Continuous Improvement Monitoring: An Analysis of State Special Education Compliance Procedures

Barbara Richmond Blake

College of William & Mary - School of Education

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Continuous Improvement Monitoring:
An Analysis of State Special Education Compliance Procedures

A Dissertation Presented to
The Faculty of the School of Education
The College of William and Mary in Virginia

In Partial Fulfillment of the
Requirements for the Degree of
Doctor of Education

by

Barbara Richmond Blake
Continuous Improvement Monitoring:
An Analysis of State Special Education Compliance Procedures

by

Barbara Richmond Blake

Approved March 27, 2012 by

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DEDICATION

This dissertation is dedicated to my wonderful husband, Ed, for whom this dream would not have been possible. Your willingness to provide me with the time needed to make this a reality was a test of true love. Through your understanding and willingness to go above and beyond in our relationship, you encouraged me and continuously inspired me to do my best no matter how much time it took.

To my husband, mother, and mother-in-law for believing I could tackle whatever I set my mind to, no matter how great or small. I would also like to thank my family for their understanding of the time it took to complete this dream. For my father and father-in-law, I wish you both were here to see the completion of all this hard work. I would like to thank everyone for their support.
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ABSTRACT

The purpose of this policy analysis was to examine the responses of selected states to the special education monitoring requirements of the Individuals with Disabilities Education Act of 2004 (IDEA) with particular attention paid to the years after this most recent reauthorization. This study examined the legislative and litigative history of students with disabilities including the gradually increasing role of the federal government in both general and special education.

The various approaches used by the selected states to monitor special education procedures and student outcomes were identified as well as the procedures used by these states in order to remediate non-compliance issues. Information was reviewed in order to determine the extent that selected states met or failed to meet state indicator targets.

Once the non-compliance issues and due process issues had been associated with their respective priority areas, an analysis was made of the relationship between these two variables. It was determined that a correlation was found to exist between due process proceedings and identified areas of non-compliance. Through the use of qualitative and quantitative research methods, the results obtained from this study indicated that the selected states use similar methods for monitoring special education as well as for remediating non-compliance.

BARBARA RICHMOND BLAKE

SCHOOL OF EDUCATION, EDUCATION, POLICY, PLANNING, AND LEADERSHIP

THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA
Chapter 1: The Problem

The Individuals with Disabilities Education Act (IDEA 2004) is the most recent reauthorization of the Education for All Handicapped Children Act (EAHCA) of 1975. The current IDEA legislation focuses on improving the educational outcomes of students with disabilities. This legislation is the legal foundation that states are required to provide students with disabilities a free appropriate public education (FAPE) in the least restrictive environment (LRE) and access to the general education curriculum. In order to determine if states are in compliance with IDEA, the United States Department of Education (USED), and more specifically the Office of Special Education Programs (OSEP), are responsible for implementing a system that assures compliance with IDEA. This system of assuring compliance includes, but is not limited to on-site monitoring, the review of state plans, and the review of collected performance indicator data established by the federal government. Although IDEA does not specify how OSEP should monitor the states, OSEP is required to confirm states demonstrate they have policies and procedures in place to ensure that the basic principles of IDEA are met (President's Commission on Excellence in Special Education (PCESE), 2002). The federal government monitors and certifies a state's compliance with IDEA via on-site visits, the review of records, and the review of data collection. The National Center for Special Education Accountability Monitoring (NCSEAM) states that according to IDEA, the purpose of monitoring is to improve educational results and functional outcomes for students with disabilities (Schmitz, 2007). Each state is expected to have in place a monitoring system to determine the compliance of each of its school districts with IDEA (20 U. S. C. § 1416). In order for states to comply with IDEA mandates, they must have the cooperation of the local education agencies (LEAs) within their boundaries (Weber & Rockoff, 1980).
The 2004 reauthorization of IDEA brought about a paradigm shift in the monitoring process, moving from a procedure-based (meeting the letter of the law) paradigm to one with an outcome-based (student performance) focus (Schmitz, 2007; Turnbull, 2007). Previous monitoring systems, both at the federal and state levels, had been identified as being procedure-based. The PCESE also recommended that the federal government change its monitoring procedures from a procedure-based to an outcome-based focus. The PCESE noted that states and localities are likely to follow suit with the focus of federal monitoring whether this focus is procedure-based or outcome-based.

The Individuals with Disabilities Education Act of 2004 is written in four parts. Each part addresses specific components of the law that, as a whole, provide students with disabilities a free appropriate public education. Part A, entitled General Provisions, includes the findings and purpose of IDEA and the definitions used throughout this document. This section describes the legislative history and rationale related to the protection of educational opportunities and rights of children with disabilities. It also describes the purpose of the law, that is to provide children with disabilities a free appropriate public education that meets their unique needs, prepares students with disabilities to be as independent as possible, and protects their rights as well as those of their parents (20 U. S. C. § 1400). Part B of IDEA, Assistance to States for the Education for all Children with Disabilities, that was the focus of this study, addresses state and local eligibility for federal funding. Evaluations, eligibility for services, individualized programs for students, student placement, and procedural safeguards were also included in this section as well as monitoring, technical assistance, and enforcement related to compliance. Part B pertains to children, youth, and young adults, ages 3 through 21 years of age. Part C deals with similar procedures that are addressed in Part B; however, the emphasis is on infants and toddlers. The
final section of IDEA (Part D) focuses on national activities to improve education for children with disabilities.

Under IDEA, each state is responsible for completing a state performance plan (SPP) that reflects the state's compliance with, and how the state will improve its implementation of, Part B--Assistance to States for the Education of All Children with Disabilities of the IDEA statute. State Performance Plans (SPPs) are written for a 5-year time period, but may be amended at any point during that period. Each state collects data from its individual school districts in order to ensure they are meeting the goals established in the state’s performance plan. During the reauthorization of IDEA 2004, certain elements, such as, Disproportionality, Effective General Supervision, and FAPE were identified as areas for focused monitoring at the federal level when reviewing state performance plans, and at the state level when writing them, for the inclusive years 2005-2006 to 2010-2011.

Based on these specific areas of concern, (Disproportionality, Effective General Supervision, and FAPE), each state develops a monitoring system that may include on-site visits of school districts, review of district and individual school data, file reviews, and other measures to ensure compliance with IDEA. It was the purpose of this study to review the monitoring systems in Maryland, North Carolina, South Carolina, Virginia, and West Virginia and determine how these states responded to the requirement from the federal government to demonstrate compliance with IDEA.

The justification for studying how states monitor special education is two-fold. The first justification is that Congress needs to know that IDEA is being followed and that resources are spent appropriately. This is validated by both compliance and fiscal monitoring. The PC ESE (2002) noted that the Annual Report to Congress was inadequate and that a report in which states
are compared to each other based on results-oriented performance indicators would provide a more accurate depiction of special education services and educational results for students with disabilities. It is clearly noted in IDEA that monitoring is needed in order to ensure the education of students with disabilities. In the early years of IDEA legislation, monitoring was used more as a tool to ensure that students with disabilities were provided a free appropriate public education. Currently, monitoring is focused on the results of that education. Based on the PCESE (2002) report, the USED should utilize substantial and focused measures that will monitor results for students with disabilities. Since the reauthorization of IDEA in 2004, the primary focus of such monitoring is to evaluate the improvement of educational results and functional outcomes for students with disabilities (20 U. S. C. §1416). The second justification concerns the collection of consistent and accurate data. The data is collected according to the State Performance Plans that addressed the 20 identified performance indicators. Based on the information from these performance indicators, USED provides Congress with evidence that states are meeting the federal mandate of improving educational outcomes for students with disabilities. This is determined by how well states meet their targets in their State Performance Plans.

**Statement of the Problem**

Although IDEA requires the Office of Special Education Programs to monitor states concerning their compliance to IDEA, the mechanics of how OSEP is to monitor compliance and how states are to respond to OSEP is not clearly delineated. Each state must submit a State Performance Plan (SPP) that includes rigorous and measurable targets they have established to move toward full compliance with IDEA and 100% compliance on the 20 performance indicators established by the federal government to improve educational results for students with
disabilities. In response to the data collected by OSEP, the USED makes a determination for each state based on their progress toward achieving compliance with IDEA requirements and the degree to which the states have met their performance indicators. This process results in the OSEP of the U. S. Department of Education using a relative rather than an absolute standard to determine whether or not a state performs satisfactorily on a performance indicator. Therefore, each state is measured against its own established data much like a student with an individualized education program (IEP). A student with disabilities may be identified as mastering, making progress, or making insufficient progress based on their individualized goals and objectives. In essence, the SPP is a state’s IEP where progress is reported for that state by means of the Annual Performance Report (APR), much like a student’s progress is reported during the school year. Each state is provided a grade, known as a determination, that determines whether the state will graduate (meets requirements) by meeting all of their performance and compliance indicators. However as noted previously, not all states have the same targets, and states vary from year to year in meeting the requirements or needing intervention. As shown in Table 1, the determinations of these states have varied for each Federal Fiscal Year (FFY) from state to state and year to year among meeting requirements, needing assistance, and needing intervention. As depicted in Table 1, Maryland and West Virginia improved their standing with regard to meeting requirements over a four-year period, while South Carolina's determinations remained the same. North Carolina improved from FFY 2005 through 2007, but reverted to needing assistance in 2008. Virginia met requirements for the first three years, but needed assistance in 2008.
Table 1

*State Determination on State Performance Plans (SPP)*

<table>
<thead>
<tr>
<th>State</th>
<th>FFY 2005</th>
<th>FFY 2006</th>
<th>FFY 2007</th>
<th>FFY 2008</th>
<th>State Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maryland</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>2.5</td>
</tr>
<tr>
<td>North Carolina</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>2.0</td>
</tr>
<tr>
<td>South Carolina</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2.0</td>
</tr>
<tr>
<td>Virginia</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>2</td>
<td>2.8</td>
</tr>
<tr>
<td>West Virginia</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>2.3</td>
</tr>
<tr>
<td>4th Judicial Circuit States Average</td>
<td>2.0</td>
<td>2.2</td>
<td>2.6</td>
<td>2.4</td>
<td>2.3</td>
</tr>
</tbody>
</table>

Note. 0 = Needs Substantial Intervention; 1 = Needs Intervention; 2 = Needs Assistance; 3 = Meets Requirements.

Through an analysis of the approaches that Maryland, North Carolina, South Carolina, Virginia, and West Virginia monitor compliance with IDEA requirements, this study provides insights to practices in these states concerning effective and efficient methods for monitoring compliance. By comparing the monitoring procedures of these states, this study may assist other states with improving their monitoring systems in order to identify and correct areas of non-compliance with IDEA requirements. States that have received a determination of needing assistance or needing intervention may use the results of this study to review how states that are successful in meeting IDEA requirements have designed and implemented their monitoring operations and provided remediation in order to correct non-compliance issues.

This study also included a review of how each state's annual report data related to due process proceedings compared with their identified areas of non-compliance. An analysis of this data across selected states was designed to reveal those areas of IDEA implementation that continue to generate controversy and require proactive and/or corrective action.

**Purpose of the Study**

The purpose of this study was to examine the continuous improvement special education
monitoring systems of Maryland, North Carolina, South Carolina, Virginia, and West Virginia. The study identified the approaches these states use to monitor special education compliance with IDEA, identified the areas of special education non-compliance, and determined the extent that these states are meeting established compliance targets. This study has also categorized the actions taken by these states to remedy identified areas of non-compliance, identified prevailing themes that were evident in due process proceedings, and determined how these themes compared with identified areas of non-compliance.

Both IDEA 2004 and NCLB increased accountability requirements related to educational programs and personnel for general and special education populations. It is no longer acceptable for school districts to simply complete the correct paperwork, place children in the least restrictive environment, and provide students with disabilities access to the general education curriculum. School districts must now guarantee to the public that all students are making progress in the general education curriculum. In order to determine if states are in compliance, the federal government monitors the states that in turn monitor their school districts. This study has identified how selected states monitor their individual school districts and how these states remedy non-compliance. In addition, this investigation was designed to determine if there are similarities between identified areas of non-compliance and due process proceedings within FFY 2009.

Each state must monitor its LEAs in order to assure such compliance. The federal government requires each state to be in compliance with IDEA regulations in order for that state to continue to receive federal funding for these programs. In order to comply with the federally-mandated monitoring requirement, each state is required to develop a monitoring process in order to assist its LEAs with meeting the necessary IDEA requirements.
This study was also important because it provided the states and their LEAs with a selection of monitoring methods and models as well as non-compliance remediation procedures. In order for the state to be in compliance with IDEA, each LEA must be in substantial compliance as well. Where a state is found to be in non-compliance, sanctions may be applied to it that include the partial or total withholding of funding or the state being referred to the Department of Justice for appropriate action.

Another purpose of this study was to compare a state's due process proceedings and its areas of non-compliance. This comparison is important in order for a state to know if the same areas of weakness that were identified by the failure to meet any of the 20 performance indicators are the same areas where they become involved in legal disputes with the families of students with disabilities. This comparison will also assist states as well as their LEAs to identify where to focus their resources in order to avoid such conflicts.

The state performance plans that each state provides to OSEP rely on information provided by each state's monitoring system. Individuals who are tasked with the responsibility of developing their state's monitoring system may wish to review how other states compile information and how they document achievement of the performance indicators established by OSEP. Other groups of educational stakeholders, who may find the results of this study helpful, include both special and general educators. These individuals have the influence to ensure compliance with IDEA at both state and district levels. Given that IDEA performance indicator data is collected from these source levels, it is imperative that general and special educators are made aware of those IDEA elements for which they are responsible. In addition, special educators must be trained in how to implement the monitoring system within their state or district. Once a state's monitoring system is implemented, the collected data will provide
information to assist educational administrators with planning professional development for their staff. Other stakeholders who may be interested in this topic may include special education advocates, lawyers, and policy makers.

Research Questions

This study addressed the following research questions:

1. What approaches do states use to monitor special education compliance with the Individuals with Disabilities Education Act (IDEA)?
2. To what extent are selected states meeting established special education compliance targets?
3. What are the areas of non-compliance?
4. What actions do states take to remedy identified areas of non-compliance?
5. What prevailing themes are evident in due process proceedings for the selected state departments of education?
6. How do due process proceedings compare with identified areas of non-compliance?

Significance of the Study

This study is significant to the field of education, and specifically special education, because of the legal obligation states have to provide a free appropriate public education to individuals with disabilities. Special education continues to be an area that is, at times, fraught with litigation, therefore it is most important for educators to be made aware of various monitoring approaches that are determined to be effective in meeting IDEA requirements and other legal obligations. The EAHCA was the first legislation to establish that states must be monitored for compliance. This requirement has remained throughout its many reauthorizations. Another significant reason for this study lies in the opportunity for state and local educators to
compare approaches used by different states to monitor compliance within their respective districts. This study provides educators with information related to the means by which different states remedy non-compliance, thereby identifying approaches that may be successful in assisting their state with meeting those requirements of IDEA. When a state is found in non-compliance with IDEA, there are one or more of the following three sanctions that may be imposed on that state by the USED. First, it may withhold a state’s grant award in whole or in part, requiring a corrective action plan and completion of that plan within three years. Second, it may disapprove a state’s grant application for funding, requiring a state to discontinue a policy, procedure, or practice that violates IDEA. Third, it may refer the state to the Department of Justice (DOJ) for appropriate action (Government Accountability Office, 2004).

When identifying prevailing themes in due processes and comparing them with identified areas of non-compliance as noted by a SPP, the analytical process used in this study may assist states by providing a means for reviewing monitoring approaches and remedying specific areas of concern that are noted frequently in due process proceedings. By identifying similarities between due process proceedings and non-compliance, this study may assist special education administrators, both at state and local levels, with a measure of guidance in allocating limited resources more efficiently and effectively for corrective action. The availability of such information related to different approaches by different states will provide special education administrators with a set of tools that will shape their monitoring practices and procedures in order to more appropriately comply with IDEA regulations.

**Definition of Terms:**

In order to ensure shared meaning and a better understanding of the terminology used throughout this study, key terms and definitions are listed below. This researcher has
synthesized those definitions not followed by a citation, for the purposes of this study.

**Annual Performance Report (APR):** an annual report of each state’s local education agency performance on the targets in the state performance plan (20 U.S.C. §1416 (b)(2)(c)(ii)).

**Continuous Improvement Monitoring Program (CIMP):** a cyclical process developed by the USED intended to review information from states and/or school districts. Components of the CIMP include: an on-going process that includes a self assessment that evaluates the impact and effectiveness of the state and local efforts in delivering special education to students with disabilities. It also includes data collection, improvement planning, and implementation of the improvement strategies, verification, and consequences for non-compliance, and review and revision of the self-assessment (U.S. Department of Education, 2001; Texas Education Agency, 2004; Tschantz, 2002).

**Complaint:** an expression of disagreement with a procedure or a process concerning special education programs, procedures or services (http://www.doe.virginia.gov/special_ed/resolving_disputes/complaints/index.shtml).

**Disproportionality:** “the representation of a particular group of students at a rate different from that found in the general population” (Gravois & Rosenfield, 2006, p. 42).

**Due process hearing:** “a legal proceeding for the judicial determination of factual and legal issues” (Murdick, Gartin, & Crabtree, 2007, p. 268).

**Education for All Handicapped Children Act of 1975 (EAHCA):** Landmark legislation in education that guaranteed a free appropriate education for all children with disabilities (Hulett, 2009, p. 29).

**Federal Fiscal Year (FFY):** a term that is used to differentiate a budget or financial year from the calendar year. The federal fiscal year runs from October 1 of the previous year to
September 30 of the next year (http://useconomy.about.com/od/fiscalpolicydefinitions/g/Fiscal_Year.htm).

**Focused Monitoring:** monitoring with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities (20 U.S.C. §1416 (a) 2 (B)). In the context of this study the areas are: disproportionality, effective general supervision, and FAPE.

**Free Appropriate Public Education (FAPE):**

The term "free appropriate public education" means special education and related services that—"(A) have been provided at public expense, under public supervision and direction, and without charge; "(B) meet the standards of the State educational agency; "(C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and "(D) are provided in conformity with the individualized education program required under section 614(d) of this title (20 U.S.C. §1401(9)).

**Indicator:** A special education indicator is a set of statistics that can inform the public about key aspects of special education (The Institute for the Study of Exceptional Children and Youth, 2002).

**Individualized Education Program (IEP):** “means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 614(d) of this title” (20 U.S.C. §1401 (14)).

**Least Restrictive Environment (LRE):**

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and . . . Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily (34 CFR §300.114-§300.120).

**Local Education Agency (LEA):**

The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a
city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools (20 U.S.C. §1401(19)).

**Monitoring:** a regular and systematic review of a State's administration and implementation of a Federal education grant administered by USED (http://www2.ed.gov/admins/lead/account/monitoring/index.html).

**Procedural due process:** one of the principles under IDEA in which individuals have protection under the constitution that “assures children with disabilities and their parents the right of access to an appropriate educational program” (Murdick, et al., 2007, p. 248).

**State Education Agency (SEA):**

The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law (20 U.S.C. §1401(32)).

**Special Education:** “means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability” (20 U.S.C. §1401(29).

**State Performance Plan:** a plan developed by each state that evaluates the efforts and plans to improve the implementation and purposes of IDEA (20 U.S.C. §1416(b)(1)(A).

**Limitations**

Rudestam and Newton (2007) described limitations as “... restrictions in the study over which you have no control” (p. 105). This study was limited to those states within the 4th Judicial Circuit that include Maryland, North Carolina, South Carolina, Virginia, and West Virginia. The first limitation was that, due to the small sample size of this study, the results may not be generalizable to other states. A second limitation concerned the quantity and quality of the documents reviewed and analyzed for this study. This study was limited to those documents, regulations, and law, related to special education compliance monitoring. It was beyond the
scope of this study to analyze the subtleties and nuances of the political processes related to compliance monitoring. The third limitation noted by this researcher was that both NCLB and IDEA are scheduled for reauthorization. The resulting changes may impact the utility of findings for respective audiences.

**Delimitations**

Delimitations, according to Rudestam and Newton (2007), are limitations that have been imposed purposefully by the researcher. The study was limited to those states within the 4th Judicial Circuit because of this researcher's prior experience with special education law, regulations, and policies in two of the five states.

This study was further limited to 20 U.S.C. §1416, Monitoring, Technical Assistance, and Enforcement of Part B of the Individuals with Disabilities Education Act because only this portion of IDEA is concerned with how the USED will monitor states in meeting the requirements of IDEA. This researcher chose to examine only the formal processes and procedures concerning compliance monitoring related to IDEA because this provided a more objective means to elicit policy-related information than the nuances and subtleties related to policy formulation by way of the political process itself. The study of political process is more appropriate for specialists in the fields of political science, and sociology rather than that of education.

**Organization of the Chapters**

This chapter provided the reader with an overview including a brief background, purpose, research questions, definitions, limitations, and delimitations related to this study. Chapter Two provides a review of the literature that includes the federal role in general and special education, an overview of court cases that led the way for the passing of special education legislation,
federal monitoring of IDEA compliance, state monitoring of IDEA compliance, and a discussion of state IDEA compliant procedures and processes. This chapter also provides the reader with an understanding of the federal and state roles in education and establishes a case for encouraging state special education administrators to more carefully monitor special education practices and procedures in order to meet federal requirements for IDEA. Chapter Three presents the methodology that was used to provide answers to the research questions. Chapter Four will present the data that was collected in order to provide an answer to each of the six research questions in this study, while Chapter Five will include a discussion of the study’s findings, implications for the field of special education, and a number of recommendations for future research.
Chapter 2: Literature Review

This chapter includes a review of literature related to special education compliance monitoring. The purpose of this review is to identify and present information on how states respond to the requirements related to the federal monitoring of special education. In order to understand the federal government's role in a state's educational system, one must examine both NCLB and IDEA legislation. These pieces of legislation have increased accountability for educators related to the performance of students with disabilities. Goals in the form of targets are identified within each state's performance plan, while student performance results must be noted in both state and local annual performance reports.

This chapter reviews the federal role in both general and special education. The legislation that will be reviewed includes the Elementary and Secondary Education Act (ESEA) of 1965 with its subsequent reauthorizations through the No Child Left Behind Act (NCLB) of 2001. This is followed by a review of the Education for All Handicapped Children Act (EAHCA) of 1975 with its subsequent reauthorizations through the Individuals with Disabilities Education Improvement Act (IDEA) of 2004. These pieces of legislation affected not only the physical access to the general education environment for students with disabilities, but also the level of involvement of these students in the general education curriculum. A discussion related to the litigation that led to the early legislation for special education will follow, including a review of court cases involving the monitoring of special education at the state level. An examination of both compliance-oriented and results-oriented models of monitoring will also be discussed. Monitoring procedures at the federal and state levels will be reviewed in addition to due process procedures at the state level. By the end of this chapter, the reader should have a thorough understanding of the role that the federal government and individual state governments
play in both general and special education procedures and, more specifically, the requirements of
special education compliance monitoring.

Initially, information was gathered from the USED and OSEP websites that related to
monitoring, technical assistance, and the enforcement of IDEA. Information was also gathered
from individual state department of education websites as well as several research-related
databases. These databases were used to locate and identify articles that discussed the role of the
federal government in education. The data-based materials included articles and documents
related to a legislative and litigative overview of education and information concerning the
federal and state monitoring of special education. The performance indicator data for each state's
Annual Performance Report was obtained from their respective state department of education
websites. Additional information for this study that related to the federal role in education was
obtained from the Earl Gregg Swem Library at the College of William and Mary and its
interlibrary loan program.

These resources facilitate an understanding of the federal government's role in education.
In order to appreciate the governmental role, it is necessary to understand how that role evolved
over time in both general and special education.

**Federal Role in Education**

The responsibility of education is first placed upon the states and then, in turn, the
localities. The authority of the states to regulate education is reserved by the Tenth Amendment
to the United States Constitution. This amendment states that "the powers not delegated to the
United States by the Constitution, nor prohibited by it to the States, are reserved to the States
respectively, or to the people" (U.S. Const., amend. X). Although the United States Constitution
does not specifically guarantee an individual the right to an education, this right has been
inferred from the interpretation of the Equal Protection Clause of the Fourteenth Amendment. If a state has undertaken the business of providing education to its youth, this education must be provided to them on an equal basis. Through a variety of cases, the courts have determined that education is an extremely important duty that is placed upon the states (Fowler, 2004; Murdick, et al., 2007).

Education is viewed as a state function, where state constitutions require their state legislatures to provide some form of education for their youth (Alexander & Alexander, 2005; Blau, 2007; Levine & Wexler, 1981; Murdick et al., 2007; Rothstein & Johnson, 2010; Yell & Lodge Rodgers, 1998). Until about the 1950s, federal involvement in education was generally passive and uncoordinated. Since then, there has been great deal of controversy over which level of government (federal, state, or local) should have control over education. This struggle for control has led to a vertical power play among these three levels of government, with the federal government prescribing policies downward to the states that in turn dictate policies to their local education agencies. Previous federal involvement had been based on antidiscrimination issues (Evans, 1994). The last 20 years has seen an increase in the role that the federal government has played in initiating educational policy and practices (Evans, 1994; Fowler, 2004).

The increased federal role in the education of its youth has been grounded in the form of legislation. One of the first of these pieces of legislation was the Morrill Act in 1862 that created land grant programs for state mechanical and agricultural colleges. In 1867, the U.S. Department of Education was created to gather information on schools and teachers in order for states to create effective systems of education (Congressional Digest, 1999a). In 1869, the U.S. Department of Education was relocated under the Department of the Interior and in 1953 was moved to the Department of Health, Education, and Welfare.
In the 1960s, President Kennedy called for an expanded role of the federal government into the area of special education. The Bureau of Education of the Handicapped (BEH), located within the U.S. Department of Education, was created to serve as a clearinghouse for information concerning special education (Hardman, 2006). The U.S. Department of Education’s mission contains two parts. The first part requires this organization to play a leadership role in improving the education for all students and preparing them to compete globally. The second part includes the establishment of goals that cover every area of education from preschool through post-doctoral research. Legislation was enacted beginning as early as 1917 and ending as recently as 2004 that assisted specific groups of individuals or areas of education. The Smith-Hughes Act of 1917 supported vocational education, while the Servicemen’s Readjustment Act of 1944 (referred to as the GI Bill) provided financial assistance to veterans in the area of education as well as additional assistance to them in the form of home loans and unemployment pay.

Between the years 1956 and 1965, the federal government passed legislation that provided financial aid to rural libraries. It also enacted the National Defense Education Act (1958) to improve instruction in science, mathematics, and foreign languages. This was followed by the Civil Rights Act (1964) that was passed to provide support to educational institutions during desegregation (DeBray, McDermott, & Wohlstetter, 2005; Congressional Digest, 1999a).

It was, however, the launching of Sputnik by the Soviets that heightened interest in the education and preparation of our students for global competition. This included the raising of academic standards (Ellis, 2007; Ornstein, 1984; Smith, 2005; Weber & Rockoff, 1980). The Elementary and Secondary Education Act (ESEA), passed in 1965, was the beginning of the federal government’s involvement in education. This Act was not only the largest source of
federal aid to the K-12 population, but also included a section identified as Title I that provided aid to those children classified as disadvantaged (Ellis, 2007; Congressional Digest, 1999b).

Since Sputnik, many strings have been attached to funding within the area of education. Much of this funding has had to do with improving educational opportunities for females, disadvantaged students, and students with disabilities. This financial support has led to an increase in the levels of monitoring procedures, reporting requirements, auditing demands, and compliance requirements related to those rules and regulations connected to the use of these funds (Levine & Wexler, 1981; Ornstein, 1984).

In the period between 1965 and 1975, through the presidencies of Johnson, Nixon, and Ford, federal involvement in education expanded with the creation of programs to facilitate assisting disadvantaged students, awarding grants to college students, and assisting states in their duty to provide a free appropriate public education for students with disabilities. There was a growing concern in the 1960s, under Presidents Kennedy and Johnson, for the need to reduce poverty by means of providing better educational opportunities (Editorial, 2005; Mollison, 2005).

From 1975 through 2011 there has been an increase in the involvement of the federal government in state educational practices. The ESEA has been reauthorized several times with the federal government taking on an increasing role in regulating different aspects of education for the states. Instead of the federal government simply providing funding to the states for initiating programs, it has increasingly functioned more as a regulatory entity. This increased regulatory involvement has become a predominate theme related to educational matters. The states have been encouraged to increase the number of programs that relate to assisting students who are at risk for learning difficulties. The federal government has also encouraged the states
to increase support to these students by means of obtaining materials, increasing technology, improving curricula, and providing educators with professional development.

After the ESEA was passed in 1965, it was reauthorized in 1981 as the Education Consolidation and Improvement Act (ECIA). This Act was part of President Reagan's administration and consolidated several other programs from the ESEA into a block grant. According to Knapp (1987), this statute is organized into three subchapters. The first section of this statute is related to basic skill improvement. The second section relates to supporting teacher training, improving educational activities, and assisting with desegregation. The third section of this statute is aimed at improving curriculum and involves additional legislation including the Career Education Incentive Act and the Alcohol and Drug Abuse Act.

Under President Clinton's administration, the ECIA was reauthorized again in 1994 and continued to increase the federal role in education. During the 1994 reauthorization of ECIA, its title was changed to the Improving America's School Act (IASA). It required the states to create educational standards and testing practices at that level in order to show student progress. Another initiative under President Clinton, Goals 2000: Educate America Act, promoted the concept that children will achieve at higher levels when the educational bar is raised. This Act was results-oriented and included four goals. These goals stated that children were to come to school ready to learn, the graduation rate will increase, every adult will be literate, and every school will be free of drugs and violence. Schools were to apply for grants to assist them in developing a school improvement plan, with sub-grants available to localities for a variety of support including professional development for teachers (Goals 2000: Educate America Act (1994)).
The IASA was again reauthorized in 2001 as the No Child Left Behind Act. This reauthorization intruded even more into a state's control over its educational system, specifically in the area of curricula as noted by Ellis (2007) and Smith (2005). This Act demanded higher achievement scores, required states to close the gap between minorities and White students, and held schools accountable for the progress of all students.

Since the passing of the Elementary and Secondary Education Act of 1965, the partnership between the federal government and the states has continued to grow and become a regular part of the day-to-day business of education. Due to the requirements for fund recipients to report how these funds were used, the federal government has involved itself in almost all aspects of education (Levine & Wexler, 1981; Weber & Rockoff, 1980).

Now that the federal role in general education has been clarified, it is important for the reader to understand the role of the federal government in special education as well. The next section provides a discussion of the need for federal monitoring of the states in order to guarantee special education services to children with disabilities.

**Federal Role in Special Education**

Concerns began to develop about the educational opportunities that were afforded children with disabilities beginning in the late 1800s and continuing through the early twentieth century. Special schools were developed for the deaf, the blind, and the physically impaired. There were also programs for children who were considered to be incorrigible as well as programs and facilities for children and adults with intellectual disabilities (Wamba, 2008).

The Education of the Mentally Retarded Children Act of 1958 and the Training of Professional Personnel Act of 1959 were early examples of federal involvement in providing educational opportunities to students with mental retardation. These two Acts provided funding
to train teachers and leaders in educating children with mental retardation (Yell, 2012). With this training came an increase in the number of programs that provided services to students with mild to moderate disabilities; however, these services were often delivered in restrictive settings (Smith, Robb, West, & Tyler, 2010). These educational opportunities were inconsistent between and among various localities as well as between and among the various states. As a practice, unequal opportunities for students as well as segregated student populations continued until the passage of the Education for All Handicapped Children Act (EAHCA) of 1975.

In order to elaborate on the expanding role of the federal government in education, a review of key legislation is provided that describes the increasing role that the federal government has played in state educational matters. This will include an explanation of the impact that each of these pieces of legislation has had on students with disabilities.

**Overview of Selected Educational Legislation**

**Elementary and Secondary Education Act.**

In 1965, President Johnson signed into law the Elementary and Secondary Education Act (ESEA). This type of legislation was unprecedented. The central issue in designing ESEA was to avoid pitfalls from the past concerning federal funding distribution. Since War World II, there had been many frustrated attempts to enact legislation for elementary and secondary education. President Johnson made plans to break the historic block on such legislation. He determined that ESEA would include the largest amount of money ever authorized for elementary and secondary schools. This bill was presented to Congress and became law within three months. The resulting legislation increased the federal government's role in education that had traditionally been viewed as a state function. It targeted children who needed additional support to benefit from a
public education because of low income, disabilities, and/or lack of opportunities (Halperin, 1979; Levine & Wexler, 1981; Sands, Kozleski, & French, 2000).

The ESEA legislation was a part of President Johnson’s War on Poverty that provided funding for schools to assist children identified as disadvantaged. President Kennedy and President Johnson were strong believers in education, and were confident that the way to combat poverty was to provide educational opportunities for students. This legislation was perceived not so much as an intrusion from the federal government upon states' responsibilities, but as a means to enhance resources, show public support, and to encourage the development of new programs for targeted student populations. Such actions had previously been blocked due to a lack of resources or public support. Federal funds were provided to states in order to assist school districts with programs for the disadvantaged as well as for those students with disabilities. Funding for additional teachers was also provided for impoverished communities along with a program for free and reduced lunches for students whose family income was at or below the poverty line. The main benefit of this plan was that the money to be provided would be based upon income, thereby distributing much of the grant money to impoverished inner cities and poor rural areas. This helped to pull together an alliance between the urban areas of the North and the rural areas of the South. This legislation created a federal investment in the education of elementary and secondary school students in combination with other laws including those concerning educational research (Congressional Digest, 1999a; Congressional Digest, 1999c; Halperin, 1979; Sands et al., 2000).

The nucleus of ESEA was Title I, which gave school districts funding based on the number of students who were classified as disadvantaged. This funding was to be used to supplement, but not supplant, the local funding of programs. One of the few grant requirements
stated that the money was to be spent only on those children who were determined to be eligible for assistance. The details on utilizing these funds were left to the discretion of the state and local educational authorities. At this point, ESEA was mostly a funding stream rather than a program (DeBray et al., 2005).

