



Results Driven Accountability

General Supervision System

Office of Special Programs
West Virginia Department of Education

September 2014



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2014-2015**

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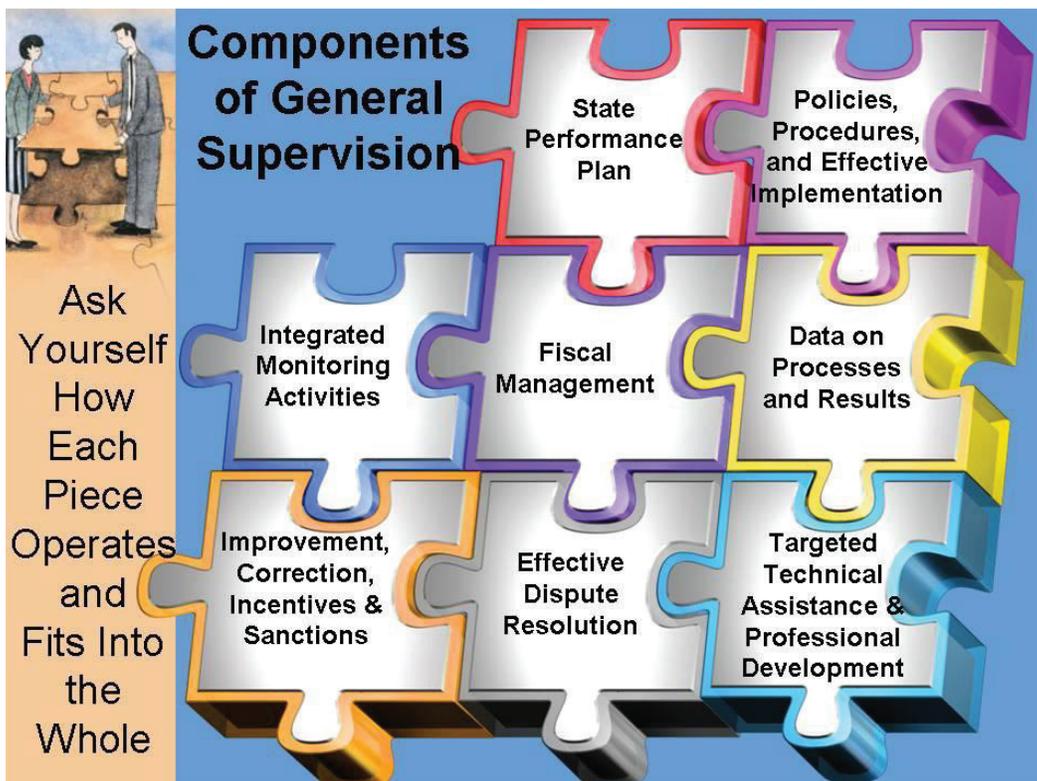
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Introduction

Each state has a responsibility, under federal statute and regulations, to have a system of general supervision that monitors the implementation of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) by local education agencies (LEA). The state system is accountable for enforcing the requirements and for ensuring continuous improvement. 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, the West Virginia Code §18-20-1 (Education of Exceptional Children) requires the West Virginia Department of Education (WVDE) to assure all students with exceptionalities receive an education in accordance with state and federal laws and regulations. The State and LEAs must engage in monitoring activities as part of the general supervision requirements outlined in IDEA and the state code.

The United States Department of Education (USDE), Office of Special Education Programs (OSEP), developed a model, “Components of General Supervision” found below, to illustrate the connectivity among the components that comprise a state’s system of general supervision. There are eight components related to general supervision: State Performance Plan; Policies, Procedures and Effective Implementation; Integrated Monitoring Activities; Fiscal Management; Data on Processes and Results; Improvement, Correction, Incentives, and Sanctions; Effective Dispute Resolution; and Targeted Technical Assistance and Professional Development.



State Performance Plan (SPP)

In accordance with the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), Part B, each state is required to have in place a performance plan evaluating the state's implementation of Part B and describing how the state will improve such implementation. This plan is called the Part B State Performance Plan (SPP) and is required to be posted on the state's website. The IDEA Part B, Sections 611 and 619 formula grant programs assist states in providing a free appropriate public education (FAPE) in the least restrictive environment (LRE) for students with disabilities ages 3 through 21.

