

Results Driven Accountability General Supervision System

Assuring Compliance and Improving Results



West Virginia DEPARTMENT OF
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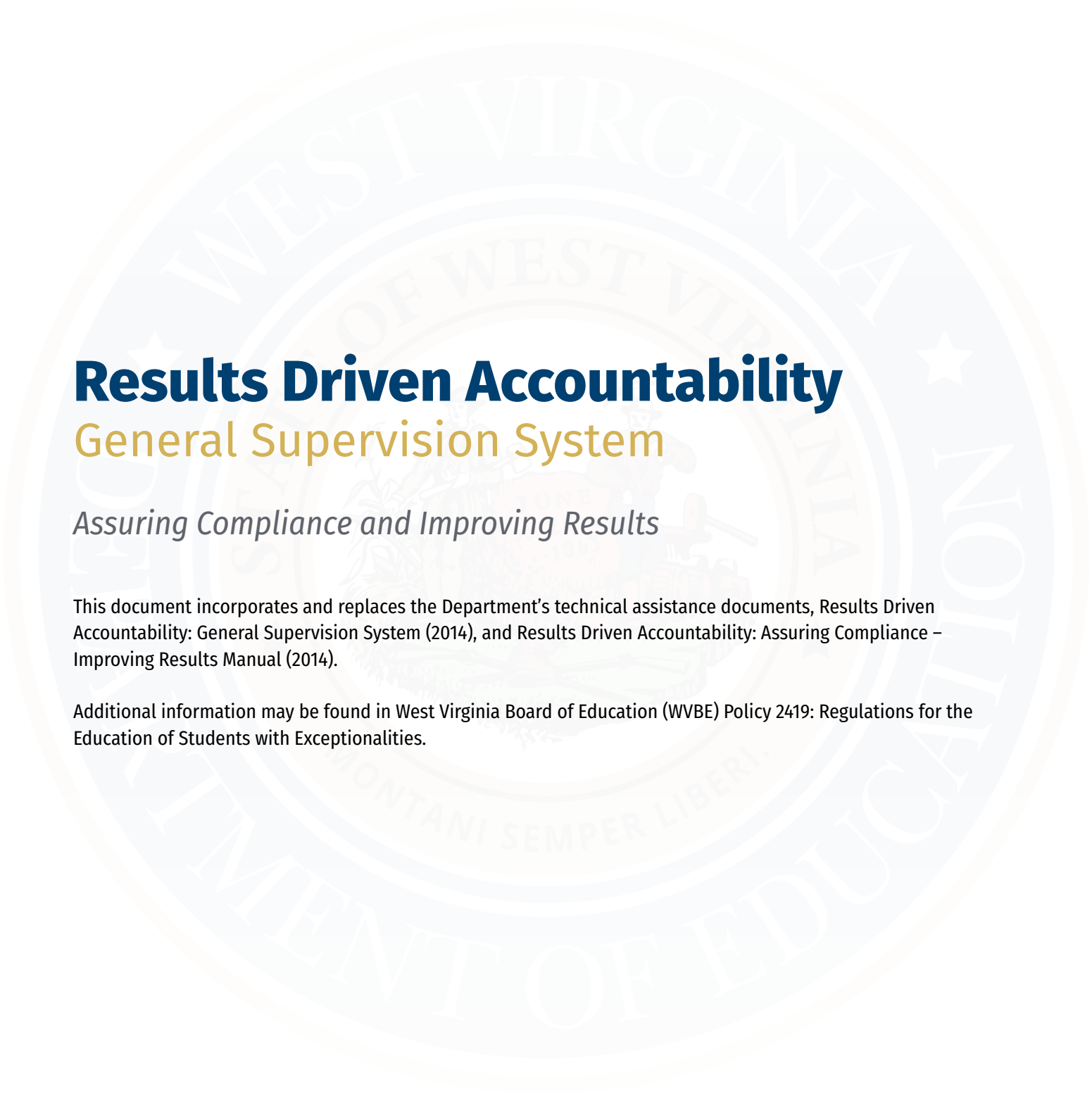
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Results Driven Accountability

General Supervision System

Assuring Compliance and Improving Results

This document incorporates and replaces the Department's technical assistance documents, Results Driven Accountability: General Supervision System (2014), and Results Driven Accountability: Assuring Compliance – Improving Results Manual (2014).

Additional information may be found in West Virginia Board of Education (WVBE) Policy 2419: Regulations for the Education of Students with Exceptionalities.

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Introduction

Each state has a responsibility under federal statute and implementing regulations to have a system of general supervision that monitors the implementation of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) by districts and local educational agencies (LEA), including public charter schools (34 C.F.R. §303.23; W. Va. Code §18-5G-3). The state system is accountable for enforcing the requirements and for ensuring continuous improvement (34 C.F.R. §§ 300.149, 300.600, and 300.608). As stated in Section 616 of the 2004 Amendments to the IDEA, the primary focus of federal and state monitoring activities is to improve educational results and functional outcomes for all children with disabilities and ensure that states meet the program requirements under this part, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities. In addition, W. Va. Code §18-20-1 (Education of Exceptional Children) requires the West Virginia Department of Education (WVDE) Division of Federal Programs & Supports (DFPS), Office of Special Education (OSE), to assure all students with exceptionalities receive an education in accordance with state and federal laws and regulations. The state educational agency (SEA) and LEAs must engage in monitoring activities as part of the general supervision requirements outlined in IDEA and W. Va. Code.

The United States Department of Education (ED), Office of Special Education Programs (OSEP), examines eight key components of general supervision through their Differentiated Monitoring and Support (DMS) System. OSEP views these components through the lens of both compliance and improved results. Figure 1 below illustrates the interconnectivity of the components that comprise a state's system of general supervision:

- » *Fiscal Management*
- » *Integrated Monitoring*
- » *Sustaining Compliance and Improvement*
- » *Dispute Resolution*
- » *Technical Assistance and Professional Development*
- » *Data on Processes and Results*
- » *State Performance Plan / Annual Performance Report (SPP/APR)*
- » *Implementation of Policies and Procedures*

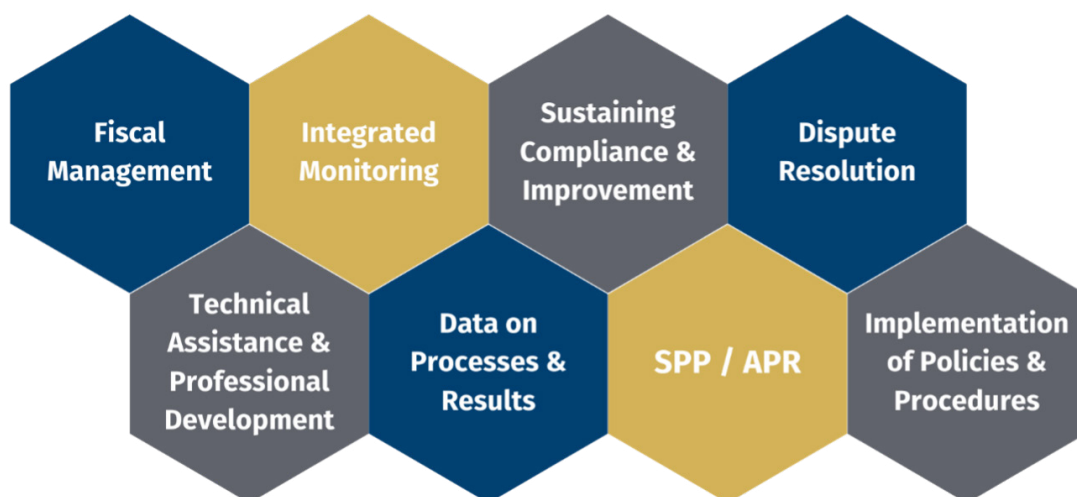


Figure 1. Eight Components of General Supervision

Fiscal Management

Fiscal Management and Monitoring Procedures for IDEA Funds

IDEA funds are provided for the excess cost of special education and related services for students with disabilities and are intended to supplement state and local funds. The Education Department General Administrative Regulations (EDGAR) Parts 76 and 80, and Office of Budget and Management (OBM) Circulars A-87 and A-133 set forth the funding application and fiscal management requirements for states and subgrantees (i.e., LEAs) receiving federal education funds. Compliance supplements to the OBM Circulars and IDEA regulations further clarify requirements specific to IDEA funds. The SEA (i.e., WVDE) monitors LEAs, who are subgrantees, using the following processes to ensure requirements are met:

- » *Review and approval of the LEA IDEA and State Aid Entitlement funding application in the Grants and Planning System (GPS).*
- » *Issuance of grant awards specifying purpose of funds, grant award obligation and liquidation periods, and assurances certified by the subgrantee when the award is signed. Review and approval of WVEIS Budget Revision Requests, which serve as changes to the approved plan, when required by EDGAR and SEA budget revision procedures.*
- » *Periodic review of online LEA project financial data reports extracted monthly from the WVEIS financial management system for IDEA and state entitlement funds to ensure expenditures correspond to the approved budget and are coded as expenditures for students with disabilities (or for gifted, if state aid) or for Coordinated Early Intervening Services (CEIS) as approved in the original application. Notification is provided to the subgrantee when anomalies are found, and correction is required within a specified timeline.*
- » *Monitoring of expenditure of funds and notifications to subgrantees prior to end of the obligation and liquidation period to ensure expiring funds are spent timely and appropriately.*
- » *Collection of data and reports from subgrantees as needed to meet specific federal requirements including Maintenance of Effort (MOE), CEIS, and Section 618 reports.*
- » *Collection, review, and verification of child count data.*
- » *LEA self-assessment monitoring of its own fiscal management requirements and periodic on-site monitoring by SEA staff.*
- » *Review of specific fiscal factors for differentiated monitoring utilizing a risk-based matrix.*

LEA Single Audit

Additionally, each LEA meeting the funding threshold for an A-133 single audit of IDEA funds is audited annually by independent auditors. The audit reports and the LEA's corrective action plans for correcting any audit findings, if applicable, are submitted to the SEA for review and approval by the OSE and [Office of School Finance \(OSF\)](#). Audit findings must be corrected by June 30 of the next fiscal year (e.g., FY24 findings are to be corrected by June 30, 2025). In addition, SEA monitoring teams review audit reports and verify correction of audit findings in conjunction with the desk audit component of on-site cyclical monitoring.

