide funding to early intervention services for Part C eligible children who also meet the eligibility requirements for the specific program.
- B. Review of records of individual children during this investigation verified there was noncompliance for timely initiation of services in 52% of the records and noncompliance relative to documenting appropriate justification for services not provided in natural environment of the child and family in 38% of the records. However, the delays were not directly attributable to a “dispute” between agencies or division within the lead agency as to who was responsible for payment for the service. The delays, and/or interruption in services, particularly to the NEIS early intervention programs, were attributable to the lack of personnel resources as a result of the reduction in the amount of funds available for contract services.
- C. The State remains under a systemic finding of noncompliance for timely initiation of new IFSP services based on an Administrative Complaint filed by Nevada Disability Advocacy and Law Center (NDALC) on behalf of all children in the State on July 16, 2008. However, the finding was a result of insufficient funding resources to meet the need and was not specific to a dispute regarding payment or service provision between agencies or divisions.

It is determined there is a need to review and update signed intra-agency agreements to ensure they include all components required in the IDEA Part C regulations including methods for timely resolution of disputes and assignment of responsibilities for provision of, or payment for, early intervention services. It is also determined a finding of noncompliance regarding the issue of delay in service delivery relative to this area of the complaint is not warranted.

Alleged Violations of Federal Law and State Policy:

3. Procedures for IFSP Development, Review , and Evaluation

34 CFR §303.342(b)(1) and (e): Procedures for IFSP development, review, and evaluation (Previous Regulation Cited).

(b) Periodic review. (1) A review of the IFSP for a child and the child's family must be conducted every six months....

(e) Parental consent ... The early intervention services to which parental consent is obtained must be provided.

The issue raised in this area is compliance with IDEA requirements regarding following appropriate procedures for IFSP reviews and implementing the IFSP as developed by the IFSP team and consented to by the parent.

FINDINGS OF FACT

- A. Data gathered through child record reviews demonstrated the programs were meeting required timelines (ex. 6 months or Annual) for IFSP reviews in all but a few isolated instances. In those cases, reviews were completed, though late. However, 40% of the records reviewed were not compliant for providing all services in the specified frequency and intensity on the IFSP.
- B. Data from child records reviewed in two (2) of the NEIS EI programs only, showed 76% of the children in those programs were noncompliant for fully implementing the frequency and intensity of services specified in the IFSP due to lack of available personnel resources. The lack of personnel resources was due to the reduction in the number of hours for independent service providers under contract with these programs through Avysion.
- C. Interviews and review of documents verified all three (3) NEIS programs were informed of the reduction (as much as 50%) in funds for contract services and the requirement to implement clinic-based services Mid-May of 2011. Implementation was to begin on July 1, 2011. A monthly cap on expenditures for contract services was imposed on July 7, 2011. At the time of notification, based on caseload, contracted providers were already at the maximum allowable hours or would max out the available hours before the end of a given month. Therefore, they were unable to provide the total number of sessions specified on the IFSP for that month.
- D. Data gathered through the review of child records did not indicate any review of IFSPs to modify service frequency due to budgetary concerns. There was data to verify changes were made to service delivery, namely changes in service settings, without conducting an IFSP review as required by the IDEA. Parents were verbally informed of the service delivery model changes, but no IFSP review was conducted to address the issue through the IFSP team process.

Therefore, based on the results of this investigation, it is determined there is a finding of noncompliance relative to following required procedures for modifying service delivery for the child and family. This failure to implement appropriate procedures for modification of service delivery resulted in unsuccessful implementation of the IFSP as consented to by the Parent.

Alleged Violations of Federal Law and State Policy:

4. Services to All Geographic Regions

34 CFR §303.147: Services to all geographic areas

Each application must include a description of the procedures used to ensure that resources are made available under this part for all geographic areas within the State.

The issue raised in this area is compliance with IDEA requirements to ensure equitable access to early intervention services in all areas of the State to the greatest degree possible.