The SPP is comprised of indicators that measure the state's performance. The Office of Special Education Programs (OSEP) in the United States Department of Education established 17 indicators for Part B for public reporting in 2013-2014. The indicators can be classified into two types: performance indicators which have targets set by each state, and compliance indicators, which have targets set by OSEP (at either 100 or 0 percent). For 2014 public reporting, states are required to report state performance on the following indicators:

1. Graduation
2. Dropout
3. Assessment
4. Suspension
5. Educational Environment Ages 6-21
6. Educational Environment Ages 3-5
7. Early Childhood Outcomes
8. Parent Involvement
9. Disproportionality – All Disabilities
10. Disproportionality – Specific Disabilities
11. Child Find
12. Early Childhood Transition
13. Secondary Transition
14. Post School Outcomes
15. Resolution Sessions
16. Mediation
17. State Systemic Improvement Plan (SSIP)

In addition, the IDEA Part B, requires each state to report annually to the public on the performance of each of its local educational agencies (LEA) according to the targets set in its SPP. The state also shall report annually to OSEP on its performance according to its SPP targets. This report is called the Part B Annual Performance Report (APR). Each state must use the targets established in the State Performance Plan (SPP) under 34 CFR § 300.601 and the priority areas described in 34 CFR § 300.600(d) to analyze the performance of each LEA.

West Virginia's State Performance Plan (SPP) and Annual Performance Report (APR) are available on the West Virginia State Department of Education, Office of Special Programs website at <http://wvde.state.wv.us/osp/spp.html>. Using the SPP Indicators (Appendix A), established by the OSEP, a data collection system has been designed to measure improvement on each indicator in order to make comparisons nationally and within the state. Annual targets (benchmarks) for state improvement have been set by a group of statewide stakeholders and the IDEA Part B State Advisory Panel, the West Virginia Council for the Education of Exceptional Children (WVACEEC), and are detailed in the SPP.

General supervision of LEAs includes quantitative and qualitative indicators according to the targets identified in the West Virginia State Performance Plan. These indicators measure compliance and results in the areas of a FAPE, LRE, child find (including disproportionate representation by race/ethnicity that is the result of inappropriate identification), dispute resolution, and transition services.

To coordinate the development of the APR for annual submission, the WVDE OSP maintains a team of personnel with specific indicator assignments. This team collects and analyzes data, drafts responses, shares progress with internal staff and external stakeholders, and evaluates implementation and impact of improvement activities for each indicator. Information regarding each state's SPP and APR can be found on the United States Department of Education website: www.idea.ed.gov.

Policies, Procedures, and Effective Implementation

States are required to have policies and procedures that are aligned with the IDEA 34 CFR § 300.100. West Virginia's special education policies and procedures support state and local implementation of the IDEA.

Agencies responsible for special education and related services must abide by West Virginia State law, policies, procedures, and the federal regulations for the IDEA Part B and C. Agencies having these responsibilities are: local education agencies (LEA), regional education service agencies (RESA), other public agencies (e.g., the West Virginia Schools for the Deaf and the Blind the Office of Institutional Education Programs, and juvenile and adult correctional facilities), and out-of-state private facilities in which West Virginia students have been placed by LEAs and courts.

The West Virginia Board of Education in an effort to assist LEAs and other entities providing special education and related services has outlined specific strategies for implementation of the IDEA and State Code §18-20-1., et.seq, Education of Exceptional Children in Policy 2419: *Regulations for the Education of Exceptional Students* <https://wvde.state.wv.us/Policies/Policy2419Effective9-15-14.pdf>. Policy 2419 includes both the policy and West Virginia Procedures Manual for the Education of Students with Exceptionalities. Each LEA Board of Education is responsible for the adoption of Policy 2419 and the submission of the Local Education Agency Assurances which demonstrate that the LEA understands their responsibilities under the IDEA. Failure to complete these requirements can directly affect approval of budget applications and other financial-related issues.