Budget Revision Process

The required budget revision process for federal and state subgrants is set forth by the OSF. Budget and project revisions are submitted, as required by EDGAR, by LEA-level fiscal staff to the IDEA finance coordinator for approval. Upon review of the information provided in the request email, the budget revisions are approved or rejected and returned with comments.

Private School Proportionate Share

The amount LEAs must set aside for eligible students who are parentally-placed in nonprofit private schools (34 C.F.R. §300.130) is calculated in the LEA IDEA and State Aid funding application. The method for maintaining a count of eligible students parentally-placed in private schools must be maintained at the LEA level and available for review by OSE when appropriate. Documentation of the consultation process with a representative of private schools will be reviewed during the desk audit component of cyclical monitoring. Services provided will be verified through review of Service Plans, logs, and contracts. Interviews with public and private school personnel may be conducted to ensure the LEA has met requirements.

Coordinated Early Intervening Services (CEIS)

The IDEA allows, and sometimes requires, LEAs to use funds provided under Part B of the IDEA for CEIS. This provision of the IDEA (20 U.S.C. 1413(f)) and the regulations in 34 C.F.R. §300.226 permit LEAs to use Part B funds to develop and provide CEIS for students who are currently not identified as needing special education. The IDEA and its implementing regulations permit LEAs to use not more than 15 percent of the amount the LEA receives under Part B of the IDEA, less any amount reduced by the LEA pursuant to 34 C.F.R. §300.205 (adjustment to local fiscal efforts), to develop and implement CEIS.

The provision of 34 C.F.R. §300.646, however, requires an LEA to reserve exactly 15 percent of its IDEA funds for comprehensive CEIS (CCEIS) if there is significant disproportionality based on race or ethnicity with respect to a) the identification of children with disabilities; b) the identification of children in particular disability categories; c) the placement of children with disabilities in particular educational settings; or d) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. These funds must be used to address issues of disproportionality. CCEIS should be offered primarily to students within affected racial/ethnic groups, but it is not limited exclusively to them. The LEA must describe how the proposed expenditures for CCEIS will be used, and the plan must be relevant in assisting the LEA to address the targeted area(s) of disproportionality (See the **Significant Disproportionality and CCEIS** section of the **Sustaining Compliance and Improvement** chapter). For West Virginia's significant disproportionality guidance, visit <https://wvde.us/special-education/data-and-public-reporting/>.

Time and Effort

All employees paid through IDEA funds must complete time and effort documentation. This documentation is reviewed through the single audit process and on-site monitoring. Employees working on a single cost objective, meaning employees paid 100% from an IDEA grant award for activities allowable under IDEA, should complete a semi-annual form certification. Employees paid from more than one federal grant award (e.g., IDEA School Age and Preschool) or from a combination of state and IDEA funding must complete documentation of time spent on each cost objective. This documentation is reviewed quarterly by the supervisor, and the employee's salary is adjusted accordingly. At the end of the year, the salary funding sources must be reconciled to match the percentage of time for each reflected in the time and effort documentation.

Maintenance of Effort

Under section 613(a)(2)(A)(iii) of the IDEA, funds received by an LEA cannot be used, except under certain limited circumstances, to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, or a combination of State and local funds, below the level of those expenditures for the preceding fiscal year. To meet this requirement, an LEA must expend, in any particular fiscal year, an amount of local funds, or a combination of State and local funds, for the education of children with disabilities that is at least equal, on either an aggregate or per capita basis, to the amount of local funds, or a combination of State and local funds, expended for this purpose by the LEA in the prior fiscal year.

Integrated Monitoring

Federal law mandates that states implement a system of general supervision to monitor how local schools follow the Individuals with Disabilities Education Act (IDEA), ensuring compliance with West Virginia state law, policies, and procedures (34 C.F.R. § 300.149). This system primarily focuses on monitoring LEAs, including public charter schools (34 C.F.R. §303.23; W. Va. Code §18-5G-3). Through this system, states are accountable for enforcing IDEA requirements and ensuring continuous improvement, ultimately aiming to enhance educational outcomes for students with disabilities.

The objectives of integrated monitoring procedures are to:

- » *improve results for students with exceptionalities by assisting the LEA in identifying potential root causes of low performance;*
- » *provide information to the LEA to assure continued compliance with state and federal laws and procedures, and share strategies for improvement planning;*
- » *review and evaluate critical elements of the LEA's special education services based upon the requirements of IDEA; W.Va. Code §18-20; Policy 2419: Regulations for the Education of Students with Exceptionalities, and State Performance Plan/Annual Performance Report (SPP/APR) Indicators; and*
- » *identify any child-specific and/or systemic noncompliance related to students with disabilities.*

The OSE carries out monitoring activities in accordance with 34 C.F.R. § 300.600, and multiple data sources and methods are used to monitor LEAs annually. These methods include the Annual Desk Audit (ADA), and improvement planning, which involves the selection of a focus area from the ADA in which the LEA did not meet the established state target and the subsequent development of a Targeted Systemic Improvement Plan (TSIP) to address the issue(s). Additionally, specific SPP/APR compliance indicators require a review of data for all LEAs each year with additional reviews for LEAs determined to be noncompliant based on required targets. For LEAs participating in a cyclical monitoring review, both desk reviews and on-site monitoring are conducted. Monitoring activities focus on improving performance as well as correcting noncompliance.

Accountability and Monitoring System

The OSE implements a tiered system of accountability and support to ensure all LEAs meet the requirements of IDEA. This system includes the following levels of monitoring:

- » *Cyclical Monitoring (Universal)*
- » *Differentiated Monitoring (Universal)*
- » *Risk-Based Monitoring (Targeted)*
- » *Focused Monitoring (Intensive)*
- » *Special Circumstance Reviews (Intensive)*

Cyclical Monitoring (Universal)

The OSE conducts cyclical monitoring on a four-year rotation. Cyclical monitoring ensures that each LEA is examined for compliance with federal and state special education requirements related to priority areas at least once every four years. Monitors include employees of the OSE and guest monitors invited by the OSE staff to participate based on their expertise and desire for technical assistance in becoming more familiar with the monitoring process and its expectations. The purpose of cyclical monitoring is to collect information and provide support for continuous improvement in results for students with disabilities, while simultaneously assuring compliance with IDEA and state special education regulations. Cyclical monitoring typically involves a review of randomly selected Individualized Education Programs (IEP) for compliance, a desk review, an entrance call or conference to review the process with LEA representatives, LEA staff interviews, classroom observations, and student and parent focus groups to provide valuable stakeholder feedback. The monitoring team will use data to select schools to visit in each LEA, to determine interviewees, and to identify focus areas. LEAs identified for cyclical monitoring will receive differentiated monitoring based on their risk assessment classification. LEAs who are high risk or very high risk undergo a more intensive monitoring process. While conducting the on-site review, the monitoring team will document findings of noncompliance and discuss the preliminary findings at the exit conference. The compliance coordinator prepares a written report to be issued within 60 calendar days of the exit conference. The LEA compliance monitoring report specifies the findings of noncompliance for individual students as well as systemic issues. The LEA compliance monitoring report includes the following components: a file review summary, required corrections for administrative findings and systemic areas of noncompliance, individual student noncompliance and required corrections, and recommendations for school-wide improvement.

Differentiated Monitoring (Universal)

Each LEA participates in universal differentiated monitoring to determine its risk of noncompliance. Risk is based on both **program** and **fiscal** factors, and each is rated on a continuum of criteria that range from “low risk” to “very high risk.”

Program Factors

- » *Most recent LEA determination*
- » *New key personnel (e.g., special education director, treasurer/CSBO, superintendent)*
- » *Special education population higher than state average*
- » *Number of violations of noncompliance from IDEA dispute resolution*
- » *County Support and Accountability for Student Academic Achievement and Success Identification (per WVBE Policy 2322)*

Fiscal Factors

- » *LEA total IDEA subgrant amount (Section 611 and 619)*
- » *LEA failed to spend an appropriate amount of funds by June 30*
- » *LEA failed to meet MOE compliance requirements*
- » *LEA has had special education-related single audit findings*
- » *LEA has been identified as having significant disproportionality (CCEIS)*

Each LEA receives points for each risk factor. The sum is then calculated, and based on the annual risk assessment score, the LEA will be classified into one of the following risk categories:

- » *Low Risk*
- » *Medium Risk*
- » *High Risk*
- » *Very High Risk*

Any LEA not identified for cyclical monitoring will participate in a monitoring activity that corresponds to its level of risk. Very high-risk LEAs will require on-site monitoring, while a desk review will be required for high-risk LEAs. Medium-risk LEAs may require a desk review if determined by the support team, and low-risk LEAs will have no additional monitoring requirement.

Risk-Based Monitoring (Targeted)

LEAs identified as very high-risk on the LEA Risk Assessment will receive an in-depth targeted review of the factors used in determining their risk status, including an on-site visit as described in the cyclical and differentiated monitoring processes. The OSE will work with the LEA using their targeted systemic improvement plan (TSIP) data and other relevant data to identify root causes and solutions for reducing risk factors.