FINDINGS OF FACT

- A. The State of Nevada has submitted assurances to the US Department of Education as part of the annual application for federal funds that early intervention services are made available to all areas of the State.
- B. Per requirements from a previous State audit, the process utilized in the past for distribution of allocations for early intervention services included use of a funding formula that was population based. This formula utilizes data from the December 1st Child Count to ensure all geographic regions of the state receive funding based on child count. This formula was not utilized by NSHD for SFY2012. An interview with a NSHD representative indicates funds allocated by the Legislature for early intervention services to Part C eligible children, were distributed to regions based on caseload. Additional clarification is needed regarding the process of determining distribution of funds based on caseload.
- C. At the beginning of the fiscal year, all federal funds passed through to the NSHD from the IDEA Part C Office for direct services and were distributed to community provider agencies. Since there are no community provider agencies in the Northeast region, this region received no federal funds in the initial distribution of funds. However, remaining American Recovery and Reinvestment Act (ARRA) funds were passed through to the NSHD from the IDEA Part C Office in December 2011 and were specifically directed to NEIS programs in the Northern Regions by the IDEA Part C Office.
- D. With the allocation and distribution of funds in the previous biennium, the State made significant progress in correcting the issue of timely initiation of services, (e.g. elimination of a wait list) for the two regions where it existed.
 - i. The NEIS Northwest Program had achieved full correction of noncompliance in 2009 and no longer had a wait list. Beginning July 1, 2011, the Northwestern region experienced difficulty in obtaining both therapy and Developmental Specialist (teacher) resources. This was beginning to impact the timely initiation of services and the NEIS Northwest program was beginning to have a wait-list. The situation of creating a wait list was diverted by requiring existing community providers to accept greater numbers of children.
 - ii. The NEIS South program vacillated in performance and has not been able to achieve full correction since the original finding issued through monitoring in

2006. There was evidence of improvement over the performance reported in May 2011 based on the records reviewed during this investigation.

iii. Currently, there are no community service provider agencies in the Northeast region; however, in previous years, the NEIS Northeast program had been able to meet the need and had no waitlist. Under the current budget, the Northeast region does not have sufficient service resources and now has a waitlist for initiation of IFSP services.

E. The more recent process for distribution and redistribution of early intervention funds among service provider agencies has included very short timelines for changes, and there was no indication the distribution is taking into consideration the projected need for all regions based on population.

No finding is issued in this area. However, information reviewed during this investigation shows a clear need for an examination of the processes utilized for determining how the funds designated for early intervention services are distributed to early intervention service providers. The outcome of the review must ensure both IDEA and State audit requirements are followed so that access to early intervention services is equitable for all children in all areas of the State.

Alleged Violations of Federal Law and State Policy:

5. 34 CFR §303.340(c): General.

(c) Lead agency responsibility. The lead agency shall ensure that an IFSP is developed and implemented for each eligible child ...

The issue raised in this area is compliance with IDEA requirements to ensure an appropriate IFSP is developed and implemented for all Part C eligible children.

FINDINGS OF FACT

Data from child record reviews and the TRAC data system shows IFSPs have been developed for all eligible children. As indicated under item three (3), the data also shows a lack of full implementation of all IFSPs. Monitoring for compliance in this area is a part of the general supervision requirements assigned to the IDEA Part C Office by the lead agency.

Therefore, based on the results of this investigation, it is determined there is a finding of noncompliance relative to fully implementing IFSPs for Part C eligible children.

Alleged Violations of Federal Law and State Policy:

6. 34 CFR §303.344(d)(1): Content of an IFSP.

(d) Early intervention services. (1) The IFSP must include a statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in paragraph (c) of this section

The issue raised in this area is compliance with IDEA requirements to ensure services included in the IFSP are based on the unique needs of the child and family and are specifically designed to support the identified outcomes stated for the child and family.

FINDINGS OF FACT

Data obtained through review of child records and personnel interviews showed that the reduction in availability of qualified providers has impacted the development of IFSPs in the area of determination of frequency and intensity of services indicated as needed, implementation of established IFSPs and maintaining multidisciplinary team processes for coordination of IFSP services. Two other impacts identified as part of the investigation is the potential for loss of existing contract providers due to the limited number of available hours and the beginning of a wait list in rural areas.