The original ESEA did little for children with disabilities, although there was a grant included for states to initiate, improve, or expand existing programs for students with disabilities. Later that same year (1965), ESEA was amended with the creation of Title VI legislation. Title VI provided for improving the education of students with disabilities. This legislation created the Bureau of Education for the Handicapped (BEH) as an agency within the U.S. Department of Education. The Brown v. Board of Education (1954) decision and Title VI became the legal foundation for including children with disabilities in public schools. In 1970, Congress removed Title VI from the ESEA and passed the Education for the Handicapped Act (EHA) as a separate measure. This began the pattern of separate legislation in order to provide an appropriate educational opportunity for children with disabilities (Finn, Rotherham, & Hokanson, 2000; Levine & Wexler, 1981; Sands et al., 2000).

Over many years, as schools began the process of desegregation, other pieces of legislation were passed in order to improve education for all students in public schools. These included various ways to improve instruction in science, mathematics, and foreign languages in order to better prepare students in the United States to compete as part of a global workforce within the world economy. Other legislation included the means to support public schools through the desegregation process. The Civil Rights Act of 1964 provided grants, created loan programs, and enabled other opportunities for children identified as disadvantaged. These legal support mechanisms were incorporated into the 1965 Elementary and Secondary Education Act.
One of these pieces of legislation, The National Defense Education Act (NDEA), was created in response to the launching of Sputnik and reinforced the belief that our schools were not fully preparing our students for competition within the global market. The public reaction to this event brought the need to improve the education of students to the forefront of national education policy in the United States and created an opportunity for the federal government to become more involved in educational issues and curricula (Ellis, 2007).

When ESEA was reauthorized in 1988, Congress was concerned that there was little evidence that programs such as Title I were making a difference in the lives of students identified as disadvantaged. The main result from this legislative reauthorization was that school districts would now be required to define, and monitor much more closely, the academic achievement levels of students who received support funded by federal dollars (Cross, 2004). During the 1994 reauthorization of ESEA, its name was changed to Improving America’s Schools Act (IASA). The IASA stated that the purpose of its Title I program was to offer an improved opportunity for the targeted student population to acquire the skills and knowledge required to pass the challenging state standards that were also included in that legislation. Under the IASA, each state was to submit plans for the development of its state educational standards. These standards were to be challenging, especially in mathematics and English. Each state was to develop content standards as well as assessments related to those content standards. School districts were to be held accountable for student progress as well. Plans for taking corrective action to meet these standards were to be developed at both state and district levels (DeBray et al., 2005). In addition, the IASA emphasized providing aid for students with limited English proficiency as well as providing professional development for teachers (Congressional Digest,
The latest reauthorization, finalized in 2002, changed the name of the legislation from IASA to the No Child Left Behind Act (NCLB). This reauthorization retained the state standards and testing accountability requirement initiated by IASA, mandated a goal of 100% proficiency in the core subjects, and set a timeline by which this goal was to be achieved.

**No Child Left Behind.**

The No Child Left Behind Act (NCLB) of 2001, signed into law by George W. Bush, was the latest reauthorization of the ESEA Act of 1965. Ellis (2007) and Smith (2005) noted that this was the first time in over 40 years that the federal government had attempted to dictate curricula to the states. DeBray et al., (2005) noted that the main focus of NCLB is to reduce the achievement gap between minorities and White students. This piece of legislation was a major departure from past reauthorizations of the ESEA. This most recent version of ESEA legislation required states to submit plans that detailed how they would ensure that teacher training, assessments, and curricula were in alignment with each other. States would now be required to measure student progress through high-stakes testing. Both Smith (2005) and Mills (2008) noted that NCLB was the first instance where schools were required to account for subgroups of students that historically have had a record of making relatively poor progress.

Schools were required by NCLB to create a plan designed for the improvement of student achievement. This plan was also to include procedures concerning how student achievement would be monitored in order to determine if performance targets were met. A major goal established by the NCLB is to have all children reach proficiency in the content standards by the year 2014. The purpose of NCLB is to raise overall student achievement and to hold school districts accountable for the education of children with disabilities. This also includes those
students whose families have limited financial means, students of different races and ethnic
groups, and children with limited English proficiency (Blau, 2007; Editorial, 2005).

The concept of accountability related to student performance outcomes is not new to
public education. Through the various reauthorizations of the ESEA, specifically under Title I,
accountability has changed from a vague notion to one that has become much more focused and
data-driven. When Title I legislation was enacted, its expectations were not clearly defined.
During the administrations of Presidents Ronald Reagan and George H. W. Bush, the legislative
focus shifted from how and when Title I services were delivered, to establishing goals for
educational excellence and improved student achievement. During the Clinton administration,
the reauthorization of ESEA resulted in even more involvement by the federal government in
local education agency (LEA) operations. This included the requirement of monitoring Title I
expenditures in order to improve student educational outcomes (DeBray et al., 2005). Several
key provisions within NCLB required the states to submit their compliance plans related to this
legislation, complete annual reports on assessments results, and hold LEAs accountable for
student progress (Cross, 2004; Mills, 2008). This gradual progression of increasing levels of
accountability continued to develop through the years. When President George W. Bush's
administration passed the reauthorization of the ESEA, renamed the No Child Left Behind Act,
the next steps taken by the federal government were to define student proficiency, create a		
timeline for its achievement by 2014, and determine what consequences would result for schools
that failed to meet this mark.

School systems today continue to struggle with meeting the NCLB requirements. This is
demonstrated by the difficulty that exists for many school districts to hire highly qualified
teachers. It has also been a challenge for students to achieve increasingly elevated pass rates on
high stakes testing. In order to make Adequate Yearly Progress (AYP), a school must demonstrate:

... that it has met the State’s targets (annual measurable objectives, or AMOs) for proficiency in reading/language arts and mathematics for the school as a whole and for each of its subgroups of students; that at least 95 percent of all students and of each subgroup of students participated in the State’s reading/language arts and mathematics assessments; and that it met the State’s target for an additional academic indicator (at the high school level, this additional academic indicator must be the graduation rate) (U.S. Department of Education, 2011).

Many schools across the United States have been placed under school improvement, with this number having increased substantially in recent years. Schools are placed in improvement status if they fail to meet AYP for two consecutive years. This means that schools and school districts must meet or exceed their state’s established goals related to general student pass levels on reading and mathematics assessments, including all subgroups of students. Schools may be sanctioned for drop-out and/or graduation rates as well as for student attendance levels. According to the Consolidated State Performance Report that was based on 2007-2008 data and published on June 12, 2009, there were 12,599 schools in some form of school improvement. These schools were involved in either Year 1 or Year 2 of school improvement and were either participating in a corrective action plan, in the planning stage of restructuring, or were involved in implementing the restructuring plan.

The NCLB legislation requires a series of interventions (or sanctions) for schools that do not meet their state’s definition of AYP for two consecutive years. Once a school is in this situation, it is subsequently assigned to one of three stages of school improvement. Stage 1 offers choices and support to students (tutoring or another school). Stage 2, known as the corrective action stage, requires a school to review and change the way instruction is delivered. Stage 3 is the most severe sanction and requires school restructuring. A school may be released
from any of these stages if they meet AYP for two consecutive years. However, it must be noted that once a school has been placed in any of these categories, it becomes more difficult for it to move out of school improvement or restructuring. This is because the student pass rate percentages increase each year, making the goals more difficult for a school to meet or exceed. Schools are expected not only to increase their student pass rates each year, but must also increase them at more challenging levels in order to reach each year's AMOs.

It is difficult to discern the number of schools that are under school improvement, how many have stayed in improvement, and how many have moved from improvement status to restructuring. This difficulty may be caused by a number of factors. Each state may have a different system of internal standards for its students to meet. The status of specific schools within a state may change due to these schools being combined with other schools or eliminated altogether. Another factor that creates numerical ambiguity may occur when a school district reassigns portions of its student population among its schools in a way that results in one or more schools within that district being assigned Title I status or having it removed.

In summary, the ESEA/NCLB legislation expanded the role of the federal government in what had historically been considered an area strictly under the jurisdiction of the states. The reader has now been presented with information that explains how the federal government significantly increased its involvement within public education over the years through increasing educational funding to the states and creating programs for those children considered at-risk. In the next section, the reader will be presented with information concerning how the federal government became specifically involved with the education of a particular subgroup of students that had been denied such opportunities for many years.
Education for All Handicapped Children Act.

Prior to the Education for All Handicapped Children Act, there were separate pieces of legislation concerning students with disabilities. This section explains the historical development of these pieces of legislation that were combined to form the Education for All Handicapped Children Act of 1975.

The first group of these legislative acts included the 1970 amendments to the ESEA that brought together various Title VI grant programs embedded within this legislation that concerned all children with disabilities. This portion of the legislation was collectively renamed the Education for the Handicapped Act (EHA).

In 1974, the EHA was amended to direct states to develop plans and a timetable by which the states would move toward providing a full educational experience for children with disabilities (Murdick, et al., 2007). Before the passage of the Education for All Handicapped Children Act in 1975 (EAHCA), only a small percentage of students with disabilities had been provided with an educational opportunity. Many children with disabilities were excluded from receiving a public education. More than a million of these students were excluded from public education and 3.5 million of them did not receive what were deemed to be appropriate services (Rothstein & Johnson, 2010; Yell, Shriner, & Katisyannis, 2006). The legislative impetus of the EAHCA was the result of a social and political reaction to the de-institutionalization of children with disabilities.

The EAHCA placed into law what parents and advocates of children with disabilities had been seeking for years (Blau, 2007; Levine & Wexler, 1981). The EAHCA, that was signed into law by President Gerald Ford, brought together various state and federal legislation into one complete package and provided federal funds to assist states in the education of students with
disabilities. In order to receive federal funding, each state was required to develop policies and procedures and to submit these to the Bureau of Education for the Handicapped (BEH). Once funding was received, the state was obligated to provide a free appropriate public education to students with disabilities. The EAHCA was a guarantee, made by the federal government to the public, that programs for children with disabilities would be comprehensive and consistent. This landmark legislation was designed to provide federal funds for services, both directly and indirectly, in support of students with disabilities.

Since 1971, the policies and services that were delineated in the EAHCA had been reinforced through standards set by court decisions. This legislation was not revolutionary, but was more of a continuation of the federal role in education and its commitment to equal opportunities for underserved and excluded populations. The EAHCA could be described as progressive due to its establishment of a minimum educational standard required to be upheld in educating children with disabilities (Zettel & Ballard, 1982).

The original purpose of the EAHCA was two-fold. First, it required state and local educational agencies to provide a free appropriate public education (FAPE) to students with disabilities. Second, it enforced equal protection under the 14th Amendment (Finn et al., 2008; Turnbull, 2007; Rothstein & Johnson, 2010; Schulte, Osborne & Erchul, 1998; Wamba, 2008; Yell & Lodge Rodgers, 1998).

According to Smith (2005), the main purposes of the EAHCA included providing students with disabilities a free appropriate public education with an emphasis on special education. This included the protection of student and parental rights, the provision of funding assistance to states and localities, and the requirement that assessments be used to assure the effectiveness of these efforts. In addition to these requirements, the law gave parents the right to
question decisions made by their school district concerning the educational services to be provided to their child as well as made school districts accountable for the decisions they make (Vitello, 2007).

The basic provisions of the EAHCA contained several major assurances for students and parents. The most recent reauthorization continues to build on these assurances for a Free Appropriate Public Education (FAPE), Evaluation and Placement, an Individualized Education Program (IEP), the provision of services in the Least Restrictive Environment (LRE), Procedural Safeguards, Personnel Preparation, and funding. In 1990, the EAHCA was renamed the Individuals with Disabilities Education Act (IDEA). This legislation continued the basic provisions of EAHCA as well as created additional requirements for states and localities in support of students with disabilities.

**Individuals with Disabilities Education Act.**

The several assurances noted previously have remained throughout the various amendments and reauthorizations of the EAHCA. Over the past 35 years, there have been several additional amendments to the EAHCA beginning in 1986, and continuing until the most recent reauthorization of this act in 2004. During the reauthorization of EAHCA in 1990, the name of this legislation was officially changed to The Individuals with Disabilities Education Act (IDEA). Although the 2004 reauthorization of IDEA renamed this Act the Individuals with Disabilities Improvement Act (IDEIA), it continues to use the acronym IDEA.

Like any statute that has a funding component, Congress may authorize this legislation on either a permanent or limited basis. Part B of IDEA is funded on a permanent basis, although the full funding of the law has never occurred. Other sections of IDEA are authorized on a limited basis and must be reauthorized from time to time as indicated by the statute. When it is time for
this legislation to be reauthorized, Congress may either reauthorize the statute without changes or amend it. Although only Parts C and D of IDEA require reauthorization, this provides Congress with an opportunity to review the entire statute and amend it as needed (Yell et al., 2006).

During the first several reauthorizations of the EAHCA (1983, 1986, and 1990), legislation continued to be focused on providing students with disabilities access to a free appropriate public education. Each reauthorization brought changes to the legislation, although very few changes were made between 1975 and 1986. During the 1986 reauthorization, several major changes took place that included the shift from public education access to educational outcome accountability for students with disabilities. This reauthorization of IDEA clarified the rights of students and parents, expanded the legislation to include students from ages three through five, and created Part H, the Infants and Toddlers Act (now Part C). Part C of this legislation provided services for children from birth through age three. This amendment also allowed parents to be reimbursed for their attorney's fees if they were found to prevail in hearings and court decisions (Hardman, 2006; Yell & Espin, 1990).

The 1990 reauthorization of EAHCA not only changed its name to the Individuals with Disabilities Education Act (IDEA), but revised several portions of this legislation as well. These revisions included the usage of people first language, consideration of the use of assistive technology when planning an IEP, and the addition of the categories of traumatic brain injury as well as autism to the list of disabilities for protection and services under the law. Another substantial change included the addition of transition services. This addition is designed to assist students with disabilities during the process of transitioning from high school to post-secondary education and/or the workforce. Most importantly, this shift in legislation moved from one of educational access to that of emphasizing both a meaningful education as well as progress in the
general education curriculum. This legislation generally reinforced the concept of positive outcomes for students with disabilities as well. Students with disabilities were to be included in all state and local assessments that were administered to nondisabled children (Hardman, 2006; Itkonen, 2007; Murdick, et al., 2007).

The 1997 reauthorization of IDEA placed even greater emphasis on students with disabilities making progress in the general education curriculum. This reauthorization mandated that a general education teacher be included as a member of the IEP team and reemphasized the need for students with disabilities to be evaluated using state and district assessments. This revised legislation included tools for enforcement of FAPE at the state level that indicated that special education funding could be utilized for early intervening services for children not yet identified, but struggling. In addition, it enhanced the rights of parents in two ways. The first provided parents with the right to receive progress reports as often as the parents of nondisabled students. The second provided that the State Special Education Advisory Panel was to have a majority of members that included parents of children with disabilities as well as people who themselves are disabled. In the area of discipline, it gave schools more flexibility in disciplining students, but also directed schools to look at proactive measures to decrease misbehavior. This was also the first time that states were to report the number of students with disabilities by race and ethnicity (Gartner & Lipsky, 1998; U. S. Commission on Civil Rights (USCCR) (2002).

The most recent IDEA reauthorization occurred in 2004 and included several accountability measures that reflected the passage of the No Child Left Behind Act of 2001. These measures involved requiring highly qualified teachers for students with disabilities and including these students in the state assessment programs. Other key components of this reauthorization included increasing the outcome-based accountability measures being required at
state and local levels, requiring the creation of state performance plans, and enabling the removal of students from school for inflicting serious bodily injury to themselves or others. In addition, this reauthorization included changing the criteria for identifying students with specific learning disabilities and providing early intervening services. These services are designed to assist those students who are demonstrating behavioral and learning difficulties with specific interventions in order to provide them with appropriate educational services. Children in such situations should first be considered as general education students and provided with support that involves the utilization of an instructional model oriented toward prevention rather than failure. Another major effort of the 2004 IDEA reauthorization concerned changing the focus of the monitoring process from one of meeting compliance requirements to that of improving educational results and functional outcomes for students with disabilities. Other aspects of this reauthorization included the requirement to report data related to disproportionality in the representation of minority and ethnic groups in special education, the clarification of discipline procedures related to students with disabilities, and the creation of systems that are designed to reduce the potential for litigation between school systems and parents.

The 2004 reauthorization of IDEA continued the high expectations that were begun in its 1997 revision. In addition to the previously noted changes, this legislation dealt with preparing students with disabilities for post-secondary education, employment, and independent living (Hardman 2006; Murdick, et al., 2007; Rothstein & Johnson, 2010; Turnbull, 2007; U. S. Department of Education, 2004).

In conclusion, the legislative development of the several forms of IDEA served to more specifically define the obligations of the states in order to provide more focused means to target the needs of students with disabilities. By taking steps to ensure the rights of individuals, change
the focus of the monitoring process, ensure the accurate and appropriate identification of all students with disabilities, and require states and school districts to provide more data for decision making purposes, these legislative acts served to strengthen the role of the federal government in public education. Together with NCLB, this legislation served to bring together the general education and special education forces toward the goal of improving instructional effectiveness for all students. The next section will specifically identify the similarities between IDEA and NCLB in order to provide the reader with an understanding of the relationship between these two sets of legislation.

Alignment of IDEA with NCLB

When IDEA was reauthorized in 2004, Congress aligned it with the No Child Left Behind Act (NCLB) of 2001. The U.S. Department of Education published a series of documents concerning the similarities that exist between NCLB and IDEA. Several components of NCLB were included in IDEA 2004 including accountability, highly qualified teachers, research-based strategies, and safe school environments (Rothstein & Johnson, 2010; Turnbull, 2005). Both IDEA and NCLB are focused on student outcomes rather than processes.

Prior to the 2004 reauthorization of IDEA, the 2002 President’s Commission on Excellence in Special Education (PCESE) recommended a change in practice from a process and compliance orientation to one that is oriented toward results and outcomes for students with disabilities. Parrish and Stodden (2009) and Hardman (2006) noted that when IDEA 2004 was aligned with NCLB, IDEA focused on the improvement of academic outcomes for students with disabilities through improving their access to the general education curriculum. Both NCLB and IDEA focus on raising the level of student achievement. The term “highly qualified” is used in
both pieces of legislation, indicating that a new minimum standard for teacher qualification is required for both the general and special education fields.

Another point that is included in both NCLB and IDEA is that educators are expected to use “scientifically based research” to support teaching methods. This means that educational research should involve objective procedures that have been applied rigorously and systematically in order to produce reliable and valid results. The use of research-based methods has been emphasized in order to improve the quality of education.

Just as NCLB requires each state to notify the public by publishing Adequate Yearly Progress (AYP) reports that provide data related to student achievement, IDEA requires each state to publish its Annual Performance Report (APR) (U.S. Department of Education, Alignment with NCLB, 2007). While the AYP report refers to student achievement in general, the APR specifically identifies the educational progress of students with disabilities.

It has now been demonstrated that legislation related to IDEA exclusively concerns special education practices and procedures, while that of NCLB is related to both general and special education practices and procedures. Now that these two pieces of legislation have become more aligned, the practice of educating students with disabilities separately from general education students has been gradually disintegrating. Students with disabilities are spending more time receiving content from general education teachers in the general education classroom that has enabled them to make progress in the general education curriculum.

Summary of Legislation Impacting Special Education

Education in the United States has evolved from a state-controlled and state-operated system to one by which the federal government has obtained and increased its influence and control through legislation and funding (Evans, 1994; Fowler, 2004, Weber & Rockoff, 1980).
Throughout the years, there has been a variety of legislation that has resulted in the evolution of control from the states to the federal government. This began in the mid-1800s with land grants given to the states to assist in creating agricultural and mechanical colleges. The two most notable pieces of legislation were the Elementary and Secondary Education Act (renamed the No Child Left Behind Act) and the Education for All Handicapped Children Act (renamed the Individuals with Disabilities Improvement Act). These two critical pieces of legislation as well as several others have become the foundation of today's school operations.

Congress has intervened by passing federal legislation that was designed to benefit children with disabilities due to the plethora of litigation, the concerns of school administrators over costs related to special education, and the development of parent advocacy groups. A number of these cases were successful in proving that various educational practices had discriminated specifically against students with disabilities. This legislation was to "... encourage states to adopt appropriate procedures for providing education to children with disabilities and procedures that would be consistent with judicial decisions" (Rothstein & Johnson, 2010, p. 11). In 1975, President Gerald Ford signed into law the EAHCA that was arguably the single most important piece of legislation for students with disabilities. This piece of legislation provided to both parents as well as advocates of the disabled, procedural and substantive safeguards to assure equal access to public education. The role of litigation in the creation of such legislation as the EAHCA was critical to its substance.

Historical Overview of Special Education Monitoring

Since 1975, the Office of Special Education Programs (OSEP) has monitored compliance with Part B of IDEA. This monitoring is carried out by OSEP through a compliance review that includes on-site visits, plan reviews, and approval of state policies and procedures. This process
relies on rules and procedures to determine compliance. The federal government monitors state compliance with IDEA, while local school district compliance with IDEA is monitored by the state (Hehir, 2005; Lucas, 2010; Taylor, 1996; Tschantz, 2002). Previous compliance monitoring focused on whether children with disabilities received an appropriate public education. It was also designed to enforce the Equal Protection Clause of the 14th amendment. However, it has been noted that there is no evidence that states have ever been in 100% compliance with IDEA. There has been no evidence that when school districts follow IDEA procedural requirements, it has resulted either in an appropriate education for students with disabilities or educational progress being made for these students (Coulter, Luster, Persinger, Schmitz & Walsh, 2004; Taylor, 1996; Turnbull, 2007; U.S. Department of Education, 2002).

Hehir (2005) explained that even “though the federal government’s responsibility for monitoring the IDEA is well established in the law, its role traditionally has been relatively weak” (p. 156). Political factors often become involved with the monitoring effort.

The ultimate consequence of noncompliance is full or partial withholding of funds by the federal government. However, federal officials are often reluctant to take this step, leaving parents with the need to file for due process and utilize the court system to seek enforcement of their child’s individual rights (Goldberg, 1994; Hehir, 2005).

In 1993, the Government Performance and Results Act (GPRA) was passed that required all federal agencies to develop performance plans and, beginning in 2000, report on the progress and results of those plans. The requirement for these performance plans and reports was incorporated into the revised legislation when IDEA was reauthorized in 2004. Performance plans were required to be submitted from the localities to the state and the state to OSEP. With the last reauthorization of IDEA, the focus of monitoring changed from one of access to that of
improving educational results for students with disabilities as well as ensuring compliance with the law (Schmitz, 2007; Tschantz, 2002; U.S. Department of Education, 2002).

The original process for monitoring compliance with EAHCA included federal monitoring teams. These teams were to meet with individuals at their respective state departments of education. They were to review relevant documents, visit school districts, and interview stakeholders that included parents, teachers, and administrators. Upon completing a review, a team would determine areas of compliance or non-compliance, select strategies to correct areas of non-compliance, or begin the process of withholding federal funds (Goldberg, 1994; Hehir, 2005; Smith & Tawny, 1983). The 1997 reauthorization of IDEA provided more flexibility in the area of enforcement (Hehir, 2005). In an interview, Thomas Hehir, who was the Director of the U.S. Department of Education’s Office of Special Education Programs (OSEP), stated that monitoring the states for program effectiveness for students with disabilities is OSEP’s main focus. In order for states to be in full compliance with IDEA, there is a provision for technical assistance and the development of a corrective action plan included as part of the monitoring process (Goldberg, 1994). The monitoring procedure has been an ongoing process with most states making revisions during 2001 (Tschantz, 2002). In 2001, the Office of Special Education Programs announced that it had been working for the past five years on a different way to monitor compliance with Part B of IDEA. This process included the involvement of key stakeholders such as parents, advocates, and state and local education agencies. The Continuous Improvement Monitoring Program focuses on data, and is still in use today. The key element of this program is that of improving outcomes for students with disabilities. When IDEA was reauthorized in 2004, some changes were introduced such as the addition of compliance indicators and the requirement for State Performance Plans (SPPs).
Over the years, different approaches to compliance monitoring have been used. These monitoring methods have included ones that examine only procedures, while others focus on both procedures as well as outcomes for children with disabilities. This discussion now turns to a review of these approaches in order to identify details related to both compliance and results-oriented types of monitoring.

Types of monitoring.

A process of program monitoring was developed as a condition for receiving federal funds in the area of special education. This was mandated in order to ensure that program requirements were implemented and fulfilled (Gonzalez, 1994). The current legislation, IDEA, contains the same wording as the original act. It requires that each State Plan must "... provide for procedures for evaluation, at least annually, of the effectiveness of programs in meeting the educational needs of children with disabilities" (20 U.S.C. 1413(a)(II), Finn et al., 2001).

Monitoring, as defined by Merriam-Webster (1995), is "a means of keeping track" of something. The monitoring process is designed to keep track of the implementation status of IDEA components. Focused monitoring, a process that targets specific areas for examination (Schmitz, 2007), is part of the monitoring, technical assistance, and enforcement portion of IDEA. Tschantz (2002) identified three methods by which a state may approach focused monitoring. It may target a statewide issue, a specific LEA-identified issue, or address a problem that is emerging in the LEAs.

There are two terms that are frequently used when discussing special education monitoring. These refer to the function of the two distinct types of methods used in this procedure. The first type refers to compliance monitoring that concerns whether the components of the law are in place and have been correctly implemented while the second type refers to
results-oriented monitoring that concerns whether the implementation of IDEA components has resulted in the desired outcomes. According to Bliss and Emshoff (2002), these models are used in program evaluation and are referred to as either process evaluation (which uses empirical data to verify that a program is being implemented as prescribed) or outcome evaluation (where the evaluator determines whether or not the program's goals have been achieved).

What follows is a discussion of special education monitoring that involves a means of keeping track with regulatory compliance as well as program results. While the compliance model focuses on processes (procedures and implementation), the results-oriented model focuses on both the processes as well as the outcomes (how well the program is working and the extent to which the desired results have been accomplished), (Bliss & Emshoff, 2002; Gonzalez, 1994; Radhakrishna & Relado, 2009). The compliance and results-oriented monitoring models utilize process evaluation (related to following procedures) and/or product evaluation (related to achieving outcomes) components in order to assist both the states and the federal government in the determination of special education program effectiveness.

**Compliance model.**

Until recently the compliance model was the standard monitoring tool used in special education. It was perceived that the effectiveness of special education could be determined by the implementation of correct processes and expenditure of resources.

The President’s Commission on Excellence in Special Education (2002) stated that there is no evidence that any state has ever been in 100% compliance with IDEA. It also concluded that even if a state is in 100% compliance, this is not an indication that students were making progress. Wolf and Hassel, in *Rethinking Education for a New Century* (Finn, et al., Eds., 2001), explained that compliance accountability places an emphasis on documentation. The compliance
model focuses on completing paperwork and following procedural regulations. A basic assumption of the compliance model is that by completing this paperwork and following procedural regulations, desired outcomes will result and progress will be made for students with disabilities.

The assumption that following the correct process will equate to progress has dominated the special education field, especially since the increase in the role of federal involvement in the 1960s. The reasoning behind such a model may have been "... a desire to guarantee positive outcomes, organizational culture, the fear of litigation, or all of these" (Finn et al., 2001, p. 62). According to Bliss & Emshoff (2002), "When conducting a process evaluation, keep in mind these three questions:

1. What is the program intended to be?

2. What is delivered, in reality?

3. Where are the gaps between program design and delivery?"

There are many concerns with a compliance-only evaluation/monitoring model. Wolf and Hassel (Finn, et al., 2001) explain that it is a one-size-fits-all model that is ineffective because it forces individuals to enforce rules rather than solve problems. Compliance evaluation models rely heavily on the use of checklists that are designed to identify whether components were implemented according to program requirements. Such checklists may be easily evaluated and their results reduced to quantifiable data. This allows school districts to more easily identify patterns of noncompliance and will readily reveal patterns of strength related to compliance as well.

The compliance model does have its positive side. Its use is essential in order to determine the extent to which IDEA legislation is being implemented as intended. This model
provides data related to how well a program has been implemented. If gaps exist between the expected implementation of procedures and the reality of procedural implementation, there is quantifiable data to identify those areas where corrective action is required.

This discussion of the compliance model has addressed only the process component related to monitoring. The following discussion explains the results-oriented model that includes both process and product evaluation components. Each of these evaluation models that is used for monitoring special education programs has its role in the educational accountability process.

**Results-oriented model.**

A results-oriented model of monitoring is focused toward solving program issues before they develop into major problems. This type of monitoring includes both the regulatory processes as well as the outcomes related to these regulations. Gonzalez (1994) explained that results-oriented or outcome-based monitoring should address topics related to program effectiveness. These include regulatory compliance such as meeting the requirements of procedural regulations and goal-attainment such as meeting or exceeding graduation rate standards for students with disabilities.

The results-oriented model utilizes the same processes that are used by the compliance model, but also includes the additional component of product evaluation. The results-oriented monitoring model includes an outcome-based component that addresses both program effectiveness as well as goal-attainment. This includes such outcomes as reducing student dropout rates, increasing student graduation rates, increasing the amount of time spent by students with disabilities in general education classrooms, increasing the student success rates for passing state-mandated assessments, and increasing the number of students who are able to successfully transition to post-secondary education and/or employment.
This model ultimately provides data to the appropriate funding entities that will assist them in determining whether to increase, decrease, or even continue to fund such programs. It is the results-oriented model that is considered to be appropriate for special education because it includes the evaluation of both process and product (Finn, et al., 2001; PCESE, 2002).

Now that the reader has been presented with a basic explanation of the concepts related to the two types of evaluation models, it is important to explain how these models are being utilized in practice. The following discussion will include an analysis of the current monitoring practices and procedures implemented in the area of special education.

**Current special education monitoring procedures.**

The current procedures for monitoring, although not thoroughly delineated in IDEA 2004, focus more on student outcomes than in previous years. Compliance monitoring in special education is a process that involves two tiers of the American public education system. The first tier involves the federal government monitoring the states through plans, documents, data, and on-site visits. The second tier involves state teams visiting localities, reviewing documentation, data, policy, and procedures. Currently IDEA requires states to demonstrate compliance through their respective policies and procedures indicating that they have met the basic requirements of IDEA (U.S. Department of Education, 2002). The IDEA reauthorization in 2004 made significant changes concerning the emphasis of the monitoring process (U.S. Department of Education, 2009). These changes included the directive for states to focus monitoring on improving educational results and functional outcomes for students and to use quantifiable and qualitative indicators to measure performance (34 CFR §300.600; 20 U.S.C. §1416(2)(A)(B); U.S. Department of Education, 2006). The IDEA statute stipulates that the Office of Special Education Programs will report annually to Congress on the nation’s progress in providing a free
appropriate public education for students with disabilities. This report also includes assurances 
that the rights of children with disabilities and their parents are protected and that the federal 
government will assist states and localities in providing for the education of children with 
disabilities (U.S. Department of Education, 2007). It was in this forum that discussion was 
initiated to change the way that the federal government performs monitoring activities related to 
IDEA. The PCESE (2002) suggested that the government agency responsible for monitoring 
compliance for IDEA should focus on results rather than process. The Commission further noted 
that the current process of monitoring compliance was ineffective in assuring performance and 
increasing achievement for students with disabilities. They wanted the agency to monitor and, if 
necessary, provide technical assistance on more specific targets that were related to broader 
federal standards linked to performance (U.S. Department of Education, 2002). In order to 
focus on these specific areas, IDEA built into its monitoring system the requirement of a State 
Performance Plan. Prior to the IDEA reauthorization in 2004, a procedure known as the 
Continuous Improvement Monitoring Program (CIMP) was in practice.

The Continuous Improvement Monitoring Program (CIMP) included several elements. This program involved self-assessment, data collection from states, and improvement planning. In addition, this program included the implementation of improvement strategies, the review and revision of self-assessment, and the provision for consequences due to noncompliance as appropriate (Tschantz, 2002). This process was initiated as a result of the move from a “got you” to a “let us help you” philosophy. The monitoring process focuses on the areas of IDEA Part B that relate to general provisions, least restrictive environment, free appropriate public education, and disproportionality. According to Hehir (2005), the failure of the federal government to monitor special education effectively is likely due to complex political factors.
Hehir stated that in the past, the only type of consequence for non-compliance was for the federal government to withhold funding to states, a sanction it was very reluctant to impose. He believed that by focusing on results and outcomes, the current methods of monitoring will lend themselves to moving our country toward achieving a more consistent implementation of IDEA.

The current procedures for compliance monitoring are part of an on-going process including the components of CIMP noted above. This monitoring procedure focuses on several key program elements. These elements include the selection of a limited number of priority areas supported by measurable indicators, the use of data-driven decision-making, the use of performance benchmarks, and special attention paid to diverse populations. Additional program elements include effective resolution and mediation systems, technical assistance to locations in need of improvement, and a clearly defined point where the state would need to intervene (Tschantz, 2002). Today’s monitoring system involves three phases. The first phase involves a pre-visit. The pre-visit includes the analysis of data pertaining to priority areas of compliance and/or performance, the review of complaints and due process information, and the results of previous monitoring experiences. The second phase of monitoring involves an on-site visit. During the on-site visit, the visiting individual or team may focus on specific priority areas and the data related to those areas. The individual or team may gather input from stakeholders including that state's department of education employees. The on-site individual or team will attempt to verify the data as well. The third and final phase may include a post-visit, a written report, a determination of corrective actions, a follow-up visit, and/or technical assistance if needed (Schmitz, 2007).

There are three approaches used in special education monitoring. The first approach targets issues that are deemed to be statewide, the second approach targets issues that are
individualized to two or more LEAs, and the third approach targets issues that arise within an individual LEA (Government Accountability Office, 2004).

The new requirements in IDEA 2004 place responsibility on each state to submit a State Performance Plan. This plan includes state-established, measurable, and rigorous targets for performance indicators in the three identified priority areas. These priority areas include FAPE, Effective General Supervision (Child Find, effective monitoring, use of mediation, and transition services), and Disproportionality (disproportional representation of racial and ethnic groups in special education). In turn, each state is to monitor its local education agencies in the same priority areas (U.S. Department of Education, 2002, 2009).

Several key factors have been established as essential components for a successful monitoring system. Tschantz (2002) noted that a monitoring program must have a selected number of priorities, use data for decision-making, have technical assistance available, and use uniform performance benchmarks when making decisions. Additional essential monitoring components include considering diverse populations, providing an effective dispute resolution system, and clearing away any triggers that would initiate sanctions and interventions.