Focused Monitoring (Intensive)

Focused monitoring is a process where the LEA may receive an on-site visit based on identified need, or information collected from data sources such as long-standing noncompliance, LEA determinations, parent calls, or specific issues brought to the attention of the WVDE. This process may occur concurrently with any other monitoring activity or as an independent activity. The WVDE special education team will work with the LEA to identify root causes and solutions for improving outcomes. Focused Monitoring is individualized to each LEA based on one or more of the following:

- » *performance related to SPP/APR targets;*
- » *trend data;*
- » *LEA demographics;*
- » *annual determination status;*
- » *student enrollment;*
- » *special education enrollment;*
- » *an area of concern based on the determination of a credible allegation;*
- » *issues identified through state complaints and/or Due Process Hearings; and/or*
- » *identification as a high-risk LEA.*

Special Circumstance Reviews (Intensive)

In addition to other monitoring activities, SEA staff may conduct a special circumstance visit to the LEA identified as needing assistance or intervention as part of the state accountability system. In these cases, the OSE will work with the Office of Support and Accountability to identify areas of concern and assist LEAs in accessing the resources and technical assistance necessary to positively impact compliance and results in providing a free and appropriate public education (FAPE) to students with disabilities in West Virginia.

Annual Desk Audit (ADA)

The OSE has developed an ADA to address the SPP/APR performance and compliance indicators at the LEA level, which is submitted electronically each year. This data-driven system creates a relationship between monitoring, determinations, and improvement planning. The SPP/APR defines state targets for results indicators. LEAs not meeting state targets in one or more results indicators are required to develop a targeted systemic improvement plan (see the **Targeted Systemic Improvement Plan** section of the **Data on Processes and Results** chapter). Compliance indicator targets of 100% or 0% are set by OSEP, and LEAs not meeting the compliance indicator targets in the ADA will receive a letter identifying each area of noncompliance (see the **Identification of Noncompliance** section of the **Sustaining Compliance and Improvement** chapter). The compliance indicators which are included in this process include:

- » **Indicator 4B: Suspension and Expulsion: Significant Discrepancy in Rates by Race/Ethnicity**

Target = 0%

- » **Indicator 9: Disproportionate Representation**

Target = 0%

- » **Indicator 10: Disproportionate Representation in Specific Disability Categories**

Target = 0%

- » **Indicator 11: Child Find**

Target = 100%

- » **Indicator 12: Early Childhood Transition**

Target = 100%

- » **Indicator 13: Secondary Transition**

Target = 100%

Compliance Indicators

Indicator 4B: Suspension and Expulsion: Significant Discrepancy in Rates by Race/Ethnicity

Target = 0%

LEAs that have a significant discrepancy by race or ethnicity in the rate of out-of-school suspensions/expulsions of greater than 10 days in a school year for students with disabilities are subject to an on-site or desk review by the OSE. File reviews are completed on up to ten (10), but no fewer than five (5), student files per LEA, with the file selections providing a reasonable sample from diverse school settings. The team reviews evidence of the administration of policies, procedures, and practices pertaining to disciplinary action (e.g., data entry, manifestation determination reviews), development and implementation of IEPs, the use of positive behavioral interventions and supports, and the provision of procedural safeguards.

If upon review the LEA's policies, procedures, or practices are found to contribute to the significant discrepancy, a finding of noncompliance is issued. The LEA must revise the policies, procedures, and practices to comply with applicable requirements that contribute to the significant discrepancy, including requirements relating to disciplinary action, development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.

For West Virginia's definition of "significant discrepancy" and the methodology used, see the most recent SPP/APR located at <https://wvde.us/special-education/data-and-public-reporting/>.

Indicator 9: Disproportionate Representation

Target = 0%

The OSE identifies LEAs with data showing disproportionate representation of racial/ethnic groups in special education and related services due to inappropriate identification by calculating a risk ratio for each of the seven racial/ethnic categories in each LEA. Overall risk of identification is determined by comparing the risk of any racial/ethnic group to the risk of all other racial/ethnic groups.

For West Virginia's definition of "disproportionate representation" and the methodology used, see the most recent SPP/APR located at <https://wvde.us/special-education/data-and-public-reporting/>.

Indicator 10: Disproportionate Representation in Specific Disability Categories

Target = 0%

The OSE similarly identifies LEAs with data showing disproportionate representation of racial/ethnic groups in specific disability categories due to inappropriate identification. The OSE calculates a risk ratio for each of the seven racial/ethnic categories in each LEA. Overall risk of identification is determined by comparing the risk of any racial/ethnic group to the risk of all other racial/ethnic groups in each of the six required disability categories.

For West Virginia's definition of "disproportionate representation" and the methodology used, see the most recent SPP/APR located at <https://wvde.us/special-education/data-and-public-reporting/>.

When disproportionate representation is identified through the analysis of Indicator 9 and/or 10 data, the OSE will determine if the disproportionate representation is the result of inappropriate identification by reviewing policies, practices, and procedures as submitted by the LEA. Any LEA identified with disproportionate representation by race/ethnicity as designated on the Data Summary Sheet for Indicators 9 and 10 is required to conduct a self-review utilizing the designated form. The purpose of the review checklist is to assist LEAs in determining whether inappropriate identification has occurred through the examination of general and special education policies, procedures, and practices pertaining to the identification, evaluation, and/or eligibility of students for special education (e.g., the implementation of interventions prior to referral for evaluation if applicable, the membership and practices of the multidisciplinary evaluation team, and the rationale and evidence supporting the eligibility determination). File reviews are completed on up to ten (10), but no fewer than five (5), student files per LEA, with the file selections providing a reasonable sample from diverse school settings. To the maximum extent possible, the LEA must select students from a variety of school settings whose files contain a recent eligibility committee (EC) determination from both initial and triennial evaluations. If the LEA has been identified with disproportionate representation in the previous year in the specific race/ethnicity and disability category(ies), it excludes files of students previously reviewed. The OSE provides technical assistance to LEAs required to complete this review. A summary of the LEA's review is to be submitted to the OSE for verification. Identification of noncompliance for SPP/APR Indicators 9 and/or 10 will be based on the collective results of the file reviews for disproportionate representation.

Indicator 11: Child Find

Target = 100%

This indicator is the percent of children evaluated within 80 calendar days of written receipt of parental consent for initial evaluation from July 1 to June 30 of a given school year. All LEAs are required to enter initial evaluation data into the West Virginia Education Informational System (WVEIS), including the referral date, date consent was received, eligibility due date, eligibility determination date, eligibility status, primary exceptionality (if eligible), and late reason code (if applicable). The Initial Evaluation (INI.EVAL) application within WVEIS summarizes live Child Find data for each LEA and includes seven types of custom reports the SEA and LEA can use for monitoring and review. All LEAs review initial evaluation data and submit three progress reports through the INI.EVAL application in December, March, and June of each school year. The submitted progress reports are reviewed by SEA staff and feedback is provided to LEAs as appropriate regarding any concerns or missing data. Each LEA reviews and submits a final report for the previous school year that contains student-level data for initial evaluation consents received from July 1 through June 30 and is submitted for the appropriate SPP/APR reporting period. Findings of noncompliance are made using the data provided to the SEA.

Evaluations exceeding 80 calendar days are sorted based on the reason code entered by the LEA. Acceptable reasons for exceeding the 80-day timeframe as delineated in federal and state policies are:

- » *the parent repeatedly fails or refuses to produce the student for evaluation [34 C.F.R. §300.301(d)];*
- » *the student changes LEA of enrollment during evaluation process [34 C.F.R. §300.301(d)]. The exception only applies if the subsequent LEA is making sufficient progress to ensure prompt completion of the evaluation, and the parent and subsequent LEA agree to a specific time when the evaluation will be completed [34 C.F.R. §300.301(e)]. Written documentation of the agreed upon timeline between parent and LEA is to be developed;*
- » *LEAs are closed due to circumstances resulting in a state of emergency determined by the Governor of West Virginia. The timeline will be extended directly proportional to the duration of the state of emergency;*
- » *LEAs are closed due to weather conditions determined by the LEA superintendent, and no remote options are required. The timeline will be extended directly proportional to the duration of the weather conditions. Days missed must be clearly documented in the student's file to accurately record the interruption. If an LEA is closed due to weather conditions with remote learning options, this timeline is not extended; and*
- » *summer break.*

Indicator 12: Early Childhood Transition

Target = 100%

Indicator 12 is the percent of children referred by IDEA Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays. The OSE collects and monitors referrals from Part C for parental consent, completion of evaluations, EC meetings held, and implementation of IEPs by the third birthday for students found eligible. This is done in collaboration with the West Virginia Department of Health through documentation submitted to the SEA by the LEAs. Findings of noncompliance are made using the data provided to the SEA. The collection window is based on the Eligibility Committee Meeting dates that must be held either within 80 calendar days from the date consent was received, or by the third birthday, whichever comes first, from July 1 to June 30 each school year.

Indicator 13: Secondary Transition

Target = 100%

This indicator is the percent of youth with IEPs aged 14 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 secondary transition service 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, if appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services, including, if appropriate, pre-employment transition services, was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.

The OSE collects data as described in the IDEA Part B Programmatic Monitoring Procedures. These procedures include implementation of a tiered system of accountability and support that produces data for this indicator. The most common source of data for Indicator 13 comes through the state's cyclical monitoring process. Using the statewide online IEP system, and based on the student population for each LEA, the OSE randomly reviews IEP/Transition plans for students ages 14-21 with an IEP. Secondary transition plans are reviewed to verify that they are 100% compliant. If the LEA is determined to be noncompliant in any single area, the entire transition plan must be considered as noncompliant. LEAs are notified in writing of their noncompliance and a timeline (per OSEP QA 23-01) is provided that requires the correction of all individual instances of noncompliance as soon as possible, but no later than one year from notification of noncompliance. In addition, LEA staff responsible for writing secondary transition plans must participate in technical assistance and support provided by the OSE to ensure that they meet the requirements of IDEA for students ages 14-21. The OSE conducts subsequent reviews of updated data until the LEA meets 100% compliance; data are obtained through the state's online IEP system or an on-site visit. Until the LEA has been cleared for individual and systemic issues of noncompliance, they may be subject to monitoring activities outside of cyclical monitoring for multiple years to ensure they are meeting the requirements of IDEA regarding secondary transition plans.

