

Department of Defense

Enhancing Benefits Available For Military Dependent Children with Special Education Needs

Report to the Committees on Armed Services of the House of Representatives and Senate Section 586 of The Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Public Law 111-383

Executive Summary

Section 586 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 required the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the needs of military families with children with special education needs enrolled in U.S. public schools and evaluating options to enhance the benefits available to such families and their children under the Individuals with Disabilities Education (IDEA) in meeting such needs. The Department of Defense (DoD) conferred with the U.S. Department of Education, Office of Special Education Programs (OSEP); the DoD State Liaison Education Opportunities Office; and the DoD Education Activity Educational Partnership Office. DoD also contracted with the Ohio State University (OSU) to provide assistance with completing the report. As part of this contract, the National Association of State Directors of Special Education, the Center for Alternative Dispute Resolution Education, and the Military Interstate Children's Compact Commission were consulted by OSU, as were advisory panel members for a related project entitled *A Review of Educational Services for Children with Special Needs*. An extensive literature review was also conducted that included current DoD surveys and reports related to military families with children with disabilities.

Eleven specific items were listed for inclusion in the report. The first four included obstacles faced by military families in obtaining free special education services; evidence-based research and best practices for special education; timeliness in obtaining special education and related services; and special education finances. The remaining items related to IDEA oversight responsibilities and requested feasibility assessments of proposed actions to improve district compliance. Although anecdotal information shared by military families suggests the listed issues are significant, little systemic data exists to verify their pervasiveness. Consequently, conclusions drawn regarding the need for the proposed changes or their effectiveness are limited. IDEA provides families, including military families, three dispute resolution procedures: mediation, state complaints, and due process hearing. Data are not available to illustrate how frequently or successfully military families utilize these procedures. Most of the proposed actions lacked feasibility due to the need for legislative changes, the increased burdens on education budgets and personnel, and the lack of clear benefit they would provide. However, having DoD document special education complaints filed by military families with Local Education Agencies (LEAs) or states may be feasible. One issue is how the data owned by non-federal entities to populate this system would be obtained.

DoD has initiated multiple efforts to support military families including establishing the Office of Community Support for Military Families with Special Needs (OSN) and providing support through the Exceptional Family Member Program (EFMP). Additional efforts include establishing a resource clearinghouse to help families with relocation; identifying and promulgating effective support practices among service branches; and sponsoring research studies on evidence-based educational practices, Medicaid utilization by military families, and issues experienced by military families.

Action steps proposed by DoD include implementing a process to collect data related to the listed items; collaborating with representatives of all service branches to increase the understanding of IDEA and utilization of procedural safeguards by military families; and consulting with OSEP staff regarding data sources for the military complaint documentation system.

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INTRODUCTION

Section 586 of the Ike Skelton National Defense Authorization Act (NDAA) for Fiscal Year 2011 (Public Law 111-383), required the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the needs of military families with children with special education needs attending U.S. public schools and evaluating options to enhance the benefits available to such families and children under the Individual with Disabilities Education Act as amended in 2004 (IDEA) (20 U.S.C. § 1400 et seq.) in meeting such needs. This report meets that requirement.

In addressing the requirements of section 586, the Department consulted with the:

- U.S. Department of Education, Office of Special Education Programs (OSEP): Monitoring and State Improvement Planning Division;
- DoD State Liaison Education Opportunities Office; and
- DoD Education Activity Educational Partnership Office.

The Department also contracted with Ohio State University (OSU) to assist with completing legislative requirements. As part of this contract, OSU consulted with the:

- National Association of State Directors of Special Education (NASDSE);
- Center for Alternative Dispute Resolution Education (CADRE);
- Military Interstate Children's Compact Commission (MIC3); and
- Members of the advisory panel for a related project entitled *A Review of Educational Services for Children with Special Needs*.

OSN and OSU staff also conducted an extensive literature review of current Department of Defense (DoD) surveys and reports related to military family quality of life issues as well as national reports and studies regarding military families.

Organization of Report. The legislation contained 11 items for response. Item 1, obstacles faced by military families in obtaining free special education services; Item 2, evidence-based practices for special education; Item 3, assess timeliness in obtaining special education and related services; and Item 4, special education finance are answered first. Items 5-10 focus on IDEA compliance issues and feasibility assessments. Before answering the items individually, a general description of federal and state IDEA oversight responsibilities is presented followed by factors impacting the feasibility of the proposed actions. To complete Item 11, consider such other matters as the Secretary of Defense and the Secretary of Education jointly consider appropriate, OSN staff met with their OSEP colleagues and identified no other matters for consideration. The report concludes with DoD initiatives that support military families with children with special needs and a list of proposed DoD action steps.

Data Limitations. Project staff conducted extensive research to respond to the items listed in the legislation. Some data describing challenges reported by military families in obtaining free special education services was obtained from reviewing the DoD studies and reports cited in Appendix A. This

provided valuable information and highlighted significant issues faced by these families. However, the data was largely anecdotal and lacked the rigors of scientifically based¹ research.

Using this data as a starting point, project staff attempted to locate more comprehensive scientifically based research to better understand the characteristics and scope of the issues presented in the items and reported by military families. Despite efforts that included consulting with NASDSE, CADRE, and other agencies, very little data of this nature could be located. The Department desires to effectively resolve the challenges faced by military families, but the lack of comprehensive statistically-researched data currently hampers reaching conclusions regarding the pervasiveness of the lack of community responsiveness to military children with special education needs or whether new procedures are required to ensure their needs are met. This is further illustrated in the specific item responses.