**Procedures for non-compliance.**

Each year, individual states must submit their Annual Performance Report (APR) for special education to the USED. This report includes the statewide results on data related to each of the 20 federal performance indicators. The U. S. Secretary of Education determines if the state, in relation to IDEA and its corresponding regulations, either meets requirements, needs assistance to meet requirements, needs intervention to meet requirements, or needs substantial intervention in order to meet requirements.
According to the Government Accounting Office (GAO) (2004), in the situation of non-compliance with IDEA and its corresponding regulations, the U.S. Department of Education has several options (sanctions) for enforcing compliance. The first three sanctions include placing restrictions on a state's grant award, requiring compliance within three years through a corrective action plan (CAP), and disapproving a state's grant application for funding when the application does not meet compliance requirements. Additional sanctions include requiring a state to discontinue a policy, procedure, or practice that violates IDEA. Other sanctions involve withholding the state's funds completely or in part depending on the degree of noncompliance and/or referring a state found to be noncompliant with IDEA to the Department of Justice for appropriate actions.

In order for a state to remain in compliance with IDEA, it must develop a monitoring system to correct any non-compliance issue. Each state must have a system to monitor the implementation of IDEA as noted in P. L. 108-446, Part B, Sec. 616. This system must enforce compliance and ensure continuous improvement for students with disabilities. One of the most common methods that states use to ensure compliance with IDEA is to require its LEAs to submit assurance statements with their funding applications (National Center for Special Education Accountability Monitoring (NCSEAM), 2007).

According to the federal regulations for IDEA, all noncompliance issues related to implementing Part B must be corrected as soon as possible and no later than one year from the time of the report. These corrections and limited timelines are required in order to ensure that children with disabilities receive a free appropriate public education that they are entitled to and make progress toward both their IEP goals and the state achievement standards (34 CFR § 300.600(e)).
Litigative Overview of Special Education

Several court cases formed the basis of legislation governing the education of students with disabilities. Each of these cases was based on specific issues that were incorporated into subsequent legislation. This section will first include an overview of key litigation related to the protection of rights of students with disabilities followed by a review of litigation related to the obligation of states to monitor the protection of these rights.

The legal cases that are discussed in this section do not provide a comprehensive review of all of the major litigation relevant to the topic, but were selected for the purpose of providing a foundation for the reader to understand the legal development for the Education for All Handicapped Children Act (EAHCA). Parents of students with disabilities have had to struggle for many years in order to obtain a free appropriate public education (FAPE) for their children. The challenges that they faced are documented in the case law related to special education. Therefore in order for the reader to appreciate the nature of the law related to the rights of students with disabilities, a more general review of the major case law was provided for this purpose. For this reason these cases were drawn from the general law related to special education and not limited to that case law within the jurisdiction of the 4th Judicial Circuit.

Litigation related to rights.

The *PARC v. Commonwealth of Pennsylvania* (1972) and *Mills v. Board of Education* (1972) decisions are noted as the “founding fathers” of IDEA. After the decisions in these two cases, numerous other court cases were heard in several states. It became clear that as school districts continued to discriminate and argue that funding was inadequate to provide services for students with disabilities, some form of federal involvement must take place (Yell, 2012).
This section discusses selected court cases that will provide the reader with an
introduction to federal special education law. Although not directly related to special education, 
*Brown v. Board of Education* (1954) is frequently cited as a reference for its legal impact related
to unlawful discrimination. A review of this case will provide the reader with a foundation for
understanding the law related to education in general and, more specifically, to that of the
education of students with disabilities.

**Brown v. Board of Education (1954).**

Several cases from four states were heard by the U. S. Supreme Court and consolidated in
*Brown v. Board of Education* (1954). This landmark case, hereafter referred to as *Brown* (1954),
brought to light how certain educational systems in the United States discriminated against
individuals based on unalterable characteristics. The basis for the *Brown* decision rested with the
due process and equal protection clauses of the Fourteenth Amendment. These clauses state that
persons may not be deprived of their life, liberty, or property without due process of law and that
states must guarantee equal protection of the laws. If a state offers education as a property right
to its children, that state must open the educational door to all of its youth and not discriminate
against one or more groups on the basis of race (Alexander & Alexander, 2005; Blau, 2007;
Murdick et al., 2007; Rothstein & Johnson, 2010; Yell & Lodge Rodgers, 1998; Zettel &
Ballard, 1982). This decision overturned *Plessy v. Ferguson* (1896), an earlier ruling of the U. S.
Supreme Court, in which it was determined that segregation was constitutional as long as
separate facilities were equal. In the *Brown* (1954) decision, the court noted that segregation
resulted in unequal opportunities and was, therefore, unconstitutional (Hulett, 2009; Murdick et
al., 2007; Yell, 2012). This case brought about the decision to end the separate but equal
practice in law and formed the basis for future rulings that children with disabilities could not be
excluded from school. Years later, the *Brown* (1954) decision paved the way for students with disabilities to attend school with their peers.

Gallagher (2006) and Turnbull & Turnbull (2000) remind us that advocates for the rights of the disabled owe much to *Brown* (1954) which established that separate facilities in an educational setting were discriminatory. They also note that by changing the wording in this decision, "... from Negro to students with disabilities and White to students without disabilities, the same issues would have played out in disability litigation" (p.10).

Prior to the *Brown* 1954 decision and the Civil Rights Act of 1964, states may have provided some special education services to students with disabilities, but this was not federally mandated. Many states openly excluded students with disabilities from attending school. Court decisions and legislation formed the basis for the development of a change in educational policy from that of exclusion to one that included not only individuals of different races, but also those with disabilities. These advances for students with disabilities were based on the principles of equal protection and equal opportunity. Securing an adequate education for students with disabilities had its beginnings in the civil rights movement of the 1960s (Hardman, 2006; Higgins, 1979; Levine & Wexler, 1981; Yell, 2012). Therefore, the decision in *Brown* (1954) was of paramount importance for students with disabilities because of the application of equal opportunity (Alexander & Alexander, 2005; Blau, 2007; Murdick et al., 2007; Wamba, 2008; Yell, 2012; Yell & Lodge Rodgers, 1998; Zettel & Ballard, 1982).

The following section describes several court cases that formed the foundation for the Education for All Handicapped Children Act. The U.S. Supreme Court had rendered decisions on racial segregation and due process of law, the most notable of which was the *Brown* 1954 decision. In more recent litigation, the Supreme Court has heard cases related to the rights of
students with disabilities. These students were also to be provided a free public education if other students were afforded this opportunity.

In this section, the reader will be presented with an overview of several of these cases that concern issues related to securing students with disabilities the right to a free appropriate public education. Each case deals with specific guarantees of rights that formed the basis for the development of special education legislation at the federal level.

This discussion will enable the reader to gain insight into the reasoning behind the development of the law with respect to ensuring the rights of all persons to an equal educational opportunity. This will also establish the foundation for a better understanding of the development of federal policies and monitoring procedures that have been designed to ensure that this equal opportunity has been provided.


The Hobson v. Hansen (1967) case was important because it expanded the effects of the Brown (1954) decision to include addressing the practice of segregation by curricular tracking. Children in Washington D.C. schools were being excluded from the mainstream aspects of the general education curriculum due to assessments that were determined to be culturally biased. These assessments had been normed on middle class white students. The scores that the students received on these assessments placed them in segregated classes due to inappropriate identification for special education services. The placement of these students in a segregated track led to them being guided into a curriculum substantially different from the mainstream curriculum offered to other students.

The court ordered the school system to discontinue such practices as they resulted in tracking students based on unalterable characteristics and discriminated against students from
economically and socially disadvantaged environments. The court ordered the school system to provide these students with an equal educational opportunity, support these students with appropriate levels of educational funding, abolish curricular tracking that is based on inappropriately normed assessments, and provide compensatory education to these students (*Hobson v. Hansen*, 269 F.Supp. 401 (1967); Murdick, et al., 2007).

The next case addressed cultural factors being used as the basis for determining placement in special education programs. This had also led to students with special needs being segregated from the general education population.

**Diana v. State Board of Education (1970).**

In a California case similar to *Hobson v. Hansen* (1967), a class action suit was filed on behalf of nine Hispanic children who had been given psychological assessments in English. These assessments had been normed on white middle class children. The court determined that these tests were culturally biased and that the scores of these students should have been compared to the scores of other minority students. As a result of this case, the EAHCA incorporated the assurance that a student must be given an opportunity to demonstrate their knowledge in a manner in which they are comfortable, such as their native language. In addition, these students were no longer to be placed in special education due to culturally biased assessments (http://www.ldldproject.net/legal.html#12; Childs, 1990; Murdick et al., 2007). This requirement, identified as nondiscriminatory evaluation, was later included in the EAHCA.

The next two cases specifically relate to students with disabilities. Decisions in these cases established that children with disabilities could not be excluded from school based on the unalterable characteristics of their disabilities.

This case is significant in the area of special education law because it was one of the first cases to challenge a state that denied a public school education to students with mental retardation. A parent advocacy group called the Pennsylvania Association for Retarded Children (PARC) filed a class action lawsuit against Pennsylvania's Board of Education and others. The main issue in this case was that children with mental retardation were being denied equal protection under the Fourteenth Amendment to the U. S. Constitution (Almazan & Quirk, 2002; Weber, 2009; Yell, 2012). Specifically, there were four points that the plaintiffs brought forward. The first point was that children with mental retardation could benefit from education and training. The second point noted that education should not be defined as consisting only of subject matter material, but may include such learning experiences as dressing and eating. The third point was that if a state undertook the responsibility to provide a public education for its youth, certain subgroups such as those with disabilities could not be denied access to an education. The fourth point noted that the earlier students with mental retardation began their education, the more progress they would make (Yell, 2012). This case outlined Pennsylvania's duty to educate children with mental retardation and to follow procedures to protect student rights (Hulett, 2009; Finn et al., 2001; Murdick et al., 2007; Rothstein & Johnson, 2010). The PARC v. Commonwealth of Pennsylvania (1972) decision, hereafter referred to as PARC (1972), set the precedent that all children have a constitutional right to an education. If the state offers public education to its children, it must offer it to all of its children. This case, which is similar to Brown (1954), also referred to the Fourteenth Amendment’s equal protection clause. The Federal District Court determined that Pennsylvania could not deny students with mental
retardation a public education. The importance of this case extends beyond the right of children with disabilities to attend school. It stated that placement in a regular education class is a more natural setting for students with disabilities and is preferred to that of placing students with disabilities in segregated classes (Yell, 2012). In addition, this case determined that a free appropriate public education was required to be provided to the student's capacity (Pennsylvania Ass'n, Ret'd Child. V. Commonwealth of PA., 343 F. Supp. 279 (1972). The court also ruled that a separate education would bring about unequal opportunities and therefore could not continue. It was also determined that such a separation would lead to a perception of being different and therefore could diminish an individual's worth.

Those individuals advocating for children with disabilities used two arguments in claiming that these children had the same rights as other children. The first argument noted that it was not acceptable to treat children with disabilities differently than other children. The second argument was that some students with disabilities were not provided with an educational opportunity at all, while all students without disabilities were being provided an education. These principles that included a free appropriate public education in the least restrictive environment were incorporated in the EAHCA.

The PARC (1972) decision was a landmark case for providing guidance to schools in relation to the education of students with disabilities. This case established for children with disabilities the right to an education in the general education classroom. If these children are unable to be successful in the general education classroom even after being provided with supplemental aids and services, then removal to a separate class may be considered. This case and similar cases provided justification for the U.S. Congress to pass the EAHCA that provided equal opportunity for students with disabilities to attend public school (Hulett, 2009).

On the heels of PARC (1972), another landmark civil action case was brought at the Federal District Court level. This case was Mills v. Board of Education of the District of Columbia (1972), hereafter referred to as Mills (1972). This case was filed on behalf of seven school-aged children who had allegedly been denied a public education because of suspension and/or expulsion without due process of law. These seven students were representing "... 18,000 students who were denied or excluded from public education in Washington, D.C." (Yell, 2012, p. 51). Both the Fifth Amendment and the Fourteenth Amendment were referenced in this case. The Federal District Court found that the District of Columbia may not exclude children from school on the basis of behavior, disability, or any other reason without due process.

According to Section 31-201 of the District of Columbia code, every parent must be notified that children between the ages of seven and sixteen must be provided with an educational opportunity during the period of each year that school is in session in the District (Alexander & Alexander, 2009). In the District of Columbia schools, children were expelled, suspended, and/or removed from school without notice to parents due to behavior, emotional difficulties, and/or disabilities.

The corrective action taken by the Federal District Court delineated due process procedures in relation to assessment, labeling, placement, and the exclusion of students with disabilities. These procedures were incorporated into federal special education law. Decisions from the Mills (1972) case and others were used to create the initial federal legislation for children with disabilities (EAHCA). The contributions made to special education law by this case included the assurance of not only a free appropriate public education for children, no matter what their disability or severity of that disability, but the clarification of procedures related to the suspension and/or expulsion of students with disabilities as well. These procedures
include not only the right to a hearing, but if the child is suspended or expelled, the school system is required to continue the child's education as well (Murdick et al., 2007).

The Mills (1972) case established guidelines and procedures related to notifying parents of school decisions that affect any changes related to disciplinary action, placement, and/or identification of their child (Rothstein & Johnson, 2010). The court established that these procedural safeguards involved the right to a hearing that includes representation, records of the proceedings, a hearing officer, the right to appeal the decision, the right to have access to records, and the right to written notice at all stages of the process. This decision concerning the due process procedure as well as its components formed the basis of, and were incorporated into, the Education for All Handicapped Children Act of 1975 (Yell, 2012).

These cases are often identified as the legal foundation that led to the passing of the EAHCA. During the study conducted prior to the passing of this legislation, Congress noted that even though these and other court decisions had been made, the educational opportunities for children with disabilities varied widely from state to state. Although the PARC (1972) and Mills (1972) cases were decided at the Federal District Court level rather than that of the U.S. Supreme Court, their decisions created important precedents that established the rights of students with disabilities to attend public schools from which they had been previously excluded.

In the years immediately following the PARC (1972) and Mills (1972) decisions, numerous right-to-education cases were filed in over 28 states. Yell (2012) noted that decisions in these cases were similar to those of PARC (1972) and Mills (1972). These cases established that students with disabilities have a right to a free appropriate public education.


The Larry P. Riles (1972, 1974, 1979, and 1984) case is similar to Diana v. State Board
of Education (1970) concerning nondiscriminatory evaluation. In this California case, the students were African-American and were evaluated with assessments that were not validated on a similar population. The results of these assessments led to a disproportionate number of minority students being mislabeled and placed in special education classes. These classes were considered to be a dead-end situation, where most students when placed in such situations never return to the mainstream of the general education curriculum. If a student is placed in a dead-end situation, the academic curriculum is de-emphasized and a more functional approach is taken in order to provide the student with the necessary skills for them to contribute economically to society. The outcome of this case resulted in the state of California retesting all African-American students who were currently labeled mentally retarded. These students were reevaluated with nonbiased assessments and provided with compensatory education if necessary.

By 1986, California was no longer using the mental retardation label (Childs, 1990; Murdick, et al., 2007; Rothstein & Johnson, 2010). In addition, no students were to be placed in special education classes solely on the basis of standardized I.Q. tests (Larry P. by Lucille P. v. Riles, 793 F.2d 969 (9th Cir. 1984)). Such decisions led to the assurance of nondiscriminatory evaluation noted in the EAHCA.

Summary of litigation related to rights.

The court cases reviewed in this section served to clarify and uphold the assurances that were first established in the Education for All Handicapped Children Act of 1975. As a result of these and other ongoing cases, parents and advocacy groups continued to battle for free and appropriate public education services that should already be provided to students with disabilities based on current legislation. A review of these cases may assist special education teachers and
administrators to more carefully examine each individual student's situation and determine the appropriate placement for services to these students within the least restrictive environment.

The litigation that took place from the 1950s through the early 1970s was instrumental in creating a foundation for the EAHCA. Other cases that continued into the 1980s and 1990s reinforced and clarified the concepts set forth in the EAHCA.

*Brown, PARC, and Mills* each contributed specific legal concepts that evolved into the assurance that children with disabilities were to be guaranteed an educational opportunity in the least restrictive environment. Cases such as *Hobson v. Hansen* (1967), *Diana v. Board of Education* (1970), and *Larry P. Riles* (1972) all played a part in creating assurances for students with disabilities to be provided with a free appropriate public education, including non-discriminatory evaluations and an education in the least restrictive environment.

The next part of this section includes the discussion of key cases related to the state's responsibility of monitoring their school districts in order to assure the federal government that they are meeting the requirements of IDEA. The addition of monitoring procedures was included in IDEA in order to ensure that states would meet their obligations related to students with disabilities.

Each of these special education rights cases are listed in Table 2. Each court case is listed in the left column, while its related IDEA assurances are identified under the appropriate header in the other columns to the right.
Table 2

**Cases Related to Special Education Rights**

<table>
<thead>
<tr>
<th>Court Cases</th>
<th>Assurances</th>
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<tr>
<td>PARC v. Commonwealth of Pennsylvania (1972)</td>
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<tr>
<td>Mills v. Board of Education of the District of Columbia (1972)</td>
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*Note. X = IDEA Assurance.*

**Procedural safeguards.**

This study addresses two research questions directly related to due processes and their related complaints. In order to understand the nature of the complaints that may be brought against LEAs, one must be familiar with the procedural safeguards guaranteed under IDEA. The procedural safeguard information is relevant to this study because it concerns parental involvement that includes a discussion of the rights related to due process.

The IDEA procedures are devised to support communication and collaboration between parents and professionals in order to establish appropriate programs for children with disabilities.
As noted by Zettel & Ballard (1982), previous “... arbitrary and capricious decision making” (p. 18), in combination with a frequent pattern of excluding parents, led to court decisions and eventually legislation (EAHCA) guaranteeing certain protections for parents. The right to FAPE would be an empty assurance if not for the procedural safeguards established in IDEA (Martin, Martin, & Terman, 1996; Rothstein & Johnson, 2010). Hulett (2009) explained that “... the right to procedural safeguards, also known as the right to redress of grievance and the right to due process of law has a very long history” (p. 35). He elaborated that, in the Unites States, this concept dates back to the Bill of Rights, and originally was carried over from English common law. Another function related to procedural due process is the right to be heard (Hulett, 2009).

The opening remarks in Section 615 of P. L. 108-446 state that:

"Any state educational agency, State agency, or local educational agency that receives assistance under this part shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (P.L. 108-446 Sec. 615, 118 STAT 2715).

The procedural safeguards included in IDEA provide essential guarantees for parents and students. These guarantees include the right to review records, receive prior notice, have a surrogate parent provided for a child if all requirements are met, and provide notices to parents and students in their native language. Other guarantees involve the opportunity for parents and students to present a complaint, have the opportunity for mediation, and to be provided with notice of any due process complaint. Parents and students also have the right to an impartial due process hearing. In addition, each state is to develop a model form to assist parents and students in filing a complaint (Getty & Summy, 2004; Hulett, 2009; P.L. 108-446 Sec. 615, 118 STAT 2716-2717; Rothstein & Johnson, 2010)."
Notification, or Prior Written Notice (PWN), is a major assurance under IDEA and is essential if parents are to be involved in their child’s education. This notice, to be provided in the parents’ native language, includes information pertaining to the initiation or refusal to initiate a change in identification, evaluation, placement, and/or the provision of FAPE. The notice must include what options were proposed, why these options were refused (if applicable), a description of evaluation procedures, other options considered, and any other information pertinent to the proposed/refused action(s). This information is provided in order to ensure parental participation. Schools must encourage parental participation and attendance at meetings through these timely notices, however, if parents are unable to attend, other means such as telephone or video conferences are to be used. School districts are required to keep records of their attempts to include parents in the decision making process. Another aspect of parent participation includes the requirement that the school district must obtain a parent’s informed written consent before any changes in their child’s education status may occur. According to IDEA 2004, these procedural safeguards are to include information related to the points in the process when parents and students may obtain an independent evaluation. In addition, these safeguards include information about their access to educational records, the time period when they may make a complaint, mediation procedures, and due process hearings.

Only one copy per year of the procedural safeguards must usually be given to parents and students; however, there are additional points where the distribution of additional copies may be required. These may include upon initial referral, upon receipt of the first complaint against the school district at the state level, upon the filing of the first due process complaint, when requested by a parent and student, and/or upon the initiation of discipline procedures (34 CFR §300.504). The procedural safeguards must include a full explanation of all rights related to the
procedures within IDEA and must be delivered in a language understandable to the parent and student.

The following section addresses the specific procedures related to due processes in order to provide an explanation of how parents and LEAs resolve a complaint. This is relevant to the study in order to compare a state's due process issues with its identified areas of non-compliance.

**Due process procedures.**

Although IDEA attempts at many levels to encourage parents and professionals to work together, there are times when disagreements may occur. The Individuals with Disabilities Education Act provides three ways that school districts and parents may resolve disputes. These three ways include mediation, filing a complaint, and due process proceedings. States may also develop other methods to settle disputes if they wish. The 1997 reauthorization of IDEA included the voluntary option of mediation. This does not interrupt the due process timeline, but is part of the process. Its meetings are held within the original time line. Mediation sessions permit non-confrontational and non-judgmental discussions to resolve differences between school districts and parents. The cost of mediation is borne by the State Education Agency (SEA) that must also provide a list of mediators available for such purposes to both school districts and parents.

The reauthorization of IDEA in 2004 added another non-adversarial component as part of the due process procedure. According to IDEA the school district and parents must participate in a resolution session within the due process time line. If the parents refuse to participate in the resolution session, the school district may request that the due process procedure be dismissed at the end of the 30 day resolution period (34 CFR §300.510 (4)). According to IDEA, within 15
days of the school district receiving a request for a due process proceeding, parents are to have a resolution meeting (Hulett, 2009; Rothstein & Johnson, 2010).

Within IDEA, there is a systematic procedure for school districts and parents to follow in order to mitigate differences. Either of these parties may file a complaint related to the identification, evaluation, placement, or provision of FAPE (P. L. 108-446, 118 STAT 2716). Rothstein and Johnson (2010) noted that “... the cherished right of its citizens to dissent remains at the core of American due process” (p. 167). Due process may be divided into two forms that include procedural due process and substantive due process. In the case of procedural due process, formal proceedings are carried out according to established rules and principles. Substantive due process involves the assurance that a law may not include a provision by which an individual is treated unfairly, unreasonable, or arbitrarily (Merriam-Webster, 1995).

The mechanisms that parents and school districts must use to settle disagreements concerning the identification, evaluation, placement, and FAPE are detailed in IDEA. The IDEA legislation states that it is important to keep the lines of communication open between school districts and parents. According to IDEA, each state is to adopt written procedures to resolve complaints between school districts and parents. Each state must set minimum requirements for such procedures and provide model forms for complaint proceedings that localities may use when necessary. There is a time limit of 60 days built into each state’s procedures in which to carry out an investigation, give the other party an opportunity to respond to the complaint, and an opportunity for parties to engage in mediation. The SEA must review all relevant information and make a determination as to whether the school district has violated any requirement of IDEA Part B within this 60-day time line. Extensions to the 60-day timeline are only permitted under extenuating circumstances or if the parties are engaged in mediation or resolution and agree to
extend the timeline in order to engage in mediation or other means of dispute resolution (Hulett, 2009; Murdick, et al., 2007).

When filing a complaint at the state level over an alleged violation, the complainant must include “1) a statement that the public agency has violated a requirement of Part B of the ACT, 2) the facts on which the statement is based, and 3) the signature and contact information of the complainant” (34 CFR 300.153). The complaint must include:

(i) The name and address of the residence of child; (ii) The name of the school the child is attending; (iii) In the case of a homeless child or youth . . . available contact information for the child, and the name of the school the child is attending; (iv) A description of the nature of the problem of the child, including facts relating to the problem; and (v) A proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed. (34 CFR §300.153)

There are two other requirements that must be followed in order to prevent the complaint from being rejected due to incomplete information. According to 34 CFR §300.507(2), any complaint related to due process "... must allege a violation that occurred not more than two years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the due process complaint . . . ". The party filing the due process (or their lawyer) must forward a copy of the due process to the other party and the SEA (34 CFR §300.508(a) (1) and (2)). Mediation is one of the newer options available to school districts and parents. This alternative procedure would have to be used before the parties involved reach the more adversarial situation of a due process. Parents and LEAs have the opportunity to participate in this process to assist in clarifying the issues and come to an agreement. This mediation process that was added to the 1997 reauthorization is a voluntary option that may be utilized by either party at any time during a dispute.

The school district or parents have the right to file a due process with their respective state departments of education once all administrative procedures have been exhausted. The due
process proceeding allows an impartial third party to listen to both sides of the case and prepare a
decision that each party will be legally obligated to follow (Murdick, et al., 2007). The purpose
of a due process hearing is to determine what is required within the confines of IDEA, both
procedurally and substantively, in order for the child with disabilities to receive FAPE.

The previous discussion has addressed the development of litigation regarding procedural
due process protection for individual rights in relation to special education law. The next section
of this chapter will explain the development of litigation related to monitoring compliance with
IDEA at the school district and state levels.

**Litigation Related to Monitoring**

There have been three major legal decisions related to special education monitoring at the
state level. Each of these cases related to state departments of education failing to monitor and
ensure that individual school districts are in compliance with IDEA.

**Corey H. v. Board of Education of the City of Chicago (1992).**

The earliest of these three cases is *Corey H. v. Board of Education of the City of Chicago*
(1992). In this case, a group of disabled students who attended the Chicago Public Schools
(CPS) filed a class action suit against the Illinois State Board of Education (ISBE). One of the
many claims included in the suit was that the ISBE was responsible for the practice of assigning
disabled students to certain classrooms and services based on their disability. The plaintiffs
believed that the students should be placed according to their individual needs as mandated by
IDEA. The district court determined that the ISBE failed to ensure that CPS was in compliance
with IDEA and the mandate of LRE. In the settlement agreement, the ISBE was to develop a
plan that describes how they would ensure that CPS would comply with IDEA, begin to correct
the violations of IDEA immediately, and realign teacher certification in order to comply with the
least restrictive environment mandate (Corey H. v. Board of Education of the City of Chicago; Reid L. v. Illinois State Bd. of Educ., 289 F.3d 1009 (7th Cir. 2002)).

**Angel G. v. Texas Education Agency (1994).**

The second case involved *Angel G. v. Texas Education Agency* (1994). This class action suit involved six students with disabilities who resided in residential facilities. A lawsuit was filed against the Texas Education Agency (TEA) claiming that the rights of these students were being violated under IDEA, in that TEA failed to identify children in residential facilities who may have been entitled to a FAPE. In 1996, the case was partially settled resulting in changes being made to TEA’s Child Find procedures, including interagency agreements for children with disabilities residing in residential facilities. The case was continued in order to determine if TEA had met its obligation in maintaining a monitoring system that would identify and correct non-compliance on the part of local education agencies that served students in residential facilities. In April of 2004, the district court determined that TEA must develop a new monitoring system to ensure that students who reside in residential facilities have a free and appropriate public education made available to them. In May of that year, TEA filed a Notice of Appeal in the Unites States Court of Appeals for the Fifth Circuit. During this appeal, the parties agreed to a consent decree to resolve differences and to work together to develop and implement an effective system that would monitor, identify, and correct non-compliance with special education requirements for students in residential facilities. These students were viewed by the court as being more vulnerable than nonresidential students to having their educational rights violated. This decision was based on the fact that residential students are typically out of contact with their family members and have little to no access to individuals who would protect their educational
rights. Therefore, it was necessary to create a monitoring system that was sensitive to their unique situation ("Residential facility monitoring" n.d.; Southern Disability Law Center, 2002)


The third case that will be discussed is that of *Emma C. v. Delaine Eastin, et al.*, (1996). This class action suit involved eight students in the Ravenswood School District in East Palo Alto, California who claimed that their school district violated numerous procedural and substantive requirements of IDEA. These students sued the California Department of Education (CDE) for its alleged failure to monitor their local education agencies despite repeated findings of noncompliance with IDEA. The court made a number of rulings in the case, concluding that CDE was unable to ensure that the LEAs were in IDEA compliance due to an inadequate monitoring system in place. A settlement was made in this case that required CDE to develop a better monitoring process at the state level. In addition to having a monitor being appointed by the court for at least two years, the CDE was to implement a corrective action plan and build a coordinated special and general education system. Other parts of the settlement included requiring the integration of students with disabilities into general education classes and providing compensatory education for students who had formerly been denied such services (Disability Rights & Defense Fund, 2004; Emma C. v. Eastin, 985 F.Supp. 940 (N.D. Cal. 1997)). The information in Table 3 identifies each court case and its related IDEA assurances.
Table 3

*Cases Related to Special Education Monitoring*

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Note. X = IDEA Assurance.

The review of these three cases related to special education monitoring has enabled the reader to understand the importance of states properly monitoring their LEAs for IDEA compliance. In each of these cases, the students' due process rights had been violated because of inadequate or nonexistent state monitoring practices and procedures. The next section will review the state and federal requirements for monitoring special education in order to clarify these procedures.

**Monitoring**

**Accountability in special education.**

Accountability in education has become the focus of recent legislation. Ellis (2007) and Smith (2005) noted that the federal interest in education, in what had traditionally been a state and local function, increased tremendously in 1957 when the Soviet Union launched Sputnik. Smith noted that the No Child Left Behind Act is the first instance where the federal government "... has attempted to dictate curriculum" (p. 224). The No Child Left Behind Act (NCLB) was
signed into law by President George W. Bush in 2002. This piece of legislation raised accountability standards for school districts and states in the areas of student achievement, highly qualified teachers, and mandated that curricula be aligned with state standards in education. States receiving federal dollars are required to have in place plans that detail how their schools will ensure that subgroups of the student population, who typically are low performers, increase their level of achievement as measured by their state’s testing program.

The reauthorization of IDEA in 2004 also increased accountability requirements within the area of special education and focused on improving educational results for students with disabilities. The federal government developed 20 performance indicators that are embedded in the concept of IDEA in which states are required to be in 100% compliance by the year 2014 (U. S. Department of Education, November, 2011).

In a letter sent to the states in June of 2007 by then Acting Director of OSEP Patricia Guard, it was noted that, of the five states within the 4th Judicial Circuit, only Virginia met the requirements of IDEA Part B. This determination was made after federal officials conducted reviews of the states' federal fiscal year (FFY) 2005 Annual Performance Report (APR), revised SPPs, other State reported data, public information, and monitoring visits. From this information it was determined that Maryland, South Carolina, and West Virginia needed assistance in meeting IDEA Part B requirements while North Carolina needed intervention to meet these requirements.

According to the U.S. Department of Education (USED), the definition of needing assistance is a term used for states that did not meet requirements. In order to understand the term needing assistance one must first understand the definitions for meets requirements and needs intervention. The term meeting requirements indicates that a state is providing valid and
reliable data, demonstrating substantial compliance with specific performance indicators to a 95% or better level, and reporting the correction of any non-compliance issues. The term needing intervention means that a state is demonstrating a very low level of performance on both the compliance indicators (below 50%) and on the correction of non-compliance issues (below 50%). If a state’s data reveals continued evidence of non-compliance, the USED will determine that the state needs intervention as well. The term needs assistance refers to the situation where a state is not determined to need intervention, but has not fulfilled the performance conditions for meeting requirements.

The focus of a state’s special education monitoring system in relation to local education agencies consists of two parts. The first part involves improving educational results and functional outcomes for students with disabilities while the second part focuses on ensuring that public agencies meet all IDEA Part B requirements. The difference between educational results and functional outcomes is distinguished by the point where they affect the life of the student. While educational results are a function of the school environment (such as an increase in test scores for students with disabilities or an increase in the number of students with disabilities who graduate with a standard high school diploma), functional outcomes are related to the student’s life once secondary schooling has been completed (such as finding employment, moving on to post-secondary training, or higher education) and concerns more long-range outputs for students with disabilities.

The PCESE noted that the Individuals with Disabilities Act does not specify how the federal government is to ensure compliance other than to indicate that states must demonstrate the use of policies and procedures to guarantee compliance with IDEA. Given the non-specificity of this requirement, the federal government has created a system to monitor a states'
compliance with IDEA Part B. This system is referred to as the Continuous Improvement Monitoring Program (CIMP). In response to this program, each state must develop its own system of monitoring special education within the guidelines set by the federal government. The implementation of the CIMP must include effective general supervision of the states through the state performance plans. Focused monitoring, a component of CIMP, is designed to target specific elements within IDEA Part B. The primary focus of such monitoring is to emphasize the improvement of educational results and functional outcomes for students with disabilities (20 U. S. C. §1416).

States develop their monitoring approaches in order to ensure that they are meeting the federal requirements in IDEA. The IDEA statute requires each state to develop a State Performance Plan to demonstrate its responsibility and legal obligation to improve education for students with disabilities. In order for a state to demonstrate its compliance with IDEA to the United States Department of Education (USED), and specifically to the Office of Special Education Programs (OSEP), the state institutes a CIMP. These Continuous Improvement Monitoring Programs may differ from state to state. The form of monitoring program that a state may use to correct issues related to Disproportionality, Effective General Supervision, and FAPE is flexible. Given this flexibility, and the failure of some states to meet all federal IDEA mandates, it is important to review how various states respond to the federal requirement of monitoring their local education agencies and correct any issues of noncompliance. Although each state must make use of quantifiable indicators in order to adequately measure the educational performance of students with disabilities, there is some margin of flexibility with respect to how this is accomplished.

The National Dissemination Center for Children with Disabilities (NDCCCD) has
identified three priority areas to be addressed in each state's performance plan. These include the provision of FAPE, the state's exercise of effective general supervision (that includes child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services for students 16 and older), and the disproportionate representation of racial and ethnic groups in special education and related services (to the extent that this representation is the result of inappropriate identification).

Compliance with IDEA is not only important for the purpose of individual states meeting legal obligations with respect to federal law, but also for providing educational opportunities to students with disabilities. While compliance with IDEA may ensure that students with disabilities are provided with an opportunity to attend school, it does not necessarily ensure that a student with disabilities will improve their level of educational performance (PCESE, 2002). In addition, there are sanctions that may be imposed on states that are found to be in non-compliance with IDEA. These may include withholding federal funds (in part or in whole), requiring corrective action, disapproving a state's grant application, or referring the state to the Department of Justice for appropriate action (Government Accountability Office, 2004).