For more information on Integrated Monitoring, see the most recent version of “**IDEA Part B Programmatic Monitoring Procedures**” found at:

- » <https://wvde.us/special-education/policies-and-compliance/monitoring-and-compliance/#fusion-tab-monitoring>

Sustaining Compliance and Improvement

State educational agencies (SEA) must develop systems for recognizing and improving compliance and performance, including the use of improvement activities, incentives, and sanctions.

Improvement Activities

SEAs are responsible for improving compliance and performance among LEAs. Two methods for achieving this are the provision of technical assistance and professional development opportunities. Technical assistance offers LEAs access to expert guidance and resources, enabling them to better understand and implement IDEA requirements. Additionally, professional development sessions, data support, and communities of practice provided by the OSE equip LEAs with the knowledge and skills necessary to address specific challenges, refine their procedures, and adhere to best practices. Further, school improvement initiatives provide feedback, guidance and support for schools that are struggling to meet educational expectations in the special education subgroup. Ultimately, these systems aim to build LEA capacity, leading to greater compliance with IDEA and improved outcomes for students with disabilities. (See the **Technical Assistance and Professional Development** chapter, and the **Targeted Systemic Improvement Plan (TSIP)** section of the **Data on Processes and Results** chapter).

Incentives

Competitive Grant Awards

The OSE offers competitive grant awards which support initiatives that positively impact outcomes for students with disabilities as budgeting allows. For example, funding for the State Systemic Improvement Plan (SSIP) work is awarded based on alignment with SEA- and LEA-level strategic plans and priority is given to applicants who have identified a need for systemic change toward improving graduation outcomes. Applicants who receive funding are expected to participate in the community of practice focused on improving graduation outcomes and preparing students for post-secondary success. The OSE also incentivizes SSIP participation in the LEA determination process.

Credit for Growth in Results Indicators

LEAs are annually evaluated based on achieving specific performance targets established by the OSE in collaboration with its stakeholders for various indicators related to student outcomes (See the **Status Determination** section of the **Data on Processes and Results** chapter). Not meeting these targets can have consequences. Recognizing this, the OSE awards partial credit for growth if the LEA has made progress from year to year, but did not meet the defined target. This creates a more nuanced evaluation system that acknowledges both meeting targets and demonstrating improvement, and encourages LEAs to focus on continuous growth and strive for better outcomes even in challenging circumstances.

Public Recognition

LEAs may be recognized publicly for showing significant progress or achievement regarding IDEA compliance or student outcomes. They may also be invited to share their successful strategies with other LEAs. This serves to acknowledge excellence, increase public awareness of LEA successes, and showcase effective practices.

Sanctions

State Enforcement Through Determinations

IDEA requires SEAs to make annual determinations of the extent to which each LEA meets the requirements and purposes of IDEA based on data collected relevant to the SPP/APR indicators, information obtained through accountability and monitoring activities, and other publicly available information (See the **Status Determination** and **LEA Determination Rubric** sections in the **Data on Processes and Results** chapter). If an LEA fails to meet the requirements and purposes of IDEA, the SEA may be required to take certain enforcement actions (34 C.F.R. §§ 300.600, 300.604, 300.608, 300.155, and 76.401(d)).

Needs Assistance

If an LEA is determined to need assistance for at **least two consecutive years**, the LEA:

- » *will be required to work with relevant sources of technical assistance (See the **Technical Assistance and Professional Development** chapter);*
- » *will not be permitted to reduce its MOE for any fiscal year (See the **Maintenance of Effort** section of the *Fiscal Management* chapter); and*
- » *may be identified as a high-risk grantee and have Specific Conditions imposed on the LEA's IDEA Part B grant award.*

Needs Intervention

If an LEA is determined to need intervention for **three or more consecutive years**, the LEA:

- » *may be subject to one or more of the enforcement actions described under "Needs Assistance" above;*
- » *may be required to prepare a corrective action plan or improvement plan to correct the identified area(s); and*
- » *may have further payments under Part B withheld, in whole or in part, or redirected toward addressing any identified issues contributing to the underperformance of the LEA (See the **Right to a Hearing** and **Part B Funding** sections of this chapter).*

Needs Substantial Intervention

If an LEA is determined to need substantial intervention at any time, the LEA:

- » *must have further payments under Part B withheld in whole or in part after reasonable notice and opportunity for a hearing (34 C.F.R. §§ 300.155, and 76.401(d)), or have these funds redirected toward addressing any identified issues contributing to the underperformance of the LEA (See the **Right to a Hearing** and **Part B Funding** sections of this chapter);*
- » *will be subject to an on-site review in addition to the LEA's cyclical compliance review with findings issued for each area of noncompliance identified; and*
- » *will be required to address areas of noncompliance and systemic issues through an improvement plan.*

Identification and Correction of Noncompliance

IDEA requires that States ensure their general supervision systems include policies, procedures, and practices that are reasonably designed to consider and address both potential and confirmed noncompliance.

Potential Noncompliance

In [OSEP QA 23-01](#), an “area of concern” is defined as a credible allegation regarding an IDEA policy, procedure, practice, or other requirement that raises one or more potential implementation or compliance issues, if confirmed true. Possible areas of concern are evaluated based on the credibility (i.e., information comes from a reliable source with supporting evidence) and specificity (i.e., identifies a specific policy, procedure, or practice potentially violating one or more IDEA requirements) of the allegation. Other factors, such as severity, the number of students with disabilities potentially affected, and the LEA’s history of compliance are also considered.

Should the OSE encounter areas of concern in the course of regular monitoring, data reviews, grant reviews, stakeholder communications, or other processes linked to IDEA implementation, the OSE promptly reviews the area of concern and arrives at a conclusion within a reasonable timeframe. If, as a result of its review, the OSE identifies that the LEA is not in compliance with an IDEA requirement, the OSE issues a written notification of noncompliance (referred to as a “finding”) to the respective LEA. This finding is promptly issued, typically within three months of the OSE’s investigation into the area of concern, and the OSE concluding within a reasonable period that the LEA has violated an IDEA requirement. This is unless the LEA promptly corrects the noncompliance (i.e., before the OSE issues a finding) and the OSE is able to verify the correction.

Improvement and Corrections

If the OSE issues a finding of noncompliance in writing for an LEA (34 C.F.R. §§ 300.149 and 303.120), then the LEA must correct the noncompliance as soon as possible, but no later than one year from the date of notification. The noncompliance is corrected upon the OSE’s review and approval of documentation and evidence submitted by the LEA demonstrating implementation of actions correcting the noncompliance. The LEA must identify the root cause of the area(s) of noncompliance and may be required to develop a Corrective Action Plan (CAP) or an Improvement Plan based on the compliance review determination.

Written Notification of Noncompliance

Upon conducting a thorough review and reaching a determination that an LEA has violated an IDEA requirement, the OSE issues a written notice regarding the noncompliance to the LEA. This written notification includes the following components:

- » *A description of the identified noncompliance;*
- » *The statutory or regulatory IDEA requirement(s) with which the LEA or provider is in noncompliance;*
- » *A description of the quantitative and/or qualitative data (i.e., information supporting the State’s conclusion that there is noncompliance);*
- » *A statement that the noncompliance must be corrected as soon as possible, and in no case later than one year from the date of the State’s written notification of noncompliance;*
- » *Any required corrective action(s); and*
- » *A timeline for submission of a corrective action plan or evidence of correction.*

Correction of Noncompliance

To verify correction of noncompliance, the OSE confirms that the LEA fulfills the following conditions:

- » *The LEA is effectively implementing the specific regulatory requirements, achieving 100 percent compliance with the relevant IDEA requirements (i.e., systemic compliance). This is assessed through a review of updated data and information, including data collected through integrated monitoring activities or the West Virginia Education Information System (WVEIS), the State's student information system.*
- » *In cases of student-specific noncompliance, the LEA ensures that **each** individual case is corrected (not a subset or sample) by reviewing previously noncompliant files, records, data files, or any data source used to identify the original noncompliance, except for situations where the student is no longer under the jurisdiction of the LEA. Additionally, no outstanding corrective action should exist under a State complaint or due process hearing decision for the student.*

The LEA is required to submit a comprehensive set of student records and other documentation necessary for the OSE to verify systemic compliance. The list must also include **each** individual case of noncompliance previously identified, consistent with OSEP QA 23-01. The OSE keeps documentation and evidence to demonstrate that the LEA has addressed each individual case of noncompliance found in previous files, records, data files, or any data source used to identify the original noncompliance (child-specific compliance), if applicable, and that the review of updated data and information did not reveal any further instances of noncompliance (systemic compliance). When the LEA is determined to be in compliance, the LEA will be provided with written notification.

Improvement Plan

LEAs with identified areas of noncompliance may be required to develop a written plan addressing the areas of noncompliance and include improvement strategies to ensure correction. When required, this Improvement Plan shall include activities, methods of internal monitoring, the person(s) responsible for the implementation, and the date of implementation. The OSE will assist LEAs in the development of the Improvement Plan and timelines for completion. The OSE will review the Improvement Plan upon receipt and notify the LEA within 30 days regarding acceptance or rejection of the Improvement Plan.

Corrective Action Plan (CAP)

Corrective Action Plans are developed in collaboration with the OSE and will require the LEA to take action specific to a particular area of noncompliance. For example, student-specific timelines regarding when IEPs should be in effect or reevaluation timelines will need to be addressed and appropriate action taken within the OSE mandated timeline. The OSE may direct the LEA to convene an IEP Team meeting to bring timelines into compliance, complete areas of the IEP not previously addressed, conduct evaluations or reevaluations to reflect compliance, or any other specific action deemed necessary. This corrective action will bring any noncompliance into compliance for the specific student(s) the OSE has identified.