RESPONSES TO ITEMS 1, 2, 3 & 4

1. *Identify and assess obstacles faced by military families with children with special education needs in obtaining a free appropriate public education to address such needs.*

On average, military children may attend up to nine different school districts between kindergarten and 12th grade, and the average military student relocates at least twice during high school. These changes impact all aspects of education, including special education services. A review of the reports cited in Appendix A indicated that families with children with special needs appear to encounter most obstacles during relocations to LEAs. Three categories of obstacles emerge during relocation: 1) establishing services; 2) obtaining comparable services; and 3) interacting with military support systems.

- *Establishing Services.* Families reported frustration with what they perceived as having to “start over” when their children enrolled in a new school district. They spoke of delays with school districts providing educational services when their children enrolled in a new district and described the negative impact such disruptions in special education services can have, particularly for children with intensive needs. Families particularly noted delays with districts sharing special education records such as the Individualized Education Program (IEP).
- *Obtaining Comparable Services.* Differences in educational policies, services, and expectations between sending and receiving districts were the most frequently identified obstacle. Families complained of gaps between special education services they expected their children to receive and those actually provided. Although all districts are required to implement IDEA requirements, families reported that eligibility criteria, evaluations, and IEP services were markedly different among states. A recent report by the Rand Institute² described the experiences of some military families who, when relocating to a new school district in a different state, found their children no longer being eligible for special education services due to differences in eligibility criteria.

¹ Scientifically based research method ensures the research involves rigorous, systematic, and objective procedures to obtain reliable and valid data across multiple measurements and observations.

² Richardson, A. et al. (2011). *Effects of Soldiers' Deployment on Children's Academic Performance and Behavioral Health*, Report by the Rand Institute.

- *Interacting with DoD Support Systems During Relocation.* Families reported that DoD-related relocation support facilities often do not use the same internal practices and procedures. The families expressed confusion regarding specific requirements in new locations and reported that varying procedures were frustrating for them. Communication processes were described as ineffective; families expressed concern that sending installations did not alert receiving installations that families were relocating and in need of services. Information about relocation services was not well-organized or readily available, and families lacked effective advocates to assist them with relocations.
2. *Identify and assess evidence-based research and best practices for providing special education and related services for military children with special education needs.*

IDEA does not distinguish military children from other children with disabilities, so the discussion of evidence-based practices (EBP) applies to all children. In 2004, IDEA was reauthorized and included language that required the use of EBP for evaluations and instructional programs for students suspected of having a disability. IDEA does not specify particular methodologies or practices that districts must use, but leaves those decisions to the local IEP team.

Utilizing EBP (also referred to as *research-based, data-based, and scientifically-based*) in education gained emphasis following the enactment of the No Child Left Behind (NCLB) legislation in 2002 which promoted the use of EBP, particularly for reading. The focus on EBP further intensified following the release of the *President's Commission on Excellence in Special Education* report in 2003. The Commission expressed concern with the high number of students identified with learning disabilities that may not have required identification had they received evidence-based instructional support prior to being referred for special education. The primary issues surrounding EBP in special education have centered on *definition* and *utilization*.

Definition of EBP for Special Education. NCLB and IDEA do not define EBP or provide guidelines for determining if a practice is evidence-based. Researchers have attempted to develop criteria, but educational research, particularly special education research, presents difficulties. Odom et. al. (2005)³ noted one challenge is the complexity of special education arising from the number of disabilities, variability of student needs, variety of educational settings, prevalence rates of IDEA disability categories, IDEA requirements for individualized programming, etc. Another challenge is creating guidelines for determining whether the research basis for a practice qualifies it as evidence-based.

Proposed guidelines generally focus on the number and type of participants; implementation fidelity and comparison conditions; outcome measures; and data analysis methods. The Council for Exceptional Children (CEC) published *Classifying the State of Evidence for Special Education Professional Practices: CEC Practice Study Manual*, which describes its EBP review process. CEC describes practices as having a positive evidence-base, an insufficient evidence-base, or a negative evidence base. The *What Works*

³ Odom, S.L., Brantlinger, E., Gersten, R., Horner, R., Thompson, B., Harris, K.R. (2005). Research in special education: scientific methods and evidence-based practices. *Exceptional Children*, 71(2), 137-148.

*Clearinghouse (WWC)*⁴ also reviews existing research on practices and makes determinations about the quality of research. Treatment and instructional practices for autism spectrum disorders (ASD) have received intensive research in recent years. The *National Professional Development Center on Autism Spectrum Disorders* (NPDCASD), the *National Autism Center* (NAC), and the *Center for Medicare and Medicaid Services* (CMS) have developed separate lists of EBP. While they overlap, these lists further highlight the absence of a universal standard or definition for EBP.

Some researchers view *evidence-based* as a continuum, defining practices as more or less evidence-based. They believe this accurately reflects the current status of the research and gives practitioners a starting point for selecting potential interventions to meet their students' individual needs.

Utilization of EBP. No data is available to describe how frequently or effectively EBP are utilized for students with disabilities. This research to practice question is an ongoing issue in education. One factor potentially limiting usage is that information and resources may not be readily available to all teachers. Another is the format of EBP training resources may not be appropriate for allowing teachers to implement EBP easily, particularly given time constraints. Consequently, some researchers think practices should also have practice-based evidence to be considered an EBP. Related to EBP utilization is implementation fidelity. For a variety of reasons, teachers may use components of several interventions to create a student's individualized program. Critics of this eclectic approach suggest this results in no intervention being implemented as designed or validated, which may reduce its effectiveness. Therefore, although the focus on EBP for children with special needs, including military children, has increased significantly in recent years, factors limiting their identification and utilization must still be resolved before their full positive impact may be experienced.

