



IDEA Part C System of General Supervision Manual

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OSSE Part C System of General Supervision Manual
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1. INTRODUCTION

The District of Columbia Office of the State Superintendent of Education (OSSE) and the DC Early Intervention Program (DC EIP), are pleased to provide this guidance and information regarding its Individuals with Disabilities Education Act (IDEA) Part C System of General Supervision to assist programs, provider agencies, training and technical staff, the Interagency Coordinating Council (ICC), and other interested parties in understanding how OSSE provides programmatic administrative oversight, monitors compliance and quality, identifies noncompliance, and ensures timely correction of noncompliance.

As the lead agency for the District of Columbia, OSSE's role is to set high expectations, provide resources and support, and exercise accountability to ensure a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention (EI) services to infants and toddlers with disabilities and their families. OSSE's Division of Early Learning houses DC EIP and, with the Quality Assurance and Monitoring unit, functions to ensure compliance with the federal requirements of Part C of the IDEA and with the local regulations and policies that support the proper implementation of IDEA.

IDEA requires that the lead agency have a system of general supervision that has multiple mechanisms to support and oversee the Early Intervention system. The lead agency is responsible for administering the grant and for monitoring the implementation of IDEA Part C. As such, the lead agency must conduct monitoring activities and make annual determinations about the performance of each EI program as a means of ensuring compliance with IDEA Part C. The lead agency also reports annually on the performance of the lead agency and each EI program. The primary focus of the lead agency's monitoring activities is on improving outcomes for all infants and toddlers with disabilities and their families while also ensuring that EI programs meet the requirements of IDEA Part C.

OSSE's monitoring approach is outcome oriented. To achieve desired performance results, it is critical that OSSE work collaboratively with EI programs and engage in shared accountability practices that will maximize success for all infants and toddlers with disabilities. Accountability practices include: database reviews, on-site compliance monitoring, record reviews, dispute resolution activities, annual review of service provider contract provisions and audit findings reviews.

OSSE's monitoring system identifies noncompliance with the ultimate goal of improving outcomes for all infants and toddlers with disabilities and their families. While monitoring activities must, by federal law, examine compliance issues, OSSE has very deliberately structured its monitoring approach in such a way that the broader themes of IDEA – natural environments, parent support, improved performance, and teamwork – are emphasized.

A critical component of early intervention services is the role of the service coordinator as the advocate and coach for the child and family. As such, programs in the DC Early Intervention system are defined as an agency responsible for a child's service coordination—either after the

initial referral (Initial Service Coordination) or as an agency responsible for implementation and coordination of a child's ongoing IFSP services, reevaluation and assessments (Dedicated Service Coordination). Findings will be ascribed to the **agency providing service coordination for the child at the time the noncompliance was made, not at the time the noncompliance was found**. All record reviews will examine the most current IFSP and child information available.

A key feature of OSSE's system of general supervision is the direct linkage between monitoring activities and technical assistance and professional development. DC EIP contracts with the Georgetown University Center for Child and Human Development (GUCCHD) to provide targeted training and technical assistance (T&TA) to Early Intervention Programs throughout the year and is responsible for conducting the guided self-assessment process, outlined in this manual. DC EIP also conducts pre-service and in-service trainings to determine gaps and additional needs for providers, service coordinators and intake specialists. For more information on OSSE's T&TA, please contact Jerri Johnston-Stewart at 202-727-5853.

2. LEAD AGENCY AUTHORITY

OSSE has statutory authority under both federal and local law to establish, operate and maintain an administrative process to ensure compliance with all federal statutes for the programs under its jurisdiction, including the statewide system of EI services for District infants and toddlers with disabilities and their families.

IDEA section 635 requires each lead agency to implement a General Supervision System that monitors the implementation of IDEA Part C and its accompanying regulations. As the lead agency for the District of Columbia for implementation of Part C, OSSE is responsible for the implementation of the General Supervision System for the District, which includes but is not limited to State complaint processes and Due Process adjudication in addition to EI program monitoring. This general supervision system must include a component for the general administration and supervision of program and activities receiving assistance under IDEA section 633, and the monitoring of program and activities used by the state to carry out this part, whether or not such programs or activities are receiving assistance under section 633, to ensure that the state complies with this part.

In addition to upholding federal requirements, OSSE's General Supervision System ensures compliance with the following local rules, policies and procedures:

District of Columbia Part C Regulations¹

The regulations codify provisions of Part C requirements in District of Columbia Statute to define state level authority in the implementation of IDEA in the District of Columbia.

¹ 5 DCMR §§A-3100-3199

OSSE Part C Policies and Procedures

OSSE has developed policies and procedures that describe how the Part C regulations are to be implemented by programs and providers. Policies and procedures are aligned with Part C of IDEA, are in effect statewide and ensure that appropriate service are provided to infants and toddlers with disabilities and their families.

3. ADMINISTRATIVE OVERSIGHT

Annual Contract Provisions and Interagency Agreements: Annual contracts and/or Human Care Agreements signed by EI programs and providers include important assurances stating that the EI program/provider will operate in compliance with IDEA Part C regulations and requirements and with District of Columbia Office of Contracts and Procurement regulations and policies. In signing the annual contract and/or Human Care Agreement, EI programs attest that infants and toddlers within the program are receiving appropriate early intervention services and that the EI program/provider is properly using IDEA funds. Should an EI program not adhere to contract and/or Human Care Agreement provisions, OSSE may not be able to timely distribute funds to the EI program/provider or may choose to end the contractual relationship with the EI program/provider.

OSSE, as the Part C lead agency, has entered into agreements with the Department of Health Care Finance (Medicaid), the Child and Family Services Administration (CFS), the Early Head Start Programs and the State Early Childhood Preschool Special Education Program. Mechanisms for ensuring adherence to these agreements as well as dispute resolution procedures are built into each agreement.

Audit Findings Review: EI programs administered through non-profit entities that spend \$500,000 or more in federal funds are required to receive an A-133 single audit and submit a copy of the management letter to OSSE within 30 days of receipt. Any noncompliance identified through audits must be corrected in accordance with the audit report. Audit findings are considered in making annual EI program determinations.

Data Review:² DC EIP requires all EI programs and providers to use the QuickBase Strong Start Tracker system to record child demographic, service plan and service delivery information. This system is the system of record for all children receiving DC EIP services. Data submissions occur on a rolling/ongoing basis. In order to ensure that the data within the system is valid and reliable, the lead agency conducts data checks on a semi-annual basis. These data checks are conducted to determine that a program has entered timely and accurate data.