Failure to Meet Compliance

IDEA provides that each SEA is responsible for ensuring that the requirements of the Act are met, and this responsibility extends to the correction of identified noncompliance of IDEA. When the LEA fails to implement necessary corrective action within one year of receiving written notification, enforcement measures must be taken immediately and involve the imposition of graduated sanctions. The SEA may administer a range of sanctions in the following order:

Level I Enforcement Sanctions

Any LEA with uncorrected noncompliance beyond one year from the initial written notification will receive a Notice of Level I Enforcement Sanctions with a required corrective action plan, including required engagement with technical assistance (See the **Technical Assistance and Professional Development** chapter). Repeated failure to engage with required technical assistance may result in escalation to Level II Enforcement Sanctions. The LEA may also receive a new written notification of noncompliance.

Level II Enforcement Sanctions

Any LEA with uncorrected noncompliance beyond two years from the initial written notification will receive a Notice of Level II Enforcement Sanctions, which shall include all enforcement actions described under **Level I Enforcement Sanctions** above, in addition to a new written notification of noncompliance, and may, at the SEA's discretion, be subject to one or more of the following:

- » *remove the LEA's ability to apply for any discretionary funds made available by the SEA;*
- » *redirect a percentage of IDEA Part B funds (i.e., earmark funds for specific activities to address the area(s) of noncompliance);*
- » *require additional program-specific improvement activities be implemented; and/or*
- » *request additional program-specific financial audits be conducted.*

Level III Enforcement Sanctions

An LEA with chronic uncorrected noncompliance (i.e., at least three or more years) will receive a Notice of Level III Enforcement Sanctions in which the SEA will provide the LEA with written notification of any additional sanctions imposed on the LEA. The SEA may take one or more of the following actions as a means of enforcement for LEAs with chronic uncorrected noncompliance:

- » *pursue one or more actions listed under **Level I** and **Level II Enforcement Sanctions** above;*
- » *withhold any administrative funds maintained by the SEA and used for the salary of the special education director;*
- » *withhold funds, in whole or in part, until all the deficiencies are corrected (34 C.F.R. § 300.222);*
- » *issue an annual LEA determination of Needs Intervention or **Needs Substantial Intervention** at any point; and/or*
- » *direct the administration of the LEA's special education programs.*

Significant Disproportionality and CCEIS

If an LEA is identified as having significant disproportionality under the authority of 34 C.F.R. §§ 300.226, 300.646, and 300.647, the LEA must:

- » *conduct a root-cause analysis to identify the factor(s) contributing to the significant disproportionality;*
- » *develop and submit for review and approval a plan for implementation of CCEIS to address the factors contributing to the disproportionality;*
- » *review and, if appropriate, revise policies, procedures, and practices (PPP) to address the significant disproportionality and ensure compliance with IDEA;*
- » *publicly report on the revision of PPP consistent with the requirements of the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations in 34 C.F.R. Part 99, and Section 618(b)(1) of the IDEA;*
- » *allocate exactly 15 percent of IDEA Special Education funds (Part B, Section 611 & 619) within the Consolidated Grant Application (CGA) Process for CCEIS;*

- » *implement the CCEIS plan with fidelity; and*
- » *fulfill the annual reporting requirements provided in 34 C.F.R. §300.646(d) and/or other requirements set forth by OSEP.*

If an LEA identified with significant disproportionality fails to implement CCEIS in accordance with an OSE-approved plan, the SEA may take one or more of the following actions as a means of enforcement:

- » *pursue one or more actions listed under **Level III Enforcement Sanctions** in this chapter; and/or*
- » *return the LEA's unexpended CCEIS funds to the U. S. Department of Education.*

Part B Funding

The OSE may require LEAs to set aside funding allocations to address areas of noncompliance or re-budget funding allocations. However, if the SEA determines that withholding, in whole or in part, an LEA's IDEA Part B grant is an appropriate enforcement action, this would be considered a determination on LEA eligibility, and the SEA must notify the LEA of that determination and provide the LEA with reasonable notice and an opportunity for a hearing under 34 C.F.R. §§ 76.401(a) and (d). See 34 C.F.R. §§ 300.155 and 300.221.

Right to a Hearing

If the SEA determines that an LEA is not eligible under Part B of IDEA, then the SEA will notify the LEA's superintendent, the LEA board's president, and the special education director of that determination in writing, and provide the LEA with reasonable notice before disapproving an application and an opportunity for a hearing consistent with 34 C.F.R. § 300.221. To exercise this right, the LEA must request the hearing within 30 days of the action of the SEA.

Within 30 days after it receives a request, the SEA shall hold a hearing on the record and shall review its action. Hearing procedures shall be in accordance with W. Va. Code § 18-3-4, as well as the Federal regulations for State Administered Programs 34 C.F.R. §§ 76.401 and 76.783, and the General Education Provisions Act 34 C.F.R. §§ 81.30-81.45. No later than 10 days after the hearing, the SEA shall issue its written ruling, including findings of fact and reasons for the ruling. If the SEA determines that its action was contrary to State or Federal statutes or regulations that govern the applicable program, the SEA shall rescind its action.

Further information regarding IDEA Part B Funding can be found at:

- » <https://wvde.us/special-education/finance/>

Dispute Resolution

The timely resolution of state complaints, mediations, and due process actions is required for compliant dispute resolution. Effective dispute resolution data enable the OSE to track identified issues to determine whether patterns or trends exist.

Several mechanisms are available through the SEA to assist in resolving disputes. The processes are:

- » *Facilitated Individualized Education Program (FIEP) meeting*
- » *Mediation*
- » *State complaint*
- » *Due process hearing (including expedited due process hearings and resolution process)*

Facilitated Individualized Education Program (FIEP) Meeting

A Facilitated Individualized Education Program (FIEP) Team meeting is a voluntary process in which a trained facilitator is appointed to facilitate an IEP Team meeting at no cost to the parent/adult student or LEA. One key role of the facilitator is to help team members communicate more effectively and efficiently. The FIEP process also supports forming and improving relationships, enabling team members to consider new options, preventing disagreements, avoiding other dispute resolution processes, and assisting team members with decision making. The facilitator is an impartial third party who is not a member of the IEP Team and has no stake in decisions made by the team.

Requests for FIEP Team meetings must be submitted in writing to the OSE, and may be made by the parent and/or adult student, and/or by an LEA representative, such as the director of special education. Both parties must agree to the FIEP process.

For more information on **Facilitated IEP Team meetings**, visit:

- » [https://wvde.us/special-education/policies-and-compliance/monitoring-and-compliance/#fusion-tab-facilitatedindividualizededucationprogram\(fiep\)](https://wvde.us/special-education/policies-and-compliance/monitoring-and-compliance/#fusion-tab-facilitatedindividualizededucationprogram(fiep))

Mediation Process

The IDEA requires SEAs to make mediation available to parents and LEAs. Mediation is an informal, voluntary, and confidential process in which an impartial third party (the mediator) provides an opportunity for the parties to problem-solve through discussion. Another component of the mediation system is an optional meeting to encourage mediation. Mediators assist parents and the school system in resolving disputes and reaching agreement on issues regarding the proposals or refusals to initiate or change the identification, evaluation, educational placement of the student, and/or the provision of a free appropriate public education (FAPE). Discussions that take place during mediation are confidential. Mediators are not employees of the SEA or the LEA, and do not make decisions for the parties. Mediation may take place at any time regardless of the filing of a due process and/or state complaint.

A request for mediation must be in writing and may be initiated by contacting the LEA or the SEA. The SEA provides a form, but the use of the form is not required. This request may be initiated by the parent; adult student; an attorney representing the parent, student, or an LEA; and/or an LEA.

The goal of mediation is to obtain a written agreement that is acceptable to both parties. Mediation agreements are legally binding and enforceable in both state and federal courts. However, even if a written agreement is not achieved, mediation may be helpful in clarifying issues. Following a request for mediation, the SEA will contact the other party and ask whether they are willing to participate in mediation. Mediation may not be used to deny or delay the right to a due process hearing, or any other rights afforded to students and parents.

For more information on **mediation**, visit:

- » <https://wvde.us/special-education/policies-and-compliance/monitoring-and-compliance/#fusion-tab-mediation>

State Complaint Process

A state complaint is a charge that special education laws or regulations are not being followed by an LEA or public agency. A complaint also may address an LEA's failure to implement a due process hearing decision. Any individual or organization, including one from another state, may file a state complaint. This includes a parent, guardian, or surrogate parent of a student with an exceptionality; a student with an exceptionality who has reached the age of majority; organizations; groups; or LEA employees. The complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received in accordance with 34 C.F.R. § 300.151 (34 C.F.R. § 300.153 (c)). However, attempts should be made to resolve concerns at the local level prior to filing a state complaint. This might include scheduling a conference with school personnel to discuss concerns, making an appointment with the local special education director and/or LEA superintendent, and contacting the SEA for assistance.

The SEA will complete its investigation within 60 days of receipt of the complaint, with extensions permitted only if exceptional circumstances exist, or if the LEA and parent agree to extend to engage in mediation or in alternative means of dispute resolution. The SEA notifies the LEA of the allegations in the complaint and conducts an investigation that may include, but is not limited to, a review of records and other documentation, inquiries, interviews, and on-site inspections. The parents and the LEA will receive a written report of the final results of the investigation. This letter of findings (LOF) will constitute the resolution of the complaint.

In the event the LEA or the parent disagrees with the findings, either party may request mediation or a due process hearing regarding the complaint issues with the SEA. If violations have occurred, the LEA or public agency must submit documentation to the SEA to verify that the required corrective activities have been implemented. The case is closed if the documentation is acceptable.