IDEA B State Advisory Panel

The WVDE OSP develops policies and procedures by utilizing an IDEA B State Advisory Panel. West Virginia's IDEA B State Advisory Panel for Special Education is West Virginia's Advisory Council for the Education of Exceptional Children (WVACEEC) and serves as an advisory group to OSP on issues relating to special education and related services for students with exceptionalities 34 CFR § 300.167.

The WVACEEC is the primary stakeholder group responsible for ongoing review of the SPP and APR. WVACEEC is established under West Virginia Code Section 18-20-6 and receives ongoing financial support from OSP. 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 <http://wvde.state.wv.us/osp/advisorycouncil>.

Integrated Monitoring Activities

In accordance with IDEA, the WVDE OSP must employ general supervision activities that include monitoring of LEAs with a particular emphasis on improving educational results and functional outcomes for all students with exceptionalities while ensuring that LEAs meet the requirements of the IDEA Part B. The WVDE OSP implements procedures for monitoring activities in accordance with the IDEA Part B, federal regulation 34 CFR § 300.600 State monitoring and enforcements. Multiple data sources and methods are used to monitor each LEA annually. The data is reviewed and publicly reported annually in the APR. Specific SPP indicators require a review of data for all LEAs each year with subsequent reviews for LEAs failing to meet the state targets. Monitoring review may be conducted onsite or through desk audit. Monitoring activities focus on improving performance as well as correcting noncompliance.

The OSP places an equal focus on compliance requirements and the performance of students with exceptionalities. The OSP is explicit in the expectations while supporting LEA's efforts in the improvement process. The Compliance System Procedures (CSP) include various monitoring activities which occur either annually, or on a four-year cycle or as needs are identified. All LEAs are required to complete an annual District Self-Assessment (DSA) for self-review and improvement planning. Although all SPP and WV Indicators are important, the OSP has determined monitoring priority Indicators for mandatory review during the Compliance Monitoring visit. The Annual Desk Audit (ADA) is completed and submitted annually to the OSP, identifying findings of noncompliance and areas requiring program improvement. Four types of formal monitoring processes are conducted.

- Compliance and Results Driven Monitoring (Desk Review and On-Site Activities)
- Focused Monitoring
- Annual Desk Audit (ADA)
- District Self-Assessment (DSA)

Compliance and Results Driven Monitoring

Compliance Monitoring is a comprehensive monitoring occurring on a four-year cycle. Each LEA will receive a compliance monitoring no less than every four years. This activity is conducted through an on-site visit including a desk review in selected districts. The monitoring team consists of OSP staff (Compliance and Results Coordinators) and other educators as determined by the Compliance Monitor. Districts selected for a Compliance Monitoring visit will engage in pre-monitoring activities, on-site monitoring activities, and the correction and improvement process.

The WVDE is required to monitor LEAs' implementation of the requirements of IDEA; West Virginia Code; and Policy 2419: *Regulations for the Education of Students with Exceptionalities* and must ensure when a district's noncompliance is identified, it is corrected as soon as possible and in no case later than one year after written notification. West Virginia Code §18-20-7 requires the WVDE to conduct random unannounced reviews at least every four years in each LEA for the purpose of reviewing identification procedures, complying with any or all applicable law and policies, delivering services, verifying enrollment and attendance reports, recommending changes, and fulfilling other duties as may be established by the West Virginia Board of Education. The CSP are completed in two phases: the desk review and the on-site visit.

Focused Monitoring

Focused Monitoring is a monitoring process where an LEA may receive a visit based on an identified need or other data source (i.e., and LEA receiving three or more complaints on specific issues) brought to the attention of the OSP. In addition, the OSP may resolve a complaint regarding alleged violations that occurred outside the one-year timeline through the focus monitoring process. This process may occur concurrently with a Compliance Monitoring or independently. A Focused Monitoring will drill down within the LEAs data to identify root causes and solutions to an on-going issue of compliance, performance, or both. Each Focused Monitoring is individualized to the district and one more following situations:

- performance levels and distance from SPP/APR targets;
- trend data;
- demographics of district;
- annual determination status;
- student enrollment and special education enrollment;
- issues identified through state complaints and/or Due Process Hearings; and/or
- high risk LEA.