3. Assess timeliness in obtaining special education and related services.

The only specific IEP timeline in IDEA requires IEPs to be implemented within 30 days of eligibility determination. For students transferring to a district in the same state, the district is required to provide services comparable to those the student previously received until it either accepts the student's IEP or develops a new one. For students transferring to a district in another state within the same school year, the district must provide comparable services until it either conducts an evaluation or develops a new IEP. A contributing factor to service delays is inefficient transfers of school records from sending districts. Although IDEA states that receiving districts must take "reasonable steps to promptly obtain" records, parents may assist by providing copies of all educational records when they transfer to a new district, which can serve as a guide until the official records arrive.

Information shared by military families suggests that obtaining special education services for military children transferring to a new district in a timely fashion may be a significant problem. OSEP does not require states or districts to directly report the time elapsed between a student's arrival in a district and implementation of the student's IEP. NASDSE, CADRE, and other organizations were asked for data or data sources describing IEP implementation delays for military children, but none could be provided.

⁴ The WWC is part of the U.S. Department of Education's Institute of Education Sciences.

4. *Determine and document the cost associated with obtaining special education and related services.*

A report completed by the Special Education Expense Project (SEEP) of the Center for Special Education Finance (CSEF)⁵ in 2004 estimated that \$50 billion was spent on special education services for the 1999-2000 school year while another \$28.3 billion from regular education and other program funds was spent on students with disabilities. Given that approximately 6.2 million students received special education services that year, this results in a per student expenditure of \$12,474. Although this study has not been updated, a 2011 Fordham Institute report⁶ stated special education expenditures increased to approximately \$110 billion in 2010, resulting in a per student expenditure of almost \$17,000. These figures do not reflect the actual cost of special education since no data or formula exists to calculate it. Instead, the figures reflect the amount expended by federal, state, and local agencies on special education services.

Federal Special Education Funding. Federal funds are provided to each state and territory that implements IDEA. Since FY 2009, the total annual special education allocation has been approximately \$11.5 billion. Funds are dispersed through a formula that includes a minimum funding level based on the state's 1999 allocation, total student population, and number of students living in poverty. IDEA guidelines dictate how states should disperse these funds, with most distributed directly to school districts (typically at least 75%). Federal funds help pay excess special education costs since it is estimated that schools spend nearly double on students with disabilities as their non-disabled peers. Additional federal funds are available through two forms of impact aid:

1. *Federal Impact Aid* (20 USC § 7703, Payments for Eligible Federally Connected Children) provides funding to school districts to help offset lost property taxes resulting from tax-exempt federal property in their district and/or to offset costs of high numbers of federally-connected children enrolled in their school. For FY 2010, a total of \$896 million was allocated. Local Education Agencies (LEAs) that serve federally connected children with disabilities receive additional funds to help pay for the excess cost of providing educational services to these children.
2. Since the early 1990's, Congress appropriates a smaller amount of funds for the DoD Impact Aid to support LEAs that educate military children.

DoD Impact Aid provides additional funding through two programs:

- *DoD Impact Aid Supplement Program* (20 U.S.C. § 7703b, Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employee) provides funding to school districts that had at least 19.5% average daily attendance of military dependent students in the preceding year, as counted on their Federal Impact Aid application;

⁵ Chambers, Jay G., Parrish, Tom, and Harr, Jenifer J., *What Are We Spending on Special Education Services in the United States, 1999-2000?*, Advance Report #1, American Institutes for Research, Updated June 2004.

⁶ Scull, J. and Winkler, A.M. (2011). *Shifting Trends in Special Education*, Thomas Fordham Institute.

- *DoD Impact Aid for Children with Severe Disabilities (CWSD) Program* (20 U.S.C. § 7703a, Impact aid for children with severe disabilities) provides funding, through an application process, to LEAs for money previously spent on military dependent children with severe disabilities. Severe disabilities is defined as children with disabilities who because of the intensity of their physical, mental, or emotional problems need highly specialized education, social, psychological, and medical services.⁷
- Legislated eligibility requirements required that an LEA that had at least two military dependent children with a severe disability in the preceding school year with educational costs that exceed three times the state average if educated with the district boundaries or 5 times the national average of educational costs if educated outside the boundaries of the district are eligible to receive payment when appropriated by Congress.
- Eligible school districts are contacted and submit the required forms. Based on data provided by the U.S. Department of Education Impact Aid Program, the DoD Impact Aid program contacts potential LEAs recipients to accept an application for payment based on cost criteria.
- The DoD Impact Aid program determines if each applicant meets the eligibility cost threshold, and calculates funds through formulaic distribution. Payments are disbursed to eligible LEAs prior to October 1st of each year.

For FY 2011, \$44 million was allocated for both of the DoD Impact Aid programs (\$40 million in Supplement and \$4 million in CWSD).

Forty-two states have also enrolled with CMS to receive Medicaid reimbursement for qualified school-based health services, such as physical therapy, occupational therapy, speech and language therapy, and/or administrative costs they incur related to Medicaid. A total Medicaid reimbursement figure could not be obtained but Texas, for example, received approximately \$60 million for school-based health services and \$12 million dollars for administrative claims in FY 2005.

State Special Education Funding. IDEA does not specify how states should fund special education services, but does require states to demonstrate they are not reducing annual expenditures.⁸ According to the Fordham Institute report cited above, recent budget shortfalls have resulted in at least seven states requesting waivers for FY 2010 and six receiving some type of relief. State expenditures for special education are not systemically reported.