² The on-site monitoring process makes findings of noncompliance during the file review process on data for the purposes of establishing compliance with 34 CFR §303.701(c); this process is an additional administrative procedure that is designed to ensure proper administrative oversight of EI program providers.

Fiscal Monitoring: Monitoring of funds disbursed to early intervention programs and providers is through the review of monthly invoices for services delivered in the previous month. DC Early Intervention Program (DC EIP)’s billing unit reviews the provider’s invoice to determine if there is documentation on file to support the invoiced amount and whether or not the billing packet is submitted in accordance with both the Government of the District of Columbia and Strong Start’s billing and reimbursement requirements.

The billing unit is responsible for:

- Tracking qualifications of all providers in Quickbase Strong Start Tracker
- Timely reimbursement to providers (in collaboration with OSSE Accounts Payable)
- Documenting that Strong Start Early Intervention (EI) providers, for whom it is required, have an independent audit conducted as per regulations.

Strong Start has implemented the following procedures to ensure that EI providers are reimbursed in a timely manner for all accurate invoices that have been submitted timely.

Certification of Invoices

Invoices include a list of the children served and the service being billed. The contract administrator checks each child’s record in the Strong Start Tracker to ensure that the record contains appropriate documentation that substantiates the request for payment. Appropriate documentation includes, but is not limited to therapy notes and evaluation reports. These elements are recorded or uploaded in the child’s file.

- If the file does not contain documentation that substantiates that the billed service was provided, the invoice is returned to the vendor for adjustment. In this instance, the effective date of submission is the date in which a revised and subsequently certified invoice is received.

If the required documentation has been provided, the contract administrator signs to certify the invoice.

The following table outlines the items that are reviewed on a monthly basis, the source for the data and the policy that supports each item:

| Billing Review | Data Source | Policy |
|--|--|--|
| Timely billing (The invoice is received by the 10 th of the month.) | Email or Fax record of date and time received. | Contract – provider contracts specify the 10 th day of the month as the date the invoice is to be received. |

| Billing Review | Data Source | Policy |
|--|---|--|
| Accurate billing (The invoice is accurate.) | Child record – the service billed for must be documented in the child’s record. | Contract – provider contracts specify that the services must be documented in order to be valid. |
| Eligible for Strong Start Payment. (The child is not enrolled in an MCO plan.) | Child record – insurance plan. | OSSE Systems of Payment policy. |
| The session note includes: time and day of service; service completed; and outcome of service. | Child record – service delivery documentation, therapy notes. | Contract – provider contracts specify that the services must be documented in order to be valid. |
| The services billed are listed on the child’s IFSP. | Child record – service delivery documentation, therapy notes, IFSP. | Contract – provider contracts specify that the services must be documented in order to be valid. |
| The rates billed for each service are correct. | 5 DCMR §3113.2 | 5 DCMR §3113.2 |
| The units of service reported match the child’s IFSP. | Child record – service delivery documentation, therapy notes, IFSP. | Contract – provider contracts specify that the services must be documented in order to be valid. |
| There is documentation related to a missing service. | Child record – correspondence notes. | Contract – provider contracts specify that the services must be documented in order to be valid. |
| If billed, co-treatment is justified as strategy on the child’s IFSP. | Child record – service delivery documentation, therapy notes, IFSP. | Contract – provider contracts specify that the services must be documented in order to be valid. |

| Billing Review | Data Source | Policy |
|---|---|--|
| Documentation of hours worked for service coordination. | Certified timesheet. | Contract – Maximum number of hours is specified per the provider contract. |
| The evaluation reports and IFSPs are completed. | Child record – IFSP, evaluation report. | Contract – provider contracts specify that the services must be documented in order to be valid. |
| The family declined billing of their Medicaid plan (if applicable). | Child record – decline insurance form signed. | OSSE Systems of Payment policy. |

Payment of Invoices

Once an invoice is certified, it is approved for payment by the Strong Start Program Coordinator and the Assistant Superintendent of Early Learning.

Funding Sources

DC EIP receives both federal Individuals with Disabilities Education Act (IDEA), Part C funding as well as local funding, to conduct the activities required under IDEA. Federal funds support the personnel at OSSE; major activities such as Child Find, Comprehensive System of Personnel Development, Evaluations and Direct Services; and the work of the Interagency Coordinating Council (ICC). DC EIP uses is local funding primarily for service delivery and evaluations for infants and toddlers. In fiscal year (FY) 2015, DC EIP will receive a total of 8.5 million dollars from both sources combined.

The only fund source that the District of Columbia has incorporated into its Part C system of payments is public insurance (Medicaid). The District of Columbia does not access private insurance or implement family fees. All early intervention services are provided at no cost to families³.

4. STATE PERFORMANCE PLAN/ANNUAL PERFORMANCE REPORT

IDEA Part C requires the lead agency, as a part of its responsibilities, to use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in

³ The DC EIP as the lead agency for Part C may, but is not required to use Part C or other funds for costs such as the premiums, deductibles, or co-payments (34 CFR §303.521(a)(6)). The DC EIP will not charge a fee to the family for failure to provide income information because it is not collecting information on family income for any purpose (34 CFR §303.521(a)(5)).

priority areas and the indicators established by the Secretary of Education. The Secretary has identified 11 indicators to measure lead agency performance against IDEA regulations. At regular intervals, states are required to submit an Annual Performance Report (APR) that reviews and reports progress toward and/or compliance with the 11 indicators. Targets for indicators related to service timelines, evaluation timelines and Part C to Part B transition are required to be set at 100%.