Federal monitoring of IDEA compliance.

The federal responsibility for monitoring, technical assistance, and enforcement is found in section 616 of IDEA, 2004 and 34 CFR §§ 300.600-300.309. As noted by IDEA, the primary focus of federal monitoring is to improve educational and functional outcomes for students with disabilities. This responsibility also requires the USED to ensure that public agencies are meeting program requirements (Corr & Ryder, 2004; Lucas, 2010). According to the Independent Evaluation Group of the World Bank, the definition of monitoring is "... a continuing function that uses systematic data on specified indicators to provide management and
the main stakeholders of an ongoing development intervention with indications of the extent of progress and achievement of objectives” (What is monitoring and evaluation, para. 1). The monitoring function includes keeping track of inputs, outputs, and outcomes of a program.

A monitoring system may be invaluable in providing regular information on program performance and activities. It is this information that provides stakeholders with support for making decisions related to policy, budget, and the on-going management of activities. The important aspect of the monitoring function is not the monitoring act itself, but how information from this activity is used to help improve performance.

There are types of monitoring systems used in the field of education that may be classified in different ways. One type of system involves the use of monitoring for the purpose of regulatory compliance. In this situation, IDEA compliance monitoring is an effort by the federal government to assure that states are meeting the letter of the law as explained in the Federal Regulations associated with IDEA. A second type of system involves performance monitoring that focuses on increasing competition between and among schools, districts, and states in the area of student achievement (outputs). A third type of system is termed diagnostic monitoring that focuses attention on the strengths and weaknesses within the educational system and monitors for instructional diagnosis and remediation (Richards, 1988).

The monitoring system that is currently in use by the federal government is a combination of the first and second types of systems noted above. This monitoring system is based on the use of 20 performance indicators that have been grouped into three priority areas including Disproportionality, Effective General Supervision, and FAPE.

Shavelson, McDonnel, and Oakes (1991) defined indicators as being “. . . statistics that reflect important aspects of the educational system” (p. 1). According to Richards (1988),
monitoring is more than a collection of indicators. There are several components involved in monitoring that include the regular collection and evaluation of information. The most important function of monitoring is to translate information into decisions that result in actions.

An examination of the history of special education legislation reveals that the federal government did not specifically define how states were to monitor for IDEA compliance. The Education for All Handicapped Children Act of 1975 initiated the requirement of monitoring to enforce compliance with its legislation. The EAHCA did not detail how the federal government (specifically OSEP) must conduct monitoring for compliance. States are to demonstrate that they have policies and procedures in place that will ensure that each major provision of the EAHCA has been met. In the early years of EAHCA, compliance monitoring was necessary in order to enforce the requirement that students with disabilities had access to a free appropriate public education. Over the years, the emphasis of special education legislation has evolved from a focus on educational access to that of educational outcomes (PCESE, 2002; Smith & Tawney, 1983; Tschantz, 2002).

During the thirty-five years that IDEA has been in place, the traditional process of monitoring has failed to ensure the success of the original intent of the law (Coulter, et al., 2004). It is for this reason that the monitoring process has evolved through various reauthorizations from a compliance-oriented model to one that is results-oriented. The PCESE 2002 report stated that problems were created when a compliance-oriented monitoring system was in effect. One problem identified by the PCESE was that a checklist with numerous compliance requirements did little to verify actual student progress and that, as a result, there appeared to be no correlation between compliance and student success. Turnbull (2007) noted that, with this shift in the focus of the monitoring process, SEAs and LEAs should be able to expand and improve their capacity
to assure access to the general education curriculum for students with disabilities and improve their overall achievement. In the past, the monitoring process was cyclical and citation-focused, with the creation of some form of corrective action plan being its main object. Current monitoring systems are used to focus on targeted data that is solution-oriented and involves planning for improvement (Schmitz, 2007). According to Tschantz (2002), OSEP individualizes the monitoring process relative to each state. This organization examines four components of the overall special education system that is in place within a particular state. These component areas include parental involvement, free appropriate public education in the least restrictive environment, secondary transition, and effective general supervision.

Now that the basic orientation of federal monitoring has been examined, the reader will be directed to a discussion related to the federal requirement for states to develop their own special educational monitoring systems. The federal government has established regional resource centers, in part, in order to provide technical assistance to the states for the purpose of developing these monitoring systems.

**Federal requirements.**

The U.S. Department of Education, through the Office of Special Education Programs, is required to provide a yearly report to Congress. This describes the status of states in providing a free appropriate public education for students with disabilities and ensuring that the rights for these students and their parents are protected (U.S. Department of Education, 2007).

The federal government mandates that each state must provide information to the U.S. Department of Education in order to ensure compliance with IDEA. This information is included in a report together with both qualitative and quantitative data. In general, the federal government requires the states to monitor their LEAs through the use of quantitative as well as
qualitative indicators in the areas of Disproportionality, Effective General Supervision, and FAPE. As noted, in P. L. 108-446, Sec. 616 (3), the U. S. Secretary of Education

... shall require each State to monitor the local education agencies located in the State ..., using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in the following priority areas: (A) Provision of a free appropriate public education in the least restrictive environment. (B) State exercise of general supervisory authority, including child find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services as defined in sections 602(34) and 637(a)(9). (C) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification (118 STAT 2731).

Hehir (2005) explained that with the emphasis on the three priority areas, in combination with more focused and data-driven decision-making, the current monitoring system will not only promote better outcomes for students with disabilities, but it will also "... move a nation toward a more uniform implementation of the act and away from the current process orientations" (p. 157). It is clear that the states have the responsibility to create monitoring systems that will ensure compliance with IDEA. These systems should have the ability to enforce and require compliance and to ensure continuous improvement for students with disabilities (National Center for Special Education Accountability Monitoring, 2007).

In order to comply with the federal monitoring requirements, each state must develop its own monitoring system. Individual state departments of education enforce their own systems of monitoring that may vary from state to state. As noted previously, the USED requires the monitoring of three priority areas that collectively include 20 detailed performance indicators. Together with input from stakeholders, each state determines its own performance targets. By the year 2014, all states are scheduled to attain a mark of 100% on all performance and compliance objectives.
Federal law also mandates that each state create a State Performance Plan (SPP) that complies with the federal requirements. In the special education regulations that have been created by each state, there is a section devoted to a discussion concerning how their particular state will monitor the LEAs for compliance and improvement for students with special needs.

**State monitoring of IDEA compliance.**

The federal government requires each state to develop its own individualized monitoring system in order to respond to the federal monitoring system. This monitoring system must have the ability to provide information required by IDEA to the Office of Special Education Programs and to the U.S. Department of Education. These monitoring requirements are noted in 20 U.S.C. 1400 §612(a)(15)(B).

According to the NCSEAM (2007) and The National Early Childhood Technical Assistance Center (Lucas, 2010), there are several expectations for a state’s monitoring system. The first expectation is for the state to develop a system that will support scientifically-based practices that will improve educational and functional results for children with disabilities. The second expectation is for the state to use multiple processes in order to ensure compliance with IDEA and to correct any non-compliance issues. The third expectation is to enforce compliance with IDEA as well as to encourage and support improvement related to the education of children with disabilities.

There are 20 performance indicators that are used to assess progress toward the improvement of educational opportunities for students with disabilities (see Tables 4, 5, and 6). The Office of Special Education Programs provides a template for states to use when completing the state performance plan. This template lists each of the three priority areas together with their
corresponding performance indicators. There will be a more detailed discussion of the three categories and their respective performance indicators later in this chapter.

The requirement for establishing performance indicator targets is left to the states, but with a federal mandate for public input. The Office of Special Education Programs reviews each state's performance plan and, together with the cooperation of the U.S. Department of Education, determines if each state has met its targets. The targets for each performance indicator must be gradually increased by a state so as to eventually reach the mark of 100% by the year 2014. Certain performance indicator targets must be currently set to the 100% mark. These targets include performance indicator 11 that relates to parental consent and timelines for completing initial evaluations, performance indicator 12 that relates to children referred from IDEA Part C to Part B who have an IEP developed and implemented by their third birthday, and performance indicator 13 that relates to IEP transition services for students beginning at age 16.

In order to monitor IDEA compliance, each state must follow a federal government procedure that includes the development of a state performance plan. This plan is required to address how the state will meet their established targets for the performance indicators within the three priority areas designated by the federal government. This discussion now turns to the background, development, and components related to a state performance plan.

State performance plans.

Each state that receives federal funds under IDEA is accountable to the federal government through its State Performance Plan (SPP). This plan is a living document that is reviewed annually by the state and may be amended as needed (Corr & Ryder, 2004). The State Performance Plan serves as a device by which the federal government determines that states are in compliance with IDEA (NCSEAM, 2007). Following the 2004 reauthorization of IDEA, state
performance plans were to be developed no later than December 2005. The SPP is designed to
detail how each state will evaluate the implementation of IDEA Part B and describe the methods
that it will use to improve the outcomes for students with disabilities.

The State Performance Plan and its subsequent Annual Performance Report reveal the
extent to which a state and its localities are moving toward improved educational opportunities
for students with disabilities and determine if they are in compliance with IDEA. The purpose of
the SPP is to function as an accountability measure for SEAs and LEAs. State performance
plans are based on the 20 performance indicators that have been established by the federal
Secretary of Education with input from stakeholders. The original state performance plans were
written for the period from 2005 through 2010. Each state was permitted to add amendments to
its plan as necessary. Performance reporting related to meeting indicator targets began with the
2005-2006 school year and was first reported in February 2007. The last report, that will be due
by February 2012, will include data from the 2010-2011 school year (U.S. Department of
Education, 2009).

The states were encouraged to involve stakeholders in the decision making process
related to establishing new performance indicator targets. Each state also utilized baseline
information that was collected during the 2003-2004 school year when establishing new
performance indicator targets as well. States were expected to incrementally increase their target
goals in order to reach the final mark of 100% by 2014. Each state must submit its SPP to the
U.S. Secretary of Education every six years and submit any amendments to its SPP as needed.
As part of its SPP, each state must establish measurable and rigorous targets for each
performance indicator in the three priority areas as described in 34 CFR 200.600(d) (Lucas,
2010; NCSEAM, 2007).
Once data has been collected, it is reported annually to the United States Secretary of Education. After the SPPs are reviewed, a determination is made concerning whether a state falls within one of the four categories of IDEA compliance. These four categories include meets requirements, needs assistance to meet requirements, needs intervention to meet requirements, and needs substantial intervention to meet requirements. If a state disagrees with a determination, it may appeal that decision (U. S. Department of Education, Office of Special Education Programs, 2006).

Each state is required to establish specific percentage target goals for each of the performance indicators within the three priority areas. Examples of these performance indicators include graduation rates, disproportionate representation of ethnic and racial groups, drop-out rates, performance on assessments, a free appropriate public education in the least restrictive environment for students with disabilities, child find, effective monitoring, transition services, resolution meetings, and mediation to solve disagreements (Corr & Ryder, 2004; Hehir, 2005; Murdick et al., 2007; “Procedural safeguards”, 2006; U. S. Department of Education, Office of Special Programs, 2006; U. S. Department of Education, Office of Special Education Programs, 2010).

The U.S. Secretary of Education determines if a state has met IDEA requirements by reviewing its State Performance Plan. A state, in turn, determines if a school district has met IDEA requirements by comparing that school district's data to each of the performance indicator targets established by the state for the 20 performance indicators in the SPP (Ahearn, 2009). Once this data has been evaluated, each LEA must annually publish its performance compared to the indicator targets in the state SPP.
Once all data has been gathered and reviewed at the federal level, each state is determined as meeting requirements, needing assistance, needing intervention, or needing substantial intervention. In making the determinations for each of its school districts, a state must consider a LEA's performance on all compliance indicators. The state must decide if the data received from its school districts is valid, reliable, and timely. Each state must also review school districts for any non-compliance issues discovered during previous audits or monitoring visits.

In a policy analysis published by the National Association of State Directors of Special Education (NASDE), Ahearn (2009) explains that OSEP must determine the extent to which each state has complied with IDEA requirements. In turn, each state must determine the extent to which each of their school districts has complied with IDEA standards as well. The NASDE policy analysis was conducted in order to determine the strategies and resources that were used by the states in order to comply with the new results-oriented IDEA monitoring system.

NASDE used several criteria in order to determine if a state was in compliance. These criteria included examining whether a state had demonstrated substantial compliance for each indicator in the Annual Performance Report (APR), provided valid and reliable data for the performance indicators, and corrected noncompliance noted during a monitoring visit or audit in a timely manner. During the time period of this study, from October through November of 2008, 45 states responded to the survey. Of these participants, 24 states used the same three criteria, 11 states used the three criteria in addition to performance indicators, and nine states used the three criteria as well as performance indicators and other information for making determinations. One state created its own design for making determinations (Ahearn, 2009).
This discussion will now turn to the background, development, and categorization of the 20 performance indicators. This discussion will explain, in more detail, the federal requirements that are mandated for inclusion in a state's performance plan.

**Indicators.**

There are a total of 20 performance indicators that the federal government has distributed among three priority areas. The federal government requires each state to provide both qualitative and quantitative data in order to prove that it is meeting its established targets for each of these performance indicators. These 20 performance indicators provide compliance and results-oriented standards by which states and their respective school districts are able to be evaluated for compliance with IDEA regulations.

Typical indicators used in the educational system are statistical in nature and serve the purpose of providing educational organizations with data for the purpose of monitoring complex systems. They were designed in order to provide the federal government with a composite representation of how states are improving educational outcomes for students with disabilities. These indicators must be related to each other in order to tell the complete picture as well as explain any changes and outcomes (Shavelson et al., 1991).

Each state performance plan includes an explanation associated with each performance indicator that relates how that state will use these resources in order to achieve its targeted goals. These plans detail services in the areas of personnel and financial support that are to be provided to students with disabilities. The purpose of program monitoring is to ensure that federal dollars are being spent for the purposes that are intended. According to Tschantz (2002), the use of limited priority areas supported by measurable indicators and the use of standard performance objectives are two of the essential components that lead to an effective monitoring system. As
part of a monitoring system, these performance indicators provide the basis for establishing data-driven decision-making targets. These targets reflect the expected level of performance for each priority area. All compliance components are set for a level of 100%. The other performance indicators must have targets that are quantifiable, relevant, achievable and yet challenging, and attained within a specific time frame. The targets are to be established by creating baseline data related to each of these performance indicators and establishing what stakeholders believe is a challenging yet attainable goal. This goal must, within the specified period of time, close the gap between the baseline data and the target goal (Brauen, Luster, & Wexler, 2005; Lucas, 2010).

The U.S. Department of Education, together with stakeholders from the special education community, established 20 performance indicators to help quantify the more general priorities of all areas to be monitored. There are three priority areas into which these performance indicators have been distributed.

The first priority area involves FAPE. It includes graduation rates, dropout rates, performance on state-wide assessments, and the percent of time that children with disabilities are in a general education classroom ("Alignment with No Child Left Behind", 2007)

The second priority area involves disproportionality. The two compliance indicators that were established for this area involve the percent of school districts that have a disproportional representation of ethnic and racial groups resulting from inappropriate identification. The first indicator in this area relates to special education and related services. The second indicator relates to specific categories of disability.

The third priority area involves effective general supervision and includes three performance indicators that are related to student outcomes. The first performance indicator includes students who were identified by IDEA Part C who had IEPs in place by their third
birthday. The second performance indicator involves youth aged 16 or older who have appropriate goals that enable them to transition from high school to postsecondary school or work. The third performance indicator includes the percent of youth who left school at the secondary level with an IEP who have enrolled in either a higher education or training program or are employed within one year of leaving high school.

Information derived from across the 20 performance indicators is collected at different levels within a state. Data from seven of the performance indicators are collected each year by local school districts and sent to their respective state departments of education. Information related to the remaining 13 performance indicators is gathered at the state level by state information systems. Therefore, data collected from all 20 performance indicators are ultimately reported to the U.S. Department of Education.

In Title I, Part B, section 612(a)(15)(B) of IDEA, the law requires states to use established performance indicators in order to assess progress for children with disabilities. The state is required to use both qualitative and quantitative indicators to measure student performance (Lucas, 2010). As specified in the Elementary and Secondary Education Act (§ 1111(b)(2)(C)(v)(II)(cc)), these indicators must include measurable annual objectives and reflect substantial improvement for students with disabilities. The 20 performance indicators on which states are to report are listed in Tables 4, 5, and 6.
Table 4

Monitoring Priorities and Performance Indicators: FAPE

<table>
<thead>
<tr>
<th>Performance Indicator</th>
<th>Subpart</th>
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</thead>
<tbody>
<tr>
<td>1. Percent of youth with IEPs graduating from high school with a regular diploma.</td>
<td></td>
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<tr>
<td>2. Percent of youth with IEPs dropping out of high school.</td>
<td></td>
</tr>
<tr>
<td>3. Participation and performance of students with disabilities on statewide assessments:</td>
<td>a. Percent of the districts with a disability subgroup that meet the State’s minimum “n” size that meet the State’s AYP targets for the disability group.</td>
</tr>
<tr>
<td></td>
<td>b. Participation rate for children with IEPs</td>
</tr>
<tr>
<td></td>
<td>c. Proficiency rate for children with IEPs against grade level, modified, and alternate academic achievement standards.</td>
</tr>
<tr>
<td>4. Rates of Suspension and Expulsion:</td>
<td>a. Percent of districts identified by the State as having a significant discrepancy in the rates of suspensions and expulsions of children with IEPs for greater than 10 days in a school year; and</td>
</tr>
<tr>
<td></td>
<td>b. Percent of districts identified by the State as having a significant discrepancy in the rates of suspensions and expulsions of children with IEPs of greater than 10 days in a school year by race and ethnicity and that have policies, procedures or practices that contribute to the significant discrepancy and that do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.</td>
</tr>
<tr>
<td>5. Percent of children with IEPs aged 6 through 21 served.</td>
<td>a. Inside the regular class 80% or more of the day;</td>
</tr>
<tr>
<td></td>
<td>b. Inside the regular class less than 40% of the day; or</td>
</tr>
<tr>
<td></td>
<td>c. In separate schools, residential facilities, or homebound/hospital placements.</td>
</tr>
<tr>
<td>6. Percent of children aged 3 through 5 with IEPs attending a separate special class, separate school, or residential facility.</td>
<td></td>
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</tbody>
</table>
Table 5

**Monitoring Priorities and Performance Indicators: Disproportionality**

<table>
<thead>
<tr>
<th>Performance Indicator</th>
<th>Subpart</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. Percent of preschool children with IEPs who demonstrate improved:</td>
<td>a. Positive social-emotional skills (including social relationships); b. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and c. Use of appropriate behaviors to meet their needs.</td>
</tr>
<tr>
<td>8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Performance Indicator</th>
<th>Subpart</th>
</tr>
</thead>
<tbody>
<tr>
<td>9. Percent of districts with disproportional representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.</td>
<td></td>
</tr>
<tr>
<td>10. Percent of districts with disproportional representation of racial and ethnic groups in specific categories of disability that is the result of inappropriate identification.</td>
<td></td>
</tr>
</tbody>
</table>
### Table 6

*Monitoring Priorities and Performance Indicators: Effective General Supervision*

<table>
<thead>
<tr>
<th>Performance Indicator</th>
<th>Subpart</th>
</tr>
</thead>
<tbody>
<tr>
<td>11. Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that time frame.</td>
<td></td>
</tr>
<tr>
<td>12. Percent of children referred from Part C prior to age 3 and who are found eligible for Part B who have an IEP developed and implemented by their third birthday.</td>
<td></td>
</tr>
<tr>
<td>13. Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student’s transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.</td>
<td></td>
</tr>
</tbody>
</table>
| 14. Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school and were: | a. Enrolled in higher education within one year of leaving high school.  
   b. Enrolled in higher education or competitively employed within one year of leaving high school.  
   c. Enrolled in higher education or in some other postsecondary education training program; or competitively employed or in some other employment within one year of leaving high school. |
<p>| 15. General supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification. | |</p>
<table>
<thead>
<tr>
<th>Performance Indicator</th>
<th>Subpart</th>
</tr>
</thead>
<tbody>
<tr>
<td>16. Percent of signed written complaints with reports issued that were resolved within the 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint, or because the parent (or individual or organization) and the public agency agree to extend the time to engage in mediation or other alternative means of dispute resolution, if available in the State.</td>
<td></td>
</tr>
<tr>
<td>17. Percent of adjudicated due process hearing requests that were adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party or in the case of an expedited hearing, within the required timelines.</td>
<td></td>
</tr>
<tr>
<td>18. Percent of Hearing requests that went to resolution sessions that were resolved through resolution settlement agreements</td>
<td></td>
</tr>
<tr>
<td>19. Percent of mediations held that resulted in mediation agreements.</td>
<td></td>
</tr>
<tr>
<td>20. State reported data are timely and accurate.</td>
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</tr>
</tbody>
</table>

This chapter has included a review of the government's role in both general and special education as well as an explanation of the history and current practices of the monitoring process, its technical assistance, and the enforcement of IDEA regulations. Each state is to monitor its school districts and report the progress it has made related to the IDEA performance indicators as stipulated by its state performance plan.

Information will be provided in Chapter 3 that explains the methods to be used in this study in order to examine compliance monitoring and management within the 4th Federal Judicial Circuit as well as the response to federal monitoring of special education. This study was designed to determine how states remedy identified areas of non-compliance, identify what themes are prevalent in due process proceedings, and explain how these themes and incidences compare with the areas of non-compliance.
Chapter 3: Methodology

This chapter includes a description of the research design used for this study, the identification of the sample studied, the plan for data collection, the procedures related to data analysis, and the explanation of ethical safeguards that were considered. This chapter also includes a restatement of each of the six research questions together with the procedures associated with each.

Research Design

This study involved the use of a mixed method research design. It included the use of qualitative methods to address Research Questions One, Four, Five, and Six that are related to the identification of monitoring approaches, activities used to remedy areas of non-compliance, themes in due process proceedings, and the comparison between identified areas of non-compliance and due process proceedings. Quantitative methods were used to address Research Questions Two, Three, Five, and Six in this study that involved tabulating frequencies related to the number of performance indicator targets met by each state, the number of performance indicator targets that states were determined to be in non-compliance, and the number of due process issues within each priority area.

Qualitative methods.

The qualitative methods used in this study were grounded theory, also known as content analysis that was used for coding the various monitoring approaches, remediation activities, and due process themes related to this study. According to Gall, Gall & Borg (2007), grounded theory is a form of research that derives "... constructs from data rather than drawing on existing theory" (p. 641). The use of grounded theory enabled the researcher to study the approaches that selected states use in monitoring. Newton and Rudestam (1999) described this
technique as a means of analyzing content and coding them according to motivation (categories). In this study, grounded theory was used to code the content of each of the due processes with respect to the nature of its related complaint. This enabled the researcher to obtain information that could be used to more appropriately relate the due processes to the three priority areas.

**Quantitative methods.**

The quantitative methods used in this study included frequency counts, tabulations, and Pareto analysis. Frequency counts and tabulations were used in order to identify the number of performance indicator targets that have been met within each state, the number of areas of non-compliance within each state, and the number of due process proceedings by their related theme. Pareto analysis was used to identify the more prevalent patterns of non-compliance incidents for the purpose of focusing the use of limited resources in order to achieve the greatest effect related to IDEA compliance. This tool permits a state to make more informed decisions related to resource allocation.

The Pareto principle was originally attributed to Vilfredo Pareto, an Italian engineer, sociologist, and economist. He noted that 80% of the wealth in Italy was held by 20% of the people. This same 80/20 ratio has been noted in a variety of fields and accepted as a general principle for economics (Brogan, 2010). According to Koch (2008), during the 1950s Joseph Juran revitalized this theory or principle during his tenure with Western Electric and later as the father of the “Quality Revolution.” He utilized this principle to “... root out quality faults and improve reliability and value of industrial and consumer goods” (p.8). As such, the concept became a popular means by which businesses were able to correct 80% of the problems by fixing 20% of the causes of such problems. In other words, 80% of the results come from 20% of the
effort (Koch, 2008). This study uses a form of the Pareto principle to guide each state in determining where to place its resources in order to reduce the number of its due process issues.

Through the use of grounded theory, this study identified and compared the processes used by the five states of the 4th Judicial Circuit to monitor their individual school districts and learn how states remedy areas of non-compliance. The documents that were reviewed included the determination letters from USED to individual states, state performance plans (SPPs), and forms utilized by states to monitor individual school districts. Additional documents utilized in this analysis included year-end reports of due process proceedings provided to the public by each state.

Sample

The sample chosen for this study included the states of Maryland, North Carolina, South Carolina, Virginia, and West Virginia that comprise the 4th Judicial Circuit. According to the letters of determination provided by OSEP to each state department of education, these states were identified as having received a variety of federal determinations related to meeting IDEA requirements that included being in compliance, needing assistance, and/or needing intervention. These states were chosen due to their proximity to the researcher and relationship to each other as member states within the 4th Judicial Circuit. For the purposes of this research, any local school organization is referred to as a LEA in order to provide a consistent use of terminology.

Due to fluctuations and varied findings from year to year among these states, it may be of interest to personnel who are tasked with monitoring special education at the state level, as well as of interest to other stakeholders, to understand how different states perform their monitoring activities. It may also be useful to these personnel to know how each of these states has attempted to correct areas of non-compliance within their state. Additional stakeholders may
include, but are not limited to, teachers and administrators who work in both general and special education, special education advocates, and lawyers who provide special education-related litigation services.

Data Locations, Sources, and Analysis Procedures

The collection and review of several different types of information were necessary in order to determine the ways that the selected states respond to the federal mandate of monitoring special education. The first part of this study responded to Research Questions One through Four that were associated with the monitoring process, while the second part of this study responded to Research Questions Five and Six that were associated with due processes.

A table was created for each research question that identified its related data locations, data sources, and data analysis procedures. The data location section of each table identified the federal and/or state departments of education where the data were obtained. The data sources section of each table identified the actual documents from which the data were collected. The data analysis procedures referred to the methods used by the researcher to answer each research question. A detailed explanation of the data analysis procedures was provided in the table immediately following the narrative related to each research question.

Research Questions Related to Monitoring.

The first source of information reviewed included the literature related to individual state obligations for monitoring special education, while the second involved federal and state department of education website links related to special education monitoring requirements. These websites included links related to the Office of Special Education Programs (OSEP) and the Office of Special Education and Rehabilitation Services (OSERS). Each state is required to post such information as notice to the public concerning how students with disabilities are
performing in educational and functional outcomes. This information is included in a document referred to as the Annual Performance Report (APR). Each state department of education website was reviewed for material related to monitoring special education outcomes for students with disabilities. The third information source included those individuals within each state who are responsible for administering the monitoring system. Once these individuals were identified, they were contacted for the purpose of requesting their assistance in obtaining additional information as appropriate. These individuals assisted in locating information on the state department of education websites, identifying additional material that would be of use to the study, or advising that a Freedom of Information Act (FOIA) request would be necessary.

Research Question One: What approaches do states use to monitor special education compliance with the Individuals with Disabilities Education Act (IDEA)?

This research question was addressed by reviewing the state department of education websites in order to locate the data sources related to monitoring, enforcement, and technical assistance documents. Each state website was reviewed in order to determine the approaches used by that state to monitor its respective school districts. A list was created of the various approaches used by each state in order to monitor its school districts for compliance with Part B of IDEA. The state lists were reviewed for similar monitoring approaches and through grounded theory a more general set of monitoring approach categories was developed. These approaches are the means by which the states create and implement the monitoring of special education procedures as required by the federal mandate in Part B of IDEA. Each of the state monitoring approaches was then classified according to its general monitoring approach category. A table was created from this information in order to show which general monitoring approaches were
used by each state in the study. The data location, sources, and analysis procedures that were
used to answer Research Question One have been summarized in Table 7.

Table 7

Research Question One

<table>
<thead>
<tr>
<th>Data Location</th>
<th>Data Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maryland</td>
<td>Monitoring for Continuous Improvement and Results</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Guidance for Completion of the Continuous Improvement Performance Plan 2011; Improvement Performance Plan; Article 9. Education of Children with Disabilities. Part 1 State Policy; DPI Exceptional Children Division</td>
</tr>
<tr>
<td>South Carolina</td>
<td>South Carolina General Supervision Overview (IDEA Part B); Document No. 3130 State Board of Education Chapter 43, 43-243 Special Education, Education of Students with Disabilities</td>
</tr>
<tr>
<td>Virginia</td>
<td>Self-Assessment—A Resource to Facilitate Compliance; Continuous Improvement Monitoring System: A Resource Manual to Guide On-site Focused Monitoring and Follow-Up Activities for Improved Results for Children with Disabilities</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Monitoring Annual Report 2010; Policy 2419: Regulations for the Education of Students with Disabilities</td>
</tr>
</tbody>
</table>

Data Analysis Procedures
1. Identify the various monitoring approaches used by each state.
2. Identify the monitoring approaches used by all of the states.
3. Create a table for listing the monitoring approaches used by the states.

Research Question Two: To what extent are selected states meeting established special education compliance targets?

This research question was addressed by reviewing the letters and their respective State Performance Plan (SPP)/Annual Performance Report (APR) response tables from OSEP to the state superintendents that identified the performance indicator targets in which all states are required to be 100% compliant. Each state's SPP/APR was used to identify the states that have failed to meet the 100% compliance level for selected performance indicators. These documents served to identify performance indicator target levels for each state. These reports also identified the performance indicator targets that have not been met by each state.
Table 8 lists the states that met the performance indicator targets for which all states must be 100% compliant as well as the states that failed to meet these requirements. Another table was created that listed the performance indicator target levels for each state as well as those performance indicator targets that were not met. The data location, sources, and analysis procedures that were used to answer Research Question Two have been summarized in Table 8.

Table 8

<table>
<thead>
<tr>
<th>Research Question Two</th>
</tr>
</thead>
<tbody>
<tr>
<td>Research Question Two: To what extent are selected states meeting established special education compliance targets?</td>
</tr>
<tr>
<td>Data Location</td>
</tr>
<tr>
<td>Federal</td>
</tr>
<tr>
<td>Maryland</td>
</tr>
<tr>
<td>North Carolina</td>
</tr>
<tr>
<td>South Carolina</td>
</tr>
<tr>
<td>Virginia</td>
</tr>
<tr>
<td>West Virginia</td>
</tr>
</tbody>
</table>

Data Analysis Procedures

1. Identify the performance indicator targets in which all states have to be 100% compliant.
2. Identify states that have failed to meet the 100% compliance levels.
3. Identify the performance indicator targets that were not met by each state.
4. Create a table for listing the states that met established performance indicator targets.

Research Question Three: What are the areas of non-compliance?

This research question was addressed by reviewing the letters and their respective State Performance Plan (SPP)/Annual Performance Report (APR) response tables from OSEP to the state superintendents that identified the performance indicator targets in which all states are required to be compliant. Each state's SPP/APR was used to identify the states that failed to meet the compliance level for selected performance indicators. These documents served to
identify performance indicator target levels for each state. These reports also identified the performance indicator targets that were not met by each state.

A table was created that listed the states that met their performance indicator targets as well as the states that failed to meet these requirements. The data location, sources, and analysis procedures that were used to answer Research Question Three have been summarized in Table 9.

Table 9

**Research Question Three**

<table>
<thead>
<tr>
<th>Data Location</th>
<th>Data Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>Letter from Director of OSEP to individual state superintendents determining whether their state met the requirements of IDEA, need assistance to meet the requirements of IDEA and Part B FFY 2009 SPP/APR Response Table for each State</td>
</tr>
<tr>
<td>Maryland</td>
<td>Maryland Part B FFY 2009 SPP/APR Response Table</td>
</tr>
<tr>
<td>North Carolina</td>
<td>North Carolina Part B FFY 2009 SPP/APR Response Table</td>
</tr>
<tr>
<td>South Carolina</td>
<td>South Carolina Part B FFY 2009 SPP/APR Response Table</td>
</tr>
<tr>
<td>Virginia</td>
<td>Virginia Part B FFY 2009 SPP/APR Response Table</td>
</tr>
<tr>
<td>West Virginia</td>
<td>West Virginia Part B FFY 2009 SPP/APR Response Table</td>
</tr>
</tbody>
</table>

**Data Analysis Procedures**

1. Identify states that failed to meet their compliance levels.
2. Identify the performance indicator targets that were not met by each state.
3. Create a table for listing areas of non-compliance for each state.

**Research Question Four: What actions do states take to remedy identified areas of non-compliance?**

This research question was addressed by reviewing each state’s State Performance Plan (SPP) and Annual Performance Report (APR) in order to determine identified areas of non-compliance within special education. Documents related to each state’s monitoring system were reviewed in order to identify the actions taken by that state to remedy identified areas of non-compliance. Once these were identified, a table was created that listed the actions taken by each state in order to determine whether or not its remediation approaches were similar to those of
other states in the study. The data location, sources, and analysis procedures that were used to answer Research Question Four have been summarized in Table 10.

Table 10

Research Question Four

<table>
<thead>
<tr>
<th>Data Location</th>
<th>Data Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maryland</td>
<td>Monitoring for Continuous Improvement and Results,</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Documentation of Correction of Noncompliance Forms</td>
</tr>
<tr>
<td>South Carolina</td>
<td>South Carolina General; Supervision Overview (IDEA Part B), South Carolina State Department of Education,</td>
</tr>
<tr>
<td>Virginia</td>
<td>Self-Assessment—A Resource to Facilitate Compliance; Continuous Improvement Monitoring System: A Resource Manual to Guide On-site Focused Monitoring and Follow-Up Activities for Improved Results for Children with Disabilities; Regulations Governing Special Education Programs for Children with Disabilities in Virginia</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Monitoring Annual Report 2010; Policy 2419: Regulations for the Education of Students with Disabilities</td>
</tr>
</tbody>
</table>

Data Analysis Procedures
1. Identify the actions taken by each state in order to correct areas of non-compliance.
2. Identify whether or not different states use different actions for correcting areas of non-compliance.
3. Create a table for listing the actions taken by states to remedy areas of non-compliance.

Research questions related to due process proceedings.