States utilize a variety of funding mechanisms for special education. A recent review conducted by NASDSE produced the following chart:

⁷ Section 222.80(b) of title 34, Code of Federal Regulations: Term severe disabilities includes children with disabilities with severe emotional disturbance, schizophrenia, autism, severe and profound mental retardation, and those who have two or more serious disabilities such as deaf-blindness, mental retardation and blindness, and cerebral palsy and deafness.

⁸ This requirement is labeled Maintenance of Effort (MOE) under IDEA.

Formula Type	Description
Multiple student weights	Funding (either a series of multiples of the general education amount or tiered dollar amounts) allocated per special education student that varies by disability, type of placement, or student need
Census-based	A fixed dollar amount per total enrollment or Average Daily Membership (ADM)
Single student weights	Funding (either a single multiple of the general education amount or a fixed dollar amount) allocated per special education student
No separate special education funding	Funding to support special education is rolled into the overall funding levels
Resource-based	Funding based on payment for a certain number of specific education resources (e.g., teachers or classroom units), usually determined by prescribed staff/student ratios that may vary by disability, type of placement or student need
Combination	Funding based on a combination of formula types
Percentage reimbursement	Funding based on a percentage of allowable, actual expenditures
Block grant	Funding based on base-year or prior year allocations, revenues, and/or enrollment

NOTE: Some states provide additional funding for students with high cost programs such as Alaska’s intensive funding provision that provides several times the per student allocation. Some states also have disability scholarship programs such as Ohio’s Autism Scholarship Program or Florida’s McKay Scholarship Program.

Local Special Education Fund. Regardless of federal and state special education funding levels, districts must provide a free appropriate education (FAPE) to all eligible students. Between the 1989-90 and 2004-05 school years, the number of students with disabilities increased by 42.6%. The categories *Other Health Impairment, Autism, and Developmental Delay* demonstrated the largest increases. The SEEP report indicated that 1999-2000 per student expenditures for students with disabilities ranged from \$10,558 for students with specific learning disabilities to \$20,095 for students with multiple disabilities. Currently, it is estimated that 30,000 students nationally receive educational services that cost their districts over \$100,000 per student per year. Districts have limited budget flexibility since, like states; they must annually demonstrate they have not reduced special education expenditures other than for exceptions allowed by IDEA.

RESPONSES TO ITEMS 5, 6, 7, 8, 9, & 10

Before responding to each item individually, a brief overview of IDEA federal and state accountability responsibilities is presented followed by shared factors that limit the feasibility of the proposed actions.

Federal IDEA Oversight. IDEA requires OSEP to provide general supervision of IDEA implementation by states to ensure timely identification and correction of non-compliance. Three key components are State Performance Plan (SPP); Integrated Monitoring Activities; Effective Dispute Resolution.

- *State Performance Plan (SPP).* OSEP requires each state to submit an SPP, which summarizes a state's current performance on 20 indicators (Appendix C), as well as performance goals and improvement strategies. OSEP further requires states to file Annual Performance Reports (APR) that measure yearly progress towards meeting SPP goals. OSEP staff review and make determinations of each state's IDEA compliance. States not meeting requirements receive technical assistance or enforcement actions, which could include federal funds being withheld.
- *Integrated Monitoring Activities.* OSEP conducts onsite compliance reviews known as Verification Visits periodically in each state. These focus on reviewing state systems for *General Supervision, Statewide and District-Wide Assessment, and Data Collection.* OSEP staff visit school districts, meet with parents, stakeholders, and state level staff, and review data. A subsequent letter is sent to the state education agency detailing non-compliance and required corrective actions.⁹
- *Effective Dispute Resolution.* The two components described above focus on systemic IDEA compliance. *Dispute Resolution* focuses on a state's performance in administering dispute resolution processes for parents and districts. The Department of Education's implementing regulations provide three primary dispute resolution methods: mediation, state complaint, and filing a due process complaint.¹⁰ SPP Indicators 16-19 require states to demonstrate the timeliness and effectiveness of their dispute resolution processes.

State IDEA Oversight. OSEP is responsible for ensuring state IDEA compliance and states are responsible for district compliance. States measure district performance based on the 20 SPP/APR indicators and make determinations of each district's IDEA compliance. Each state is required to have an OSEP-approved compliance monitoring system in place. States must also establish guidelines for mediation, complaints, and due process procedures, and report the timeliness with which they are resolved. When districts are non-compliant, states must require corrective actions. States have a range of consequences they may apply, the most severe being the withholding of funds.

Shared Feasibility Factors. The primary factor impacting feasibility is simply that very little comprehensive scientific data is available to demonstrate that the issues described in Items 5-10 are systemic and widespread. Although anecdotal information shared by military families raises concerns, it is difficult to draw generalized conclusions due to limitations described earlier. This data deficit has frequently been identified as a barrier in other studies, including *The Educational Options and Performance of Military-Connected School Districts* project, which stated in its June 2011 report, "a limitation of the studies and impediment to this report are the lack of school-level data on military-

⁹ Verification Visit Letters may be viewed at <http://www2.ed.gov/fund/data/report/idea/partbvvltr/index.html>.

¹⁰ More detailed information is provided in the OSEP Model Procedural Safeguards Notice available at <http://idea.ed.gov/static/modelForms>.

connected children.”¹¹ The Fordham report cited earlier concluded “First and most obviously, we need far better data in the special-education field.”