Therefore, based on the results of this investigation, it is determined there is a finding of noncompliance relative to individualization of services in IFSPs in regards to frequency and intensity of services.

Alleged Violations of Federal Law and State Policy:

7. 34 CFR §303.403(a) and (b)(3) and (4): Prior Notice; native language.

- (a) General. Written prior notice must be given to the parents of a child eligible under this part a reasonable time before a public agency or service provider proposes, or refuses, to initiate or change the identification, evaluation, or placement of child or the provision of appropriate early intervention services to the child and child's family.*
- (b) Content of notice. The notice must be in sufficient detail to inform the parents about – ...*
 - i. All procedural safeguards that are available under §§303.401 – 303.460 of this part; and*
 - ii. The State complaint procedures under §§303.510 – 303.512, including a description of how to file a complaint and the timelines under those procedures.*

The issue raised in this area is compliance with IDEA requirements to provide prior written notice to families before changes to eligibility, evaluation, or service provision are proposed, refused, or implemented for an eligible child. The notice must clearly delineate what is being proposed and why, and must be specific to the individual child and family. The notice must also inform the family of their right to specific procedural safeguards if they disagree with the proposed or refused action.

FINDINGS OF FACT

- A. Review of child records during the investigation of this complaint verified changes were made to service delivery (ex. change in specified settings) without conducting an IFSP review as required by the IDEA. Parents were verbally informed of the service delivery model changes, but no IFSP review was conducted to address the issue through the IFSP team process.

- B. Review of child records and personnel interviews demonstrates a number of issues related to providing appropriate Prior Written Notices for 23% of the records reviewed. Issues included lack of Prior Written Notice of proposed changes to service delivery and insufficient detail to fully inform the families of the action and the reason for the action.

Therefore, based on the results of this investigation, it is determined there is a finding of noncompliance in the area of procedural safeguards relative to the issuing of appropriate Prior Written Notice to families regarding IFSP meetings, reviews and when changes in services are being proposed by the program.

CORRECTION OF NONCOMPLIANCE

In accordance with IDEA regulations [34 CFR § 303.700 (e)], all identified noncompliance with IDEA statute and regulations must be corrected as soon as possible and in no case later than one year after the identification of the noncompliance by the IDEA Part C Office. A shorter timeline may be required by the IDEA Part C Office if deemed appropriate and periodic targets may be required, depending on the level of noncompliance identified.

The process of correcting identified noncompliance is two pronged. There must be evidence, and verification by the Part C Office of:

- A. Individual Child Correction: verification that correction has been completed for the individual child whenever possible; and
- B. Systemic Correction: verification that the compliance requirement is being met for all children enrolled in the program.

Since the issues of noncompliance varied across early intervention service provider programs, correction in the noncompliance will be addressed with programs on an individual basis. Notices of noncompliance will be issued to individual programs and plans for correcting the noncompliance will be developed in conjunction with the IDEA Part C Office. The IDEA Part C Office will verify correction of both individual child and systemic noncompliance.

Areas, where it was determined there needs to be review and update of policies and procedures, will be addressed by the IDEA Part C Office. The process will be completed with stakeholder input to ensure transparency and public understanding of Part C Policies and Procedures. Nevada Policies for Early Intervention Services will be updated to fully comply with the most recent federal regulations published by the US Department of Education in September 2011. Final update of all policies will be completed by June 30, 2013 at the latest; however, work has begun on the revision process.

The IDEA Part C Office will post a copy of this report on the Nevada Early Intervention Services website at <http://health.nv.gov/BEIS.htm>.