For more information on the **state complaint process**, visit:

- » <https://wvde.us/special-education/policies-and-compliance/monitoring-and-compliance/#fusion-tab-statecomplaints>

Due Process Hearing

A parent, an adult student with an exceptionality, an LEA, or an attorney representing a party may file a due process complaint regarding the LEA's proposal or refusal to initiate or change the identification, evaluation, educational placement, and/or the provision of FAPE to the student. Such complaints must be initiated within two years of the date the parent or LEA knew or should have known of the disputed decision or alleged action that forms the basis for the complaint.

A due process hearing officer's decision on whether a student received FAPE must be based on **substantive** grounds directly related to FAPE. In matters alleging a **procedural** violation, a due process hearing officer may find that the student did not receive FAPE only if the procedural inadequacies:

- » *Interfered with the student's right to FAPE;*
- » *Significantly interfered with the parent's opportunity to participate in the decision-making process regarding the provision of FAPE to the parent's child; or*
- » *Caused a deprivation of an educational benefit.*

If a due process hearing decision is not appropriately implemented, the parent/adult student may file a state complaint with the SEA. The SEA will conduct an investigation through the complaint process, and a letter of findings will be issued within 60 calendar days of receipt of the parent's written complaint (See **State Complaint Process**).

Resolution Session

When a parent requests a due process hearing, the LEA must provide an opportunity for a resolution meeting to discuss the concerns and the facts forming the basis of the due process complaint and provide an opportunity to resolve the concerns. The first meeting must occur within 15 calendar days of receiving a due process complaint from the parent/adult student, and prior to initiating a due process hearing. The SEA monitors the resolution meeting timelines through a tracking form which is submitted to the LEA and hearing officer. In the event the LEA does not implement the resolution session requirements, the parent/adult student may ask the due process hearing officer to begin the due process hearing timeline. A resolution meeting need not be held if both parties agree in writing to waive the resolution meeting or both parties agree to participate in mediation. If the LEA files the complaint, a resolution meeting is not required. If a resolution is reached regarding the issues raised in the due process complaint, the LEA representative and parent/adult student will sign a legally binding agreement that is enforceable in state and federal court.

Appeal of Due Process Hearing Decisions

A decision made in a due process hearing (including a hearing relating to IDEA disciplinary procedures for students with disabilities) is final, except that any party involved in the hearing may appeal the decision by bringing a civil action in court. The action may be brought in a state court of competent jurisdiction (i.e., a state court that has authority to hear this type of case) or in a federal district court without regard to the amount in dispute. The party bringing the action has 90 calendar days from the date of the decision of the due process hearing officer to file a civil action.

Expedited Due Process Complaint

In certain discipline cases, an expedited due process hearing must occur within 20 school days of the date the hearing is requested and must result in a determination within 10 school days after the hearing. A resolution meeting must occur within seven calendar days of receiving notice of the due process complaint unless the parents and the LEA agree in writing to waive the resolution meeting or agree to use mediation. The hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 calendar days of receipt of the due process complaint.

For more information on **due process hearings**, visit:

- » <https://wvde.us/special-education/policies-and-compliance/monitoring-and-compliance/#fusion-tab-statecomplaints>

Further details concerning each of these dispute resolution processes may be found in Chapters 7 and 11 of WVBE Policy 2419: Regulations for the Education of Students with Exceptionalities.

- » <http://wvde.state.wv.us/policies/>

Technical Assistance and Professional Development

Tiered technical assistance and professional development are ongoing activities designed to build the capacity of individuals, schools, and LEAs to plan, implement, and support desired outcomes for their students. Specific topics are generated based on the needs of the LEAs with OSE and stakeholder input.

Technical Assistance

Technical assistance (TA) provides a framework for LEAs to build their general supervision and is provided at different levels of intensity depending on need. It is also designed to link directly to indicators in the SPP/APR and to improve the level of compliance in West Virginia LEAs. The OSE's comprehensive approach to technical assistance enables the differentiation of the scope of services provided to LEAs based on local needs.

Universal TA

This level provides essential information and resources to address common needs and promote program effectiveness. Key supports include:

- » *Direct assistance from regional WVDE/OSE coordinators*
 - Each LEA has a primary point of contact for guidance and support.
- » *Access to specialized centers*
 - LEAs can connect with SEA-funded TA centers for accessibility and transitions (Accessibility and Transitions Technical Assistance Center at the WV Schools for the Deaf and Blind), behavior/mental health (WV Behavior/Mental Health Technical Assistance Center at Marshall University Campus), autism (WV Autism Training Center at Marshall University Campus), and family engagement (WV Parent Training and Information [WVPTI]).
- » *Training and resources*
 - The OSE offers virtual and face-to-face training options on evidence-based practices, standards-based IEPs, policy components, inclusive practices, student/parent engagement, compliance, dispute resolution, and other special education topics.
- » *Networking and collaboration*
 - Annual conferences and mentorship programs sponsored by the WV Council of Administrators of Special Education (WVCASE), statewide monthly support calls, and listserv updates foster connections and knowledge sharing.
 - Additional targeted/intensive mentorship is provided by the OSE upon request or when a need is identified by the OSE.
- » *Online resources*
 - Guidance documents, tip sheets, brochures, practical resources including a weblink resource bank, and free Canvas courses are available on the SEA website.
 - Directors receive updates when any new resources become available.

Targeted TA

The next level of TA on the continuum includes more focused levels of support, such as quarterly meetings with a community of practice (CoP) related to the area(s) of need. These meetings provide a mechanism by which participants can grow and improve in a specific area through sharing knowledge, information, experiences, tools, and techniques; exploring concerns and ideas; asking questions of colleagues and content experts; and providing support for each other with the goal of making positive changes to programs or operations that support increased capacity at the LEA level to improve outcomes for students with disabilities. Additional sources of targeted TA include:

- » *phone calls, virtual meetings, and emails to address student- and LEA-specific situations;*
- » *meetings and mentor programs for supporting new special education directors, new special educators, and other targeted groups;*
- » *guidance following cyclical monitoring for implementing required corrective actions; and*
- » *specialized training tailored to areas selected for improvement by the LEA or derived from dispute resolution and monitoring noncompliance with required corrective action.*

Intensive TA

In addition to the levels of support described above, intensive TA may also include:

- » *required participation in relevant Communities of Practice (CoPs) for continuous learning and collaboration;*
- » *frequent follow up to ensure timely implementation of specific activities;*
- » *evaluation of implementation fidelity of required activities and associated outcomes; and*
- » *tailored troubleshooting and investigation to address LEA-specific challenges and barriers.*

Professional Development

Professional development (PD) is an intentional and systematic process for teaching specific learning objectives to a targeted group. It often includes building knowledge, skills, practices, and dispositions in a particular area through active engagement to facilitate school improvement in LEAs, schools, and classrooms.

Different divisions within the SEA collaborate to offer professional learning to teachers and other LEA staff. Additionally, the SEA offers e-Learning courses, which provide more in-depth study for current educators and paraprofessionals throughout the year. Topics include, but are not limited to, autism, mathematics, support for specially designed instruction (SSDI), positive behavioral interventions and supports (PBIS), co-teaching, West Virginia Tiered System of Support (WVTSS), and accessible educational materials (AEM). PD and programming are also provided through collaborative agreements with several state universities to target current teachers and school professionals and recruit potential teacher candidates to address specialty populations.

Additionally, the SEA actively disseminates information from national OSEP-funded Technical Assistance Centers and other sources to ensure LEAs have access to the latest information, best practices, and resources.

Finding and Requesting Support

Technical assistance resources for LEAs regarding special education can be found by navigating to relevant topic areas at the following website:

- » <https://wvde.us/special-education/>

Pages dedicated to broad TA categories include:

- » <https://wvde.us/special-education/technical-assistance-and-support/>
- » <https://wvde.us/technical-assistance-centers/>
- » <https://wvde.us/special-education/professional-learning/>
- » <https://wvde.us/special-education/wv-guideposts-to-graduation/>
- » <https://wvde.us/special-education/family-and-public-partnership/family-and-community-engagement/county-family-resource-centers/>
- » <http://www.wvpti-inc.org/>

Special education directors may also request targeted professional learning or technical assistance using internal processes and procedures.

Data on Processes and Results

OSEP expects states to use effective data systems to ensure that the data collected and reported are valid and reliable, and that information is reported to the U.S. Department of Education (ED) and the public in a timely manner. The data systems should inform and focus a state's improvement activities as well as verify that the data collected and reported reflect actual practice and performance.

As a part of a state's general supervision responsibilities, data are used for decision making about program management and improvement. This process includes the following:

- » *Data Collection and Verification*
- » *Data Examination and Analysis*
- » *Public Reporting of Data*
- » *Status Determination*
- » *Improvement Activities*

Data Collection and Verification

IDEA requires that data be collected from LEAs through a state-reported data collection system. Available on the SEA website are resources to support the use of the West Virginia Education Information System (WVEIS), the SEA's state longitudinal data system (SLDS). Each year, special education reporting dates are posted to build capacity for LEAs to report timely and accurate data. Additional information about special education data maintenance, and the special education collections and due dates are posted on the Data and Public Reporting webpage:

- » <https://wvde.us/special-education/data-and-public-reporting/>

To effectively use these data, LEAs must regularly update the data and the SEA must routinely examine the collected data. It is important for the SEA to ensure that the data collected from the LEAs are accurate and submitted in a timely manner. Accuracy has multiple levels, including that the data follow rules of entry or submission and that they reflect actual practice. The SEA has developed data quality and validation processes (e.g., edit checks, data quality reports, IEP finalization rules) to support timely, accurate, complete, and usable high-quality data.

Data Examination and Analysis

The state analyzes data in a variety of ways to identify and determine patterns and trends, as well as to identify connections between clusters of SPP/APR indicators. Further, data may be analyzed for strategic planning and equitable allocation of resources. The SEA uses the data, as well as information from other sources (e.g., other state-collected data, patterns and trends in dispute resolution data, and previous findings) to evaluate the performance of the SEA and the LEAs on the SPP/APR indicators. These data are also useful in identifying the LEAs in need of focused monitoring, especially when these data can be compared across SPP/APR indicators.