Secondly, there is a lack of statistical data that demonstrates current IDEA and Department of Education regulations for parental protections lack sufficiency for resolving disputes reported by military families. Parents may ask for mediation, file a complaint with the State Education Agency, or file a due process complaint any time they have concerns with the child’s special education program. Districts and states are monitored not only for the timely resolution of these procedures, but also whether the types of disputes reported indicate systemic non-compliance with IDEA. One issue to be determined is the degree to which military parents understand and utilize these dispute resolution methods. DoD has implemented a number of efforts to help support military families access appropriate educational services and improve their collaboration with school districts. These supports are described in the *DoD Support Activities* section below.

A third feasibility factor is the amount of resources required. To develop and implement the suggested actions would likely entail

- Federal and state legislative changes;
- Federal and state regulatory and procedural changes;
- Additional compliance requirements for school districts;
- Additional compliance monitoring responsibilities for federal and state agency staff;
- Additional DoD linkages and oversight of new requirements.

Individual Item Responses. The information shared above provides context for the individual item responses presented next.

5. *Assess the feasibility of establishing an IEP for military children with special education needs that is applicable across jurisdictions of local educational agencies in order to achieve reciprocity among States in acknowledging such programs;*

All public school districts in the U.S. and its territories and all DoD schools are required to implement IDEA, which defines the specific elements that must be included in all IEPs. Although IEP forms may differ in format, all must contain these required IDEA features. While it is possible to establish a separate IEP form for military children with special education needs by requesting an amendment to IDEA, this action would require significant resources and produce little benefit. The IEP form documents the goals and services the IEP team has developed for a child with special needs. Creating a military-specific IEP form would be redundant, confusing, and unduly burdensome.

6. *Identify means of improving oversight and compliance relating to a local educational agency supporting an existing IEP for a child who is relocating to another State pursuant to the permanent change of station of a military parent until an IEP is developed and approved for the child in the State to which the child relocates;*

¹¹ Department of Defense (2011). *Educational Options and Performance of Military-Connected School Districts* Final Report.

IDEA assigns responsibility for oversight and compliance to OSEP and the individual states. Any suggestions for improvement would likely have to be approved and implemented by the U.S. Dept. of Education. IDEA requires districts to provide FAPE until a new IEP is developed; therefore a child with an existing IEP should not experience a service gap after relocation. Any time parents believe a district is not complying with IDEA, they may request mediation, file a complaint, or request a due process hearing to challenge special education decisions they believe are incorrect. IDEA does not mandate that IEP services be identical to those received previously, but does specify they should be comparable and appropriately designed to meet the child's individual needs. Eligibility criteria and service requirements differ among states and may even result in a student not being eligible for services following a transfer.

At this time, there is no scientifically based data available to determine the extent to which districts do not support existing IEPs for military children who are relocating due to a permanent change of station (PCS). This lack of data makes it difficult for the Department to support a potentially expensive overhaul of existing OSEP and state oversight and compliance procedures.

7. *Assess the feasibility of establishing an expedited process for resolution of complaints by military parents with a child with special education needs about lack of access to education and related services otherwise specified in the IEP of the child.*

The Department of Education's implementing regulations at 34 C.F.R. 300.152 require that complaints filed with state agencies be resolved within 60 days and some states have reduced this to as few as 30 days. Moreover, states are held accountable for their compliance with this requirement. States must annually measure and report their performance for resolving disputes to OSEP. If deficient, OSEP requires them to implement and complete improvement strategies within a specified timeframe. States also monitor school districts on their dispute resolution processes and require corrective actions for areas of non-compliance.

There is no scientific data available to indicate that complaints by military families are not being addressed within these stated timelines. This lack of data makes it difficult for the Department to support a potentially expensive overhaul of the existing state and district complaint management system to expedite the process beyond IDEA requirements (60 days). Additional information regarding complaints filed by military families is presented below in Item 9.

8. *Assess the feasibility of permitting the DoD to contact the State to which a military family will relocate pursuant to a PCS when the orders for such change of station are issued, but before the family takes residence in such State, for the purpose of commencing preparation for education and related services specified in the IEP of the child.*

It is feasible for DoD to contact states prior to a military family's relocation to that state but not beneficial. The intent of this proposed action is to facilitate a smooth education transition to a new district for military children with special education needs. However, districts enroll students based on their residential address, and military families may not know where they will live prior to their move, which would preclude the state from contacting the district prior to arrival. Families may be assigned base housing, placed on a waiting list for base housing or reside off the installation with a variety of private housing options. Larger installations may be served by more than one school district.

Consequently, it seems families would benefit more from receiving information about potential relocation sites, including school contacts and educational resources, to enable them to contact prospective districts prior to their move, which will help promote a smooth educational transition. Fostering positive direct communication between families and the school helps establish an effective working relationship and increases the family's involvement in the child's education. The Exceptional Family Member Program (EFMP) Family Support Program (established for all services by Section 563 of the FY 2010 National Defense Authorization Act (Pub. L. 111-84) and the School Liaison Program provide families with this support, including helping families contact new districts.

9. *Assess the feasibility of establishing a system within the DoD to document complaints by military parents regarding access to free and appropriate public education for their children with special education needs.*

It may be feasible to establish a system within DoD to document complaints by military parents regarding special education services provided by LEAs. Such a system could help document the number and nature of the complaints filed by military families, as well as their resolution status. The Department of Defense Education Activity (DoDEA) has recently been assigned the task of monitoring the status of military-connected students in public schools and a complaint documentation system may be consistent with its scope of work. One potential issue concerns the data source used to identify military-connected complaints. If the system is based on military parents voluntarily reporting complaints they filed, some may choose not to report which would reduce the system's reliability and therefore its feasibility. Parents may also become confused and believe they are initiating a complaint by notifying DoD instead of notifying a district or state.