Annual Desk Audit (ADA)

Districts are required to conduct an annual self-assessment of their special education programs utilizing the District Self-Assessment (DSA)/Annual Desk Audit (ADA) workbook which includes both State Performance Plan (SPP) and West Virginia indicators. The ADA is submitted electronically each year on April 30, and is a review of both compliance and results SPP Indicators. Districts with less than 100% or 0% on compliance indicators will receive written notice of noncompliance on or before May 31. Each ADA indicator determined Not Met requires completion of an improvement plan to be reviewed and accepted by the OSP.

The WVDE has developed an Annual Desk Audit (ADA) to address the SPP/APR performance and compliance indicators. (<http://wveis.k12.wv.us/nclb/county/ose/signonose.cfm>) The data-driven system creates a relationship between monitoring and improvement planning. The SPP/APR defines state targets for performance indicators. Districts not meeting state targets are required to develop an improvement plan. Compliance indicator targets of 100% or 0% are set by OSEP. Districts not meeting the compliance indicator targets in the ADA will receive a letter within 45 calendar days of submission identifying each noncompliance. The provisions outlined in 34 CFR § 300.600 direct states to issue findings based on compliance indicators only. The compliance indicators which are included in this process are:

- Indicator 4 Suspension (0%)
- Indicator 9 Disproportionality – All Disabilities (0%)
- Indicator 10 Disproportionality – Specific Disabilities (0%)
- Indicator 11 Child Find (100%)
- Indicator 12 Early Childhood Transition (100%)
- Indicator 13 Secondary Transition (100%)

District Self-Assessment (DSA)

LEAs are required to conduct an annual self-assessment of their special education programs. A local Steering Committee is established to assist in the self-assessment process to review data and determine the system's compliance and student performance.

Fiscal Management

Fiscal Management and Monitoring Procedures for All IDEA Funds

IDEA funds are provided for the excess cost of special education and related services for students with disabilities. IDEA funds are intended to supplement, not supplant 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 state and subgrantees (LEA) receiving federal education funds. Compliance supplements to the OMB Circulars and IDEA regulations further clarify requirements specific to IDEA funds. The WVDE monitors local educational agencies (LEA), who are subgrantees, using the following processes to ensure requirements are met.

1. Review and approval of the Local Educational Agency Application and WVEIS budget for IDEA and state entitlement funds.
2. Issuance of grant awards specifying purpose of funds, grant award period, and assurances certified by the subgrantee when the award is signed.
3. Review and approval of Budget Revision Requests, which serve as changes to the approved plan, when required by EDGAR and WVDE OSP budget revision procedures.
4. 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.
5. Monitoring of expenditure of funds and notifications to subgrantees prior to end of the obligation and liquidation period to ensure funds are spent.
6. Collection of data and reports from subgrantees as needed to meet specific federal requirements including Maintenance of Effort (MOE), CEIS, and Section 618 reports.
7. Collection, review, and verification of child count data.
8. District self-assessment monitoring of its own fiscal management requirements and periodic on-site monitoring by OSP staff.

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 are submitted to WVDE for review and approval by the OSP and Office of School Finance. Audit findings must be corrected by September 30 of the next fiscal year (e.g., FY09 findings are corrected by September 30, 2010.) OSP monitoring teams review audit reports and verify correction of audit findings during on-sites.

Budget Revision Process

The required budget revision process is set forth in a memorandum from the Executive Director, OSP and parallels the process required by WVDE. Budget and project revisions are submitted as required by EDGAR to the OSP for approval. Required forms are posted at <http://wvde.state.wv.us/finance> under the forms section.