The Secretary's Part C Indicators are as follows:

- **Indicator 1 (Timely Services):** *Percent of infants and toddlers with IFSPs who receive all the early intervention services on their IFSPs in a timely manner.*
- **Indicator 2 (Natural Environments):** *Percent of infants and toddlers with IFSPs who primarily receive early intervention services in the home or community-based settings.*
- **Indicator 3 (Improved Outcomes):** *Percent of infants and toddlers with IFSPs who demonstrate improved: (a) positive social-emotional skills (including social relationships); (b) acquisition and use of knowledge and skills (including early language/communication); and (c) use of appropriate behaviors to meet their needs.*
- **Indicator 4 (Family Involvement):** *Percent of families participating in Part C who report that early intervention services have helped the family: (a) know their rights; (b) effectively communicate their children's needs; and (c) help their children develop and learn.*
- **Indicator 5 (Birth to 1 Child Find):** *Percent of infants and toddlers birth to 1 with IFSPs compared to national data.*
- **Indicator 6 (Birth to 3 Child Find):** *Percent of infants and toddlers birth to 3 with IFSPs compared to national data.*
- **Indicator 7 (Initial IFSP Timeliness):** *Percent of eligible infants and toddlers with IFSPs for whom an evaluation and assessment and an initial IFSP meeting were conducted within Part C's 45-day timeline.*
- **Indicator 8 (Part C to Part B Transition):** *Percent of all children exiting Part C who received timely transition planning to support the child's transition to preschool and other appropriate community services by their third birthday including: (a) IFSPs with transition steps and services; (b) notification to LEA, if child is potentially eligible for Part B; and (c) transition conference, if child is potentially eligible for Part B.*
- **Indicator 9 (Resolution Sessions):** *Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements (applicable if Part B due process procedures are adopted). *OSSE has adopted Part B due process procedures.*
- **Indicator 10 (Mediation):** *Percent of mediations held that resulted in mediation agreements.*
- **Indicator 11 (SSIP):** *A State Systemic Improvement Plan (SSIP) that is a comprehensive, ambitious, yet achievable multi-year plan for improving results for infants and toddlers with disabilities and their families.*

All instances of lead agency data collection regarding the above indicators, however conducted (through database reviews, written data requests, on-site monitoring, etc.), constitute “General Supervision.” Any noncompliance identified pertaining to the indicators or related regulatory requirements must be corrected as soon as possible but in no case later than one year after the identification of the noncompliance.

OSSE and the DC EIP use the APR as an accountability mechanism to gauge how well the lead agency is performing against targets. The ICC uses the APR, as well as other fiscal and performance data, to advise and assist OSSE in determining priority areas for the EI system. The ICC also establishes committees to advise and assist OSSE to develop strategies for improving outcomes in the identified priority areas. OSSE and DC EIP incorporate the strategies in the development and implementation of APR improvement activities. Activities identified for improvement are reviewed monthly at DC EIP staff meetings and at quarterly ICC meetings.

The APR is distributed to stakeholders and is posted on the OSSE website www.osse.dc.gov.

5. ANNUAL DETERMINATIONS

The IDEA requires the lead agency to make determinations annually about the performance of each EI program based on information provided in the SPP/APR, information obtained through monitoring visits, and any other public information made available.

Noncompliance identified through information collected for SPP/APR reporting, for other U.S. Department of Education reporting, during on-site monitoring visits, during record reviews, during database reviews, for audits, through dispute resolution processes, and from other information available to OSSE will be considered in making EI program determinations. Likewise, OSSE will consider the timely correction of noncompliance identified through these methods in making EI program determinations.

The lead agency tracks timeliness and accuracy of data entered into the QuickBase Strong Start Tracker and the timeliness and accuracy of invoices submitted to OSSE for reimbursement. This information is also considered in the determinations process.

Finally, for those programs that are required to conduct A-133 audits, OSSE must consider the results of the audit when making determinations.

EI programs will be assigned one of the following one of the following determination levels:

- Meets Requirements
- Needs Assistance
- Needs Intervention
- Needs Substantial Intervention

The criteria for each determination level are set by OSSE according to Office of Special Education Programs (OSEP) guidelines. IDEA specifies different levels of action/intervention depending on the determination level. EI programs will be informed of their annual determination and any required actions/interventions in the summer.

For more information regarding determinations, refer to Appendix A.

6. SELF-ASSESSMENT PROCESS

Self-assessment activities are intended to promote the improvement of outcomes for infants and toddlers with disabilities and their families through the identification of an EI provider program's areas of strength and areas for growth. On an annual basis, OSSE's Technical Assistance provider will facilitate a self-assessment process for EI programs. In this process, the program will conduct file reviews in the District of Columbia's Corrective Action Tracking System (DC CATS) self-assessment portal and will complete best practice surveys that identify the program's quality of practice. Programs will use the aggregate information to develop a continuous improvement plan that is designed to reinforce areas of strength and improve areas for growth. All of the data used to develop the improvement plans will be held with the programs and are conducted solely for the purpose of self-assessment; progress made on the improvement plans will be reviewed by OSSE, as specified in the improvement plan.

7. MONITORING PROCESS OVERVIEW

OSSE employs a number of monitoring activities to ensure compliance with federal and local regulations and improve outcomes for infants and toddlers with disabilities and their families. Monitoring activities include: database reviews, on-site compliance monitoring, dispute resolution activities, annual review of contract provisions, and audit findings reviews.

Database Reviews: In accordance with APR reporting requirements, OSSE will review data in the DC EIP Strong Start Tracker (SST) to identify noncompliance and assess progress toward federal and local targets for special education. Data for APR indicators will be reviewed biannually for indicators 1, 7 and 8. Data reports are also generated through database systems for federally required Section 618 data tables that are due each February and November. EI programs will receive findings of noncompliance for noncompliance identified through database reviews. Findings of noncompliance identified through database reviews must be corrected as soon as possible but in no case later than one year after the noncompliance was identified. Details regarding database monitoring can be found on page 12.

On-site Compliance Monitoring: OSSE will conduct on-site compliance monitoring for a selection of EI programs annually. This process will include on-site record reviews and interviews to identify noncompliance and assess progress toward federal and local targets for EI programs. Details regarding on-site compliance monitoring can be found on page 13.

Dispute Resolution Activities: The State complaint and due process processes are designed to resolve disputes between EI programs and parents (or organization or individual in the case of State complaints). In the fact finding stages of each of these processes, the investigator or hearing officer may identify noncompliance by the EI program. In the case of State complaints, findings of noncompliance are identified in the Letter of Decision. In the case of due process complaints, findings of noncompliance are identified in the Hearing Officer Decision (HOD). Although OSSE may not issue an additional written finding of noncompliance, the Letter of Decision or HOD serves as the written notice of the finding of noncompliance. Findings identified through dispute resolution activities must be corrected in the timeline outlined in the Letter of Decision or HOD but in no case later than one year after the identification of the noncompliance. Additionally, findings made through these processes and the correction of these findings are tracked by OSSE and reported in OSSE's annual APR.