Another option is to request that school districts or states report the number and content of complaints filed by military families. Similar to the legislative recommendation contained in DoD's *Educational Options and Performance of Military-Connected School Districts* report which suggests adding military-connected children as a subgroup under the Elementary and Secondary Education Act (ESEA), legislative and regulatory changes to IDEA would be required to help ensure accurate reporting. OSEP and state education agencies would be required to monitor compliance placing additional burdens on federal, state, and district staff. Consequently, while establishing a system to document complaints filed by military parents could be beneficial, additional consideration for how to obtain the information to populate the system is necessary.

10. *Identify means to strengthen the monitoring and oversight of special education and related services for military children with special education needs under the Interstate Compact on Educational Opportunities for Military Children.*

The *Interstate Compact on Educational Opportunities for Military Children* is an agreement among the current 39 member states to address school transition issues for military families relocating to different states. Membership in the Compact indicates a state's agreement to maintain the educational requirements military students experienced in the sending states related to enrollment, placement, attendance, program eligibility, and graduation. The Compact addresses special education services by requiring that children with disabilities receive comparable services when transitioning to a member state, consistent with IDEA. The Military Interstate Children's Compact Commission (MIC3) administers

the Compact and acts as facilitator between school districts and families, but provides no oversight or monitoring of educational programs, including special education services.¹² Therefore, it does not appear that the Compact is a feasible tool for increasing special education monitoring and oversight. If parents believe their child is not receiving appropriate special education services, they may utilize their rights under IDEA. The *Parent Issue Resolution Chain* describes how parents can help ensure their children benefit from the Compact's provisions, but does not address special education compliance.

DoD SUPPORT ACTIVITIES

The Department recognizes the importance of supporting all families with children with disabilities. This section highlights specific programs DoD has initiated to provide this support.

1. **The Office of Community Support for Military Families with Special Needs (OSN)**. In September 2010, the OSN was established in DoD by section 563 of the National Defense Authorization Act for FY 2010 (Public Law 111-84) which added section 1781c to title 10, U.S.C. This office guides policy development and oversight in support of military families with special needs.
2. **Exceptional Family Member Program (EFMP)**. The EFMP supports military families with special medical and educational needs. The program has three important components: 1) identification and enrollment; 2) assignment coordination, and 3) family support.
 - **Identification and Enrollment**: The DoD criteria for identifying family members with special educational and medical needs required to enroll in the EFMP, as outlined in DoDI 1315.19¹³, is uniform across Services;
 - **Family Support**: EFMP Family Support assists families with special needs by helping them identify and access available services. The program also assists families with relocating to a new duty station during a Permanent Change of Station (PCS). This "warm handoff" may include introducing families to the EFMP service provider in the new location and providing information about the communities, schools and educational resources near the installation;
 - **Assignment Coordination**: The personnel assignment coordination process established in all Military Services utilizes the information on family members who have special medical and/or educational needs obtained during enrollment. The information on the family members' needs assists the military personnel systems in making overseas assignments to locations where DoDEA and the military medical departments have pre-established programs for family members with special needs.

OSN is currently updating policy to incorporate the required provisions of the NDAA 2010 to include stabilization of families (extending military tours at a location for up to four years) when there is a documented educational or medical need.

¹² More information is available at www.MIC3.net.

¹³ DoD Instruction 1315.19, *Authorizing Special Needs Family Members Travel Overseas at Government Expense*, December 20, 2005 incorporating CH 1, 2/16/2011

3. **Educational Services for Children with Disabilities.** DoD has developed two directories to provide families with information about educational services for children with special needs.

- *Directory of Services Outside of the Continental United States (OCONUS)* identifies the levels of support in overseas communities. It assists the medical and educational assignment coordinators in identifying those military communities overseas with pre-established programs for children with special education needs. The military departments and DoDEA use the directory to provide recommendations to personnel offices regarding the assignment of sponsors of children with disabilities to overseas locations. Civilian personnel offices may also use the directory to provide information to employees about the availability of services OCONUS.
- *Directory of Services in the Continental United States (CONUS)*: This online tool assists families with children with autism spectrum disorder (ASD) with making a smooth transition from one public school district to another within the United States. The Directory currently identifies the demographics, available services, and best practices offered in schools in the five states that are most heavily impacted by military-connected students; California, Georgia, Texas, North Carolina and Virginia. The site includes a “Tools for Making a Smooth Transition” section to assist families during relocation. The directory was an outcome of the *Education Services for Military Dependent Children with Disabilities* project described below in Item 5.

4. **Functional Analysis.** The OSN is analyzing the policies and procedures used by each Service for families with special needs under the EFMP. Effective practices will be identified and, as mandated by Section 1781c of title 10 U.S.C., a single DoD program will be established to centralize record keeping, reporting and continuous monitoring of available resources for military families with special needs.

5. **Research Studies.** DoD has partnered with several land grant universities through a memorandum of understanding (MOU) with the United States Department of Agriculture to conduct research. Through this MOU, the OSN is sponsoring the following research projects:

- *Education Services for Military Dependent Children with Disabilities.* Beginning in October 2009 the Ohio State University (OSU) conducted a comprehensive review of the access and availability of EBP in public school districts for military-connected children with ASD in the states of California, Georgia, North Carolina, Texas, and Virginia. One outcome was the creation of the CONUS Directory described in Item 3. Phase II will expand the review of ASD educational services into ten additional states. The review will include a review of early intervention services and the availability of services for children with intellectual and emotional/behavioral disorders in the five states and the ten new states. The CONUS directory will be updated and an additional directory focusing on early intervention services will be created.
- *Benchmark Study.* Cornell University and the Beach Center of the University of Kansas are conducting a benchmark study to identify the concerns of military families with special needs, the support they require, and the systems that have been effective in providing services. The research team will study civilian and military populations, including military family focus groups,

from all branches of Service. The project will result in recommendations to DoD for expanding community support programs.