Private School Proportionate Share

The method for maintaining a count of eligible students parentally-placed in private schools and documentation of the consultation process with a representative of private schools will be reviewed during on-site monitoring. Services provided will be verified through review of Service Plans, logs, contracts, and interviews with public and private school personnel may be conducted to ensure the district 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 CFR §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 LEA 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 CFR §300.205 (adjustment to local fiscal efforts), to develop and implement CEIS. The provision of 34 CFR §300.646 requires an LEA to reserve the maximum amount of funds available for comprehensive CEIS if there is significant disproportionality based on race or ethnicity with respect to the identification of children with disabilities; the identification of children in specific disability categories; the placement of children with disabilities in particular educational settings; or the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

Time and Effort

All employees paid from IDEA funds must complete time and effort documentation. This documentation is reviewed through the single audit process. Employees working on a single cost objective, that is employees paid 100% from an IDEA grant award for activities allowable under IDEA, may 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 hourly 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

IDEA, Part B funds section 613(a)(2)(A)(iii) 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.

Data on Processes and Results

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

- Data collection and verification;
- Data examination and analysis;
- Public reporting of data;
- Status determination; and
- Improvement activities.

Data Collection and Verification

IDEA requires that data are collected from LEAs through a state-reported data collection system and reported in the APR. To effectively use these data, LEAs must regularly update the data, and the state must routinely examine the collected data. The state uses the data, as well as information from other sources; such as other state-collected data, patterns, and trends in dispute resolution data, and previous findings, to evaluate the performance of the state and the LEAs on the SPP 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.

It is important for states to ensure that the data collected from the LEAs are accurate, as well as 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. States must develop multiple methods of verifying data accuracy.

Data Examination and Analysis

The state examines data in a variety of ways to identify and determine patterns and trends, as well as to identify connections between clusters of SPP indicators.

Public Reporting of Data

The State's Performance Plan is available on the OSP website, and is also distributed through public agencies.

Each year, special education reporting dates are posted to build capacity for LEAs to report timely and accurate data. Additional information about the special education reports and due dates are posted on the OSP Website.

Status Determination

Based on the information contained in data reports, information obtained through monitoring visits and other public information, OSEP determines if a state Meets Requirements; Needs Assistance, Needs Intervention, or Needs Substantial Intervention. The IDEA 34 CFR § 300.600 requires that states review the data of each local LEA to evaluate their performance in meeting requirements and purposes of the IDEA. After a review of the data, states are required to make determinations on whether LEAs: Meet Requirements; Need Assistance; Need Intervention; or Need Substantial Intervention.

Improvement Activities

Through the state's improvement plan activities in the SPP and data from the examination of LEA performance ongoing state activities are used for program improvement and progress measurement. States also coordinate Elementary and Secondary Education Act school improvement activities with SPP improvement activities. Technical assistance activities, designed to address the needs of each individual LEA, are based on data that are collected.

Improvement, Correction, Incentives, and Sanctions

Improvement and Corrections

If the State issues a finding of noncompliance for an LEA then the LEA must correct the noncompliance, as soon as possible, but no later than one year from the date of notification. 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 their compliance review determination.

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. This Improvement Plan shall include activities, methods of internal monitoring, the person(s) responsible for the implementation, and the date of implementation. The OSP will assist LEAs in the development of the Improvement Plan and timelines for completion. The OSP will review the Improvement Plan upon receipt and notify the LEA within 30 days regarding approval/disapproval of the Improvement Plan.

Corrective Action Plan (CAP)

Corrective Action Plans are developed in collaboration with the OSP and will require the LEA to take action specific to a particular area of non-compliance. 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 OSP mandated timeline. The OSP 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 OSP has identified.

On-Site Review

LEAs receiving a determination of Needs Substantial Intervention will receive an on-site review. In addition to an LEA's cyclical compliance review, the OSP may conduct an on-site review through the focus review process. The focus review process considers ongoing concerns with regard to phone logs, concern-specific correspondence with the public as well as LEA personnel, and formal complaints filed with the state education agency.

The on-site reviews are comprehensive in nature and may include (but are not limited to): 1) IDEA Part B fiscal reviews; 2) review of student records; 3) data verification review; 4) interviews with LEA personnel; 5) individual student tracking; 6) parent interviews; or 7) other issues as identified. A finding is issued for each area of noncompliance identified. The OSP may prescribe a Corrective Action Plan (CAP) or Improvement Plan that addresses identified areas of non-compliance and includes improvement strategies to ensure correction. All documents related to the on-site review are located at: <http://wvde.state.wv.us/osp/compliance>.