Database Monitoring

Database monitoring is a process by which all EI programs' data in the QuickBase Strong Start Tracker is reviewed for compliance with indicators 1, 7 and 8. The process is designed to identify noncompliance with key federal indicators.

Database monitoring is conducted twice per year of the previous half-year's data. Database monitoring will follow a series of defined steps, according to the following timelines:

| Activity | Timeline |
|---|-------------------------|
| Monitoring Period 1 | |
| Reports generated from SST | January 2015 |
| Reports of noncompliance issued to EI programs | February 2015 |
| Corrections due to OSSE from EI programs | March 2015 |
| Verification of correction of noncompliance | Ongoing |
| Subsequent sample of data to ensure compliance with regulatory requirements | Monthly, as appropriate |
| Monitoring Period 2 | |
| Reports generated from SST | July 2015 |
| Reports of noncompliance issued to EI programs | August 2015 |
| Corrections due to OSSE from EI programs | September 2015 |
| Verification of correction of noncompliance | Ongoing |
| Subsequent sample of data to ensure compliance with regulatory requirements | Monthly, as appropriate |

Reports will be released in two phases. During the initial release, the EI program has 10 calendar days to respond to the notification of noncompliance and to provide proof of subsequent correction of noncompliance. After the initial 10 days, OSSE will review the submission and mark as corrected or as not corrected. The final report will be released no more than 10 days after the initial report's release. All corrective actions submitted by programs and marked as corrected by OSSE during the initial release period will NOT be counted as findings of

noncompliance. Any noncompliance that was identified in the initial release but not marked as corrected by OSSE will become findings of noncompliance at the time of final release.

On-site Compliance Monitoring

On-site compliance monitoring is a process by which selected EI programs receive an on-site visit by OSSE's Quality Assurance and Monitoring and DC EIP units for a comprehensive record review, stakeholder interviews, fiscal examination and follow-up technical assistance. The process is designed to identify noncompliance and assess the EI program's progress toward improving outcomes for all infants and toddlers with disabilities and their families. On-site compliance monitoring also allows OSSE to determine if the lead agency's implemented strategies have resulted in qualitative and quantitative improvements, and to formulate specific, tailored actions if improved outcomes have not been achieved.

OSSE conducts an on-site compliance monitoring visit to every EI program serving infants and toddlers with disabilities within the District within a three year cycle.⁴ Therefore, selection for an on-site visit should not be construed as a punitive action or as an indication that the EI program is not meeting compliance or performance targets.

On-site monitoring will follow a series of defined steps, according to the following timelines:

| Activity | Timeline |
|--|-----------------|
| Identification of EI programs for Spring on-site monitoring | January 2015 |
| Letter informing EI programs of selection for on-site monitoring | February 2015 |
| Pre-site visits | February 2015 |
| On-site visits | March 2015 |
| Monitoring reports issued to EI programs | May-June 2015 |
| Verification of correction of noncompliance | Ongoing |
| Closure of findings letter issued | Ongoing |

Step 1: Identification of EI Programs for On-site Compliance Monitoring

The 3 year onsite monitoring cycle is set based on these criteria:

- Level of compliance on the previous FFY's APR Indicators 1, 7 and 8;
- Number of State complaints or due process complaints filed related to the EI program in the two previous FFYs;
- Timely submission of data (programmatic and fiscal) to OSSE;
- Timely and accurate invoice submission;
- Number of infants and toddlers served by the EI program;
- Information contained in family surveys;
- Date of last on-site monitoring visit.

⁴ The cycle timeline is subject to change based on OSSE monitoring priorities and/or federal requirements.

Step 2: Notification of On-site Compliance Monitoring Selection

EI program directors will be notified by letter and electronic mail of the scheduled monitoring visit according to the timeline outlined in the table above. The letter will include the following:

- Date of the monitoring visit;
- Suggested date for the pre-site visit;
- Purpose of the visit and planned activities;
- Documents and information required for the pre-site and on-site monitoring visits.

Upon receipt of notification of the visit, EI programs should plan for OSSE record reviews, the accommodations and time needed for staff and family interviews, consistent with planned activities described in the OSSE's notification.

Step 3: Pre-site Visit

The pre-site visit is an opportunity for EI program and OSSE staffs to discuss the purpose of the on-site visit, confer about the agenda for the on-site visit, agree on logistics and review EI program data. It is also an occasion for the EI program to ask any questions regarding the visit and to provide OSSE with documents needed prior to the visit. The pre-site visit may be conducted via telephone.

At a minimum, documents that should be available for the pre-site visit include:

- A staff roster;
- A list of infants and toddlers with disabilities served by the EI program;
- Written policies and procedures.

The standard pre-site visit agenda is located at Appendix B.

Step 4: On-site Compliance Monitoring Visit and Activities

The on-site review is designed to determine if the EI program's processes and services are compliant with local and federal regulations. If an EI program has more than one center, OSSE may conduct its on-site visit at multiple locations. Regardless of the number of locations OSSE chooses to visit, only one monitoring report will be issued to the EI program.

During the on-site visit, OSSE will engage in the following activities:

- **Record Reviews:** OSSE will examine a child's SST record to assess compliance with federal and local regulations. Items that will be assessed during the record reviews are outlined in the compliance monitoring tool. EI programs are responsible for having selected child records up to date prior to the date of the on-site visit. To ensure that the sample of files accurately represents the population of the District's children served in the Early Intervention Program, OSSE file selection will include at least one file of a child

who lives in each District Ward. Additionally, those eight cases must represent at least one additional category:

- A child aged 0-12 months
- A child aged 13-24 months
- A child aged 25-36 months
- A child with a diagnosed medical disability
- A child who is a ward of the District
- A child whose native language is not English

For EI programs serving 20 or fewer infants and toddlers with disabilities, **eight** child records will be reviewed. For EI programs serving 21 or more infants and toddlers with disabilities, **12** child records will be reviewed. All records will be reviewed in the areas for which the EI program is responsible (evaluation, initial IFSP, IFSP content, IFSP review, annual IFSP, transition planning and data). OSSE may review additional child records if the EI program has demonstrated longstanding noncompliance.