Public Reporting of Data

Each SEA must use the targets established in the SPP under 34 C.F.R. § 300.601 and the priority areas described in 34 C.F.R. § 300.600(d) to analyze the performance of each LEA (See the **State Performance Plan/Annual Performance Report (SPP/APR)** chapter). IDEA Part B requires each state to report annually to the public on the performance of each of its LEAs according to the targets set in its SPP/APR. These individual LEA reports are known as local APRs. West Virginia's SPP/APR submissions, local APRs, and IDEA Section 618 data collections are posted to the SEA website annually, and can be found at:

» <https://wvde.us/special-education/data-and-public-reporting/>.

Data relevant to the SSIP for the FFY 2020-2025 SPP/APRs are publicly displayed in the context of an interactive data dashboard found at:

» <https://wvde.us/special-education/wv-guideposts-to-graduation/#dashboard>

Additional educational data are available at:

» <https://zoomwv.k12.wv.us/Dashboard/dashboard/28116>.

Status Determination

The IDEA 34 C.F.R. § 300.600 requires that states review the data of each LEA to evaluate their performance in meeting requirements and purposes of the IDEA. After a review of the data, states are required to make LEA determinations using the same determination categories that OSEP assigns to states (See the **State Determinations** section in the **State Performance Plan/Annual Performance Report (SPP/APR)** chapter). As part of a state's general supervision system, states must monitor their LEAs using quantifiable and qualitative indicators according to the targets identified in the SPP. These indicators measure compliance and results in areas including, but not limited to, a free and appropriate public education (FAPE), least restrictive environment (LRE), child find, disproportionate representation by race/ethnicity that is the result of inappropriate identification, dispute resolution, and transition services. When the total population of children with disabilities measured by the indicator in the LEA is too small to report data for an LEA program, determination calculations are adjusted accordingly to account for these variations.

LEA Determination Methodology

LEA determinations for the FFY 2020-2025 cycle consider performance on all results and compliance indicators included in the SPP/APR, in addition to other data sources including dispute resolution data, correction of noncompliance, monitoring and accountability data, and timely and accurate data submission. Participation in the SSIP is also incentivized. To promote balance and equitability across all LEAs, minimum n-sizes (i.e., the number of students who are included in the denominator of a calculation) have been implemented for certain results indicators. In addition, to recognize and incentivize improvement, LEAs may be awarded partial credit for growth if the LEA does not meet the state target for an indicator, but exceeded its performance from the previous year and met any applicable minimum n-size for both the current and previous year. While compliance with IDEA requirements remains a focus of determinations, the total points possible are weighted slightly toward results to emphasize the goal of improving outcomes for students with disabilities.

LEA Determination Rubric

Meets Requirements (MR)

An LEA receives a determination of Meets Requirements if the LEA receives 80 percent or more of the points possible in the LEA's annual determination matrix.

Needs Assistance (NA)

An LEA receives a determination of Needs Assistance if the LEA receives between 70 and 79 percent of the points possible in the LEA's annual determination matrix.

Needs Intervention (NI)

An LEA receives a determination of Needs Intervention if the LEA receives between 60 and 69 percent of the points possible in the LEA's annual determination matrix, **or** if the LEA receives between 70 and 79 percent of the points possible and was previously in Needs Assistance for three consecutive years. In the latter scenario, an LEA must receive 80 percent or greater to move from NI to MR.

Needs Substantial Intervention (NSI)

An LEA receives a determination of Needs Substantial Intervention if the LEA receives less than 60 percent of the points possible in the LEA's annual determination matrix, **or** if the LEA receives between 60 and 69 percent of the points possible and was previously in Needs Intervention for three consecutive years. In the latter scenario, an LEA must receive 70 percent or greater to move from NSI to NA, or 80 percent or greater to move from NSI to MR.

New LEAs and Status Determinations

Similar to status determinations for the state, data that factor into LEA status determinations do not all come from the same school year. Therefore, newly formed LEAs (e.g., public charter schools) cannot receive a full status determination until at least their second year in operation. However, newer LEAs may still receive an Annual Desk Audit that displays their performance in comparison to state targets across the areas in which data are available to make such comparisons. Newer LEAs are still held accountable for areas reported which did not meet state targets as any applicable data are still counted at the state level in the SPP/APR. Ongoing universal support, including technical assistance and general supervision visit(s), will be provided during an LEA's initial year, and data-based recommendations for improvement will be provided by the OSE. At the end of an LEA's second year in operation, the development of a Targeted Systemic Improvement Plan (TSIP) is required if the LEA did not meet the state target for one or more results indicators. (See **Targeted Systemic Improvement Plan [TSIP]** section.)

Improvement Activities

Through the state's improvement plan activities in the SPP/APR and data from the examination of LEA performance, ongoing state activities are used for program improvement and progress measurement with the goal of improved outcomes for children and youth with disabilities and their families. LEAs may also coordinate Elementary and Secondary Education Act (ESEA) school improvement activities with SPP/APR improvement activities. Technical assistance is provided to address the needs of each individual LEA and is based on data that are collected.

Targeted Systemic Improvement Plan (TSIP)

The TSIP is a comprehensive, ambitious, yet achievable plan that outlines an LEA's targeted strategy for improving results for students with disabilities in an area on the Annual Desk Audit in which the LEA did not meet the established state target for a related SPP/APR indicator. LEAs must choose a focus area from the ADA (i.e., graduation/post-secondary, least restrictive environment, pre-k, assessment, or another OSE-approved focus area) in which the state target was not met for related indicators and develop an improvement plan to be reviewed and accepted by the OSE. A local Steering Committee is established to assist in the self-assessment process to review data and participates in developing improvement activities, timelines, and evaluating progress in improving outcomes for students with disabilities.

- » *Universal support for TSIP is provided through the monthly special education director support calls.*
- » *Targeted support is provided by the OSE through required Community of Practice (CoP) sessions that occur in the fall, winter, and spring. However, any LEA is welcome to join any CoP session.*
- » *Intensive support is provided if an LEA requires intensive support based on their annual determination; they will be required to attend the CoP for their focus area and a minimum of four (4) additional support meetings between the OSE and the LEA.*

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

Overview of the SPP/APR

Part B of the IDEA requires each SEA to develop an SPP/APR with stakeholder input that evaluates the SEA's efforts to implement the requirements and purposes of the IDEA and describes how the SEA will improve its implementation. An SPP must be submitted at least every six years, and the SEA must also report annually to OSEP on its performance compared to its SPP targets in an APR. Previously, the SPP and APR were submitted separately; however, after the FFY 2013 submission, the United States Department of Education implemented an online submission format, and the documents were combined and referred to as the SPP/APR. The annual targets for state improvement are set by a diverse group of stakeholders and the West Virginia Council for the Education of Exceptional Children (WVACEEC) which serves as West Virginia's IDEA Part B State Advisory Panel.

The SPP/APR includes indicators that measure child and family outcomes and other indicators that measure a state's compliance with the requirements of the IDEA. Accordingly, the indicators can be classified into two types: **results** indicators which have targets set by each state using stakeholder input, and **compliance** indicators, which have targets set by OSEP of either 100 or 0 percent. Below are the IDEA Part B FFY 2020-2025 SPP/APR indicators. A summary of each indicator may be found in **Appendix A**.

- 1) Graduation
- 2) Dropout
- 3) Assessment (3A, 3B, 3C, & 3D)
- 4) Suspension/Expulsion (4A & 4B)
- 5) Education Environments — School Age (5A, 5B, & 5C)
- 6) Preschool Environments (6A, 6B, & 6C)
- 7) Preschool Outcomes (7A, 7B, & 7C)
- 8) Parent Involvement
- 9) Disproportionate Representation
- 10) Disproportionate Representation in Specific Disability Categories
- 11) Child Find
- 12) Early Childhood Transition
- 13) Secondary Transition
- 14) Post-School Outcomes (14A, 14B, & 14C)
- 15) Resolution Sessions
- 16) Mediation
- 17) State Systemic Improvement Plan (SSIP)
- 18) General Supervision (beginning with the FFY 2023 SPP/APR)

The OSE maintains a team of personnel with specific indicator assignments to coordinate the development of the SPP/APR for annual submission. This team collects and analyzes data, communicates with LEAs, drafts responses, shares progress with internal staff and external stakeholders, and evaluates implementation and impact of improvement activities for each indicator.

State Determinations

Using information from the state's SPP/APR, information obtained through monitoring visits, and any other public information, OSEP annually determines if the SEA:

- » *Meets requirements and purposes of the IDEA;*
- » *Needs assistance in implementing the requirements of Part B of the IDEA;*
- » *Needs intervention in implementing the requirements of Part B of the IDEA; or*
- » *Needs substantial intervention in implementing the requirements of Part B of the IDEA.*

State and National SPP/APR Reporting

West Virginia's SPP/APR submissions and an SPP/APR Indicator Guide for local personnel and stakeholders can be found at:

- » <https://wvde.us/special-education/data-and-public-reporting/>

Information on all the SPP/APRs nationwide can be found on the U.S. Department of Education's website at:

- » <https://sites.ed.gov/idea/>

Implementation of Policies and Procedures

States are required to have policies and procedures in effect to ensure that the State meets the conditions in 34 C.F.R. §§ 300.101 through 300.176. West Virginia's special education policies and procedures support state and local implementation of the IDEA.

Agencies responsible for providing special education and related services under Part B of the IDEA must abide by West Virginia state law, policies, procedures, and related federal regulations. Agencies having these responsibilities are LEAs (which includes county school systems, the West Virginia Schools for the Deaf and the Blind, West Virginia Schools of Diversion and Transition, and public charter schools), private schools where students are placed at the expense of the State, juvenile and adult correctional facilities, and out-of-state private facilities in which West Virginia students have been placed by LEAs and courts.