INDIVIDUAL CHILD CORRECTION:

Within 30 days from the receipt of notification of noncompliance identified in this report:

- A. Immediately following the release of this report, the IDEA Part C Office will issue a list of all children with identified noncompliance as a result of this investigation to relevant programs.
- B. Early intervention programs providing services to individual children identified in this complaint are required to initiate scheduling of IFSP meetings with the family within 30 days from the receipt of this report to identify a remedy for the noncompliance. Appropriate Prior Written Notice including a clear statement of what is proposed for the meeting and why it is being proposed must be included in the notice. Parent rights and procedural safeguards must be reviewed with the family as part of the meeting.
- C. Written agreements for correction of noncompliance must be in place with all families within 60 days from the receipt of this report unless there is documentation that delays in the process are due to family circumstances. A copy of the signed report must be submitted to the IDEA Part C Office.
- D. If the program has already conducted a meeting to address the noncompliance with the family, a copy of the agreement between the program and the family must be submitted to the IDEA Part C Office. The IDEA Part C Office will verify implementation of the plan as written.
- E. Each program must work with their liaison to the IDEA Part C Office to track and verify correction of the noncompliance for each child.

SYSTEM CORRECTION:

Local Program Corrections:

- A. Each early intervention program with findings as a result of this complaint investigation, in keeping with IDEA Part C Office monitoring guidelines, will meet with their IDEA Part C Office liaison within six (6) weeks from the date of receipt of this report to create or update their Corrective Action Plan (CAP) to address all areas of identified noncompliance. Notification of the areas of noncompliance identified for each program will be issued to the program by the IDEA Part C Office prior to the meeting. The CAP must identify specific strategies, timelines and procedures to ensure IDEA requirements are being met for all children and families receiving early intervention services by or through the program. Programs already operating under a CAP for any identified area will review and update activities in the existing plan to correct identified noncompliance.
- B. Each early intervention service provider agency with a finding in the area of IFSP development and review will utilize an appropriate Family Needs Assessment tool as required by IDEA law and regulation to identify the family's concerns, priorities and resources, and the family's natural environment in order to ensure early intervention services and supports address the unique needs of each child and family. Specific strategies for implementation will be included in individual program CAPs.
- C. Each early intervention service provider agency with an identified finding in procedural safeguards will participate in training to address appropriate decision

making junctures requiring Prior Written Notice and reconvening of an IFSP. Timelines for training will be established in individual program CAPs.

- D. Each early intervention service provider agency will develop and implement strategies to address the budget limitations in a manner that meet the requirements under Part C IDEA law and regulation. For example, if a program is providing a group service delivery model, that group must be inclusive of typically developing infants and toddlers. Specific strategies for implementation will be included in individual program's CAP.

Intra-Agency Correction:

- A. The ADSD will establish an agreement with the NSHD for the systemic correction of noncompliance identified through this investigation. The IDEA Part C Office will schedule a meeting with NSHD not later than 30 days from the issuance of this report. The agreement must address, at a minimum, the following:
- i. Identification of financial and service provision responsibilities and procedures for resolving disputes about payment of services or other matters related to the State's early intervention service program;
 - ii. Projected timelines and procedures for correction of the identified noncompliance including directive to service providers under the NSHD regarding complying with IDEA requirements;
 - iii. Collaboration on budget development and distribution of funds allocated for the early intervention system of services that ensures equitable resources to all areas of the State based on eligible and potentially eligible population counts;
 - iv. Verification that potential service providers are capable of providing services in accordance with IDEA requirements and assignment of children to early intervention provider agencies; and
 - v. Any other additional areas identified by NSHD personnel and noted as critical needs.
- B. The NSHD must ensure each program under the supervision of the Division or under provider agreement with the Division and providing services to a Part C eligible child and their family has a directive to comply with all components of IDEA law and regulation. This includes providing all services in the child's natural environment, unless the child's unique needs cannot be achieved by providing the early intervention services in the natural environment. If services are not being provided in the natural environment, an appropriate justification must be provided.

Findings will be issued to the following programs based on noncompliance identified through this investigation and each will be required to develop Corrective Action Plans (CAPs) in conjunction with their IDEA Part C Office Liaison:

- NEIS Northwest
- NEIS South
- NEIS Northeast
- Integrated Support Solutions
- Easter Seals of Nevada
- The Continuum-Reno