- **Staff Interviews:** OSSE will interview the EI program's administrators, service coordinators and service providers. Interview questions will be used to give OSSE a richer understanding of services provided to children and families in the District.
- **Family Interviews:** OSSE may choose to interview families of infants and toddlers with disabilities to better understand compliance and performance in the EI program. In most cases, OSSE will ask the EI program to choose the family members for the interviews. In some cases, families may be selected by OSSE according to specific information (e.g. families involved in dispute resolution processes or children with noncompliant IFSPs) or based on a random selection. If OSSE has selected specific parents for interviews, the EI program will be informed in advance of the names of any families selected by OSSE for an interview.
- **Home Visits:** OSSE may choose to accompany a service provider on a home or community visit to observe the delivery of services to children and families receiving Part C services. If a home visit is scheduled, the family interview will occur during the home visit. A summary of observations will be included in the monitoring report.

Step 5: Monitoring Report and Findings of Noncompliance

Monitoring reports will consist of three distinct elements:

- Compliance Summary Report - gives overall compliance rates for each element of the record review for the program as a whole.
- Child Level Report - outlines noncompliance related to each child for each element of the record review.
- Interview Summary Reports - informs programs and the state of potential areas for further training and program support.

The child level monitoring report will delineate actions necessary to correct identified noncompliance. Additionally, monitoring reports will serve as a method for EI programs to certify the correction of identified noncompliance. The interview summary reports provide EI programs with a summary of reported content knowledge of the interviewed stakeholders. These reports will identify both program strengths and areas for growth as determined by stakeholder response to core compliance questions. Reports are intended to promote the improvement of outcomes for infants and toddlers with disabilities and their families through the identification of noncompliance and identification of potential areas for staff and programmatic support.

20 to 30 days following the on-site visit, OSSE will notify the EI program of any of noncompliance identified during the on-site visit. Reports will be released in the District of Columbia's Corrective Action Tracking System (DC CATS). Reports will be released in two phases. During the initial release, the EI program has 10 calendar days to respond to the notification of noncompliance and to provide proof of subsequent correction of noncompliance. After the initial 10 days, OSSE will review the submission and mark as corrected or as not corrected. The final report will be released no more than 10 days after the initial report's release. All corrective actions submitted by programs and marked as corrected by OSSE during the initial release period will NOT be counted as findings of noncompliance. Any noncompliance that was identified in the initial release but not marked as corrected by OSSE will become findings of noncompliance at the time of final release.

Step 6: Corrective Action Plans

Contained within the monitoring report, OSSE will provide a list of required child level corrective actions for noncompliance identified through record reviews. If no additional findings of noncompliance are identified through other data collection processes, EI programs will not be required to develop a Corrective Action Plan (CAP). In that case, the monitoring report will serve as the CAP for the EI program. In the event of an additional finding of noncompliance identified through other data collection processes, OSSE may require the EI program to develop a CAP specific to the additional area(s) of noncompliance. The CAP will be due to OSSE 30 days after the EI program's receipt of the monitoring report.

OSSE is committed to providing technical assistance to EI programs as they formulate CAPs and/or as they complete corrective actions. Assistance from DC EIP will be available to EI programs as they strive toward correction of noncompliance and improvement of outcomes for infants and toddlers with disabilities and their families. Specifically, through a contract with the Georgetown University Center for Child and Human Development (GUCCHD), OSSE ensures that all personnel carrying out the requirements of IDEA Part C are appropriately and adequately trained. For more information on personnel development with GUCCHD, contact Jerri Johnston-Stewart at 202-727-5853.

Monitoring Correction of Noncompliance

For all identified findings noncompliance, EI programs must correct the noncompliance as soon as possible but in no case later than one year after the identification of the noncompliance. The date of the monitoring report serves as the date of the identification of the noncompliance.

Pursuant to OSEP Memorandum 09-02 dated October 17, 2008 (OSEP Memo 09-02), OSSE must account for all instances of noncompliance. In determining the steps that the EI program must take to correct the noncompliance and document such correction, OSSE may consider a variety of factors. For any noncompliance concerning a child-specific requirement, OSSE must also ensure that the EI program has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the EI program. In addition, OSSE must ensure that each EI program has completed the required action (e.g. completed the evaluation although late). A copy of OSEP Memo 09-02 can be found in Appendix C.

Child level noncompliance is corrected when the child's record is compliant with the specific regulatory requirement or when the required action has been completed. These findings are considered closed when the EI program can demonstrate that it is correctly implementing the specific regulatory requirement with all infants and toddlers with disabilities (i.e. demonstrating in a subsequent sample of files that it is able to demonstrate 100% compliance with the regulatory requirement). The monitoring report will detail required corrective actions.

Step 1: Verification of Correction of Noncompliance (Prong 1)

In accordance with OSEP Memo 09-02, OSSE has a two-prong approach for verifying and subsequently closing corrections to all noncompliance identified.

When a program completes all required corrective actions listed on the report and or CAP, it will submit documentation of correction to OSSE. OSSE will then review the documentation to verify that the corrections were made appropriately. Should the program submit incomplete documentation or should the corrective action not fully demonstrate compliance with the regulatory requirement, OSSE will work with the program until the program makes an appropriate and compliant correction.

Should an EI program fail to demonstrate correction within the required timeline, OSSE will enforce sanctions based on the level of noncompliance and the duration of the failure to correct the noncompliance. Under the new system of Human Care Agreements, OSSE also has the ability to withhold business to programs or providers who fail to submit a CAP or fail to achieve the required evidence of change in accordance with the plan.

Once OSSE verifies each item of noncompliance has been corrected, OSSE will conduct prong two, closure of findings of noncompliance.

Step 2: Closure of Findings of Noncompliance (Prong 2)

To ensure that the program is correctly implementing the regulatory requirement, OSSE will select a subsequent sample of child records that were not originally reviewed or generate a report from SST and conduct a review that consists only of the elements upon which findings

were previously made. For example, if a finding was made in an on-site report that the program did not include steps and services in a transition plan, OSSE will review additional records and look specifically at whether the program included steps and services in the transition plan.

Once the program demonstrates that all files in the subsequent sample show 100% compliance with the regulatory requirement, the finding will be closed. If the program does not demonstrate 100% compliance with the regulatory requirement, OSSE will continue to conduct subsequent samples until the program demonstrates 100% compliance with the regulatory requirement.