Research Questions Five and Six addressed themes in due process proceedings and how they compared with identified areas of non-compliance. The procedures that were used to answer these research questions involved a records review of each state’s due process hearings for the 2008-2009 (also referred to as FFY 2009) school year. In addition, the procedures used for answering Research Question Six included a rank-order statistical test that was used to compare the due process proceedings with identified areas of non-compliance for each of the selected states. This study required data to be obtained for the same school year in order for a comparison to be made. Although more recent due process data was available for analysis, the
most recent performance indicator compliance data that was available was from the 2008-2009 school year.

**Research Question Five: What prevailing themes are evident in due process proceedings for the selected state departments of education?**

This research question was addressed by reviewing each state's due process proceedings for Federal Fiscal Year (FFY) 2009. Each due process proceeding was reviewed in order to identify specific due process issues related to that proceeding. Each of these issues was printed on an individual 4 x 6 index card together with its state, due process code number (for identification) and due process issue number. Each due process issue was also coded with a unique general identification number. The due process issues were associated with themes using index cards for sorting purposes. Each coded index card was reviewed for a key word, phrase, or overall concept related to its due process issue content. Each of the index cards was distributed into an index card pile that included other index cards with similar due process issues. Once this procedure had been performed, certain theme patterns were identified as due process themes.

In addition, a Pareto analysis was performed in order to determine for each state where the most efficient use of its resources should be applied in order to address the greatest number of incidents of due process proceedings. The data location, sources, and analysis procedures that were used to answer Research Question Five have been summarized in Table 11.
Research Question Five

Research Question Five: What prevailing themes are evident in due process proceedings for the selected state departments of education?

<table>
<thead>
<tr>
<th>Data Location</th>
<th>Data Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maryland</td>
<td>Maryland State Department of Education: Due Process Hearings FY09 1st Quarter, FY09 2nd Quarter, FY09 3rd Quarter, FY09 4th Quarter</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Office of Administrative Hearings, 2009, individual cases (07-EDC-1192, 07-EDC 2004, 07-EDC 2339, 08-EDC 2616, 08-EDC 2231, 08-EDC 2969)</td>
</tr>
<tr>
<td>South Carolina</td>
<td>Due Process Hearings 2008-2009, Barbara Drayton, Deputy General Counsel</td>
</tr>
<tr>
<td>Virginia</td>
<td>Annual Report of the Dispute Resolution Systems and Administrative Services: Reporting Period July 1, 2008-June 30, 2009; Individual Cases: (08-078, 08-082, 08-084, 08-011, 09—13, 09-016, 09-018, 09-022, 09-024, 09-034, 09-052, 09-053, 09-061, 09-062)</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Mediation and Due Process Hearing Report 09</td>
</tr>
</tbody>
</table>

Data Analysis Procedures

1. Identify the due process proceedings for each state.
2. Identify each due process issue included in each of the due process proceedings.
3. Use grounded theory techniques to code the content of each due process issue for the purpose of identifying due process themes.
4. Tabulate the number of due process issues by due process theme for each state and the 4th Judicial Circuit.
5. Create Pareto charts for each state and for the 4th Judicial Circuit that ranked the quantity of due process proceedings by due process theme.

Research Question Six: How do due process proceedings compare with identified areas of non-compliance?

This research question was addressed by reviewing the State Performance Plan (SPP) and Annual Performance Report (APR) for each state in order to determine their identified areas of non-compliance within special education. Each of the non-compliance issues that were identified in Research Question Three were related to its respective performance indicator. These non-compliance issues were then tabulated by performance indicator for each state. The Office of Special Education Programs (OSEP) assigned each of the 20 performance indicators to one of the three priority areas. The priority area of FAPE includes performance indicators 1 through 8, the priority area of Disproportionality includes performance indicators 9 and 10, and
the priority area of General Supervision includes performance indicators 11 through 20. Since non-compliance refers to a determination where a state has failed to meet one or more of the performance indicator targets that have been assigned to a priority area, this resulted in the data being directly available for immediate comparison.

The due process data was obtained from each state’s website and its annual due process report. Each of the due process themes that were identified in Research Question Five was analyzed for content in order to determine its related due process issues. The due process issues were then distributed into a set of due process themes using a grounded theory approach that was explained in detail in Research Question Five. Grounded theory was also used to determine the due process themes that were related to each of the three priority areas. This procedure enabled the due process proceedings data to be directly compared with the data related to the identified areas of non-compliance.

A table was created that enabled the number of incidents of non-compliance to be directly compared with the number of due process proceedings by priority area for each state. In order to compare the due process proceedings with identified areas of non-compliance, a correlational analysis was used to determine whether or not a relationship existed between these two variables. The data location, sources, and analysis procedures that were used to answer Research Question Six have been summarized in Table 12.
Table 12

Research Question Six

<table>
<thead>
<tr>
<th>Data Location</th>
<th>Data Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maryland</td>
<td>Maryland State Department of Education: Due Process Hearings FY09 1st Quarter, FY09 2nd Quarter, FY09 3rd Quarter, FY09 4th Quarter; Maryland Part B FFY 2009 SPP/APR Response Table</td>
</tr>
<tr>
<td>Virginia</td>
<td>Annual Report of the Dispute Resolution Systems and Administrative Services: Reporting Period July 1, 2008-June 30, 2009; Individual Cases: (08-078, 08-082, 08-084,08-011, 09-13, 09-016, 09-018, 09-022,09-024,09-034,09-052, 09-053, 09-061,09-062); Virginia Part B FFY 2009 SPP/APR Response Table</td>
</tr>
<tr>
<td>West Virginia</td>
<td>Mediation and Due Process Hearing Report 09; West Virginia Part B 2009 SPP/APR Response Table</td>
</tr>
</tbody>
</table>

Data Analysis Procedures

1. Associate the number of issues related to the identified areas of non-compliance with their respective priority area for each state.
2. Associate the number of issues related to the due process proceedings with their respective priority area for each state.
3. Create a table that compares the number of issues related to the due process proceedings with the number of issues related to the identified areas of non-compliance by priority area for each state.
4. Use a correlation statistic to determine whether or not a relationship exists between identified areas of non-compliance and due process proceedings for the states within the 4th Judicial Circuit.

Ethical Safeguards

Permission to conduct the study was secured from the Protocol and Compliance Management office, specifically the Protection of Human Subjects Committee of the College of William and Mary. This study involved obtaining public information from federal and state websites as well as collecting additional information by telephone interviews and/or e-mail communication with appropriate personnel. Individuals who are tasked with the responsibility of
monitoring special education programs in order to meet the IDEA requirements were contacted as appropriate for clarification related to this information. Confidentiality was maintained for those individuals contacted for the purpose of securing and/or confirming information related to this study.
Chapter 4: Data Analysis

The purpose of this study was to analyze the special education compliance procedures related to continuous improvement monitoring for the states of Maryland, North Carolina, South Carolina, Virginia, and West Virginia. The topics that were addressed by this study included the approaches that states use to monitor special education compliance with IDEA, the extent to which the selected states are meeting established special education compliance targets, and the identified areas of special education non-compliance. Additional topics addressed in this study included the actions taken by the selected states to remedy identified areas of non-compliance, the identification of prevailing themes that were evident in due process proceedings, and the comparison between the themes related to due processes and those related to the identified areas of non-compliance.

The information used to answer the six research questions was gathered from state websites, published monitoring materials, communications with state level personnel who are involved with special education monitoring, and documents provided by the Office of Special Education Programs (OSEP) that were sent to each state’s superintendent of education. The OSEP documents that included each State Performance Plan (SPP) and Annual Performance Report (APR) identified the status of a state with respect to meeting IDEA requirements.

A mixed-methods approach was used for this study that included the use of grounded theory and statistical analysis. The qualitative methods applied to this study were used for coding monitoring approaches, remediation approaches, and due processes while the quantitative methods were used to collect frequency counts, tabulations, and calculations for the Pareto Charts and the Spearman Rank-Order Correlation.
Data Findings

Each of the six research questions for this study has been listed below together with its introduction, data source identification, data presentation, and findings. This chapter concludes with a general summary of the study findings.

Research Question One:

What approaches do states use to monitor special education compliance with the Individuals with Disabilities Education Act (IDEA)?

The information reviewed in order to determine each state's approach to monitoring local education agencies was located in the literature published by the individual states and on their respective websites. The researcher contacted members of each state's department of education who were familiar with the monitoring process in their respective state. These individuals were contacted through e-mail and/or telephone conversations for clarification of the monitoring process. The approaches used by states to monitor their Local Educational Agencies (LEAs) were classified into five categories for comparison. These five questions were selected in order to identify who does the special education monitoring within each state, when the LEAs are monitored, where the monitoring takes place, what instruments are used to verify compliance with IDEA, and how the monitoring is performed. A Local Education Agency (LEA) is known by different terms across the selected states, but refers to a school district, school division, local school system, or public agency.

Three procedures were used to address Research Question One. First, a brief overview of the monitoring system was created for each state. Second, a table was created for each state that identified who performed the monitoring, when the monitoring is performed, where the monitoring is performed, what documents and other information are used to perform the
monitoring, and how the monitoring process was carried out. Third, an in-depth discussion has been provided in order to explain the monitoring process. Following a discussion of the three procedures, a summary of its monitoring process was created for each state in order to complete the information discovered in researching this question. Each question category is followed by a brief description of its related monitoring system component. The structure used for comparing the compliance monitoring approaches for each of the selected states is shown in Table 13 along with a brief explanation of each component.

Table 13

*IDEA Compliance Monitoring Approaches for (State)*

<table>
<thead>
<tr>
<th>Category</th>
<th>Monitoring Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>State Department of Education (DOE), Individuals, Teams, Both Individuals and Teams</td>
</tr>
<tr>
<td>When?</td>
<td>Frequency of Monitoring</td>
</tr>
<tr>
<td>Where?</td>
<td>On-Site Visit, Off-Site Review, Both On-Site and Off-Site Visits</td>
</tr>
<tr>
<td>What?</td>
<td>IEPs, Annual Plan, State Reports</td>
</tr>
<tr>
<td>How?</td>
<td>Interviews, Data Reviews, Electronic Communication</td>
</tr>
</tbody>
</table>

Maryland

The Maryland State Department of Education (MSDE) meets the federal requirement of monitoring special education through its Division of Special Education/Early Intervention Services (DSE/EIS). Within the DSE/EIS, the Office of Quality Assurance and Monitoring (QAM) is the state organization that is directly responsible for monitoring activities. The process used to monitor special education is known as Monitoring for Continuous Improvement and Results (MCIR). The Local Education Agencies (LEAs) cooperate with the QAM to ensure the implementation of IDEA. Maryland created the MCIR manual, entitled the Monitoring for Continuous Improvement and Results: Special Education: Individuals with Disabilities
Education Act (IDEA), Part B November 2010 (Maryland State Department of Education, 2010), that serves as an explanation of the state monitoring process to LEAs.

The purpose of Maryland’s monitoring process is to improve educational outcomes for students with disabilities. The QAM uses four monitoring approaches that include 1) self-assessment verification monitoring, 2) focused monitoring, 3) comprehensive monitoring, and 4) enhanced monitoring for continuous improvement and results. The monitoring process is accomplished through such monitoring activities as annual desk audits, on-site visits, LEA self-assessments, determinations, and the correction of any non-compliance issues.

Maryland’s monitoring system includes several components. These components include the State Performance Plan (SPP), Policies, Procedures, and Effective Implementation, Fiscal Accountability, Data on Process and Results, and Effective Dispute Resolution (Maryland State Department of Education, 2011). Maryland uses quantitative data from several sources for its monitoring process. These sources include the performance indicators from the SPP, the mediation and due processes from Effective Dispute Resolution, and the self-assessment worksheets and student record review worksheets that are obtained from QAM. Several offices within the MSDE share information in order to provide a complete evaluation of the special education process within a LEA at a given point in time. Maryland’s compliance monitoring approach is outlined in Table 14 that provides an overview of the monitoring components by category.
Table 14

**IDEA Compliance Monitoring Approaches for Maryland**

<table>
<thead>
<tr>
<th>Category</th>
<th>Monitoring Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>Maryland State Department of Education (MSDE), Office of Quality Assurance and Monitoring (QAM) personnel and LEA personnel</td>
</tr>
<tr>
<td>When?</td>
<td>Annually by LEAs, annual off-site review by the QAM, a 6-year cycle and when data suggests a need for monitoring (based on complaints by parents, advocacy groups, etc.)</td>
</tr>
<tr>
<td>Where?</td>
<td>Both on- and off-site</td>
</tr>
<tr>
<td>What?</td>
<td>LEA self-assessment worksheets and student record review worksheets</td>
</tr>
<tr>
<td>How?</td>
<td>Desk audits, state on-line IEP program, electronic submission, and on-site document reviews.</td>
</tr>
</tbody>
</table>

The Monitoring for Continuous Improvement and Results (MCIR) process includes the completion of both the Self-Assessment of Public Agency Performance on IDEA, Part B Indicators and The Special Education Student Record Review. These documents are used by both MSDE monitoring personnel and designated LEA personnel during the monitoring process. The Special Education Student Record Review document may be used alone, a section at a time, or with other documents such as the LEA self-assessment. This document is used to evaluate compliance with all IDEA requirements and with specific areas identified by state personnel to correct non-compliance and/or to verify sustained compliance.

Maryland’s MCIR includes two components, the desk audit and the on-site visit. The desk audit involves only MSDE staff personnel, while the on-site visit involves both MSDE staff personnel as well as LEA staff. The desk audit includes data reviews, off-site reviews of IEPs, and a review of the LEA’s self-assessment. There are four individuals who have the responsibility of monitoring the 24 LEAs. These individuals review their assignments on an annual basis. This data includes an evaluation of each LEA’s progress toward the 20 state performance indicator targets, a review of any complaints and their histories, and a review of on-line IEP information in accordance with The Special Education Student Record Review. Other
important areas reviewed include any policies and procedures related to child find, evaluations, transportation, eligibility determination, and reevaluation. The on-site monitoring process includes the Division of Special Education/Early Intervention Services (DSE/EIS) notifying the LEA when it is to be monitored. The DSE/EIS arranges a meeting with LEA personnel by telephone or in person to discuss the monitoring plan and its related activities to be implemented during this process. The on-site monitoring visit includes a review of financial information and The Special Education Student Record Review document. Other components of the on-site monitoring visit include individual school visits, student observations, and interviews with both school-based and central office staff as well as parents. This visit also includes a review of the LEA's progress in meeting the needs of special education students, Medicaid-related activities, and the provision of related services. A Corrective Action Plan (CAP) may be required in order to remedy any identified issues of non-compliance.

The self-assessment verification monitoring approach requires each LEA to rate itself on each performance indicator during the annual self-assessment. Therefore, the determination is through this self-report. This rating procedure must determine whether the LEA's performance level on each indicator has either met the state target, exceeded the target, fallen below the state target, or significantly fallen below the state target. Maryland has created a self-assessment form that provides a range of guidelines for each of these ratings. The LEA must correct all non-compliance issues as soon as possible once it has determined by its self-assessment that it has fallen either below or significantly below the state target on any or all of the performance indicators. During the process of monitoring, any issues of non-compliance are identified in a Letter of Findings (LOF). The LOF indicates any systemic and/or student-specific issues that require correction, the date that these corrections are to be completed, and the evidence required
for the MSDE to verify the correction of any non-compliance issues. If any non-compliance issues are corrected within the time requirements and verified by MSDE personnel, this information will be noted in the monitoring report to the LEA. Any issues that have not been corrected by the due date will also be noted in this report. Any non-compliance issues that remain require both corrective action and an improvement plan.

The focused monitoring approach is implemented by the Department of Special Education/Early Intervention Services (DSE/EIS) staff when it has been determined that there is a pattern of non-compliance in a particular LEA. A pattern of non-compliance may be identified by such frequency data as the number of non-compliance issues, the number of due process complaints, and/or the number of missed required performance indicators targets. This determination may be from a review of state-collected data or complaints from external groups. Therefore, the use of this approach is on an as-needed basis rather than related to a specific time frame.

The comprehensive monitoring approach is based on a six-year cycle (one in-depth monitoring procedure every six years). This approach is broad-based and is designed to ensure that LEAs are in compliance with IDEA requirements. It is implemented by the MSDE quality assurance and monitoring staff. Comprehensive monitoring includes self-assessment verification, a review of policies and procedures, interviews with LEA staff, and IDEA-related requirements. The comprehensive monitoring activities are composed of a desk audit and on-site visits.

The enhanced monitoring approach, formally identified as the Enhanced Monitoring for Continuous Improvement and Results (EMCIR), is conducted by the DSE/EIS office of the MSDE. This monitoring approach is implemented when a LEA has an identified record of
sustained non-compliance. The enhanced monitoring approach is designed to address non-compliance situations with intensive supervision by MSDE staff that may include revisions to the LEAs Corrective Action Plan (CAP), increased numbers of on- and off-site monitoring activities, increased numbers of progress report submissions, and increased levels of technical assistance.

In summary, Maryland uses four approaches in order to conform to the IDEA requirement for monitoring LEAs. These approaches include the LEA self-assessment verification, focused monitoring, comprehensive monitoring, and enhanced monitoring. Comprehensive monitoring is conducted every six years, unlike the self-assessment verification approach that is conducted annually. The focused monitoring and enhanced monitoring approaches are used on an as-needed basis.

North Carolina

North Carolina requires the State Board of Education to “... monitor all local education agencies to determine compliance with this Article and IDEA. The State Board shall also monitor the effectiveness of IEPs in meeting the educational needs of children with disabilities” (NC General Statues § 115C-107.4). The North Carolina monitoring system involves the implementation of both incentives and sanctions. The incentives include the recognition of LEAs that have shown improvement on their performance indicator target levels or have achieved or exceeded performance indicator target levels. The sanctions include consequences for LEAs that have demonstrated non-compliance with Article 9 of the North Carolina General Statutes and/or IDEA. North Carolina’s compliance monitoring approach is outlined in Table 15 that provides an overview of the monitoring components by category.
Table 15

**IDEA Compliance Monitoring Approaches for North Carolina**

<table>
<thead>
<tr>
<th>Category</th>
<th>Monitoring Component</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Who?</strong></td>
<td>North Carolina Department of Public Instruction (NCDPI) through the Exceptional Children Division (ECD) and LEA</td>
</tr>
<tr>
<td><strong>When?</strong></td>
<td>Annually</td>
</tr>
<tr>
<td><strong>Where?</strong></td>
<td>On-site verification visit for selected LEAs, off-site for the remaining LEAs</td>
</tr>
<tr>
<td><strong>What?</strong></td>
<td>Continuous Improvement Performance Plan (CIPP) with mandatory forms for supporting documentation</td>
</tr>
<tr>
<td><strong>How?</strong></td>
<td>Electronic submission of the CIPP and its supporting documentation for selected on-site LEA visits, each remaining LEA must maintain copies of its completed CIPP at its location</td>
</tr>
</tbody>
</table>

The North Carolina Department of Public Instruction (NCDPI) Exceptional Children Division (ECD), with the cooperation of the LEAs, completes compliance monitoring activities on an annual basis. The ECD provides verification of compliance through on-site reviews for a selected number of LEAs and requires the remaining LEAs to keep on file all information related to monitoring reports, activities and performance plans. Off-site desk audits of electronically submitted information may be completed at any time by the ECD. All LEAs complete a Continuous Improvement Performance Plan (CIPP), together with supporting documentation. The selected LEAs must submit this information electronically to the ECD, while the remaining LEAs retain the information on-site.

The North Carolina Department of Public Instruction (NCDPI) has posted the Continuous Improvement Performance Planning (CIPP) Calendar for all LEAs on the state website in order to assist them in the implementation of their CIPP. The planning calendar that begins in July of each FFY indicates the activities to be completed by the LEA within each month. The planning calendar lists when specific performance indicators are to be reviewed by the LEA and when they are to be reported to the ECD. The planning calendar also indicates when corrective action plans are due to the ECD depending on the results of LEA findings on specific performance
indicators. The NCDPI created mandatory checklists and other forms to be used by the LEAs during the internal annual audit of their special education processes, procedures, and services.

The CIPP workbook includes a recommended list of stakeholders who are required to assist LEAs in the completion of the CIPP. These stakeholders must include teachers, administrators, school board members, parents, students, and other individuals as deemed appropriate by the LEAs. The LEA is required to keep copies of all agendas, meeting minutes, and other supporting documentation as appropriate. In the CIPP workbook, each of the performance indicators is presented with its existing target for that year. The LEAs are required to respond to two questions listed in the workbook. The first question asks whether or not the LEA met the target for each of the listed state performance indicators. The second question asks about the progress (or lack of) toward meeting each of the listed state performance indicators. If slippage (not performing as well on a specific performance indicator target as the previous year) occurred, the LEA must analyze and summarize the activities it used in order to meet the performance indicator targets. The state provides an Improvement Activity Review Checklist for LEAs to use in order to document the action steps necessary for the implementation of any corrective actions.

Once the CIPP is completed, those LEAs selected for an on-site review electronically submit the CIPP workbook and its supporting documentation to the NCDPI. All remaining LEAs are to keep their information available for review if needed.

In summary, North Carolina has each LEA complete a Continuous Improvement Performance Plan (CIPP) that addresses each state performance indicator target and includes information related to whether or not the LEA met or did not meet the state performance indicator targets. The NCDPI/ECD has a CIPP workbook, guidance documents on the
completion and electronic filing of the CIPP, a planning calendar, a copy of the mandatory compliance checklist, a copy of the state performance indicator target deficit and verification of correction form, noncompliance worksheets, and internal record review worksheets. The CIPPs are reviewed annually and LEAs are provided with a determination of their level of performance related to the state performance indicator targets.

**South Carolina**

The Office of Exceptional Children (OEC) of the South Carolina Department of Education (SCDE) developed a publication to assist LEAs by providing guidance and information concerning the monitoring process and general supervision requirements. The data from the monitoring process is used to improve educational results for students with disabilities.

According to the South Carolina General Supervision Overview (IDEA Part B) (South Carolina Department of Education, 2011), the general supervision system (special education monitoring process) is comprised of five essential components. These include, but are not limited to, database reviews, on-site compliance monitoring, LEA self-assessments, dispute resolution, and fiscal accountability. South Carolina’s compliance monitoring approach is outlined in Table 16 that provides an overview of the monitoring components by category.

<table>
<thead>
<tr>
<th>Table 16</th>
</tr>
</thead>
</table>

**IDEA Compliance Monitoring Approaches for South Carolina**

<table>
<thead>
<tr>
<th>Category</th>
<th>Monitoring Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>South Carolina Department of Education (SCDE), Office of Exceptional Children (OEC)</td>
</tr>
<tr>
<td>When?</td>
<td>Continuous and cyclically based on a number of years</td>
</tr>
<tr>
<td>Where?</td>
<td>Both on-site and off-site</td>
</tr>
<tr>
<td>What?</td>
<td>Excent Online Database System, fiscal audits</td>
</tr>
<tr>
<td>How?</td>
<td>Data Reviews, electronic, interviews, LEA self-assessment</td>
</tr>
</tbody>
</table>
Special education monitoring in South Carolina is conducted by the South Carolina Department of Education (SCDE) personnel, specifically the Office of Exceptional Children (OEC). The monitoring process is continuous as well as cyclical. Both on- and off-site methods are used in the monitoring of LEAs. South Carolina utilizes a state-wide database called the Excent Online Database System as its first step in the monitoring process. This database allows an off-site desk audit to be conducted for LEAs. The second step in the monitoring process includes on-site compliance monitoring visits for selected LEAs that are based upon the results of a desk audit and a cyclical monitoring plan. The third component of the monitoring process is called self-assessment that is not only conducted by the LEAs in preparation for the monitoring visit, but is also used in conjunction with any non-compliance issue addressed by the Planning Improvement for Children’s Outcomes (PICO) report (a component used for correcting non-compliance). It is suggested that the self-assessment be conducted not only with school personnel, but other stakeholders who may assist the LEA in establishing areas (notification, services, etc.) in need of improvement. The fourth component of the monitoring process includes a review of dispute resolution activities such as state complaints, mediation, and due process hearings. The fifth and final component of the monitoring process is fiscal accountability. The 2011 South Carolina General Supervision Overview (IDEA Part B) notes that this portion of the review is geared toward determining “if LEAs are expending funds according to approved budgets” (p. 8).

The State of South Carolina has an established timeline for the monitoring process. In June and July of each year, the South Carolina Department of Education selects the LEAs that will be monitored. In the event that an LEA has been selected for monitoring, the South Carolina Department of Education sends a notification letter in August to the LEA.
superintendent. Prior to an on-site visit by OEC, two pre-events (such as preparation calls or meetings) are conducted before the monitoring is conducted. On-site visits are conducted between September and April of a given year. Monitoring reports, with Letters of Findings, are issued to LEAs within 30 business days of the on-site visit. Database reviews are conducted on the LEAs periodically throughout the year. On-site monitoring is completed on both a cyclical plan as well as prompted by a review based on the LEA's performance indicator targets in relation to the SPP and APR. On-site monitoring includes both interviews as well as a review of records. Much of the record review is conducted electronically through databases and by required state audit activities. The on-site interviews may involve school administration, school staff, parents, and students with disabilities as appropriate.

A self-assessment is conducted by each LEA in order to assist in evaluating its own performance and progress toward meeting the state targets and compliance with IDEA. A proposed timeline is suggested for this activity-based self-assessment. Included in the self-assessment are checklists noting specific documentation that must be made available to the OEC during the on-site monitoring event. Such documentation may include lists of special education teachers and their caseloads, handbooks, policy and procedure manuals, etc. The self-assessment checklist also includes other requirements for the on-site visit such as work space and school records as well as selected staff, parents, and students who may be needed as subjects for interviews.

Following the on-site monitoring review, the OEC notifies the LEA in writing (within 30 business days) of the results of their visit. A Letter of Findings is sent by the OEC together with a report outlining specific non-compliance issues and a list of any actions necessary to correct such non-compliance issues. The OEC also provides, to any LEA, the technical assistance
needed to carry out its PICO. The PICO report must be submitted within 20 business days after the receipt of notification regarding any non-compliance issues. The OEC is required to verify that corrections have been completed at both the student level as well as LEA level. This verification must take place prior to the close of a one-year time frame. Once verification has been completed, the OEC must notify the LEA in writing of the completion of the PICO and that the related noncompliance issues are closed.

In summary, South Carolina has produced a document to guide the LEAs through the monitoring process and the general requirements for supervision of special education services. A desk audit at the state level assists the OEC in selecting the LEAs for on-site visits. There are five components that comprise the monitoring system in South Carolina, including the state online database, on-site visits of selected LEAs, self-assessments completed by LEAs with its follow-up Planning Improvement for Children’s Outcome Report (PICO), review of dispute resolution procedures, and fiscal accountability.

Virginia

The Regulations for Governing Special Education Programs for Children with Disabilities in Virginia (2010) note that the Virginia Department of Education (VDOE) is to “review and evaluate compliance of local education agencies with state and federal laws and regulations pertaining to the education of children with disabilities and require corrective action where needed” (p.27). The Virginia monitoring process includes the responsibilities of providing enforcement activities and technical assistance to LEAs for the purpose of complying with IDEA, ensuring that LEAs meet program requirements, and utilizing quantifiable data such as the state performance indicator targets to improve educational results and outcomes for
students with disabilities. Virginia's compliance monitoring approach is outlined in Table 17 that provides an overview of the monitoring components by category.

Table 17

*IDEA Compliance Monitoring Approaches for Virginia*

<table>
<thead>
<tr>
<th>Category</th>
<th>Monitoring Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>Virginia Department of Education (VDOE), Office of Federal Program Monitoring (OFPM), the review teams and their team leaders are appointed by VDOE, and LEA</td>
</tr>
<tr>
<td>When?</td>
<td>Five-year cycle and/or when data suggest a need for monitoring, (continuing failure to meet specific targets, complaints, etc.)</td>
</tr>
<tr>
<td>Where?</td>
<td>Both on-site and off-site</td>
</tr>
<tr>
<td>What?</td>
<td>Performance indicator target data (SPP and APR), former monitoring reviews, corrective action plans, complaints, and due processes</td>
</tr>
<tr>
<td>How?</td>
<td>Desk audits, data reviews, interviews, file reviews</td>
</tr>
</tbody>
</table>

In order to meet these requirements, Virginia has developed a process called the Continuous Improvement Monitoring Process (CIMP). This system is coordinated by the Office of Federal Program Monitoring (OFPM) within the VDOE. Prior to the reauthorization of IDEA in 2004, Virginia monitored a selected group of its 132 school divisions every five years. This monitoring system involved only procedural compliance. Virginia has since changed its process and selection criteria over the past several years. Beginning with the 2005-2006 school year, the selection of LEAs for monitoring related to the performance indicators that were part of the SPP. If a LEA had difficulty meeting the established state targets it would be selected for monitoring. The criteria for determining these LEAs changed from year to year, focusing on different performance indicators each year. In 2010-2011 the state returned to a five-year monitoring cycle for all LEAs unless a LEA's data indicated the need for closer scrutiny. This five-year monitoring cycle includes both on- and off-site data reviews that may include SPPs, previous monitoring reports, due process proceedings, and previous corrective action plans. As a
monitoring team conducts an on-site visit, it may require access to other information such as student files, policy and/or procedure manuals, databases, and personal interviews.

The CIMP begins with a review of LEA data at the state level. A team is established with a leader who coordinates and manages the monitoring process for a LEA. This coordination includes planning the pre-visit, on-site visit, and post-visit activities. The timeline begins in September of the year that the LEA has been selected for a monitoring review. Written notice is then provided to the district superintendent with a copy to the special education director. This notice includes a letter with a description of the monitoring process and any specific areas of concern. It also identifies the monitoring team leader for that LEA. All communication is between the team leader and the special education director from this point forward unless the team leader is notified by the district superintendent that another individual will be responsible.

The monitoring review begins with a contact between the team leader and the special education director. This contact may be conducted in a face-to-face setting, via e-mail, by telephone, or by means of a video-conference. The team leader then conducts an on-site pre-visit at least eight weeks prior to the scheduled on-site team visit and provides the special education director with a list of requirements for the monitoring review. This list includes the personnel who the team plans to interview by position, and what evidence the team would like to observe and review while on-site. The on-site review may include student files, policy and procedure manuals, special education forms, special education teacher licensure, and related caseloads including student disabilities. Other information that may be required by the team relates to students placed outside of the LEA, students receiving services in jail, and the LEA's organizational chart.
Prior to the on-site visit the team leader reviews information about the LEA submitted to the VDOE. The state provides the team leader with a checklist of monitoring procedures and activities. This checklist identifies the procedure or activity to be conducted and provides space for the team leader to list the date each procedure or activity was completed, its related notes, and the evidence reviewed.

An off-site desk audit at the state level is also conducted. This desk audit may include performance indicator data, verification of teacher licensure, teacher caseloads, previous Corrective Action Plans, Child Count Data, complaints, due processes, and parent contacts, etc. The team leader then creates a tentative schedule that includes the dates of the on-site visit and identification of the team members. The team leader contacts the special education director and notifies them of the school-site locations they plan to visit, the interviews they will need to conduct, and any other requirements they may need for completion of their on-site visit.

Virginia has created a self-assessment document for LEAs to utilize not only for the preparation of an external monitoring visit, but for them to use for self-monitoring as well. The 102 page self-assessment document, with its 331 points of compliance (not including subparts), is divided into sections based on Title 8, Chapter 80 of the Virginia Administrative Code. This chapter of the Virginia Administrative Code provides the legal foundation for the laws governing special education in Virginia. The self-assessment document provides a legal reference for each of the 331 points of compliance identified in the document. This document provides LEAs with space to respond to each point with a "yes" or "no" and identify the type of documentation that was reviewed in order to determine the response.

The on-site visit begins with an introductory meeting between the monitoring team and those general and special education personnel responsible for policy making and curriculum
within the LEA. The purpose of the meeting is to introduce the monitoring team members, provide information concerning the visit, identify the monitoring priorities, and explain the focus of the review. The school-site visits, the file review, and interviews are then conducted within the time frame of the visit. Once the gathering of information has been completed, a preliminary report is shared by the monitoring team during an exit meeting with the district superintendent or designee. The purpose of this meeting is for the team leader to verbally share findings from the monitoring review. During the exit meeting, the monitoring team leader provides a timeline for when the written report will be forthcoming and assures the LEA that assistance is available should a corrective action plan be required.

A written report is developed by the team leader and mailed to the LEA within four to six weeks after the exit meeting. If areas of non-compliance have been identified for a LEA, it is required to formulate a Corrective Action Plan (CAP) within 30 days of receiving the written report. The LEA must create a CAP and identify activities to be used to remedy any non-compliance issues and provide a timeline for each activity. The monitoring team leader then reviews the CAP and provides assistance as required until it is approved. Local education agencies are then tracked by the monitoring team leader in relation to their progress toward completion of the CAP.

In summary, Virginia utilizes both on- and off-site monitoring approaches in order to monitor special education in the LEAs based on a five-year cycle. The monitoring team leader’s responsibilities include providing communication with the LEA, conducting a pre-visit of the LEA involving a review of materials and information needed for the monitoring visit, coordinating the on-site review, leading the exit meeting, and writing the final monitoring review report. Virginia has developed a self-assessment for LEAs to use in preparation for monitoring
reviews as well, however the VDOE also encourages LEAs to use this checklist as part of internal monitoring. If LEAs are found to be non-compliant with Virginia state regulations and/or IDEA, a CAP is to be filed with the OFPM of VDOE.

**West Virginia**

In West Virginia, it is the responsibility of the Office of Special Programs (OSP) within the West Virginia Department of Education (WVDE) to provide a system of general supervision that monitors special education and compliance with IDEA. According to the Monitoring Annual Report (West Virginia Department of Education, 2010), West Virginia’s purpose in monitoring these services is to improve educational results for students with disabilities and to ensure that the state meets all federal program requirements as noted in Section 619 of the 2004 amendments to IDEA. There are eight interlocking components that comprise the General Supervision System. These components include 1) the State Performance Plan, 2) Fiscal Management, 3) Effective Dispute Resolution, 4) Integrated Monitoring Activities, 5) Data on Process and Reports, 6) Improvement, Correction, Incentives & Sanctions, 7) Policies, Procedures, and Effective Implementation, and 8) Targeted Technical Assistance and Professional Development.