Continuous Compliance Review Prong 2

The OSP must ensure that the LEA has demonstrated systemic compliance for each individual case of noncompliance that was identified. This verification of systemic compliance must occur as soon as possible. In ensuring that the LEA is demonstrating systemic compliance, the OSP will:

- Notify the LEA of the Continuous Compliance Review Prong 2 within 6 months of the issuance of findings.
- Require each LEA to submit a reasonable sample of confidential student records and other documentation necessary for the OSP to verify systemic compliance. The reasonable sample will be determined based on the current enrollment of students receiving special education services.
- Obtain records via mail request; on-site visit; or electronic IEP data base.
- Review the records utilizing the Continuous Compliance Review Prong 2 process to determine if the LEA continues to be in compliance with IDEA Part B requirements within thirty days of receipt of the requested documents. The LEA will be contacted by the OSP if additional documentation is necessary to verify compliance. When the LEA is determined to be in compliance, the LEA will be notified via U.S. Mail.

All areas of noncompliance must be corrected within one year of the OSP notification to the LEA. If an LEA does not meet requirements through the verification of the Continuous Compliance Review Prong 2 the finding(s) will not be closed and the LEA will be notified in writing of the requirement to participate in an on-site review and subsequent verification of compliance. All documents related to the Continuous Compliance Review Prong 2 are located at: <http://wvde.state.wv.us/osp/compliance>.

Failure to Meet Compliance

IDEA provides that each State Education Agency is responsible for ensuring that the requirements of the Act are met. This responsibility also extends to the correction of identified violations of IDEA. When an LEA fails to implement necessary corrective action, enforcement measures must be taken immediately and need to involve the imposition of graduated sanctions. The OSP will administer a range of sanctions in the following graduated order:

Level Two Enforcement Sanctions

LEA(s) with uncorrected noncompliance beyond two (2) years from the written notification will receive a Notice of Level Two Enforcement Sanctions with required corrective action plans.

Level Three Enforcement Sanctions

The OSP may use any of the following sanctions alone or in combination as a means of enforcement for LEAs with continuous uncorrected noncompliance:

1. Withhold all funds until the deficiencies are corrected;
2. Withhold any administrative funds, maintained by the OSP and used for the salary of the special education director;
3. Redirect funds (e.g., earmark funds for specific activities);
4. Remove the LEA's ability to apply for any discretionary funds established by the OSP;
5. Cease funding for all subsequent years until deficiencies are corrected if the LEA is currently involved in a grant project maintained by the OSP;
6. Request an audit be conducted of the LEA's financial records;
7. Direct the administration of the LEA's special education programs; and/or
8. Fine the LEA on a daily and/or monthly basis until the deficiencies are corrected.

Part B Funding

The OSP may require LEAs to set aside funding allocations to address areas of noncompliance or re-budget funding allocations. The LEA or State agency will be given reasonable notice and an opportunity for a hearing prior to the redirection of funds. Hearing procedures shall be in accordance with federal regulations for State Administered Programs 34 CFR §§ 76.401 and 34 CFR 76.783 and the General Education Provisions Act 34 CFR §§ 81.30-81.45. Further information regarding IDEA Part B Funding can be found on the Website at <http://wvde.state.wv.us/osp/finance>.

Effective Dispute Resolution

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

Several mechanisms are available through the West Virginia Department of Education (WVDE) to assist in resolving disputes. The processes are facilitated individualized education programs (IEP), mediation, state complaints, due process hearings, (including expedited due process hearings and resolution process).

Facilitated IEP Team Meeting

IEP facilitation is a voluntary process for which a facilitator is appointed to facilitate an IEP Team meeting. The role of the facilitator is to help team members communicate more effectively and efficiently. IEP facilitation supports early dispute resolution, providing assistance to the IEP Team before a potential conflict develops into a more serious dispute. The facilitator is an impartial third party, not a member of the IEP Team, and has no stake in decisions made by the team.

A request for IEP facilitation may be made by the parent and/or adult student and/or by an LEA representative, such as the director of special education. Requests must be made in writing to the Office of Special Programs. Both parties must agree to the Facilitated IEP Team Meeting.