- Medicaid Study. West Virginia University is reviewing Medicaid availability and accessibility for military families with special needs. Concerns with lengthy wait lists for Home and Community Based Services waivers, as well as challenges with accessing these waivers, have been raised by military families. Project outcomes will assist OSN in better understanding the pervasiveness of the issues and formulating recommendations.

6. **Family Member Input**. OSN will meet periodically with members of military families with special needs from each Service and the Reserve component to gather input on the challenges and successes they experience in obtaining support services, including educational services. The first meeting was held September 27, 2011.

7. **The Clearinghouse for Military Family Readiness** (www.militaryfamilies.psu.edu). The Clearinghouse, developed in partnership with Pennsylvania State University, is creating an electronic research database to provide military families with information and resources on topics such as relocation, deployment, and disability-related issues. Currently under development, an Exceptional Family Member Program (EFMP) page will house resource information for families with special needs and contain links to web-based resources.

8. **MilitaryHOMEFRONT**. MilitaryHOMEFRONT is the DoD website for official Military Community and Family Policy (MC&FP) program information, policy and guidance designed to help troops and their families, leaders, and service providers. The website has a comprehensive section specifically for military families with special needs. Information about education and medical services on or within the vicinity of the installation, family support programs, and links to state resources such as Medicaid and Medicare, Early Intervention Services, and Vocational Rehabilitation programs. Specific features include

- Plan My Move and MilitaryINSTALLATIONS. These tools provide automated relocation information to military personnel and their families. Specialized content helps families with special needs find relevant information about their new installation and coordinate their move.
- HOMEFRONT Connections. This is a social networking forum that allows military families with children with special needs to communicate via discussion forums, private messaging, or email.

9. **Military OneSource (MOS)**. MOS is a program that is especially helpful for families who are geographically separated from an installation. MOS was previously established by the Department of Defense as a “one-stop” call center to provide resources and support to active-duty, National Guard and Reserve service members and their families anywhere in the world 24 hours a day, 7 days a week. OSN collaborated with MOS to ensure there were specialty consultants available to families with special needs.

10. **Materials for Parents with Children with Special Needs**. DoD has developed materials specifically designed to assist families with children with special needs.

- The *DoD Special Needs Parent Toolkit* for children with disabilities from birth through 21 years of age teaches families about services available to them, including special education. The Toolkit

provides information on what a family should expect and receive under the law and how to voice their concern if they are not receiving these services. The Toolkit is available at no cost to military families through MOS and is delivered directly to them free-of-charge.

- The *Special Care Organizational Record (SCOR) for Children with Special Health Care Needs* is a customizable records organizer. It is intended to help track and organize a child's medical and special educational information to assist families when transitioning from assignment to assignment. It also helps families keep essential information in one place, making it easier for someone else to care for the child in the primary caregiver's absence. The SCOR is available to families at no cost from MOS.

11. **myDoDmobile**: This is a new smartphone application powered by the Defense Manpower Data Center (DMDC) that features a 'frequently asked questions' (FAQ) section for families with special needs. Future design will link it to Military HOMEFRONT, and OSN and DMDC are exploring other ways this application can serve military families.

CONCLUSION

The Department appreciates the opportunity to address the issues raised in this report. Clearly, some military families have experienced difficult educational situations during relocations. Unfortunately, the lack of comprehensive scientific data related to these items makes it problematic to determine the extent to which these issues are systemically experienced by military families with dependents who have special education needs. Similarly, comprehensive data is not available to demonstrate that current IDEA oversight procedures are insufficient or that the recommended actions would be effective. Implementing the proposed actions would require significant federal, state, and local resources when many states and districts are facing severe economic downturns and budget reductions. Therefore, the Department is proposing the following series of actions to help collect the data necessary for decision-making and to improve the utilization of existing IDEA safeguards by military families.

DoD ACTION STEPS

- I. DoD will create and implement a comprehensive plan for collecting more detailed data related to the items in this report. One feature will be to utilize existing work groups in NASDSE, CADRE, and other organizations that focus on educational issues for military children. Collaborating with education agencies to obtain this data is consistent with the MOU signed by DoD and the Department of Education in 2008.
- II. DoD will develop a comprehensive plan for increasing military parent understanding of IDEA and the Department of Education's implementing regulations, particularly IEP requirements, and their utilization of IDEA procedural safeguards. Rather than creating new tools or initiatives, OSN staff will collaborate with representatives of all military services to provide information and resources to military parents to help inform their decision-making regarding their children's special education programs.
- III. OSN staff will collaborate with OSEP staff to explore possible information sources for the proposed military complaint documentation system discussed in Item 9 on page 13 of this report.