The Office of Special Programs (OSP) within the West Virginia Department of Education (WVDE) establishes review teams that work with LEAs in the monitoring process. The monitoring reviews are completed both on- and off-site, depending on the information reviewed. During their monitoring year, information is reviewed for each LEA that includes its five-year strategic plan, the time and effort report, and the Early Intervening Services report. This also involves the on-line completion of a Comprehensive Self-Assessment Desk Audit (CSADA) and interviews with LEA central office individuals, special education file reviews, building walk-
throughs, and classroom observations. West Virginia's compliance monitoring approach is outlined in Table 18 that provides an overview of the monitoring components by category.

Table 18

**IDEA Compliance Monitoring Approaches for West Virginia**

<table>
<thead>
<tr>
<th>Category</th>
<th>Monitoring Component</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Who?</strong></td>
<td>The West Virginia Department of Education (WVDE) establishes review teams and team leaders, LEA personnel</td>
</tr>
<tr>
<td><strong>When?</strong></td>
<td>Unannounced on-site reviews every four years. Districts are selected by performance levels on SPP, graduation and drop-out rates, demographics of district, complaints and due process hearing decisions, LRE, student enrollment/special education enrollment</td>
</tr>
<tr>
<td><strong>Where?</strong></td>
<td>Both on-site and off-site</td>
</tr>
<tr>
<td><strong>What?</strong></td>
<td>Review of five-year strategic plan, time and effort report, and Early Intervening Services (EIS) report, review IEPs</td>
</tr>
<tr>
<td><strong>How?</strong></td>
<td>On-line completion of Comprehensive Self-Assessment Desk Audit (CSADA), interviews with LEA central office individuals, building walk-throughs, and parent and student focus groups.</td>
</tr>
</tbody>
</table>

West Virginia has produced three publications for their localities that explain how the state and LEAs are to cooperate in the special education monitoring process. The Division of Curriculum and Instructional Programs (DCIP) and the Office of Special Programs (OSP) within the West Virginia Department of Education (WVDE) requires each LEA to complete a Comprehensive Self-Assessment Desk Audit (CSADA). The state board of education establishes review teams “to conduct random unannounced on-site reviews of such programs at least every four years in each county for the purpose of reviewing identification procedures, complying with all applicable laws and policies, delivering services, verifying enrollment and attendance report” (West Virginia Department of Education, 2010, p.14).

The West Virginia Department of Education (WVDE) selects LEAs to be monitored every year (on a four-year cycle) based on SPP performance levels, a review of graduation and drop-out rates, districts demographics, a review of complaints and due processes, and the
proportion of special education enrollment compared with overall student enrollment. According to the West Virginia Office of Special Programs Compliance System Procedures (2011) manual, each selected LEA is notified in the summer of the FFY when the monitoring will be completed. A one-day workshop is available to these LEAs in order to familiarize them with the monitoring activities and requirements. The Office of Special Programs (OSP) provides written communication to the superintendent with a copy to the special education director two weeks prior to the on-site visit. This notifies the LEA of the lead monitor, the on-site visit date, and an activities agenda. From this point on, all communication is conducted between the lead monitor and the special education director. Prior to the on-site visit, the lead monitor reviews data pertaining to the LEA and, based upon that review, may select focused areas to be included in the on-site review.

The Office of Special Programs (OSP) has a very specific schedule to follow while conducting an on-site visit. On the first day of the on-site visit, the monitoring team arrives at the site, conducts an introductory meeting, holds interviews with central office personnel, reviews student files, conducts an administrative review, and ends the day with a monitoring team meeting. During the second through fourth days (depending on the size of the LEA), staff interviews are conducted, the monitoring team participates on school walk-throughs, parent and student focus groups are held, and the monitoring team holds a meeting among themselves. The team leader coordinates school visitation schedules and assigns monitoring team members their specific duties. These duties may include interviews and classroom observations, a review of special education caseloads, the verification of IEP services, a tour of the school facility, and the review of special education files. On the final day of the on-site monitoring visit, the team completes any remaining activities and holds an exit conference with the superintendent, special
education director and others at the discretion of the LEA. During this meeting, team members share their findings, suggest follow-up activities, and provide guidance in correcting any non-compliance issues. A final written report is completed and issued within 60 calendar days of the exit conference.

In summary, West Virginia conducts on-site monitoring reviews as well as conducting a review of information through a state database and Annual Desk Audit (ADA). The LEAs are selected using a variety of factors that may include SPP performance levels, demographics, complaints and due process hearing decisions, and student enrollment. On-site visits are conducted for selected LEAs on a four-year cycle. An Annual Desk Audit (ADA) is conducted along with a review of supporting documentation that the LEA is in compliance with IDEA 2004 and Policy 2419: Regulations for the Education of Students with Exceptionalities.

**Summary for the 4th Judicial Circuit**

All five states within the 4th Judicial Circuit monitor their LEAs through a variety of activities. The various state departments of education use either teams or individuals from a subordinate organization that is committed to providing a free appropriate public education (FAPE) and to improve educational outcomes for children with disabilities in cooperation with the LEAs. Maryland, South Carolina, Virginia, and West Virginia have a cycle where each LEA will be monitored both on- and off-site within a given period of time. Maryland's cycle is every six years, although they also require each LEA to conduct an annual self-assessment that includes a review of policies and procedures related to the 20 performance indicators. South Carolina uses a six-year cycle, Virginia uses a five-year cycle, and West Virginia uses a four-year cycle for on-site monitoring. North Carolina requires each of its LEAs to annually submit a
Continuous Improvement Performance Plan (CIPP) electronically, while requiring certain LEAs to be selected for on-site visits according to specific criteria.

All of the states that were studied utilize a results-oriented monitoring approach. They combine compliance-oriented monitoring with results-based monitoring systems. It has been noted previously in this study that when a state is in 100% compliance with IDEA, this does not guarantee positive outcomes for students with disabilities. Therefore, over the last several years, there has been a shift in the type of monitoring that takes place within states from one that is solely compliance-based to one that focuses on results. By reviewing their monitoring results in comparison with state performance indicator targets, each LEA is made aware of those areas where they may be failing to provide improved outcomes for students with disabilities. This provides each LEA with an opportunity to consider what program changes are necessary in order to follow regulatory procedures and improve the outcomes for students with disabilities.

After reviewing the monitoring information available from the states in the 4th Judicial Circuit, it was determined that Maryland, North Carolina, Virginia, and West Virginia use a combination of personnel from both their respective state departments of education and their local education agencies to monitor for special education compliance. South Carolina is unique in that it only uses its state department of education personnel for monitoring special education compliance within their local education agencies.

In conclusion, states use databases to collect monitoring information, interviews with local education agency personnel to obtain verification of special education compliance with IDEA, and on-site visits to evaluate special education policies and procedures in practice. Other monitoring approaches include the use of self-assessment checklists for ongoing compliance monitoring, focus groups for obtaining parent and student input, and student record reviews for
determining whether or not the student is making progress and/or the appropriate documentation is being performed. The monitoring approaches and activities used by the states in the 4th Judicial Circuit are outlined in Table 19.

Table 19

**Monitoring Approaches for the 4th Judicial Circuit**

<table>
<thead>
<tr>
<th>Monitoring Approaches</th>
<th>MD</th>
<th>NC</th>
<th>SC</th>
<th>VA</th>
<th>WV</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Who?</strong></td>
<td>MSDE, LEAs</td>
<td>NCDPI, LEAs</td>
<td>OEC of the SCDE</td>
<td>OFPM of VDOE, LEAs</td>
<td>WVDE, LEAs</td>
</tr>
<tr>
<td><strong>When?</strong></td>
<td>6-Year Cycle</td>
<td>Annually</td>
<td>Continuous, 6-Year Cycle</td>
<td>5-Year Cycle or As Needed</td>
<td>Unannounced On-Site Review Every 4 Years</td>
</tr>
<tr>
<td><strong>Where?</strong></td>
<td>Both On- and Off-Site</td>
<td>Off-Site</td>
<td>Both On- and Off-Site</td>
<td>Both On- and Off-Site</td>
<td>Both On- and Off-Site</td>
</tr>
<tr>
<td><strong>What?</strong></td>
<td>Self-Assessment Worksheets, Student Record Review Worksheet</td>
<td>CIPP</td>
<td>Excent Online Database System, Fiscal Audits</td>
<td>SPP, APR, CAPs, Complaints, Due Processes</td>
<td>Review of Strategic Plan, EIS Report, IEPs</td>
</tr>
<tr>
<td><strong>How?</strong></td>
<td>Desk Audit, State IEP Program, On-Site Document Review</td>
<td>Electronic Submission, On-Site Visits</td>
<td>Data Reviews, Interviews, LEA Self-Assessment</td>
<td>Desk Audits, Data Reviews, Interviews, File Reviews</td>
<td>CSADA, Interviews, Focus Groups</td>
</tr>
</tbody>
</table>

*Note.* APR = Annual Performance Report; CAP = Corrective Action Plan; CIPP = Continuous Improvement Performance Plan; CSADA = Comprehensive Self-Assessment Desk Audit; EIS = Early Intervening Services; IEP = Individualized Education Program; LEA = Local Education Agency; MSDE = Maryland State Department of Education; NCDPI = North Carolina Department of Public Instruction; OEC = Office of Exceptional Children; OFPM = Office of Federal Program Monitoring; SCDE = South Carolina Department of Education; SPP = State Performance Plan; VDOE = Virginia Department of Education; WVDE = West Virginia Department of Education.

There were some similarities and differences in monitoring approaches noted among the selected states. The states in the 4th Judicial Circuit demonstrated similar approaches to
monitoring. Those similar approaches included that each state has developed a system to monitor its LEAs. Maryland, South Carolina, Virginia, and West Virginia use both on- and off-site data reviews, all states use desk audits at the state level, and all states review each LEA’s progress or lack of progress related to their state performance indicators. North Carolina reviews reports sent electronically from its LEAs on an annual basis, choosing some LEAs for a more in-depth monitoring review based on specific criteria rather than on a cycle. Each state has a process where either teams or individuals from the respective state departments of education are assigned to annually review data from each LEA. Each state requires documentation from its LEAs that is either sent electronically to their respective state departments of education or reviewed on-site, or both. LEAs are then contacted based on the results of their data.

There were differences noted in the way that some states perform desk audits. Maryland and South Carolina have state IEP programs that allow their monitoring specialists to review individual student records. North Carolina, Virginia, and West Virginia have different forms of IEP. These states do not have a standard IEP form that may be remotely accessed by a state monitoring specialist. The monitoring process for these states requires a monitoring specialist to request temporary access to the IEP program used by the LEA in order to review information on an individual student. Another area where states differ in their monitoring approaches is that of how LEAs perform their mandatory self-assessment. Maryland, North Carolina, and West Virginia require each LEA to complete a state-created self-assessment as part of the monitoring process. This self-assessment is reviewed by the monitoring specialist assigned to that LEA. In Virginia, the Office of Federal Program Monitoring (OFPM) provides a self-assessment document for use by its LEAs and strongly urges them to complete this document prior to an on-site monitoring visit. The use of this self-assessment document is voluntary.
While each of the selected states has its own approach used to monitor special education compliance with IDEA, it was determined that there are similarities as well as differences in the monitoring approaches used by each state. We will now examine the similarities and differences related to when the selected states have been successful in meeting their performance indicator targets.

Research Question Two:

To what extent are selected states meeting established special education compliance targets?

The information related to performance indicators and letters of determination from OSEP were reviewed in order to determine when the selected states were meeting established targets. This information was located in the State Performance Plans (SPPs) and Annual Performance Reports (APRs) of each state for FFY 2009 that became available to the researcher as of June 2011. Each state superintendent of education received a letter from the Office of Special Education Programs (OSEP) reporting the results from a review of their State Performance Plans (SPP) and Annual Performance Report (APR) for FFY 2009. Although there are a total of 20 performance indicators that states are required to be in 100% compliance with by the FFY 2014, the states were only required to have reached their targets on eight of these performance indicators (indicators 9, 10, 11, 12, 15, 16, 17, and 20) in FFY 2009.

Tables were created for each state that listed each of the 20 performance indicators, whether or not they were required for the 2009 FFY, and whether each of these performance indicator targets was met, unmet, or where the state did not have a performance indicator target for that year, not reported. Each of the 20 detailed performance indicators has been condensed into a brief phrase that contains the core concept of that indicator for reference purposes (see Appendix).
The performance indicator targets were established by each of the individual states, not by the federal government or OSEP. These individual state performance indicator targets were established using a combination of each state’s respective baseline data and its estimated ability to meet its performance indicator improvement goal. Thus the target for a given performance indicator differs between and among the five states in the 4th Judicial Circuit.

The performance indicator target data obtained from each state was analyzed with respect to its reported performance indicator targets, whether the performance indicator target was required or not required, and whether the performance indicator target was met, unmet, or not reported. Following the review of performance indicator target results from each state, a summary table is presented that provides the reader with a comparison of performance indicator target results across the selected states.

Maryland

Maryland reported results for 14 of the 20 performance indicator targets. Of the eight performance indicator targets that were required to be met by the federal government, Maryland met five of these. The five required performance indicator targets that were met included numbers 9 (Disproportionate Representation), 10 (Disproportionate Disability Categories), 16 (Complaint Timeline), 17 (Due Process Timeline), and 20 (Timely Accurate Reports). The three required performance indicator targets that were not met included numbers 11 (Evaluation Timeline), 12 (Part C to Part B Transition), and 15 (Non-compliance Corrections). Of the 12 performance indicator targets that were not required to be met, Maryland reported results for six of these. The three performance indicator targets that were not required to be met, but were met, included numbers 7 (Preschool Skill Development), 8 (Parental Involvement), and 18 (Resolved Hearing Requests). The three performance indicator targets that were not required to be met, and were not met, included numbers 6 (Preschool LRE), 13 (Post-secondary Transition Goals), and
14 (Post-secondary Activities). The six remaining performance indicator targets that were not required to be met, and where Maryland did not report results, included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 3 (Assessment Participation), 4 (Punishment Discrepancies), 5 (School-age LRE), and 19 (Mediation Agreements). The information provided in Table 20 includes an overview of Maryland's performance status on each of the 20 performance indicator targets.

Table 20

Performance Indicator Target Status for Maryland

<table>
<thead>
<tr>
<th>Performance Indicator Requirement</th>
<th>Maryland</th>
<th>Performance Indicator Target Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>9, 10, 16, 17, 20</td>
<td>Met</td>
</tr>
<tr>
<td></td>
<td>11, 12, 15</td>
<td>Unmet</td>
</tr>
<tr>
<td></td>
<td>(Does not apply)</td>
<td>Not Reported</td>
</tr>
<tr>
<td>Not Required</td>
<td>7, 8, 18</td>
<td>Met</td>
</tr>
<tr>
<td></td>
<td>6, 13, 14</td>
<td>Unmet</td>
</tr>
<tr>
<td></td>
<td>1, 2, 3, 4, 5, 19</td>
<td>Not Reported</td>
</tr>
</tbody>
</table>

North Carolina

North Carolina reported results for 17 of the 20 performance indicator targets. Of the eight performance indicator targets that were required to be met, North Carolina met four of these. The four required performance indicator targets that were met included numbers 9 (Disproportionate Representation), 10 (Disproportionate Disability Categories), 17 (Due Process Timeline), and 20 (Timely Accurate Reports). The four required performance indicator targets that were not met included numbers 11 (Evaluation Timeline), 12 (Part C to Part B Transition), 15 (Non-compliance Corrections), and 16 (Complaint Timeline). Of the 12 performance indicator targets that were not required to be met, North Carolina reported results for nine of these. Performance indicator target number 7 (Preschool Skill Development) was met although it was not required to be met. The eight performance indicator targets that were not required to be met, and were not met, included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 3
(Assessment Participation), 4 (Punishment Discrepancies), 5 (School-age LRE), 8 (Parental Involvement), 18 (Resolved Hearing Requests), and 19 (Mediation Agreements). The three remaining performance indicator targets that were not required to be met, and where North Carolina did not report results, included numbers 6 (Preschool LRE), 13 (Post-secondary Transition Goals), and 14 (Post-secondary Activities). The information provided in Table 21 includes an overview of North Carolina’s performance status on each of the 20 performance indicator targets.

Table 21

**Performance Indicator Target Status for North Carolina**

<table>
<thead>
<tr>
<th>Performance Indicator Target Status</th>
<th>Met</th>
<th>Unmet</th>
<th>Not Reported</th>
</tr>
</thead>
<tbody>
<tr>
<td>Required</td>
<td>9, 10, 17, 20</td>
<td>11, 12, 15, 16</td>
<td>(Does not apply)</td>
</tr>
<tr>
<td>Not Required</td>
<td>7</td>
<td>1, 2, 3, 4, 5, 8, 18, 19</td>
<td>6, 13, 14</td>
</tr>
</tbody>
</table>

**South Carolina**

South Carolina reported results for 15 of the 20 performance indicator targets. Of the eight performance indicator targets that were required to be met, South Carolina met four of these. The four required performance indicator targets that were met included numbers 9 (Disproportionate Representation), 16 (Complaint Timeline), 17 (Due Process Timeline), and 20 (Timely Accurate Reports). The four required performance indicator targets that were not met included numbers 10 (Disproportionate Disability Categories), 11 (Evaluation Timeline), 12 (Part C to Part B Transition), and 15 (Non-compliance Corrections). Of the 12 performance indicator targets that were not required to be met, South Carolina reported results for seven of these. The five performance indicator targets that were not required to be met, but were met, included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 7 (Preschool Skill Development), 8
(Parental Involvement), and 18 (Resolved Hearing Requests). The two performance indicator targets that were not required to be met, and were not met, included numbers 3 (Assessment Participation) and 5 (School-age LRE). The five remaining performance indicator targets that were not required to be met, and where South Carolina did not report results, included numbers 4 (Punishment Discrepancies), 6 (Preschool LRE), 13 (Post-secondary Transition Goals), 14 (Post-secondary Activities), and 19 (Mediation Agreements). The information provided in Table 22 includes an overview of South Carolina's performance status on each of the 20 performance indicator targets.

Table 22

Performance Indicator Target Status for South Carolina

<table>
<thead>
<tr>
<th>South Carolina Performance Indicator Target Status</th>
<th>Performance Indicator Target Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Performance Indicator Requirement</td>
<td>Met</td>
</tr>
<tr>
<td>Required</td>
<td>9, 16, 17, 20</td>
</tr>
<tr>
<td>Not Required</td>
<td>1, 2, 7, 8, 18</td>
</tr>
</tbody>
</table>

Virginia

Virginia reported results for 17 of the 20 performance indicator targets. Of the eight performance indicator targets that were required to be met, Virginia met four of these. The four required performance indicator targets that were met included numbers 9 (Disproportionate Representation), 10 (Disproportionate Disability Categories), 16 (Complaint Timeline), and 17 (Due Process Timeline). The four required performance indicator targets that were not met included numbers 11 (Evaluation Timeline), 12 (Part C to Part B Transition), 15 (Non-compliance Corrections), and 20 (Timely Accurate Reports). Of the 12 performance indicator targets that were not required to be met, Virginia reported results for nine of these. The four performance indicator targets that were not required to be met, but were met, included numbers 7
(Preschool Skill Development), 8 (Parental Involvement), 18 (Resolved Hearing Requests), and 19 (Mediation Agreements). The five performance indicator targets that were not required to be met, and were not met, included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 3 (Assessment Participation), 4 (Punishment Discrepancies), and 5 (School-age LRE). The three remaining performance indicator targets that were not required to be met, and where Virginia did not report results, included numbers 6 (Preschool LRE), 13 (Post-secondary Transition Goals), and 14 (Post-secondary Activities). The information provided in Table 23 includes an overview of Virginia's performance status on each of the 20 performance indicator targets.

Table 23
Performance Indicator Target Status for Virginia

<table>
<thead>
<tr>
<th>Virginia Performance Indicator Target Status</th>
<th>Performance Indicator Target Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Performance Indicator Requirement</td>
<td>Met</td>
</tr>
<tr>
<td>Required</td>
<td>9, 10, 16, 17</td>
</tr>
<tr>
<td>Not Required</td>
<td>7, 8, 18, 19</td>
</tr>
</tbody>
</table>

West Virginia

West Virginia reported results for 15 of the 20 performance indicator targets. Of the eight performance indicator targets that were required to be met, West Virginia met three of these. The three required performance indicator targets that were met included numbers 9 (Disproportionate Representation), 17 (Due Process Timeline), and 20 (Timely Accurate Reports). The five required performance indicator targets that were not met included numbers 10 (Disproportionate Disability Categories), 11 (Evaluation Timeline), 12 (Part C to Part B Transition), 15 (Non-compliance Corrections), and 16 (Complaint Timeline). Of the 12 performance indicator targets that were not required to be met, West Virginia reported results for seven of these. Performance indicator target number 8 (Parental Involvement) was met although...
it was not required to be met. The six performance indicator targets that were not required to be met, and were not met, included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 3 (Assessment Participation), 4 (Punishment Discrepancies), 5 (School-age LRE), and 7 (Preschool Skill Development). The five remaining performance indicator targets that were not required to be met, and where West Virginia did not report results, included numbers 6 (Preschool LRE), 13 (Post-secondary Transition Goals), 14 (Post-secondary Activities), 18 (Resolved Hearing Requests), and 19 (Mediation Agreements). The information provided in Table 24 includes an overview of West Virginia's performance status on each of the 20 performance indicator targets.

Table 24

<table>
<thead>
<tr>
<th>Performance Indicator Target Results for West Virginia</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Virginia</td>
</tr>
<tr>
<td>Performance Indicator Requirement</td>
</tr>
<tr>
<td>Required</td>
</tr>
<tr>
<td>Not Required</td>
</tr>
</tbody>
</table>

Summary for State Compliance Monitoring within the 4th Judicial Circuit

All five states reported data for each of the eight required performance indicators for FFY 2009. Maryland, North Carolina, South Carolina, Virginia, and West Virginia met their respective targets for performance indicator number 9 (Disproportionate Representation). All five states also met their respective targets for performance indicator 17 (Due Process Timeline).

Six of the required eight performance indicators concerned meeting time-related standards including numbers 11 (Evaluation Timeline), 12 (Part C to Part B Transition), 15 (Non-compliance Corrections), 16 (Complaint Timeline), 17 (Due Process Timeline), and 20 (Timely and Accurate Reports). Of these six performance indicators, it was determined that each
of the five states failed to meet one or more of five of these timeline-related performance indicators. There were three of the required performance indicators where all five states failed to meet their respective state targets. These include performance indicator numbers 11 (Evaluation Timeline), 12 (Part C to Part B Transition), and 15 (Non-compliance Corrections).

The two required performance indicators for FFY 2009 that did not involve a timeline were numbers 9 (Disproportionate Representation) and 10 (Disproportionate Disability Categories). The target for performance indicator 9 (Disproportionate Representation) was determined to have been met by all five states. This indicator involves the disproportionate number of students in special education based on ethnicity or race. However, it was determined that only three of the five states met the target for performance indicator 10 (Disproportionate Disability Categories).

The data revealed mixed results for three of the required performance indicators including numbers 10 (Disproportionate Disability Categories), 16 (Complaint Timeline), and 20 (Timely and Accurate Reports). Maryland, South Carolina, and West Virginia met the target for performance indicator number 10 (Disproportionate Disability Categories), while North Carolina and Virginia did not meet this required performance indicator target. Mixed results were also obtained for targets related to performance indicator numbers 16 (Complaint Timeline) and 20 (Timely Accurate Reports). Maryland, South Carolina, and Virginia were found to have met their respective targets for performance indicator number 16 (Complaint Timeline), while North Carolina and West Virginia were unable to meet their respective state targets for this performance indicator. Maryland, South Carolina, and West Virginia were found to have met their respective targets for performance indicator number 20 (Timely Accurate Reports), while
North Carolina and Virginia were unable to meet their respective state targets for this performance indicator.

There were 12 performance indicators that states were not required to meet their state targets during FFY 2009. Maryland, North Carolina, South Carolina, and Virginia met their respective targets for performance indicator number 7 (Preschool Skill Development). Maryland, South Carolina, Virginia, and West Virginia met their respective targets for performance indicator number 8 (Parental Involvement). Maryland, South Carolina, and Virginia met their respective targets for performance indicator number 18 (Resolved Hearing Requests). All five states failed to meet their respective targets for performance indicator numbers 3 (Assessment Participation) and 5 (School-age LRE). Maryland, North Carolina, Virginia, and West Virginia failed to meet their respective targets for performance indicator numbers 1 (Graduation Rates), 2 (Drop-out Rates), and 4 (Punishment Discrepancies). Maryland and North Carolina failed to meet their respective targets for performance indicator number 19 (Mediation Agreements).

The data revealed mixed results for six of the non-required performance indicators. South Carolina was the only state to have met its performance targets for performance indicator numbers 1 (Graduation Rates) and 2 (Drop-out Rates). Virginia was the only state to have met its performance target for performance indicator number 19 (Mediation Agreements). West Virginia was the only state that failed to meet its performance target for performance indicator number 7 (Preschool Skill Development). North Carolina was the only state that failed to meet performance targets for performance indicator numbers 8 (Parental Involvement) and 18 (Resolved Hearing Requests).
There were six performance indicators where states did not report target results in FFY 2009. None of the five states reported performance target results for performance indicator numbers 6 (Preschool LRE), 13 (Post-secondary Transition Goals), and 14 (Post-secondary Activities). South Carolina and West Virginia did not report performance target results for performance indicator number 19 (Mediation Agreements). South Carolina was the only state that did not report performance target results for performance indicator number 4 (Punishment Discrepancies), while West Virginia was the only state that did not report performance target results for performance indicator number 18 (Resolved Hearing Requests). The information provided in Table 25 includes an overview of the 20 performance indicator target results for each of the states within the 4th Judicial Circuit.

**Table 25**

*Performance Indicator Target Results*

<table>
<thead>
<tr>
<th>Performance Indicator Number</th>
<th>Performance Indicator</th>
<th>Performance Indicator Status</th>
<th>MD</th>
<th>NC</th>
<th>SC</th>
<th>VA</th>
<th>WV</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Graduation Rates</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>M</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>2</td>
<td>Drop-out Rates</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>M</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>3</td>
<td>Assessment Participation</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>4</td>
<td>Punishment Discrepancies</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>N</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>5</td>
<td>School-age LRE</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>6</td>
<td>Preschool LRE</td>
<td>Not Required</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>7</td>
<td>Preschool Skill Development</td>
<td>Not Required</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>U</td>
</tr>
<tr>
<td>8</td>
<td>Parental Involvement</td>
<td>Not Required</td>
<td>M</td>
<td>U</td>
<td>M</td>
<td>M</td>
<td>M</td>
</tr>
<tr>
<td>9</td>
<td>Disproportionate Representation</td>
<td>Required</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
</tr>
<tr>
<td>10</td>
<td>Disproportionate Disability Categories</td>
<td>Required</td>
<td>M</td>
<td>M</td>
<td>U</td>
<td>M</td>
<td>U</td>
</tr>
<tr>
<td>11</td>
<td>Evaluation Timeline</td>
<td>Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>12</td>
<td>Part C to Part B Transition</td>
<td>Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>13</td>
<td>Post-secondary Transition Goals</td>
<td>Not Required</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>14</td>
<td>Post-secondary Activities</td>
<td>Not Required</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>15</td>
<td>Non-compliance Corrections</td>
<td>Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>16</td>
<td>Complaint Timeline</td>
<td>Required</td>
<td>M</td>
<td>U</td>
<td>M</td>
<td>M</td>
<td>U</td>
</tr>
</tbody>
</table>
The performance indicator target results for each state may best be summarized by presenting the percent values related to the performance indicator status for each state. All performance indicators are weighted equally by the federal government with respect to determining whether a state has met IDEA requirements. Target results were found to be mixed across the selected states for the performance indicators required to be met for FFY 2009. Maryland was able to meet its performance indicator targets with the highest rate of success (62.5%). South Carolina and Virginia met their respective performance indicator targets with an equal success rate (50%). North Carolina and West Virginia had the greatest difficulty in meeting their performance indicator targets with a relatively low rate of success (37.5%).

Target results were also found to be mixed across the selected states for the performance indicators that were not required to be met for FFY 2009. South Carolina had the highest success rate (41.7%) in meeting non-required performance indicator targets, followed by Virginia (33.3%) and Maryland (25.0%). North Carolina and West Virginia had the lowest rate of success in meeting non-required performance indicator targets (8.3%).

Each state had specific performance indicators where target results were not reported. South Carolina and West Virginia were found to have had the highest rates of non-reported data (41.7%). Maryland, North Carolina, and West Virginia had the same rates of non-reported data (25.0%). These percentages are important as indicators of how each state has performed with
respect to the mandatory 100% compliance with the performance indicators by 2014. The data in Table 26 is presented in percent form in order for the reader to better understand where selected states were able to meet their established performance indicator targets.

Table 26

Performance Indicator Target Results by State

<table>
<thead>
<tr>
<th>State</th>
<th>Required</th>
<th>Not Required</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Met</td>
<td>Unmet</td>
</tr>
<tr>
<td>Maryland</td>
<td>62.5%</td>
<td>37.5%</td>
</tr>
<tr>
<td>North Carolina</td>
<td>37.5%</td>
<td>62.5%</td>
</tr>
<tr>
<td>South Carolina</td>
<td>50.0%</td>
<td>50.0%</td>
</tr>
<tr>
<td>Virginia</td>
<td>50.0%</td>
<td>50.0%</td>
</tr>
<tr>
<td>West Virginia</td>
<td>37.5%</td>
<td>62.5%</td>
</tr>
</tbody>
</table>

*The total percent results for the Not Required data for South Carolina exceeds 100% due to rounding error.

Research Question Three:

What are the areas of non-compliance?

Non-compliance refers to a determination where a state has failed to meet one or more of the performance indicator targets that it established in response to IDEA special education monitoring requirements. The data to be analyzed included those performance indicator targets that a state was either required or not required to meet. This data included those results related to the required performance indicator targets that were determined to be unmet as well as to the those performance indicator targets not required for FFY 2009 that were determined to be unmet. This data was obtained from the letters of determination from OSEP, State Performance Plans (SPPs), and Annual Performance Reports (APRs). The performance indicator data that was not reported by each state could not be included because there was no evidence available that provided support for a determination of whether the performance indicator targets were met or
unmet. The data for this research question has been presented for each state individually followed by a summary of the non-compliance results for the 4th Judicial Circuit.

**Maryland**

Maryland reported that it failed to meet three of the eight required performance indicator targets. These included numbers 11 (Evaluation Timeline), 12 (Part C to Part B Transition), and 15 (Non-compliance Corrections). It was also determined that of the performance indicator targets that were not required to be met, but where data were reported, Maryland failed to meet six of these. These performance indicator targets included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 3 (Assessment Participation), 4 (Punishment Discrepancies), 5 (School-age LRE), and 19 (Mediation Agreements).

**North Carolina**

North Carolina reported that it failed to meet five of the eight required performance indicator targets. These included numbers 11 (Evaluation Timeline), 12 (Part C to Part B Transition), 15 (Non-compliance Corrections), 16 (Complaint Timeline), and 20 (Timely Accurate Reports). It was also determined that of the performance indicator targets that were not required to be met, but where data were reported, North Carolina failed to meet eight of these. These performance indicator targets included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 3 (Assessment Participation), 4 (Punishment Discrepancies), 5 (School-age LRE), 8 (Parental Involvement), 18 (Resolved Hearing Requests), and 19 (Mediation Agreements).

**South Carolina**

South Carolina reported that it failed to meet four of the eight required performance indicator targets. These included numbers 10 (Disproportionate Disability Categories), 11 (Evaluation Timeline), 12 (Part C to Part B Transition), and 15 (Non-compliance Corrections).
It was also determined that of the performance indicator targets that were not required to be met, but where data were reported, South Carolina failed to meet two of these. These performance indicator targets included numbers 3 (Assessment Participation) and 5 (School-age LRE).

**Virginia**

Virginia reported that it failed to meet four of the eight required performance indicator targets. These included numbers 11 (Evaluation Timeline), 12 (Part C to Part B Transition), 15 (Non-compliance Correction), and 20 (Timely and Accurate Corrections). It was also determined that of the performance indicator targets that were not required to be met, but where data were reported, Virginia failed to meet five of these. These performance indicator targets included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 3 (Assessment Participation), 4 (Punishment Discrepancies), and 5 (School-age LRE).

**West Virginia**

West Virginia reported that it failed to meet five of the eight required performance indicator targets. These included numbers 10 (Disproportionate Disability Categories), 11 (Evaluation Timeline), 12 (Part C to Part B Transition), 15 (Non-compliance Corrections), and 16 (Complaint Timeline). It was also determined that of the performance indicator targets that were not required to be met, but where data were reported, West Virginia failed to meet six of these. These performance indicator targets included numbers 1 (Graduation Rates), 2 (Drop-out Rates), 3 (Assessment Participation), 4 (Punishment Discrepancies), 5 (School-age LRE), and 7 (Preschool Skill Development).

**Summary for the 4th Judicial Circuit**

The failure of a state to achieve 100% compliance in meeting a required performance indicator resulted in that state receiving a determination of non-compliance for that indicator.
target. As noted in Research Question Two, the majority of performance indicators that were not
met by the selected states were identified as being related to special education timelines. There
was an exception to this finding related to performance indicator 10 (Disproportionate Disability
Categories) that did not involve a special education timeline.

The data used to answer this question was obtained from the review of each of the State
Performance Plans (SPPs), Annual Performance Reports (APRs) and the letters of determination
to each state from OSEP. All five states reported data for each of the eight required performance
indicators for FFY 2009. Maryland, North Carolina, South Carolina, Virginia, and West
Virginia failed to meet their respective targets for performance indicator numbers 11 (Evaluation
Timeline), 12 (Part C to Part B Transition), and 15 (Non-compliance Corrections). South
Carolina and West Virginia failed to meet their respective targets for performance indicator 10
(Disproportionate Disability Categories). North Carolina and West Virginia failed to meet their
respective targets for performance indicator 16 (Complaint Timeline). North Carolina and
Virginia failed to meet their respective target for performance indicator 20 (Timely Accurate
Reports).