Mediation Process

The OSP has developed a mediation system to help resolve disagreements between LEAs and parents and/or adult students regarding the identification, evaluation, educational placement, and the provision of a free appropriate public education (FAPE). A request for mediation may be made by the parent and/or adult student or the LEA at any point without the necessity of requesting a due process hearing. Requests must be made in writing to the OSP. The ultimate goal of mediation is to obtain a written agreement that is acceptable to both parties. Mediation agreements are legally binding. Even if a written agreement is not achieved, mediation may be helpful in clarifying issues. Following a request for mediation, the OSP 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.

State Complaint Process

The parent or any individual may file a state special education complaint alleging a violation of an IDEA, Part B requirement by the school district, the WVDE or other public agency. The OSP must investigate and resolve a state complaint in writing within 60 calendar days of receipt unless the timeline is properly extended or the parent and district use the early resolution process to resolve the issues. The OSP notifies the complainant and the school district of the allegations in the complaint and conducts an investigation through a review of records, documentation, and interviews. Upon completion of the complaint investigation, the OSP issues a Letter of Findings, which is a report of the final results and identifies a noncompliance for any violation of state or federal special education law or regulation. If violations have occurred, the county school district or public agency must submit documentation to the OSP to verify that the required corrective activities have been implemented. The case is closed when the documentation is approved by the OSP.

Due Process Hearings

A parent or the school district may request a due process hearing on any matter relating to a proposal or a refusal to initiate or change the identification, evaluation or educational placement of a student or the provision of FAPE. A due process hearing officer's decision on whether a student received a free appropriate public education (FAPE) must be based on evidence and arguments directly relating 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:

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

After the decision is rendered the OSP will notify the parties in writing of the procedures used to monitor the implementation of the order when identification of noncompliance has occurred. The OSP reviews the submitted documentation, and if it is acceptable the OSP will close the case. If the documentation is not acceptable the OSP issues a status letter including technical assistance. If at any time either party believes the hearing officer's order has not been appropriately implemented, specific information may be submitted in writing to the OSP with an explanation of the actions allegedly not implemented appropriately. An investigation will be initiated upon receipt of the written information through the complaint process.

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 (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 ninety (90) calendar days from the date of the decision of the due process hearing officer to file a civil action.

Early Resolution

When a parent requests a due process hearing, the district must provide an opportunity for a resolution meeting to discuss the concerns and the facts forming the basis of the due process hearing complaint and provide an opportunity to resolve the concerns. The first meeting must occur within fifteen (15) calendar days of the date of the due process hearing received or seven (7) calendar days in case of an expedited hearing. The meeting need not occur if both the parent and the district agree in writing to: participate in mediation to resolve the due process request, or waive the resolution process completely and proceed to hearing. The OSP monitors the resolution meeting timelines through a tracking form at the conclusion of the resolution session which is submitted to the OSP and hearing officer. In the event, the district does not implement the Resolution Session requirements the OSP will issue a notice of noncompliance to the district to demonstrate correction of the policy and practices related to the resolution session.

Targeted Technical Assistance and Professional Development

Targeted Technical Assistance and Professional Development are ongoing activities and are a major part of the Office of Special Programs' general supervision system. Technical Assistance is designed to link directly to indicators in the State Performance Plan/Annual Performance Report (SPP/APR) and to improve the level of compliance in West Virginia LEAs. The State's comprehensive approach to technical assistance enables the Department to differentiate the scope of services provided for LEAs based on local needs. For example, the OSP makes available for all LEAs Technical Assistance (TA), such as meetings with local LEAs, webinars to support compliant implementation of the IDEA, updates via listserv, webinars, and training on Policy 2419: *Regulations for the Education of Exceptional Students* and special education forms. Technical Assistance related to the SPP Indicators can be found at: <http://wvde.state.wv.us/osp/technicalassistance>.