Pursuant to OSEP Memo 09-02, OSSE must verify the correction of noncompliance within one year of the identification of the noncompliance, therefore verification activities will occur before the conclusion of the one-year timeline. Noncompliance is considered corrected when the program can demonstrate that it is correctly implementing the specific regulatory requirement for all children with developmental delays or disabilities 100% of the time.

After OSSE has verified and closed the noncompliance, OSSE will inform the EI program in writing that the finding of noncompliance is closed. Pursuant to 09-02, OSSE will track all noncompliance until the program can demonstrate that it meets the regulatory requirement related to the finding.

EI programs are encouraged to conduct record review activities to identify any areas of need that may arise before future OSSE monitoring activities. Longstanding noncompliance extending beyond the one-year correction period will result in additional enforcement actions by OSSE and will affect the EI program's annual determination. Likewise, the EI program's timely correction of noncompliance will also be considered in the EI program's annual determination.

8. APPENDICES

Determinations Information & Frequently Asked Questions

OSEP Memo 09-02

Sample Monitoring Agendas

Compliance Monitoring Tool

Calendar of General Supervision Items

Appendix A

Determinations of the Status of Local Programs by State Agencies Under Parts B and C of the Individuals with Disabilities Education Act (IDEA)

It will be necessary for States to consider a number of factors when establishing their "Determinations" process under IDEA sections 616 and 642. Certainly, the most important of these is to ensure that the process includes all of the required components. As discussed below, States *must* consider performance on compliance indicators, data integrity, uncorrected noncompliance issues and relevant audit findings. Developing a process that ensures consideration of all of these factors will likely involve a multi-faceted approach. Because each State is expected to develop a process that reflects their unique context, it is clear that a variety of strategies will be used to meet this federal requirement. However, despite anticipated differences in approach, there will also be some commonality with regard to the entire range of issues that States will address as well.

Purpose

The purpose of this document is to provide guidance on the annual determinations that must be made under IDEA of local programs performance in meeting the requirements and purposes of the IDEA. This document addresses:

- OSEP requirements of States;
- Determination categories and state enforcement;
- Issues and challenges for States to consider in the decision making process now and in the future;
- Involving stakeholders in developing a determination process; and
- Resources and references.

OSEP Requirements of States

OSEP provided guidance to States on how they are to make determinations of status of local programs. These are in the FAQ document of 10/19/2006 (http://www.rfcnetwork.org/images/stories/FRC/spp_mat/determinations%20faq.doc).

Below are OSEP requirements of states as stated in the FAQ document:

- States are required to enforce the IDEA by making "determinations annually under IDEA section 616(e) on the performance of each LEA under Part B and each EIS program under Part C.
- States must use the same four categories in IDEA section 616(d) as OSEP in making determinations of the status of LEAs/EIS programs. These categories are:
 - Meets Requirements;
 - Needs Assistance;
 - Needs Intervention; and
 - Needs Substantial Intervention.
- States MUST consider:
 - Performance on compliance indicators;

- Whether data submitted by LEAs/EIS programs are valid, reliable, and timely;
- Uncorrected noncompliance from other sources; and
- Any audit findings.
- In addition, States could also consider:
 - Performance on performance indicators; and
 - Other information.

There is nothing in the IDEA statute or regulations that addresses a timeline for when States must make their annual determinations regarding the performance of the LEAs/EIS programs in their States. However, States need to make the determinations as soon as possible after making their annual report to the public on the performance of each LEA/EIS program.

States must inform each LEA/EIS program of the State's determination regarding that LEA/EIS program. However, the IDEA does not require States to report to the Department or to the public the determinations the State makes regarding the performance of each LEA/EIS program, although States may choose to do so.

The State's public reports of LEA/EIS program performance and its determinations provide valuable data and information to these local programs on how their program compares to the State's targets. States will want to be timely in informing LEAs/EIS programs of their determinations so programs can take actions necessary for improvement. In addition, there may be implications under the State's determinations for the State's award of funds to LEAs/EIS programs so the State would ideally make its determinations before LEA subgrants are issued or funds under subawards or contracts are signed or renewed to EIS programs.

Determinations and Enforcement

As noted above, States must use the same four categories as OSEP in making determinations of the status of local programs. These categories are

- Meets Requirements;
- Needs Assistance;
- Needs Intervention; and
- Needs Substantial Intervention.

Enforcement actions for these categories are described in section 616(e) of the IDEA and also in the Part B regulations at §§300.603 and 300.604. States must use appropriate enforcement actions listed at section 616(e) and in the Part B regulations at §300.600(a) that refers to the actions listed in §300.604. Not all of the enforcement actions included in section 616(e) and §300.604 may be applicable or appropriate for a State in determining the appropriate enforcement actions against specific LEAs/EIS programs. The Part B regulations at §300.600(a) specifically designate the enforcement actions that States must apply after an LEA is determined to "Need Assistance" for two consecutive years, "Need Intervention" for three or more consecutive years or immediately when an LEA is determined to be in "Need of Substantial Intervention."

In other words, when a State determines that an LEA:

- Needs Assistance for two consecutive years, the State must take one or more of the following enforcement actions in §300.604:
 - (a)(1): Advise programs of available sources of technical assistance to address areas on which the program needs assistance; or
 - (a)(3): Identify programs as high risk grantee and imposing conditions on use of funds.
- Needs Intervention for three or more consecutive years, the State must take one or more of the following actions in §300.604:
 - (b)(2)(i): Require the program to prepare or implement a corrective action plan to correct the identified area(s); or
 - (b)(2)(v): Withhold, in whole or in part, further payments to programs.
- Needs Substantial Intervention at any time, the State must take the following enforcement action in §300.604:
 - (c)(2): Withhold, in whole or in part, any Part B funds.

In addition to the minimum enforcement actions noted above, a State also may use any other enforcement mechanisms and actions available to it (such as those included in State rules, regulations, or policies) to enforce the IDEA. For example, a State might advise an LEA/EIS program of available technical assistance on areas on which the program needs assistance after the first year the program is identified as needing assistance, or require more rigorous reporting on the area needing improvement.

Issues and Challenges for the State

States need to consider a number of issues in preparation for making determinations of the status of local programs.