There were 12 performance indicators where states were not required to meet their state
targets during FFY 2009. Maryland, North Carolina, South Carolina, Virginia and West Virginia
failed to meet their respective targets for performance indicator numbers 3 (Assessment
Participation) and 5 (School-age LRE). Maryland, North Carolina, Virginia, and West Virginia
failed to meet their respective targets for performance indicators 1 (Graduation Rates), 2 (Drop-
out Rates), and 4 (Punishment Discrepancies). Maryland and North Carolina failed to meet their
respective targets for performance indicator 19 (Mediation Agreements).
There were found to be mixed results for three of the required performance indicator targets, including numbers 10 (Disproportionate Disability Categories), 16 (Complaint Timeline), and 20 (Timely Accurate Reports). The data also revealed mixed results for seven of the non-required performance indicators, including numbers 1 (Graduation Rates), 2 (Drop-out Rates), 4 (Punishment Discrepancies), 7 (Preschool Skill Development), 8 (Parental Involvement), 18 (Resolved Hearing Requests), and 19 (Mediation Agreements).

West Virginia was the only state to have failed to meet its performance target for performance indicator number 7 (Preschool Skill Development). North Carolina was the only state that failed to meet its performance targets for performance indicator numbers 8 (Parental Involvement) and 18 (Resolved Hearing Requests). It was determined that each of the selected states either met five of the performance indicators or that data for these performance indicators were not reported. The information presented in Table 27 provides an overview of the 15 non-compliant performance indicator target results for each of the states within the 4th Judicial Circuit.

Table 27

*Performance Indicator Target Non-compliance Areas*

<table>
<thead>
<tr>
<th>Performance Indicator Number</th>
<th>Performance Indicator</th>
<th>Performance Indicator Status</th>
<th>MD</th>
<th>NC</th>
<th>SC</th>
<th>VA</th>
<th>WV</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Graduation Rates</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>M</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>2</td>
<td>Drop-out Rates</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>M</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>3</td>
<td>Assessment Participation</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>4</td>
<td>Punishment Discrepancies</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>N</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>5</td>
<td>School-age LRE</td>
<td>Not Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>7</td>
<td>Preschool Skill Development</td>
<td>Not Required</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>M</td>
<td>U</td>
</tr>
<tr>
<td>8</td>
<td>Parental Involvement</td>
<td>Not Required</td>
<td>M</td>
<td>U</td>
<td>M</td>
<td>M</td>
<td>M</td>
</tr>
<tr>
<td>10</td>
<td>Disproportionate Disability Categories</td>
<td>Required</td>
<td>M</td>
<td>M</td>
<td>U</td>
<td>M</td>
<td>U</td>
</tr>
<tr>
<td>11</td>
<td>Evaluation Timeline</td>
<td>Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
<tr>
<td>12</td>
<td>Part C to Part B Transition</td>
<td>Required</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
<td>U</td>
</tr>
</tbody>
</table>
Research Question Four:

What actions do states take to remedy identified areas of non-compliance?

As a component of its monitoring system, each state within the 4th Judicial Circuit is required to create a process for the remediation of non-compliance issues. In order to determine each state's non-compliance remediation activities, information was obtained from literature published by the individual states on their respective websites. The researcher contacted members of each state's department of education who were familiar with the non-compliance remediation activities within their respective states. These individuals were contacted through e-mail and/or telephone conversations for clarification of their state's monitoring process. The actions taken by each state to remedy non-compliance, within their Local Education Agencies (LEAs), form a process that each state uses as an approach to address these issues.

There were four procedures used to address Research Question Four. First, a brief overview was created that explains each state's non-compliance remediation approach. Second, a table was created for each state that identifies who is responsible for non-compliance remediation, when the remediation is performed, where the remediation is performed, what documents and other information are used to perform and verify the remediation, and how the remediation process is carried out. These five question categories were selected for comparison across the states because they succinctly identify the critical components of each state's non-
compliance remediation approach. Third, an in-depth discussion of each state’s remediation process is provided for clarification. Finally, a summary of the non-compliance remediation approaches is provided for a general comparison across the selected states. The information in Table 28 provides the reader with a sample display of the structure of the tables created for each of the selected states. Each question category is followed by a brief description of its non-compliance remediation approach component.

Table 28

<table>
<thead>
<tr>
<th>Category</th>
<th>Non-compliance Remediation Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>State Department of Education (DOE), Individuals, Teams, Both Individuals and Teams</td>
</tr>
<tr>
<td>When?</td>
<td>Timeline</td>
</tr>
<tr>
<td>Where?</td>
<td>On-Site Visit, Off-Site Review, Both On-Site and Off-Site Visits</td>
</tr>
<tr>
<td>What?</td>
<td>Type of Correction Action Plan</td>
</tr>
<tr>
<td>How?</td>
<td>Interviews, Data Reviews, Electronic Communication</td>
</tr>
</tbody>
</table>

Maryland

Maryland’s approach to the remediation of special education non-compliance is managed by the office of Quality Assurance and Monitoring (QAM) located within the Maryland Department of Education’s Division of Special Education. This office is responsible for the review of each LEA’s self-assessment and other documentation to determine if the LEA is in compliance with all IDEA and state regulations. Based on its annual self-assessment, a LEA may be determined to be in non-compliance. Once this is determined, it must complete a Corrective Action Plan (CAP) that is designed to remedy all non-compliance issues as soon as possible, but no later than one year from identification. If the QAM becomes aware of a pattern of reported incidences made against a particular LEA, the QAM specialist is required to contact
the LEA, share that information, and begin the monitoring process. The information in Table 29 presents an overview of Maryland’s remediation approaches for non-compliance.

Table 29

*Non-compliance Remediation Approaches for Maryland*

<table>
<thead>
<tr>
<th>Category</th>
<th>Non-compliance Remediation Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>Maryland State Department of Education (MSDE) and LEA personnel</td>
</tr>
<tr>
<td>When?</td>
<td>When non-compliance has been discovered after mandatory annual self-assessment or as deemed appropriate due to other evidence</td>
</tr>
<tr>
<td>Where?</td>
<td>Both on- and off-site</td>
</tr>
<tr>
<td>What?</td>
<td>Corrective Action Plan (CAP) and Improvement Plan</td>
</tr>
<tr>
<td>How?</td>
<td>Electronic submission and on-site document reviews</td>
</tr>
</tbody>
</table>

If the LEA uncovers any non-compliance issues during a self-assessment, it must assume the responsibility of creating a Correction Action Plan (CAP), notifying the QAM, and promptly implementing an improvement plan. If non-compliance issues are uncovered during an on-site monitoring visit and document review, the LEA will receive a letter from QAM indicating any student-specific issue that requires correction, the date when the corrections must be completed, and what the MSDE requires for the verification of the correction for non-compliance. If all non-compliance issues are corrected within the required time frame and verified by MSDE personnel, such corrections will be noted in the report to the LEA. Any remaining non-compliance issues not remedied by the due date will remain in the report as such and require additional corrective actions and related improvement plan. This improvement plan, along with the evidence of its implementation, must be submitted to the Quality Assurance Monitoring specialist for review.

The special education department within Maryland’s State Department of Education develops appropriate correction plans for LEAs with non-compliance issues. This is considered to be a technical assistance activity. The technical assistance specialist must ensure that the LEA
is informed as to what needs to be corrected and what evidence is required to verify these corrections.

Maryland uses the same determinations as the federal government concerning whether or not the state meets requirements, need assistance, needs intervention, or needs substantial intervention. Each LEA receives an annual determination based upon all data reviewed both on- and off-site. When LEAs need to create a Corrective Action Plan and implement an Improvement Plan, it is required to work collaboratively with the MSDE during the first year of corrective action. However, as the years progress and where non-compliance is not remedied by local efforts, the Department of Special Education/Early Intervention Services (DSE/EIS) increases its supervisory oversight, schedules meetings with the LEAs, and initiates data collection and its related scheduling. If any non-compliance issues continue for a third year, the DSE/EIS may have the LEA’s Part B funding redirected, request recovery of these funds, or withhold these funds altogether.

North Carolina

North Carolina’s approach to non-compliance remediation is managed by both the North Carolina Department of Public Instruction (NCDPI) and the LEAs. Non-compliance is identified through the completion of the Continuous Improvement Performance Plan (CIPP) in June of the Federal Fiscal Year (FFY) where the data is reviewed electronically at the NCDPI. The documents reviewed include the CIPP, its supporting workbook, the Improvement Activity Review Checklist, and the non-compliance correction worksheets. The ways that LEAs relay information to the NCDPI is by means of electronic submission. The information in Table 30 presents an overview of North Carolina’s remediation approaches for non-compliance.
Table 30

Non-compliance Remediation Approaches for North Carolina

<table>
<thead>
<tr>
<th>Category</th>
<th>Non-compliance Remediation Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>Personnel from North Carolina Department of Public Instruction (NCDPI) and LEAs</td>
</tr>
<tr>
<td>When?</td>
<td>Yearly Completion of the CIPP due June 30th of the FFY</td>
</tr>
<tr>
<td>Where?</td>
<td>North Carolina Department of Public Instruction (NCDPI)</td>
</tr>
<tr>
<td>What?</td>
<td>Completion of deficit worksheets, Improvement Activity Review Checklist, correction of noncompliance worksheet</td>
</tr>
<tr>
<td>How?</td>
<td>Electronic submission</td>
</tr>
</tbody>
</table>

North Carolina has developed a system of sanctions similar to that of the federal monitoring system. Local Education Agencies (LEAs) are divided into one of four categories based upon their compliance with Article 9 of the North Carolina Statute requirements and the IDEA and its regulations as well as the LEA’s performance in meeting the state performance indicator targets. The LEA may meet requirements or receive sanctions including needing assistance (Level 1), needing intervention (Level 2) or needing substantial intervention (Level 3).

In North Carolina, each LEA completes a Continuous Improvement Performance Plan (CIPP) that is required as part of its special education monitoring process. In the related workbook, performance indicator numbers 1 through 15 are presented together with their respective state targets. The state is responsible for addressing issues related to performance indicators 16 through 20. Each LEA is required to respond to two points that must be addressed in relation to each of the 15 performance indicators. The first point involves whether or not the LEA met the state target for that performance indicator. If the LEA met the performance indicator target, the second point does not need to be addressed. If the LEA did not meet the performance indicator target, it must identify the progress or slippage related to the performance indicator target, complete a list of activities using the Improvement Activity Review Checklist,
summarize the results of an analysis from this checklist, and document the steps for implementing the corrective actions.

The use of data verification sheets, internal record review forms, and the documentation of correction worksheets are all part of the remediation process for non-compliance. If the LEA has been found to be non-compliant for two consecutive years, it would receive the sanction of needing assistance (Level 1). The determination of needing assistance may require LEAs to allocate more time and resources toward correcting the non-compliance. The state board of education may impose certain conditions on the LEA and its application for funding and/or direct the LEA in how to allocate their grant monies. The LEA must also note how this allocation is directed toward addressing the areas of non-compliance.

If a LEA has been found to be non-compliant for three consecutive years, the determination of needing intervention (Level 2) is awarded. This determination may include any or all of the sanctions of Level 1 (needing assistance) as well include the withholding of grant funding and entering into a compliance agreement with the state. The most severe sanction is that of needing substantial intervention (Level 3). This sanction may include any of the previous sanctions along with the implementation of a compliance agreement that is billed to the LEA, the recovery of state funds, and/or the referral of the LEA to the appropriate state and/or federal enforcement department and/or agency. According to North Carolina’s Policies Governing Services for Children with Disabilities (2010), if the North Carolina Department of Public Instruction (NCDPI) determines that the LEA is not meeting the state performance indicator targets and/or is in non-compliance with any other state and/or federal requirement, the NCDPI must prohibit the LEA from reducing its maintenance of effort under NC 1502-4 for any fiscal year (p.114).
South Carolina

The Office of Exceptional Children (OEC) within the South Carolina Department of Education (SCDE) is responsible for the supervision of non-compliance remediation in South Carolina. South Carolina utilizes multiple methods to identify and correct non-compliance as soon as possible and to do so no later than one year from the notification of such non-compliance remediation activities as well as other forms of non-compliance correction are verified both on- as well as off-site. The LEAs in South Carolina complete a Plan for Improving Children’s Outcomes (PICO) that is due within 20 business days of receiving the Letter of Findings (LOF) related to non-compliance issues. The verification of any non-compliance remediation issues is conducted through both on- and off-site reviews. The information in Table 31 presents an overview of South Carolina’s remediation approaches for non-compliance.

Table 31

<table>
<thead>
<tr>
<th>Category</th>
<th>Non-compliance Remediation Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>South Carolina Department of Education (SCDE), Office of Exceptional Children (OEC), and LEAs</td>
</tr>
<tr>
<td>When?</td>
<td>Non-compliance, corrections of non-compliance must be made as soon as possible and no later than one year from written notice</td>
</tr>
<tr>
<td>Where?</td>
<td>Both Off-Site and On-Site</td>
</tr>
<tr>
<td>What?</td>
<td>Plan for Improving Children’s Outcomes (PICO) due with 20 business days of receiving report of findings</td>
</tr>
<tr>
<td>How?</td>
<td>Verification by following-up through on- and off-site review</td>
</tr>
</tbody>
</table>

The OEC issues a Letter of Findings (LOF) together with a more detailed report within 30 business days following a monitoring visit. This report will include any non-compliance issues related to either or both of the IDEA and the state regulations for special education noted during the on-site visit. This report may specifically note student-level and/or LEA-level non-compliance and include any corrective actions that may be necessary in order to remedy these
identified areas of non-compliance. The LEA has 20 business days to respond the LOF with a plan that is designed to correct any areas of non-compliance. This plan is referred to as the Plan for Improving Children’s Outcomes (PICO). The remedies to the non-compliance issues may be applied at either the student- and/or district-level. The LEAs are required to implement the activities noted in the PICO and report any such non-compliance corrections to the SCDE. Once the SCDE has received notice that such non-compliance issues have been corrected, it must verify these that these corrections have been made.

The SCDE offers assistance to LEAs who are involved in PICOs. This assistance is made available during the creation of the PICO as well as during the implementation of its specific activities. All non-compliance issues must be corrected as soon as possible, but no later than one year from the date of the report that identifies a non-compliance issue. Any verification conducted by the OEC related to the correction of any non-compliance issue may involve a review of individual student files and/or the LEA’s documentation as a whole in order to determine that a correction has been completed. If additional non-compliance issues are identified during the verification process, the LEA must address and correct them as soon as possible. After the SCDE has verified that all non-compliance issues have been corrected, a letter confirming this fact is sent to the LEA’s superintendent to indicate that the file noting such non-compliance findings has been closed. Any non-compliance issues that continue beyond the one-year correction period “... will result in additional enforcement actions by the OEC and will affect the LEA’s annual determination” (Zais & Metts, 2011, p. 18).

Virginia

The approach to, and verification of, remediation and correction of non-compliance issues as well as special education monitoring is handled through the Office of Federal Program
Monitoring (OFPM) within the Virginia Department of Education (VDOE). The LEA must provide a Corrective Action Plan (CAP) that is due to the OFPM within 30 days of the receipt of the report related to the non-compliance issue. The LEA must correct any findings of non-compliance as soon as possible, but no later than one year from the date of receiving such notice. The verification of non-compliance issues are handled both on- and off-site. The OFPM has a CAP form to be completed that lists any non-compliance issues. The LEA must address each non-compliance issue as well as how and when it will remediate the issue. The information in Table 32 presents an overview of Virginia’s remediation approaches for non-compliance.

Table 32

<table>
<thead>
<tr>
<th>Category</th>
<th>Non-compliance Remediation Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>LEA with assistance from monitoring team leader from Office of Federal Program Monitoring (OFPM)</td>
</tr>
<tr>
<td>When?</td>
<td>Correction Action Plan (CAP) due to VDOE within 30 days, corrections must be made as soon as possible and no later than one year from written notice</td>
</tr>
<tr>
<td>Where?</td>
<td>Both on-site and off-site</td>
</tr>
<tr>
<td>What?</td>
<td>Corrective Action Plan (CAP)</td>
</tr>
<tr>
<td>How?</td>
<td>Verification by following-up through on- and off-site reviews</td>
</tr>
</tbody>
</table>

The Virginia Office of Federal Program Monitoring (OFPM) is required to submit its monitoring review findings to the LEA within four to six weeks from the event. If non-compliance issues are identified, the monitoring team leader will communicate these findings to the LEA. These findings will cite the appropriate regulatory language and any quantitative and/or qualitative data that may supports such findings. If the OFPM has noted any areas of non-compliance, a Corrective Action Plan (CAP) is required to be developed by the LEA within 30 days of receiving the monitoring report.

Once the LEA receives a monitoring report that includes non-compliance issues, it is responsible for completing a CAP. The CAP must include the names of any persons who are
responsible for making a particular correction as well as the time frame when the corrective actions are to be completed. The monitoring team leader reviews the CAP, provides any assistance that may be necessary for appropriate modifications to be made to this document, and once the CAP is finalized, approves it. All non-compliance corrections noted by the CAP must be completed within one year of receiving the non-compliance report. The Office of Federal Program Monitoring (OFPM) tracks the LEA during its progress toward completing the CAP.

The monitoring team leader is the designated individual to follow-up with the LEA concerning completion of the CAP. All routine communication concerning the CAP generally occurs between the team leader and the LEA’s director of special education. The CAP’s supporting documentation must be delivered to the OFPM either by hard copy or, if possible, by electronic means. The monitoring team leader continues to work with the LEA until it is able to ensure that all remediation activities have been completed. The monitoring team leader is required to review the CAP documentation, provide feedback to the LEA as necessary, issue a letter to the LEA’s superintendent once all corrections to the non-compliance issues have been completed, and send a copy of this letter to the LEA’s special education director. A meeting must be called between the monitoring team leader and the local special education director if it appears that corrections are not likely to be completed with the CAP timelines established by the LEA or within the required one-year time frame.

**West Virginia**

West Virginia publishes its Monitoring Annual Report (2010) that outlines the process where LEAs must correct non-compliance issues. The first step in this process involves the West Virginia Department of Education (WVDE) notifying the LEA of any non-compliance issues in writing. The LEA must then submit an improvement plan to the WVDE for the purpose of
correcting any non-compliance issues. This is a detailed plan that identifies the specific steps that the LEA plans to implement in order to remedy any non-compliance issues. The WVDE Office of Special Programs (OSP) conducts a review of any student-specific corrections and/or any systematic procedures and practices that the LEA needs to correct. These corrections must be made as soon as possible, but no later than one year (365 days) from the time that the LEA was notified in writing of the specific non-compliance issue. The information in Table 33 presents an overview of West Virginia's remediation approaches for non-compliance.

Table 33

<table>
<thead>
<tr>
<th>Category</th>
<th>Non-compliance Remediation Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who?</td>
<td>West Virginia Department of Education (WVDE) and LEA personnel</td>
</tr>
<tr>
<td>When?</td>
<td>Report from Office of Special Programs (OSEP) within 60 calendar days of the monitoring visit of non-compliance issues, correction of issues must be as soon as possible and no later than one year from date of notification.</td>
</tr>
<tr>
<td>Where?</td>
<td>On- and off-site</td>
</tr>
<tr>
<td>What?</td>
<td>Letters of Finding (LOF) and documentation of corrective actions due within 15 calendar days.</td>
</tr>
<tr>
<td>How?</td>
<td>Review of documentation for corrective action and completion of such action</td>
</tr>
</tbody>
</table>

In West Virginia, an LEA may receive written notice of non-compliance from a variety of sources. A non-compliance notification may come from an on-site monitoring visit, an annual desk audit (ADA) report, a Letter of Finding (LOF), a due process decision, and/or the result of a focused monitoring report (that is specific to one issue). Once the LEA is notified in writing of a non-compliance issue, it must provide a Corrective Action Plan (CAP) as part of its written response to the WVDE Office of Special Programs (OSP).

The CAP may address non-compliance issues that may be student-specific, systematic, administrative, or any combination of these three types of situation. The OSP has developed specific forms for each of these situations that must be completed by the LEA and included in
the CAP. These forms list the corrective actions to be implemented, the date the non-compliance issues identified in the CAP are to be completed, and the dates that LEA and the OSP are to verify the completion of these corrective actions. The OSP provides targeted technical assistance to those LEAs in need of improvement regarding IDEA compliance. The OSP has a number of tools available to assist the LEAs with the improvement of services to children with disabilities. West Virginia utilizes a system of enforcement and sanctions as part of their approach to remediating non-compliance issues. The WVDE created three levels of sanctions for the purpose of correcting non-compliance issues. Once the LEA has been sent a written notice of being awarded a Level One sanction, the WVDE provides technical assistance to the LEA as well as specifies the corrective actions to be taken by the LEA in order to remedy any non-compliance issues that have existed beyond the one-year mark. A Level Two sanction involves the LEA receiving both a written notification of this award as well as a required corrective action plan to be implemented. A Level Three sanction involves the WVDE imposing any or all of a number of financial and administrative controls on the LEA. The WVDE may take over direct control of the LEA’s special education program, withhold all funding to the LEA, withhold OSP financial support for the special education director position, redirect funds for specific purposes, prevent the LEA from applying for OSP discretionary funding, stop OSP grant funding, audit the LEA’s financial records, and fine the LEA until its non-compliance issues are corrected (West Virginia Department of Education, 2011).

**Summary for the 4th Judicial Circuit**

All departments of education in the 4th Judicial Circuit have a process for non-compliance remediation. This process varies from state to state, although many of the departments of education report similar actions in order to remediate non-compliance. In each
situation the remediation process begins with a report of findings from either a self-assessment, on-site monitoring visit, or an off-site data base review by the respective departments of education. Once the monitoring report or Letter of Findings (LOF) has been received, all LEAs have a maximum of one year to complete the remediation of any non-compliance issue.

Each state department of education provides some form of technical assistance to its LEAs. Each of the five states has procedural guidelines in the form of a workbook, checklist, or self-assessment that may be used to verify that its non-compliance corrections have been made. While all five of the states use electronic means to verify non-compliance corrections, only some of these states have a requirement for an on-site visit to be used for this purpose.

The remediation process is a combined effort that involves both the respective state departments of education and their LEAs. Each state department of education has its own timeline when plans to correct the non-compliance issues are due to the state department of education in response to the monitoring report or LOF. The shortest amount of turn-around time for such a plan is 15 days in West Virginia, a 20-day turn-around time in South Carolina, and a 30-day turn-around time in Virginia. Maryland and North Carolina both require a yearly submission of non-compliance and corrective action plans after the completion of a self-assessment.

Each state department of education uses a variety of forms, workbooks, and checklists in order to verify that such corrections have been implemented. This documentation may be reviewed by an on-site visit or be submitted electronically to an official at its state department of education. Off-site database reviews are used by two of the five state departments of education to assist them with the verification of non-compliance issue correction. The timeline for correcting non-compliance issues varies from state to state, however non-compliance should be
corrected as soon as possible, but no later than one year from the date of the identification of such findings. In Virginia, the monitoring leader is assigned to follow the LEA's progress related to meeting the Corrective Action Plan (CAP) timelines. In South Carolina, the monitoring program manager communicates with each LEA in relation to non-compliance issues every 45 days after the initial PICO has been filed in order to check on progress and ensure the correction of non-compliance issues. In North Carolina, the yearly submission of the CIPP by each LEA is reviewed by the North Carolina Department of Public Instruction (NDCPI) after June 30th of each FFY. In Maryland, the technical assistance specialist and the quality assurance and monitoring specialist from the MSDE share responsibility to ensure that non-compliance issues are corrected by LEAs.

The USED has several options that may be used for correcting states that are found to be in non-compliance with IDEA. While there appear to be no incentives for a state to meet compliance requirements with IDEA, the USED has several consequences in the form of sanctions that may be applied to states that fail to meet these requirements for special education. These sanctions may include withholding grant award funding from a state in some form. It may also include disapproving a state's grant award application, requiring a state to change its policy or practice, requiring a state to create a corrective action plan (CAP), or referring the state to the Department of Justice for continuous non-compliance (Government Accounting Office, 2004). The states have various means used to enforce state and federal regulations related to compliance with IDEA. The states establish non-compliance correction procedures that may include requiring increasingly intense methods of monitoring, making the public aware of a LEA's non-compliance standing through comments on the LEAs Annual Performance Report (APR), and applying sanctions to the LEAs that include the withholding of funding. A most common
requirement deals with requiring LEAs to submit assurance statements with their annual funding applications in order to ensure compliance (NCSEAM, 2007).

In conclusion, the actions taken by states to remedy identified areas of non-compliance include requiring LEAs to provide their staff with professional development related to this need, purchase programs and/or equipment in order to provide FAPE, and obtain the services of consultants to assist with the specific remediation activities. In addition, the states may replace LEA staff with other personnel for the purpose of remediating identified areas of non-compliance. Finally, the states may withhold IDEA Part B funding from a LEA until corrections have been made to remedy identified areas of non-compliance. Table 34 identifies the actions states use to remedy identified areas of non-compliance.

Table 34

*Monitoring Approaches for the 4th Judicial Circuit*

<table>
<thead>
<tr>
<th>Non-compliance Remediation Actions</th>
<th>MD</th>
<th>NC</th>
<th>SC</th>
<th>VA</th>
<th>WV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Who? QAM of the MSDE, LEAs</td>
<td>NCDPI, LEAs</td>
<td>OEC of the SCDE, LEAs</td>
<td>OFPM of VDOE, LEAs</td>
<td>WVDE, LEAs</td>
<td></td>
</tr>
<tr>
<td>When? Cap due to QAM that determines the corrections necessary, the actions to be taken and the due dates for such actions</td>
<td>Whenever Non-compliance is identified, PICO due with 20 days of findings</td>
<td>CAP due within 30 calendar days of notification of non-compliance</td>
<td>Report to OSP within 15 calendar days from notification of non-compliance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Where? Both On- and Off-Site</td>
<td>Off-Site</td>
<td>Both On- and Off-Site</td>
<td>Both On- and Off-Site</td>
<td>Both On- and Off-Site</td>
<td></td>
</tr>
<tr>
<td>Non-compliance Remediation Actions</td>
<td>MD</td>
<td>NC</td>
<td>SC</td>
<td>VA</td>
<td>WV</td>
</tr>
<tr>
<td>-----------------------------------</td>
<td>----</td>
<td>----</td>
<td>----</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td><strong>What?</strong> CAP explaining activities and due dates for correction of non-compliance</td>
<td>CAP explaining activities and due dates for correction of non-compliance</td>
<td>Completion of Deficit Worksheets, Improvement Activity Review Checklist, Correction Non-compliance worksheet</td>
<td>PICO</td>
<td>CAP explaining activities. Personnel responsible, and due dates for correction of non-compliance</td>
<td>CAP explaining activities and due dates for correction of non-compliance</td>
</tr>
<tr>
<td><strong>How?</strong> Electronic Submission/On-site Document Reviews</td>
<td>Electronic Submission, Review of PICO, Data Reviews, Desk Audits, Visits to LEAs</td>
<td>Review of CAP, Desk Audits, Data Reviews, Visits to LEAs</td>
<td>Review of CAP and documentaton of completion of corrective actions</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Consequence</strong> Increase supervisory oversight, redirection of funding, request recovery of funding, withholding of funds.</td>
<td>Withholding of Grant money, Compliance agreement with state, referral to appropriate state or federal enforcement agency</td>
<td>Assistance for SCDE, additional enforcements.</td>
<td>Technical Assistance from VDOE.</td>
<td>Targeted assistance from WVDE.</td>
<td></td>
</tr>
</tbody>
</table>

*Note. CAP = Corrective Action Plan; LEA = Local Education Agency; MSDE = Maryland State Department of Education; NCDPI = North Carolina Department of Public Instruction; OEC = Office of Exceptional Children; OFPM = Office of Federal Program Monitoring; PICO = Plan for Improving Children’s Outcomes; QAM = Quality Assurance and Monitoring; SCDE = South Carolina Department of Education; VDOE = Virginia Department of Education; WVDE = West Virginia Department of Education.*
Research Question Five:

What prevailing themes are evident in due process proceedings for the selected state departments of education?

The due process procedure is a means by which disagreements between parents and school districts may be settled. This procedure involves a hearing where a third party evaluates evidence from both sides and attempts to resolve these disagreements related to the implementation of IDEA. The decisions resulting from a due process proceeding are legally binding. When parents have exhausted all administrative procedures, they have a right to file a request for a due process hearing in order to resolve their disagreement with the LEA.

During a review of the 53 due processes that were reported by the selected states, it was determined that 37 of these (69.8%) involved two or more due process issues. The information received from each state's due process proceedings lists the specific issues that are related to that proceeding. Each of these issues was printed on an individual 4 x 6 index card together with its state, due process code number (for identification) and due process issue number. Using this procedure, a total of 144 issues were identified for FFY 2009 for the five states in the 4th Judicial Circuit. This procedure is now described in detail.

Each due process was coded with a letter that identified its related state. The code letter for Maryland was M, for North Carolina the code letter was N, for South Carolina the code letter was S, for Virginia the code letter was V, and for West Virginia the code letter was W. The due processes for each state were identified. Each due process within its state was coded with a number that identified its order in FFY 2009. The issues related to each due process within each state were identified. Each due process issue was coded with a number that identified its related due process. Each due process issue was also coded with a unique general identification number.
Using this procedure, an index card was created for each due process issue that included the state code letter, the state due process code number, the state due process issue code number, and the due process issue general identification number. An index card for due process issue number 4 related to due process number 26 for the state of Maryland would be coded M 26-4. This due process issue was assigned the general identification number of 118 based on its overall order in the range of all 144 due process issues.

The due process issues were associated with themes using index cards for sorting purposes. Each coded index card was reviewed for a key word, phrase, or overall concept related to its due process issue content. Each of the index cards was distributed into an index card pile that included other index cards with similar due process issues. Once this procedure had been performed, certain theme patterns began to emerge. During this procedure, some of the index cards contained due process issues that did not fit into the initial set of themes. These outliers were set aside temporarily for further analysis. As the procedure continued, some piles of index cards were combined into broader themes. After several iterations of this procedure, the outliers were able to be assimilated into one of the index card piles as the themes became more inclusive. Eventually nine index card piles were formed that reflected the themes including administration, benefits, evaluation, instruction, placements, procedures, reimbursements, rights, and services. This procedure is clarified for the reader with the following specific examples.

The first example involved index cards that listed due process issues related to procedural violations. The issue recorded on index card M 28-1 concerned whether the LEA committed procedural errors that had an educational effect on the student. The issue recorded on index card M 26-3 concerned whether the student's IEP was fully implemented at school for the 2008-2009 school year. Both of these issues are indicative of procedural matters related to IDEA and its
respective regulations, thus the theme of Procedures (PR) emerged. The second example involved the situation where index cards listed due process issues that related to the reimbursement of some form of private services. The issue recorded on index card M 16-3 questioned whether parents were entitled to reimbursement for private evaluation. On index card W 1-2 the issue recorded related to the question of parents requesting reimbursement for private school. The analysis of the information from these cards resulted in the creation of the theme Reimbursement (RE). Using this procedure, a review of the 144 index cards containing the due process issues resulted in the creation of nine due process themes. The information in Table 35 identifies the number of due process issues by their respective themes.

Table 35

<table>
<thead>
<tr>
<th>Due Process Theme</th>
<th>MD</th>
<th>NC</th>
<th>SC</th>
<th>VA</th>
<th>WV</th>
<th>4th Judicial Circuit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Benefits</td>
<td>17</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>19</td>
</tr>
<tr>
<td>Evaluation</td>
<td>7</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>0</td>
<td>16</td>
</tr>
<tr>
<td>Instruction</td>
<td>3</td>
<td>0</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Placements</td>
<td>16</td>
<td>2</td>
<td>5</td>
<td>7</td>
<td>0</td>
<td>30</td>
</tr>
<tr>
<td>Procedures</td>
<td>10</td>
<td>7</td>
<td>0</td>
<td>4</td>
<td>3</td>
<td>24</td>
</tr>
<tr>
<td>Reimbursements</td>
<td>18</td>
<td>2</td>
<td>1</td>
<td>4</td>
<td>1</td>
<td>26</td>
</tr>
<tr>
<td>Rights</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>3</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Services</td>
<td>1</td>
<td>0</td>
<td>3</td>
<td>5</td>
<td>0</td>
<td>9</td>
</tr>
<tr>
<td>Totals</td>
<td>74</td>
<td>15</td>
<td>15</td>
<td>32</td>
<td>8</td>
<td>144</td>
</tr>
</tbody>
</table>

Pareto analysis was used to determine the relative numerical effect of each of the nine due process themes for each state and for the 4th Judicial Circuit. A summary of the results has been presented for each state and the 4th Judicial Circuit, followed by its Pareto chart that displays the results of the effects in graphical form.
The Pareto chart is a hybrid graphical representation of an ordered series of data that includes both bars and a line. The bars are used to provide a visual representation of ranked data for the purpose of decision making, while the line represents the cumulative frequency of a set of variables at certain points as they contribute to the series as a whole. The data for each variable is tabulated in order to obtain a frequency count. The bars are placed in the chart from left to right in the order of decreasing frequency. This is done in order to display the data that has the greatest effect first so that its relative importance may be noted when compared with other data frequencies in the chart; therefore, the greater the height of a bar on the Pareto chart, the greater the contribution of its data to the set of data to be evaluated. Since the frequency bars on the chart are placed from left to right, the reader may readily identify the data related to a variable in the order of its relative contribution to the set of variables under scrutiny (Brogan, 2010; Koch, 2008).

For this study, each bar on the Pareto chart represents the number of due process issues for a particular variable (theme). Each theme is identified by its coded variable on the horizontal axis. The number of due process issues by theme may be identified by both the height of the bar relative to the left vertical axis as well as the number located in the center of the bar. The cumulative value of a theme’s contribution to the whole set of data is summed from left to right across the chart with its percentage values identified on the line above the bar as well as on the right vertical axis. Thus, the percentage value listed above the line over the first bar identifies its theme’s contribution to the overall set of due process issues for that state, while the percentage value listed above the line over the second bar identifies the combination of both the first and second themes. The percentage value listed above the line over the third bar identifies the cumulative contribution of the first, second, and third themes and so on. This permits the reader
to view the cumulative effect of the due process themes at a glance. By viewing these Pareto charts, the reader is able to immediately identify the prevailing themes in due processes for each state and for the 4th Judicial Circuit as a whole.