To assist LEAs and other entities providing special education and related services, the West Virginia Board of Education (WVBE) has outlined specific procedures for implementation of Part B of the IDEA and W. Va. Code §18-20-1, et seq. in WVBE Policy 2419: Regulations for the Education of Students with Exceptionalities. Policy 2419 includes both the policy and the West Virginia Procedures Manual for the Education of Students with Exceptionalities that LEAs must follow to receive federal funds available under the IDEA.

IDEA Part B State Advisory Panel

The SEA develops policies and procedures by utilizing an IDEA Part B State Advisory Panel as required by 34 C.F.R. § 300.167. The West Virginia Advisory Council for the Education of Exceptional Children (WVACEEC) serves as the IDEA Part B State Advisory Panel and advises the SEA on issues relating to special education and related services for students with disabilities, including the SPP/APR.

WVACEEC is established under W. Va. Code §18-20-6 and receives ongoing financial support from the SEA to fund the operations and duties of the council. Members are appointed by the state superintendent of schools and serve three-year terms. Members represent a spectrum of groups and agencies with an interest in special education, including parents of children with disabilities, individuals with disabilities, public and private school administrators, teachers, institutions of higher education, and others as required by law.

More information can be found at:

- » <https://wvde.us/special-education/family-and-public-partnership/west-virginia-advisory-council-for-the-education-of-exceptional-children/>

Appendix A – SPP/APR Indicators

IDEA Part B FFY 2020-2025 SPP/APR Indicator Summaries

- Indicator 1:** Graduation – percent of youth with IEPs graduating with a regular diploma.
- Indicator 2:** Dropout – percent of youth with IEPs dropping out.
- Indicator 3:** Assessment – A) Participation rate for children with IEPs, (B) Proficiency rate for children with IEPs against grade-level academic achievement standards, (C) Proficiency rate for children with IEPs against alternate academic achievement standards, (D) Gap in proficiency rates for children with IEPs and all students against grade-level academic achievement standards.
- Indicator 4:** Suspension and Expulsion – (A) percent of LEAs with significant discrepancy, (B) percent of LEAs with significant discrepancy by race/ethnicity.
- Indicator 5:** Educational Environments – percent of children with IEPs, age 5 and enrolled in kindergarten and ages 6–21, served (A) Inside regular class 80% or more of day; (B) Inside regular class less than 40% of day; (C) In separate schools, residential facilities, or homebound/hospital placements.
- Indicator 6:** Preschool Environments – percent of children with IEPs, ages 3, 4, and 5 who are enrolled in a preschool program, (A) Receiving majority of special education and related services in regular early childhood program; (B) Attending separate special education class, separate school, or residential facility; (C) Receiving special education and related services in the home.
- Indicator 7:** Preschool Outcomes – percent of preschool children ages 3–5 with IEPs with improved (A) Positive social-emotional skills; (B) Acquisition and use of knowledge and skills; (C) Use of appropriate behaviors to meet their needs.
- Indicator 8:** Parent Involvement – percent of parents with a child receiving special education who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.
- Indicator 9:** Disproportionate Representation – percent of LEAs with disproportionate representation of racial/ethnic groups due to inappropriate identification.
- Indicator 10:** Disproportionate Representation in Specific Disability Categories – percent of LEAs with disproportionate representation of racial /ethnic groups in specific disability categories due to inappropriate identification.

- Indicator 11:** Child Find – percent of children evaluated within 60 days of parental consent for initial evaluation or state time frame. *West Virginia's timeframe is 80 calendar days.*
- Indicator 12:** Early Childhood Transition – percent of children found Part B eligible with IEP implemented by third birthday.
- Indicator 13:** Secondary Transition – percent of youth ages 14-21 with measurable, annually updated, postsecondary IEP goals and appropriate transition assessment, services, and courses.
- Indicator 14:** Post-School Outcomes – percent of youth with IEPs, no longer in school, (A) Enrolled in higher education; (B) Enrolled in higher education or competitively employed; (C) Enrolled in higher education, other postsecondary education, or training program or competitively employed or in some other employment, within one year of leaving high school.
- Indicator 15:** Resolution Sessions – percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements.
- Indicator 16:** Mediation – percent of mediations held resulting in mediation agreements.
- Indicator 17:** State Systemic Improvement Plan (SSIP) – SPP/APR includes comprehensive, ambitious, yet achievable multi-year SSIP, with stakeholder engagement in all phases, for improving results for children with disabilities.
- *Indicator 18:** General Supervision – the percent of findings of noncompliance corrected within one year of identification.

**Starting with the FFY 2023 SPP/APR, States will be required to report on the correction of noncompliance issued during the previous FFY, including those related to compliance indicators 4B, 9, 10, 11, 12, and 13.*

Note: Students identified under the exceptionalities of Gifted or Exceptional Gifted are excluded from the calculations for reporting on the IDEA Part B FFY 2020-2025 SPP/APR indicators. These indicators apply only to students identified with one or more disabilities under the IDEA.

Appendix B – IDEA 618 Data Collections

Child Count and Educational Environments

- » *Children with Disabilities (IDEA) School Age (FS002)*
- » *Children with Disabilities (IDEA) Early Childhood (FS089)*

Personnel

- » *Special Education Teachers - FTE (FS070)*
- » *Special Education Related Services Personnel - FTE (FS099)*
- » *Special Education Paraprofessionals - FTE (FS112)*

Exiting

- » *Children with Disabilities (IDEA) Exiting Special Education (FS009)*

Discipline

- » *Children with Disabilities (IDEA) Removal to Interim Alternative Educational Setting (FS005)*
- » *Children with Disabilities (IDEA) Suspensions/Expulsions (FS006)*
- » *Children with Disabilities (IDEA) Reasons for Unilateral Removal (FS007)*
- » *Children with Disabilities (IDEA) Disciplinary Removals (FS088)*
- » *Children with Disabilities (IDEA) Total Disciplinary Removals (FS143)*
- » *Educational Services During Expulsion (FS144)*

Assessment

- » *Academic Achievement in Mathematics (FS175)*
- » *Academic Achievement in Reading (Language Arts) (FS178)*
- » *Assessment Participation in Mathematics (FS185)*
- » *Assessment Participation in Reading/Language Arts (FS188)*

Note: Assessment data for students with disabilities are a subset in the assessment data files for all students

MOE and CEIS

Dispute Resolution

Appendix C – Common Special Education Acronyms

611	IDEA Part B Section 611 Special Education School-Age Grants
616	IDEA Part B Section 616 Monitoring, Technical Assistance, and Enforcement
618	IDEA Part B Section 618 Program Information
619	IDEA Part B Section 619 Special Education Preschool Grants
ADA	Annual Desk Audit
APR	Annual Performance Report
(C)CEIS	(Comprehensive) Coordinated Early Intervening Services
CEDS	Common Educational Data Standards
DMS	Differentiated Monitoring System
ED	United States Department of Education
ESEA	Elementary and Secondary Education Act
ESSA	Every Student Succeeds Act
FERPA	Family Educational Rights and Privacy Act
FFY	Federal Fiscal Year (October 1 through September 30)
FIEP	Facilitated Individualized Education Program
FY	Fiscal Year (July 1 through June 30)
IDEA	Individuals with Disabilities Education Improvement Act of 2004
IEP	Individualized Education Program
LEA	Local Educational Agency
LRE	Least Restrictive Environment
MFS	Maintenance of State Financial Support
MOE	Maintenance of Effort
MTSS	Multi-Tiered System of Support
NCLB	No Child Left Behind
DFPS	Division of Federal Programs and Support
OSEP	Office of Special Education Programs
Part A	IDEA General Provisions
Part B	IDEA Ages 3 through 21
Part C	IDEA Ages Birth through 2
Part D	IDEA National Activities to Improve Education of Children with Disabilities
PBIS	Positive Behavioral Interventions and Supports
RDA	Results Driven Accountability
SEA	State Educational Agency
SiMR	State-identified Measurable Result
SLDS	State Longitudinal Data Systems
SPP	State Performance Plan
SPP/APR	State Performance Plan / Annual Performance Report
SSIP	State Systemic Improvement Plan
SWD	Students with Disabilities
TA	Technical Assistance
TSIP	Targeted Systemic Improvement Plan
WVACEEC	West Virginia Council for the Education of Exceptional Children
WVBE	West Virginia Board of Education
WVDE	West Virginia Department of Education
WVEIS	West Virginia Education Information System

Appendix D – General Supervision & Public Charter Schools

December 28, 2016

“Students with disabilities who are enrolled in public charter schools, like students with disabilities enrolled in other public elementary or secondary schools, have important rights under two Federal laws, Section 504 of the Rehabilitation Act of 1973 (Section 504) and the Individuals with Disabilities Education Act (IDEA). Similarly, students with disabilities who seek to enroll in public charter schools or traditional public schools have important rights secured by these two laws”

- Lhamon & Swenson, 2016, p.1

This letter briefly describes the rights and protections afforded by Section 504 and IDEA to students with disabilities enrolled or seeking enrollment in charter schools. It also provides links to two documents that provide further detail and clarification regarding how each of these laws specifically impacts students with disabilities in charter school settings.

Dear Colleague Letter [OCR-00103] – Citation:

Lhamon, C. E. & Swenson, S. (2016, Dec 28). Dear colleague letter. Washington, DC: U.S. Department of Education, Office for Civil Rights, Office of Special Education and Rehabilitative Services.

Dear Colleague Letter [OCR-00103] – Full Text:

» <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-charter-school.pdf>

Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act (IDEA):

» https://sites.ed.gov/idea/files/policy_speced_guid_idea_memosdcltrs_faq-idea-charter-school.pdf

Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under Section 504 of the Rehabilitation Act of 1973:

» <https://www2.ed.gov/about/offices/list/ocr/docs/dcl-faq-201612-504-charter-school.pdf>



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