- How can we ensure that the process for making determinations is perceived as fair and equitable?
- How can we develop a determinations process that can be clearly articulated and understood by LEAs/EIS programs?
- Will the decision making process be strictly internal – State staff – or involve stakeholders?
- What is the relationship of the public report and program determination?
- What will serve as the criteria to assign each LEA/EIS program in one of the four determinations categories?
- How will the State take into consideration data that are more recent than the last report to the public? How will the State take into consideration improvement even when programs do not meet the State target?
- How many compliance and results indicators should our State include to achieve a comprehensive process for making determinations?
- What standards are set by the State for determining whether local program data are valid, reliable, and timely?
- What specific criteria will be used, if any, besides those the State must use?
- Whether some outcome indicators have more importance in the State at a particular time?

- Does the State want to inform LEAs/EIS programs of their draft determinations to request feedback?
- Will the State have an appeals process by local programs?
- Should our State include student or system results indicators as well as the required compliance indicators?
- What is the message the State sends to the public if the criteria for making determinations relies solely on program's performance on procedural compliance indicators?
- Will the State consider data from dispute resolutions – complaints, hearings or appeals - as part of the State's criteria?
- How will the State incorporate new indicators into the decision making process in future years?
- To what extent can a State automate the determinations task?
- Does the State intend to report the determinations to the public (recognizing that the State's correspondence informing the LEA/EIS program is likely available to the public through State freedom of information laws)?
- How will the State use the determinations of LEAs/EIS programs to guide or inform the State in whether to revise its SPP improvement activities?
- How are State resources to be allocated for each of the determination levels? For example, how will the State allocate resources for LEAs/EIS programs identified in the needs assistance category?
- States are required to enforce the IDEA by making "determinations annually under IDEA section 616(e) on the performance of each LEA under Part B and each EIS program under Part C.
- What implications will making determinations have on current resources and allocation of resources?

Involving Stakeholders: State Advisory Panels and State Interagency Coordinating Councils

State leadership—along with meaningful stakeholder involvement—are integral components in developing a determinations process that will be perceived as fair and equitable by LEAs/EIS programs. The functions of the State Advisory Panel (SAP) as described in section 1412(a)(21) of IDEA (Part B) and the State Interagency Coordinating Council (SICC) as described in section 635(a)(10) of IDEA (Part C) provide States with some mechanisms for obtaining stakeholder input and feedback on a wide variety of issues related to establishing a determinations process. As many well know, the role of the State Advisory Panel (SAP) is to advise on rules or regulations proposed by the State in such matters as evaluation and reporting data, the development of corrective action plans, and in policies related to coordinating Part B services provided to children and youth with disabilities. A similar advisory role is shared by the SICC, which must, under IDEA section 641(e)(1)(D), also prepare and submit an annual report to the Governor and the Secretary on the status of early intervention programs operated within the State. As such, both the SAP and the SICC can serve important roles in helping the State identify appropriate criteria in the determinations process.

In some instances, States may have a stakeholder group other than the SAP or SICC that has also assisted in the development of the State Performance Plan (SPP) and Annual

Performance Report (APR) and States may wish to continue the involvement of these stakeholders in developing the State's determinations process under Parts B and C of the IDEA. Even while acknowledging that States will likely involve various types of stakeholder groups to one extent or another, issues will need to be addressed regarding the general nature of their involvement. However, for those States seeking to more actively engage their SAPs and SICC in decision-making activities, the task of establishing a determinations process appears to be an ideal opportunity for this to occur.

Advantages in obtaining stakeholder input include:

- Involving stakeholders helps to diminish the burden of having only a relative few make decisions that will have widespread impact.
- Involving stakeholders helps to secure "buy-in," particularly from constituencies most likely to question the accuracy and efficacy of the determinations process.
- Involving stakeholders adds "transparency" to the decision-making process.

Nature of Stakeholder Involvement

States will need to consider various issues related to *how* stakeholders will be involved in the development of the determinations process. As indicated previously, one very important thing to consider is the *extent* to which stakeholders will be involved. For example, some States may choose to deliberate internally and perhaps even "field test" various strategies before presenting these options a stakeholder group. In this capacity, the involvement of stakeholders will be largely advisory. In contrast, other States may wish to include stakeholders more directly in the development of the determinations process. In this case, stakeholders are involved from the very beginning in helping with decisions about the "nuts and bolts" of the determinations process. In any event, it is likely that States will select an option most consistent with their historical relationships in working with stakeholders. Irrespective of what approach to involving stakeholders is selected—States will need to consider questions related to the stakeholder process. Several of these questions are indicated below:

- *"To what extent will LEAs/EIS programs be represented as stakeholders?"*—A critical question since LEAs/EIS programs will be most directly impacted by the process the State uses to make determinations.
- *What process will be used to establish a consensus among stakeholders?*—Much of the work involved in setting criteria for determinations will be contingent upon agreement of "decision rules."
- *How will the stakeholder group be facilitated?*—Some States may consider using external facilitation by a person or entity perceived as "fair."

Stakeholders can play an important role in helping the State to develop strategies for the determinations process. As such, it is important for the State to recognize their potential contributions and begin the process of establishing a determinations process by approaching it as a "stakeholders first" attitude. One of the "latest" performance-based methods to support this way of thinking is reflected in the "Performance Prism," a model entirely predicated on the assumption, *Start with stakeholders—not strategies.* Research from Neely, Adams, and Kennerly (2002), for example, points out that strategies represent

the “route” you take—the *how* to reach the “final destination”—which, in this case, is developing a fair and equitable approach to making determinations on the performance of LEAs/EIS programs.

Resources and References

- SPP/APR Part C Indicator Overview
(http://www.rrfcnetwork.org/images/stories/FRC/spp_mat/nac_materials/c%20indicator%20overview.doc)
- SPP/APR Part B Indicator Overview
(http://www.rrfcnetwork.org/images/stories/FRC/spp_mat/nac_materials/b%20indicator%20overview.doc)
- Determinations Summary Report – Part C
- Determinations Summary Report – Part B

Determination FAQs (10/19/06)

What are the Secretary's "Determinations?"

Based on information provided in the SPP, information obtained through monitoring visits and other public information, the Secretary will determine if the State--

- Meets the requirements
- Needs assistance
- Needs intervention
- Needs substantial intervention

What will OSEP consider in making the "Determinations?"

Department will consider all information available at the time of the determinations including:

- History, nature and length of time of any reported noncompliance
- Evidence of correction, including progress toward full compliance
- Information regarding valid and reliable data
- Special conditions
- Compliance agreements
- Audit findings
- Verification or focused monitoring findings

Are States required to make "Determinations?"