**Maryland**

The majority (69%) of due process issues for Maryland were related to three of the due process themes (Reimbursements, Benefits, and Placements). Therefore, based on this result, it is concluded that Maryland would benefit from applying its available resources in support of correcting problems associated with these themes. The information in Graph 1 shows the relative value of each due process theme based on the number of its related due process issues (the number in the bars) as well as the cumulative effect based on its percent contribution (the percent along the line) to the total number of due process issues.
Graph 1

Due Process Themes for Maryland

![Bar Graph](image)

**Note.** RE = Reimbursements; BE = Benefits; PL = Placements; PR = Procedures; EV = Evaluation; IN = Instruction; AD = Administration; RI = Rights; SE = Services.

**North Carolina**

The majority (60%) of due process issues for North Carolina were related to one primary due process theme (Procedures) in combination with any one of three other due process themes (Placements, Reimbursements, or Rights). Therefore, based on this result, it is concluded that North Carolina would benefit from applying its available resources in support of correcting problems associated with these themes. The information in Graph 2 shows the relative value of each due process theme to the whole based on the number of its related due process issues (the
number in the bars) as well as the cumulative effect based on its percent contribution (the percent along the line) to the total number of due process issues.

Graph 2

*Due Process Themes for North Carolina*

Note. PR = Procedures; PL = Placements; RE = Reimbursements; RI = Rights; BE = Benefits; EV = Evaluation; AD = Administration; IN = Instruction; SE = Services.

**South Carolina**

The majority (60%) of due process issues for South Carolina were related to two of the due process themes (Placements and Evaluations). Therefore, based on this result, it is concluded that South Carolina would benefit from applying its available resources in support of correcting problems associated with these themes. The information in Graph 3 shows the relative value of each due process theme based on the number of its related due process issues (the number in the
bars) as well as the cumulative effect based on its percent contribution (the percent along the line) to the total number of due process issues.

Graph 3

*Due Process Themes for South Carolina*

![Graph showing due process themes for South Carolina]

*Note.* PL = Placements; EV = Evaluation; SE = Services; IN = Instruction; RE = Reimbursements; AD = Administration; BE = Benefits; PR = Procedures; RI = Rights.

**Virginia**

The majority (63%) of due process issues for Virginia were related to two due process themes (Placements and Services) in combination with any two of three other due process themes (Evaluations, Procedures, and Reimbursements). Therefore, based on this result, it is concluded that Virginia would benefit from applying its available resources in support of correcting problems associated with these themes. The information in Graph 4 shows the relative value of
each due process theme based on the number of its related due process issues (the number in the bars) as well as the cumulative effect based on its percent contribution (the percent along the line) to the total number of due process issues.

Graph 4

*Due Process Themes for Virginia*

![Graph showing due process themes for Virginia](image)

*Note.* PL = Placements; SE = Services; EV = Evaluation; PR = Procedures; RE = Reimbursements; AD = Administration; RI = Rights; IN = Instruction; BE = Benefits.

**West Virginia**

The majority (63%) of due process issues for West Virginia were related to one primary due process theme (Procedures) in combination with any two of five other due process themes (Administration, Benefits, Instruction, Reimbursements, and Rights). Therefore, based on this result, it is concluded that West Virginia would benefit from applying its available resources in
support of correcting problems associated with these themes. The information in Graph 5 shows the relative value of each due process theme based on the number of its related due process issues (the number in the bars) as well as the cumulative effect based on its percent contribution (the percent along the line) to the total number of due process issues.

Graph 5

*Due Process Themes for West Virginia*

![West Virginia Graph](image)

*Note.* PR = Procedures; AD = Administration; BE = Benefits; IN = Instruction; RE = Reimbursements; RI = Rights; EV = Evaluation; PL = Placements; SE = Services.

*Due Process Theme Summary for the 4th Judicial Circuit*

The majority (56%) of due process issues for the 4th Judicial Circuit were related to three of the due process themes (Placements, Reimbursements, and Procedures). The information in Graph 6 shows the relative value of each due process theme based on the number of its related due
process issues (the number in the bars) as well as the cumulative effect based on its percent contribution (the percent along the line) to the total number of due process issues.

Graph 6

Due Process Themes for the 4th Judicial Circuit

Note. PL = Placement; Re = Reimbursement; PR = Procedure; Be = Benefits; EV = Evaluation; SE = Services; IN = Instruction; RI = Rights; AD = Administrative;

The Pareto charts provide an efficient means to show the relative value of the number of due process issues within each of the nine due process themes by state. The use of this tool will provide support to the selected states and their LEA administrators for the purpose of decision making. This will enable them to apply limited resources toward producing the greatest effect toward conflict resolution by creating structures and procedures that may prevent the emergence
of due process issues while improving student learning and school-community relations in the process.

Research question 6:

*How do due process proceedings compare with identified areas of non-compliance?*

In order to answer Research Question Six, data that had been collected to answer Research Questions Three and Five was used as a basis to compare due process proceedings with identified areas of non-compliance. Although no direct comparison between these two variables could be made, a further analysis of data provided the opportunity to compare due process proceedings with identified areas of non-compliance.

Research Question Three identified the areas of non-compliance for each of the five states in this study. Data from Research Question Three involved the identification of non-compliance areas based on all unmet performance indicators (required and not required). The Office of Special Education Programs (OSEP) had already assigned each of the 20 performance indicators to one of the three priority areas. Performance indicators 1 through 8 were assigned to the priority area of FAPE, performance indicators 9 and 10 were assigned to the priority area of Disproportionality, and performance indicators 11 through 20 were assigned to the priority area of General Supervision. Since non-compliance refers to a determination where a state has failed to meet one or more of the performance indicator targets that have been assigned to a priority area, this resulted in the data being directly available for immediate comparison.

Research Question Five examined the due process proceedings for each of the five states in this study. These due process proceedings were subsequently analyzed for the content of their due process issues. The due process issues were then distributed into a set of nine due process themes using a grounded theory approach that was explained in detail in Research Question Five.
The results of this distribution are listed in Table 36 that identifies the number of due process issues by their respective themes.

Table 36

*Number of Due Process Issues by Theme*

<table>
<thead>
<tr>
<th>Due Process Theme</th>
<th>Due Process Issues</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration</td>
<td>5</td>
</tr>
<tr>
<td>Benefits</td>
<td>19</td>
</tr>
<tr>
<td>Evaluation</td>
<td>16</td>
</tr>
<tr>
<td>Instruction</td>
<td>8</td>
</tr>
<tr>
<td>Placements</td>
<td>30</td>
</tr>
<tr>
<td>Procedures</td>
<td>24</td>
</tr>
<tr>
<td>Reimbursements</td>
<td>26</td>
</tr>
<tr>
<td>Rights</td>
<td>7</td>
</tr>
<tr>
<td>Services</td>
<td>9</td>
</tr>
<tr>
<td>Totals</td>
<td>144</td>
</tr>
</tbody>
</table>

Seven of the due process themes (benefits, evaluation, instruction, placements, reimbursements, rights, and services) involved cases related to the violation of a free, appropriate public education, that were grouped under the priority area related to a Free Appropriate Public Education. It was determined that two of the nine due process themes (administration and procedures) fell under the priority area of General Supervision. These types of issues fall within the scope of ensuring that procedures, policies, and practices are in compliance with IDEA and state regulations. It was determined that there were no due process issues that were related to the priority area of Disproportionality. Table 37 displays the relationship between the nine due process themes and their related priority areas.
Table 37

Due Process Themes by Priority Area

<table>
<thead>
<tr>
<th>Due Process Theme</th>
<th>Priority Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FAPE</td>
</tr>
<tr>
<td>Administration</td>
<td>X</td>
</tr>
<tr>
<td>Benefits</td>
<td>X</td>
</tr>
<tr>
<td>Evaluation</td>
<td>X</td>
</tr>
<tr>
<td>Instruction</td>
<td>X</td>
</tr>
<tr>
<td>Placements</td>
<td>X</td>
</tr>
<tr>
<td>Procedures</td>
<td>X</td>
</tr>
<tr>
<td>Reimbursements</td>
<td>X</td>
</tr>
<tr>
<td>Rights</td>
<td>X</td>
</tr>
<tr>
<td>Services</td>
<td>X</td>
</tr>
<tr>
<td>Totals</td>
<td>7</td>
</tr>
</tbody>
</table>

Note. X = Due process theme is related to the priority area.

This procedure facilitated a comparison of the due process proceedings with the three priority areas. In order to compare due process proceedings with identified areas of non-compliance, each of the issues related to the due process themes and the identified areas of non-compliance were associated with one of the three priority areas. Table 38 shows the number of due process themes related to each of the three priority areas.

Table 38

Number of Due Process Issues by State by Priority Area

<table>
<thead>
<tr>
<th>Priority Area</th>
<th>MD</th>
<th>NC</th>
<th>SC</th>
<th>VA</th>
<th>WV</th>
<th>4th Judicial Circuit</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Supervision</td>
<td>11</td>
<td>7</td>
<td>0</td>
<td>7</td>
<td>4</td>
<td>29</td>
</tr>
<tr>
<td>FAPE</td>
<td>63</td>
<td>8</td>
<td>15</td>
<td>25</td>
<td>4</td>
<td>115</td>
</tr>
<tr>
<td>Disproportionality</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>(No Match)</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

As shown in Table 38, it was determined that all 144 due process issues were able to be associated with a priority area. Once these due process issues were reviewed, it was determined that there were no due process issues that could be associated with the priority area of
Disproportionality. It was discovered that 29 due process issues were able to be associated with the priority area of General Supervision. The remaining 115 due process issues were able to be associated with the priority area of FAPE. Thus, it was determined that the prevailing theme in due process proceedings for the selected states was that of providing a free appropriate public education (FAPE) for students with disabilities.

Each of the issues related to the due process proceedings and the identified areas of non-compliance are summarized in Table 39 that provides data by state and for the 4th Judicial Circuit as a whole.

Table 39

Due Process and Non-Compliance Issues by Priority Area

<table>
<thead>
<tr>
<th>Priority Area (Theme)</th>
<th>Issues</th>
<th>MD</th>
<th>NC</th>
<th>SC</th>
<th>VA</th>
<th>WV</th>
<th>4th Judicial Circuit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free Appropriate Public Education</td>
<td>Due Process</td>
<td>63</td>
<td>8</td>
<td>15</td>
<td>25</td>
<td>4</td>
<td>115</td>
</tr>
<tr>
<td></td>
<td>Non-compliance</td>
<td>11</td>
<td>1</td>
<td>3</td>
<td>6</td>
<td>0</td>
<td>21</td>
</tr>
<tr>
<td>Disproportionality</td>
<td>Due Process</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Non-compliance</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>General Supervision</td>
<td>Due Process</td>
<td>11</td>
<td>7</td>
<td>0</td>
<td>7</td>
<td>4</td>
<td>29</td>
</tr>
<tr>
<td></td>
<td>Non-compliance</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>No Match</td>
<td>Due Process</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>Non-compliance</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

The results of the analysis performed on this data indicated that only one of the priority areas (FAPE) could be statistically evaluated due to the lack of usable data for the priority areas of Disproportionality and General Supervision. All of the Disproportionality data had a value of zero because none of the due process issues was determined to have a direct relationship to the priority area of Disproportionality. This prevented the data from being used for a correlation analysis. The General Supervision data related to due processes would have been usable for a correlation analysis, but all of the data related to non-compliance for that priority area had a
value of zero except for Virginia that had a value of one; thus, no correlation could be performed.

The data related to FAPE was evaluated for statistical significance. Once each of the due process and non-compliance issues were placed into their respective priority areas, the Spearman Rank-Order Correlation Coefficient ($R_s$) was used to determine if a relationship existed between these two variables. The two-tailed test of significance was used for evaluating the relationship between these two variables because there was no indication in the related literature of the existence of a relationship between due process proceedings and identified areas of non-compliance. The Spearman Rank-Order Correlation Coefficient was used for this analysis because there were only five states that comprised the 4th Judicial Circuit. This required a nonparametric test to be used because the number of paired data sets was less than or equal to 15. The data for this analysis is located in Table 40.

Table 40

*Spearman Rank-Order Correlation Coefficient Calculation Results*

<table>
<thead>
<tr>
<th>States</th>
<th>DPI</th>
<th>N-CI</th>
<th>DPI Rank</th>
<th>N-CI Rank</th>
<th>d</th>
<th>$d^2$</th>
</tr>
</thead>
<tbody>
<tr>
<td>MD</td>
<td>63</td>
<td>11</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>NC</td>
<td>8</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>SC</td>
<td>15</td>
<td>3</td>
<td>3</td>
<td>3</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>VA</td>
<td>25</td>
<td>6</td>
<td>2</td>
<td>2</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>WV</td>
<td>4</td>
<td>0</td>
<td>5</td>
<td>5</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

*Note.* DPI = Number of Due Process Issues; N-CI = Number of Non-Compliance Issues; $d =$ Difference between Ranks.

Using the standard calculation for Spearman’s Rho, the value of $R_s = 1.000$ with 3 degrees of freedom. The null hypothesis ($H_0$) was rejected at the $\alpha = .05$ level of significance indicating that there is a statistically significant association between the two variables being evaluated (due process issues and non-compliance issues). Thus it was concluded that a strong
positive relationship exists between the rankings of due process proceedings and identified areas of non-compliance across the five states of the 4th Judicial Circuit.

A strong positive correlation was determined to exist between the relative ranking of the selected states with respect to the number of due process issues per state and its corresponding number of non-compliance issues. Graph 7 demonstrates the rank order of due process issues and non-compliance.

Graph 7

*Rank Order of Number of Due Process Issues and Non-compliance Issues*

Note. MD = Maryland; VA = Virginia; SC = South Carolina; NC = North Carolina; WV = West Virginia.

In addition, it was determined that a strong monotonic increasing function exists for these two variables as well indicating that as the number of due process issues for a state rises, the
number of non-compliance issues also rises continuously without dropping. Graph 8 shows this relationship.

Graph 8

*Number of Due Process Issues and Non-compliance Issues*

*Note.* WV = West Virginia; NC = North Carolina; SC = South Carolina; VA = Virginia; MD = Maryland.

The research findings reported in chapter four have provided answers to each of the six research questions developed for this study. The discussion in chapter five links these findings to the related literature and completes the study by providing a statement of the researcher's conclusions and recommendations for further research.
Chapter 5: Discussion, Implications, and Recommendations

This chapter is divided into three sections that will address a discussion of compliance monitoring, implications, and recommendations. This information will provide the reader with an understanding of the related literature and study findings as these relate to compliance monitoring and due processes. The literature reviewed for this study included information related to each of the state monitoring systems, state performance plans (SPPs), due processes, and other materials that were available through website access and other communication methods. Quantitative and qualitative research methods were used to gather the data needed to answer each of the six research questions posed by this study.

Discussion

The first part of this study involved compliance monitoring while the second part concerned due processes. The discussion section of this chapter will address each part of the study separately beginning with compliance monitoring.

As a result of the 2004 reauthorization of The Individuals with Disabilities Education Act (IDEA), the United States Department of Education’s (USED’s) Office of Special Education Programs (OSEP) created a monitoring system that included the gathering of specific data for the purpose of improving educational and functional outcomes for children with disabilities. This reauthorization moved the monitoring process from having a purely compliance-based focus to one that emphasizes both functional and educational outcomes for these students.

In accordance with IDEA 20 U. S. C. § 1416, all states must have in place a monitoring system to supervise compliance and track educational results and functional outcomes for students with disabilities. This system involves a results-oriented monitoring approach that is used by each of the states selected for this study. This type of model is considered appropriate
for special education because it involves the evaluation of both process and product (Finn, et al., 2001; PCESE, 2002). As noted by Gonzalez (1994), this type of monitoring is appropriate for use in reviewing program effectiveness. Although the results-oriented model includes a compliance monitoring component that places emphasis on documentation, paperwork, and following procedural regulations, the use of a compliance model alone does not focus on student outcomes. Thus OSEP changed its requirements from the use of a compliance-based monitoring system to that of a results-oriented monitoring model. Turnbull (2007) explains that with a shift from the compliance-based model of monitoring to the results-oriented model, LEAs are able to expand on their capacity to assure that special education students have access to the general education curriculum in order to improve student achievement.

This study determined that each of the selected states use some form of regulatory or cyclical monitoring procedure as a part of their results-oriented monitoring system. It is this combination of regulatory checks as well as the use of quantifiable data that is used to make decisions to improve educational results and outcomes for children with disabilities. The use of data-driven decision making may assist states and their LEAs across the country by providing more monitoring approach options for compliance with IDEA. This may have an effect on how future monitoring takes place and how LEAs manage their internal monitoring. In its early years the monitoring process was used to focus on ensuring that states provided educational access for students with disabilities. Although this may still be an issue, the greater challenge is whether children with disabilities are able to access and progress in the general education curriculum offered to all students.

It was determined that the selected states utilize similar results-oriented methods for both monitoring special education compliance and remediating issues related to non-compliance with
IDEA. It was also discovered that some of these states had difficulty in meeting their respective 
targets for several of the required performance indicators that had been developed by the U.S. 
Department of Education (USED). The development of a results-oriented monitoring system 
resulted in the creation of the State Performance Plans (SPPs) with their 20 performance 
indicators. Through the development of these State Performance Plans (SPPs) in 2005, each 
state was required to establish performance targets for each of these indicators. Between FFY 
2005 and FFY 2011, the performance indicator targets for the states were gradually increased 
toward the goal of 100% compliance that must be met for all 20 indicators by 2014. Each state is 
required to have its local education agencies (LEAs) meet these criteria on their SPP, report their 
progress or slippage (not doing as well as the previous year) in the Annual Performance Report 
that is posted on its state website, and report to the public how their performance compares with 
their state's targets on each of the 20 performance indicators.

This study identified the performance indicator targets that each state failed to meet and 
determined that these states had mixed results related to meeting their required performance 
indicator targets. According to Richards (1998) an important component of monitoring involves 
the use of information provided by the state performance plans (SPPs) as well as by performance 
indicator results in order to assist states and LEAs in decision making for the purpose of 
improving student outcomes. Shavelson et al., (1991) define indicators as “... statistics that 
reflect important aspects of the educational system” (p. 1). These statistics determine whether 
states and their LEAs have met or failed to meet the state performance indicator targets. States 
and their LEAs are able to use these statistics to determine areas of weakness in relation to 
student outcomes.
Each of the states selected for this study currently use approaches that combine compliance monitoring and data collection to improve both educational results as well as functional outcomes for students with disabilities. Data is collected through the performance indicators that the states are required to utilize in order to measure their progress toward achieving a goal of 100% compliance by 2014. This study found that states were not meeting several of their targets related to the required performance indicators for FFY 2009. It was also determined that states failed to meet several of the timeline-related performance indicator targets as well. The IDEA charges states with the responsibility of not only meeting timelines and following specific procedures, but also ensuring that students with disabilities have educational opportunities made available to them. Although the meeting of timelines is a component of both the compliance-based and results-oriented monitoring models, it must be noted that these requirements do not necessarily result in improved educational outcomes for students with disabilities. The President's Commission on Excellence in Special Education (2002) noted that although meeting such timelines is required by law, it does not necessarily mean that the student is receiving a meaningful education; this was also noted by Wolf and Hassel (Finn, et al., 2001). However without these required timelines, some local education agencies (LEAs) may not carry out their obligations with respect to educating student with disabilities.

Part of a special education monitoring system must include a component that addresses the process for remediating issues of non-compliance (P. L. 108-446, Part B, Sec. 616; 34 CFR § 300.600(e)). Each state in this study was determined to have a system for assisting LEAs with remediating identified areas of non-compliance in order to ensure that all students are provided with a free appropriate public education (FAPE). It was discovered that all of the states in this study used similar approaches for the remediation of non-compliance issues, although states had
different timelines for use in doing so. In addition, this study determined that all states provided some form of technical assistance such as providing professional development opportunities for staff, making suggestions for improving communication with the public, providing guidance for structuring special education programming, and providing direct on-site supervision in order to support their LEAs in correcting their non-compliance issues. We will now turn to a discussion of the second part of this study that concerns due processes.

Due processes, as related to this study, are the means by which parents and school districts may be able to settle disagreements related to the identification, evaluation, placement, and provision of FAPE for a student with disabilities (P. L. 108-446; 118 STAT 2716). The due process procedure involves a school district being required by law to meet timelines, hold meetings, participate in resolution sessions, and provide materials and information to parents in order to mitigate any procedural or substantive issues that have been filed. The due processes that were reviewed for this study were categorized into themes in order to determine the issues that were most common among the select states. This study found that the number of due processes varied widely across the selected states. It was determined that there are three main due process themes that were prevalent across these states, including Placement, Reimbursement, and Procedures in order of the number of identified due process issues. These due process themes included 56% of the total number of 144 due process issues analyzed for this study.

An interesting result of this study involved a comparison between due process proceedings and identified areas of non-compliance. In order to analyze the relationship between these two variables, three priority areas (FAPE, Disproportionality, and General Supervision) were used as the common base from which to make the comparison. The results of this comparison revealed that the priority area of FAPE included the greatest number of due process
issues as well as identified issues of non-compliance. Of the 144 due process issues that were reviewed for this comparison, 115 (79.9%) of these were associated with FAPE, while only 29 (20.1%) due processes were associated with General Supervision, and none (0.0%) with the priority area of Disproportionality. The identification of FAPE as the prevailing subject of due process proceedings may be the result of its vague definition. The courts have upheld that the general concept of FAPE that is defined in 20 U.S.C. § 1401(9) as special education and related services provided at public expense, under public supervision and without charge that meets the standards of the state education agency and includes an appropriate preschool, elementary, or secondary education that is in conformity with the student’s IEP. The reader will note that this definition of FAPE is very broad and may be highly subject to interpretation. This conclusion is supported by the findings of this study in that the priority area of FAPE was revealed to include the majority of due process issues across the selected states.

The themes related to incidences of due process proceedings were then compared to the themes related to the identified areas of non-compliance in order to determine if a relationship existed between these two variables. It was determined from this study that 24 (50.0%) of the 48 non-compliance issues fell within the priority area of FAPE, while 22 (45.8%) of these fell within the priority area of General Supervision. Only two (4.2%) of the non-compliance issues were associated with the priority area of Disproportionality. Thus FAPE was identified as being the prevalent priority area that was associated with both due process proceedings as well as identified areas of non-compliance.

The Spearman Rank-Order correlation coefficient was used to determine if a relationship existed between the number of due process issues and the number of non-compliance issues that were identified for each state. This study determined that a perfect correlation (Rs = 1.000)
existed between the relative ranks of the selected states for these two variables indicating that a
strong positive relationship existed for this data across the selected states. Although this finding
indicated that there was a strong association between these two variables, no cause-effect
relationship was established for these two variables by this study.

We will turn to the second section of this chapter which provides the reader with the
implications related to this study. The implications from this study are focused on programs and
leadership related to special education theory and practice.

Implications

The results of this study provide a number of implications that affect the area of special
education. They are offered to the reader as a guide to improving special education programs for
students with disabilities.

The use of the results-oriented approach to special education monitoring has generally
been accepted as being the best means by which to supervise special education programs (Finn,
et al., 2001; Gonzalez, 1994; PCESE, 2002). This approach was found to be in use across the
selected states in this study. The implication from this finding suggests that, barring a major
change in policy, special education administrators will likely have to use this monitoring
approach for years to come. This provides an opportunity for these personnel to offer
professional development opportunities that will enable their staff to become more familiar with
the policies, practices, and procedures related to compliance with IDEA and their state’s
regulations.

The information resulting from the familiarity with this form of monitoring will assist
school districts in making data-driven decisions related to student outcomes as well improving
program performance over time. The literature supports the use of performance indicators for
the purpose of making data-driven decisions (Tschantz, 2002). Although this study found that
the selected states had mixed results with respect to meeting their performance indicator targets,
this information can be used by special education administrators to identify those performance
indicator areas where their programs are demonstrating success. This information will provide
these administrators with the knowledge related to how resource distribution may best be made
within their school districts to meet other challenges to public education. This study also
determined that states are substantially in non-compliance with IDEA regulations even though
these states are using the preferred method of monitoring (Finn, et al., 2001; Gonzalez, 1994;
PCESE, 2002). This indicates that special education administrators should be alert to the
possibility that another form of monitoring may be more useful in providing data for the
purposes of meeting IDEA regulations. This study also indicated that a majority of the
performance indicators that were unmet related to timeline violations. This finding implies that
more attention may be required of personnel related to this performance indicator requirement.
In addition the states and their LEAs need to pay close attention to this information because a
state’s failure to meet required timelines creates fertile ground for due process-related legal
action to be taken against LEAs. The identification of performance indicator target areas that
require improvement should assist states and LEAs in their decision-making process concerning
how and where resources should be concentrated for the purpose of correcting areas of non-
compliance. This also provides states and LEAs with specific information that will enable them
to modify programming for students with disabilities and to meet the challenge of reducing the
gaps between current indicator performance and SPP target requirements. The result of
continued non-compliance in the area of meeting timelines could result in an increase in the
number of due processes and/or possible sanctions being applied against the LEA and/or the state (GAO, 2004).

As noted in P. L. 108-446, Part B, Sec. 616, states must have a system to monitor the implementation of IDEA. This system includes enforcing compliance and ensuring improvement programs for students with disabilities. This study found that each of the selected states has a system to correct identified areas of non-compliance. If states fail to correct non-compliance issues, sanctions may be enforced at the state and/or LEA levels. According to the Government Accounting Office (GAO, 2004), several sanctions may be enforced by the U.S. Department of Education (USED) including loss of funding, referring the state to the Department of Justice, and/or discontinuing policies, procedures, and/or practices that are not in compliance with IDEA. Special education program administrators at the state level should be aware of the most effective means that may be used to remedy non-compliance in order to effectively close the gap between their state’s current level of special education program compliance and those of IDEA.

Due process is a mechanism used by parents and school districts to settle disagreements. The right to file a due process is identified in P. L. 108-446. Due processes may involve disagreements concerning the identification, evaluation, placement, and/or the provision of a free appropriate public education (FAPE) for students with disabilities. The findings from this study that relate to the prevailing themes in due process proceedings affect the field of special education because they provide information to the LEAs concerning specific categories where due process proceedings have been filed. This information is of importance to states as well as their LEAs because of the amount of time and money they must spend on due process proceedings in support of a resolution. If such conflict was either reduced or eliminated, these
resources could be redirected and used to support such activities as providing professional
development, creating and maintaining parent resource centers, and providing additional services
for students with disabilities.

In this study, due process proceedings were compared with identified areas of non-
compliance in order to determine if there was a relationship between these two variables.
Although this association was confirmed to exist, a further examination of this relationship is
required in order to determine the existence of a cause-effect relationship between these two
variables. It would be useful to explore this possibility because if the number of due process
issues can be reduced by a concurrent reduction in the number of non-compliance issues, an
improvement in compliance monitoring may reduce legal costs, personnel hours, and materiel
waste for a state and its related LEAs with respect to addressing the due process-related matters.
The results of this study identified FAPE as the only priority area for which due processes and
identified areas of non-compliance could be compared due to the low numbers of the latter
variable with respect to the areas of Disproportionality and General Supervision. The priority
area of free appropriate public education (FAPE) may prove to be fertile ground for states to
examine when they wish to apply limited resources to address the challenges that exist in relation
to this priority area.

**Recommendations**

Now that implications from this study have been addressed, it is appropriate for
recommendations to be made for further research. These recommendations may provide useful
guidelines for improving the programs that function to support the educational opportunities for
students with disabilities.

The suggestions for proposed research include the need to study monitoring operations in
order to improve functionality, consistency, and effectiveness. Although compliance monitoring is required by IDEA (P. L. 108-446, Sec. 616 (3)) and the preferred system of monitoring is in use by the selected states in this study, there continues to be identified areas of non-compliance for each of these states. Research is needed to determine if states in other parts of the country have similar outcomes with respect to meeting IDEA requirements.

It is recommended that research be conducted to determine whether states are able to effectively follow the monitoring procedures recommended by OSEP. It is suggested that research be conducted to examine the fidelity with which the various states carry out their monitoring processes in order to determine the reasons for their identified areas of non-compliance. All monitoring activities should be validated to determine whether they have a direct effect on improving educational results and functional outcomes for students with disabilities. Toward this end, research is needed to determine if specific monitoring activities that are designed to support LEAs in achieving special education compliance ultimately improve the effectiveness of their special education programs. Research is needed to determine whether meeting IDEA compliance requirements actually leads to improved educational results and functional outcomes for students with disabilities.

In order to improve the monitoring process, it is recommended that research be conducted to determine whether it is better to use cyclical versus annual reviews for the purpose of meeting state regulations and IDEA requirements. It is further suggested that research be conducted to examine the merits of desk audits versus on-site visits related to compliance monitoring. It is also recommended that research be conducted to determine why states and/or LEAs are missing timelines related to specific performance indicators. Research should also be conducted in order to evaluate the length and frequency of monitoring cycles in order to determine the most
effective and efficient means for states to use in order to improve special education program monitoring. Finally, it is recommended that research be conducted to identify what specific monitoring activities are most effective in assisting states and LEAs to improve special education programs not only to achieve special education compliance, but to ultimately improve educational results and functional outcomes for students with disabilities.

It is the hope of this researcher that if compliance monitoring is able to produce information for states and LEAs to use that enables them to provide effective and efficient programs to support students with disabilities, the conflict that exists between parents and school districts may be substantially reduced. This may concurrently reduce the number of due process proceedings as well as non-compliance issues and enable states and their LEAs to use their limited resources to provide an appropriate educational opportunity for all students. It is this goal that we, as educators, strive to achieve for all of our students who, after all, are our nation's greatest treasure.
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Appendix
Indicators and Condensed Phrasing

<table>
<thead>
<tr>
<th>Performance Indicator</th>
<th>Condensed Phrasing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Percent of youth with IEPs graduating from high school with a regular diploma.</td>
<td>Graduation Rates</td>
</tr>
<tr>
<td>2. Percent of youth with IEPs dropping out of high school.</td>
<td>Drop-out Rates</td>
</tr>
<tr>
<td>3. Participation and performance of students with disabilities on statewide assessments:</td>
<td>Assessment Participation</td>
</tr>
<tr>
<td>4. Rates of Suspension and Expulsion:</td>
<td>Punishment Discrepancies</td>
</tr>
<tr>
<td>5. Percent of children with IEPs aged 6 through 21 served.</td>
<td>School-age LRE</td>
</tr>
<tr>
<td>6. Percent of children aged 3 through 5 with IEPs attending a separate special class, separate school, or residential facility.</td>
<td>Preschool LRE</td>
</tr>
<tr>
<td>7. Percent of preschool children with IEPs who demonstrate improved:</td>
<td>Preschool Skill Development</td>
</tr>
<tr>
<td>8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.</td>
<td>Parental Involvement</td>
</tr>
<tr>
<td>9. Percent of districts with disproportional representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.</td>
<td>Disproportionate Representation</td>
</tr>
<tr>
<td>10. Percent of districts with disproportional representation of racial and ethnic groups in specific categories of disability that is the result of inappropriate identification.</td>
<td>Disproportionate Disabilities Categories</td>
</tr>
<tr>
<td>11. Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that time frame.</td>
<td>Evaluation Timeline</td>
</tr>
<tr>
<td>12. Percent of children referred from Part C prior to age 3 and who are found eligible for Part B who have an IEP developed and implemented by their third birthday.</td>
<td>Part C to Part B Transition</td>
</tr>
<tr>
<td>Performance Indicator</td>
<td>Condensed Phrasing</td>
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<tr>
<td>--------------------------------------------------------------------------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>13. Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate</td>
<td>Post-secondary Goals</td>
</tr>
<tr>
<td>postsecondary goals that are annually updated and based upon an age appropriate</td>
<td></td>
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<tr>
<td>transition assessment, transition services, including courses of study, that will</td>
<td></td>
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<tr>
<td>reasonably enable the student to meet those postsecondary goals, and annual IEP</td>
<td></td>
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<tr>
<td>goals related to the student's transition services needs. There also must be</td>
<td></td>
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<tr>
<td>evidence that the student was invited to the IEP Team meeting where transition</td>
<td></td>
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<tr>
<td>services are to be discussed and evidence that a representative of any participating</td>
<td></td>
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<tr>
<td>agency was invited to the IEP Team meeting with the prior consent of the parent or</td>
<td></td>
</tr>
<tr>
<td>student who has reached the age of majority.</td>
<td></td>
</tr>
<tr>
<td>14. Percent of youth who are no longer in secondary school, had IEPs in effect at the</td>
<td>Post-secondary Activities</td>
</tr>
<tr>
<td>time they left school and were:</td>
<td></td>
</tr>
<tr>
<td>15. General supervision system (including monitoring, complaints, hearings, etc.)</td>
<td>Non-compliance Corrections</td>
</tr>
<tr>
<td>identifies and corrects noncompliance as soon as possible but in no case later than</td>
<td></td>
</tr>
<tr>
<td>one year from identification.</td>
<td></td>
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<tr>
<td>16. Percent of signed written complaints with reports issued that were resolved within</td>
<td>Complaint Timeline</td>
</tr>
<tr>
<td>the 60-day timeline or a timeline extended for exceptional circumstances with</td>
<td></td>
</tr>
<tr>
<td>respect to a particular complaint, or because the parent (or individual or</td>
<td></td>
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<tr>
<td>organization) and the public agency agree to extend the time to engage in mediation</td>
<td></td>
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<tr>
<td>or other alternative means of dispute resolution, if available in the State.</td>
<td></td>
</tr>
<tr>
<td>17. Percent of adjudicated due process hearing requests that were adjudicated within</td>
<td>Due Process Timeline</td>
</tr>
<tr>
<td>the 45-day timeline or a timeline that is properly extended by the hearing officer</td>
<td></td>
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<tr>
<td>at the request of either party or in the case of an expedited hearing, within the</td>
<td></td>
</tr>
<tr>
<td>required timelines.</td>
<td></td>
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<tr>
<td>18. Percent of Hearing requests that went to resolution sessions that were resolved</td>
<td>Resolved Due Process Requests</td>
</tr>
<tr>
<td>through resolution settlement agreements</td>
<td></td>
</tr>
<tr>
<td>19. Percent of mediations held that resulted in mediation agreements.</td>
<td>Mediation Agreements</td>
</tr>
<tr>
<td>20. State reported data are timely and accurate.</td>
<td>Timely Accurate Reports</td>
</tr>
</tbody>
</table>