APPENDIX A

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APPENDIX B

Selected Resources

- **Center for Special Education Finance** <http://csef.air.org/>. Organization with the mission to address fiscal policy questions related to the delivery and support of special education throughout the United States and disseminate up-to-date information to stakeholders at all levels
- **Center for Evidence-Based Practices:** <http://www.evidencebasedpractices.org/initiatives.php>. An applied research center of the Orelena Hawks Puckett Institute is to bridge the research-to-practice gap in early intervention, early childhood education, parent and family support, and family-centered practices by conducting research, preparing practice-based research syntheses, and producing evidence-based products.
- **Council for Exceptional Children:** <http://www.cec.sped.org//am/template.cfm?section=Home> Organization that supports children with exceptionalities and their families by advocating for appropriate governmental policies, creating professional standards, providing professional development, advocating for individuals with exceptionalities, and helping professionals obtain conditions and resources necessary for effective professional practice.
- **DisabilityInfo.gov:** <https://www.disability.gov/>. Federal government resource that provides access to comprehensive information about disability-related programs, services, laws and benefits.
- **FAPE (The Families and Advocates Partnership for Education)** <http://www.fape.org/> is a component of IDEA Partnerships that provides information and resources related to IDEA to families and other stakeholders.
- **Federal Education Budget Project:** <http://febp.newamerica.net/background-analysis/individuals-disabilities-education-act-cost-impact-local-school-districts>. A non-partisan source of information on federal education funding. The Federal Education Budget Project's background and analysis pages provide detailed information on federal K-12 and higher education programs and spending.
- **Institute of Education Sciences (IES)** <http://ies.ed.gov/>. A component of the Department of Education with a mission to provide rigorous and relevant evidence on which to ground education practice and policy.
- **Military Homefront:** <http://www.militaryhomefront.dod.mil/>; Department of Defense website for official Military Community and Family Policy (MC&FP) program information, policy and guidance designed to help troops and their families, leaders, and service providers.
- **Military Interstate Children's Compact Commission:** <http://www.mic3.net/> Information page for the interstate agreement designed to address educational transition issues experienced by military families, as well as contact information for each participating state.
- **Military OneSource:**
<http://www.militaryonesource.com/home.aspx?MRole=&Branch=&Component=>;

Provided by the Department of Defense at no cost to active duty, Guard and Reserve (regardless of activation status) and their families. It is a virtual extension of installation services.

- **National Association of State Directors of Special Education (NASDSE):** <http://nasdse.org/> Not-for-profit organization that provides services to state agencies to facilitate their efforts to maximize educational outcomes for individuals with disabilities. NADSE sponsors a Community of Practice focusing on ASD.
- **What Works Clearinghouse** (<http://ies.ed.gov/ncee/wwc/>). An initiative of the U.S. Department of Education's Institute of Education Sciences, the WWC focuses on using scientific evidence to identify effective educational practices.

APPENDIX C

State Performance Plan (SPP)/ Annual Performance Report (APR) Indicators

The 20 performance indicators for the SPP and the APR are listed below. More information about the SPP/APR is available at <http://therightidea.tadnet.org/>.

SPP/APR Part B Performance Indicators

- 1: Graduation Rates
- 2: Drop-Out Rates
- 3: Assessment
- 4: Suspension/Expulsion
- 5: School Age Least Restrictive Environment
- 6: Preschool Least Restrictive Environment
- 7: Preschool Outcomes
- 8: Parent Involvement
- 9 and 10: Disproportionality - Child with a Disability and Eligibility Category
- 11: Child Find
- 12: Early Childhood Transition
- 13: Secondary Transition
- 14: Post-School Outcomes
- 15: Identification and Correction of Noncompliance
- 16: Complaint Timelines
- 17: Due Process Timelines
- 18: Hearing Requests Resolved by Resolution Sessions
- 19: Mediation Agreements
- 20: State Reported Data

APPENDIX D
SPECIAL NEEDS PROVISIONS IN THE FY 2011 NDAA
Subtitle I— Military Family Readiness Matters

SEC. 586. REPORT ON ENHANCING BENEFITS AVAILABLE FOR MILITARY DEPENDENT CHILDREN WITH SPECIAL EDUCATION NEEDS.

(a) Report Required- Not later than September 30, 2011, the Secretary of the Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the needs of military families with children with special education needs and evaluating options to enhance the benefits available to such families and children under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in meeting such needs.

(b) Consultation- The Secretary of Defense shall prepare the report in consultation with the Secretary of Education.

(c) Elements- In preparing the report, the Secretary of Defense shall--

(1) identify and assess obstacles faced by military families with children with special education needs in obtaining a free appropriate public education to address such needs;

(2) identify and assess evidence-based research and best practices for providing special education and related services (as those terms are defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) for military children with special education needs;

(3) assess timeliness in obtaining special education and related services described in paragraph (2);

(4) determine and document the cost associated with obtaining special education and related services described in paragraph (2);

(5) assess the feasibility of establishing an individualized education program for military children with special education needs that is applicable across jurisdictions of local educational agencies in order to achieve reciprocity among States in acknowledging such programs;

(6) identify means of improving oversight and compliance with the requirements of section 614 of the Individuals with Disabilities Education Act (20 U.S.C. 1414) relating to a local educational agency supporting an existing individualized education program

for a child with special education needs who is relocating to another State pursuant to the permanent change of station of a military parent until an individualized education program is developed and approved for such child in the State to which the child relocates;

(7) assess the feasibility of establishing an expedited process for resolution of complaints by military parents with a child with special education needs about lack of access to education and related services otherwise specified in the individualized education program of the child;

(8) assess the feasibility of permitting the Department of Defense to contact the State to which a military family with a child with special education needs will relocate pursuant to a permanent change of station when the orders for such change of station are issued, but before the family takes residence in such State, for the purpose of commencing preparation for education and related services specified in the individualized education program of the child;

(9) assess the feasibility of establishing a system within the Department of Defense to document complaints by military parents regarding access to free and appropriate public education for their children with special education needs;

(10) identify means to strengthen the monitoring and oversight of special education and related services for military children with special education needs under the Interstate Compact on Educational Opportunities for Military Children; and

(11) consider such other matters as the Secretary of Defense and the Secretary of Education jointly consider appropriate.