Technical Assistance provides a framework for LEAs to build their general supervision. Basic TA includes providing documentation of evidence-based practices and disseminating examples of success to assist others in planning, implementation, and use of tools to achieve positive outcomes. TA ranges from general levels, such as the state providing a review of best practices, to providing Targeted Technical Assistance (TTA). TTA includes more focused levels of support such as the state directing root cause analysis and monitoring of Corrective Action Plan (CAP) development and subsequent correction. Successful TTA requires an ongoing negotiated and collaborative relationship. TTA includes a purposeful and planned series of activities that result in changes to policy, program, or operations that support increased capacity at the state/system/school levels. Professional development (PD) ranges from a basic level of providing general information to targeted and intensive PD, which is focused on data driven school improvement in LEAs, schools, and classrooms. Successful research based PD involves system-wide commitment to a multi-year process of improvement. TA, TTA, and PD are designed to build the capacity of individuals, schools, and LEAs to plan, implement, and support desired outcomes for their students. Online professional development modules may be accessed at: <http://wvde.state.wv.us/osp/resources>.

LEAs can access and request technical assistance, targeted technical assistance, or professional development in order to improve student outcomes. The following map indicates the RESA regions for various agency initiatives including TTA and PD for special education.



Appendix A

The 2013-2014 16 IDEA Part B Indicators are defined as:

- Indicator 1: Graduation – Percent of youth with IEPs graduating from high school with a regular diploma.
- Indicator 2: Dropout – Percent of youth with IEPs dropping out of high school.
- Indicator 3: Assessment – Participation and performance of children with IEPs on statewide assessments.
- A. Percent of districts with disability subgroup that meets the State's minimum "n" size that meet the State's AYP/AMO targets for the disability subgroup.
 - B. Participation rate for children with IEPs.
 - C. Proficiency rate for children with IEPs against grade level, modified and alternate academic achievement standards.
- Indicator 4: Suspension – Rates of suspension and expulsion:
- A. Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in school year for children with IEPs.
 - B. Percent of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rates of suspensions and expulsions of greater than 10 days in a school year of children with IEPs; and (b) policies, procedures or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards (0%).
- Indicator 5: Educational Environment Ages 6-21 – Percent of children with IEPs aged 6 through 21 served:
- A. Inside the regular class 80% or more of the day;
 - B. Inside the regular class less than 40% of the day; and
 - C. In separate schools, residential facilities, or homebound/hospital placements.
- Indicator 6: Educational Environment Ages 3-5 – Percent of children aged 3 through 5 with IEPs attending a:
- A. Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program, and
 - B. Separate special education classes, separate school or residential facility.

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- Indicator 7: Early Childhood Outcomes – Percent of preschool children aged 3 through 5 with IEPs who demonstrate improved:
- A. Positive social-emotional skills (including social relationships);
 - B. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and
 - C. Use of appropriate behaviors to meet their needs.
- 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: Disproportionality – All Disabilities – Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification (0%).
- Indicator 10: Disproportionality – Specific Disabilities – Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification (0%).
- Indicator 11: Child Find – Percent of children who were evaluated within 60 days of receiving parental consent for initial evaluation or, if the State establishes a timeframe within which the evaluation must be conducted, within that timeframe (100%). West Virginia's timeframe is 80 days.
- Indicator 12: Early Childhood transition – Percent of children referred by 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 (100%).
- Indicator 13: Secondary Transition – Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition 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 was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority (100%).

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- Indicator 14: Post School Outcomes – Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school and were:
- A. Enrolled in higher education within one year of leaving high school.
 - B. Enrolled in higher education or competitively employed within one year of leaving high school.
 - C. Enrolled in higher education or in some other postsecondary education 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 that resulted in mediation agreements.

The 2015-2016 17 IDEA Part B Indicators Include:

- Indicator 17: State Systemic Improvement Plan (SSIP)
- A. The identification of systemic approaches that will lead to improved results for students with disabilities across key measures: performance on assessment, graduation with a regular diploma and post-school outcomes;
 - B. The development of a plan to support LEAs in identifying and implementing the evidence-based practices that will result in changes in school and provider practices to advance the state-identified, measurable improvement in results for students with disabilities; and
 - C. The alignment with other initiatives, including initiatives in general education and other areas beyond special duration, which can have an impact on students with disabilities.