Pursuant to 616(a)(1)(C)(i) and 300.600(a), States are required to make "Determinations" annually under 616(d) on the performance of LEAs/EIS programs.

What should States consider in making their "Determinations?"

States **MUST** consider

- Performance on compliance indicators;
- Whether data submitted by LEAs/EIS programs is valid, reliable, and timely;
- Uncorrected noncompliance from other sources; and
- Any audit findings.

In addition, States could also consider:

- Performance on performance indicators; and
- Other information.

Must States use the same four categories as the Department will use?

- Yes, States must use "Meets Requirements, Needs Assistance, Needs Intervention, and Needs Substantial Intervention."

Is there a deadline for States to make the Determinations for their LEAs or EIS Programs?

- There is nothing in the statute or regulations that addresses a timeline for when States must make Determinations regarding the performance of the LEAs or EIS programs in their States. However, States need to make the Determinations as soon as possible after making their annual report to the public on the performance of each LEA or EIS program. It is important to ensure that LEAs and EIS Programs have time to improve performance prior to the next reporting to the State by each LEA or EIS program and the State's next

Determinations point. In addition, there may be implications for the State's award of funds to LEAs or EIS programs so the State would ideally make its Determinations before grants are issued or contracts are signed or renewed.

Must States report the Determinations of each LEA or EIS Program to the Department and/or the public?

- IDEA does not require States to report to the Department or to the public the Determinations the State makes regarding the performance of each LEA or EIS Program. States, of course, must inform each LEA or EIS Program of the State's Determination regarding that LEA or EIS program.

Appendix B



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

OCT 17 2008

Contact Person

Name: Ruth Ryder
Telephone: (202) 245-7513

OSEP 09-02

TO : Chief State School Officers
Lead Agency Directors

FROM : William W. Knudsen *William W. Knudsen*
Acting Director
Office of Special Education Programs

SUBJECT : Reporting on Correction of Noncompliance in the Annual
Performance Report Required under Sections 616 and 642 of the
Individuals with Disabilities Education Act.

Introduction

Pursuant to sections 616(d) and 642 of the Individuals with Disabilities Education Act (IDEA), the Department reviews each State's Annual Performance Report (APR) and, based on data provided in the State's APR, information obtained through monitoring visits, including verification visits, and any other public information, determines if the State: Meets Requirements, Needs Assistance, Needs Intervention, or Needs Substantial Intervention. In making determinations in 2007 and 2008, the Office of Special Education Programs (OSEP) considered, among other factors, whether a State demonstrated substantial compliance on all compliance indicators either through reporting a very high level of performance (generally 95% or better) or correction of noncompliance.¹

The purpose of this memorandum is twofold. First, the memorandum reiterates the steps a State must take in order to report that the previously identified noncompliance has been corrected. Second, the memorandum describes how we will factor evidence of correction into our analysis of whether the State has demonstrated substantial compliance for purposes of determinations under sections 616 and 642 of the IDEA (beginning with the Department's 2010 determinations based on a review of the FFY 2008 APRs). This memorandum also addresses concerns

¹ For Indicators B-15 and C-9, which measure timely correction of noncompliance, the only way for States to demonstrate substantial compliance is by demonstrating timely correction.

identified in our review of States' FFY 2005 and FFY 2006 APRs about identification and correction of noncompliance and low performance in compliance areas.

Issue 1 – Demonstrating Correction

As noted in OSEP's prior monitoring reports and verification visit letters, in order to demonstrate that previously identified noncompliance has been corrected, a State must:

- (1) Account for all instances of noncompliance, including noncompliance identified: (a) through the State's on-site monitoring system or other monitoring procedures such as self-assessment; (b) through the review of data collected by the State, including compliance data collected through a State data system; and (c) by the Department;
- (2) Identify where (in what local educational agencies (LEAs) or early intervention services (EIS) programs) noncompliance occurred, the percentage level of noncompliance in each of those sites, and the root cause(s) of the noncompliance;²
- (3) If needed, change, or require each LEA or EIS program to change, policies, procedures and/or practices that contributed to or resulted in noncompliance; and
- (4) Determine, in each LEA or EIS program with identified noncompliance, that the LEA or EIS program is correctly implementing the specific regulatory requirement(s). This must be based on the State's review of updated data such as data from subsequent on-site monitoring or data collected through a State data system.

If an LEA or EIS program did not correct identified noncompliance in a timely manner (within one year from identification), the State must report on whether the noncompliance was subsequently corrected. Further, if an LEA or EIS program is not yet correctly implementing the statutory/regulatory requirement(s), the State must explain what the State has done to identify the cause(s) of continuing noncompliance, and what the State is doing about the continued lack of compliance including, as appropriate, enforcement actions taken against any LEA or EIS program that continues to show noncompliance.

Regardless of the specific level of noncompliance, if a State finds noncompliance in an LEA or EIS program, the State must notify the LEA or EIS program in writing of the noncompliance, and of the requirement that the noncompliance be corrected as soon as possible, but in no case more than one year from identification (i.e., the date on which the State provided written notification to the LEA or EIS program of the noncompliance). In determining the steps that the LEA or EIS program must take to correct the noncompliance and to document such correction, the State may consider a variety of factors, including whether the noncompliance: (1) was extensive or found in only a small percentage of files; (2) resulted in the denial of a basic right under the IDEA (e.g., an extended delay in an initial evaluation with a corresponding delay in the child's receipt of a free appropriate public education or early intervention services, or a failure to provide services in accordance with the individualized education program or individualized family service plan); and (3) represents an isolated incident in the LEA or EIS program, or reflects a long-standing failure to meet the IDEA requirements. Thus, while a State may

² Please note that while we are not requesting that States provide, in the APR, lists of specific LEAs or EIS programs found out of compliance, we may review documentation of correction that the State required of the LEA or EIS program when we conduct a verification visit or other monitoring activity in a State.

determine the specific nature of the required corrective action, the State must ensure that any noncompliance is corrected as soon as possible, but in no case more than one year from identification.

For any noncompliance concerning a child-specific requirement that is not subject to a specific timeline requirement (State Performance Plan (SPP)/APR Indicators B-9, B-10, B-13, C-8A and C-8B), in addition to the steps above, the State also must ensure that the LEA or EIS program has corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the LEA or EIS program. Similarly, for any noncompliance concerning a child-specific timeline requirement (SPP/APR Indicators B-11, B-12, C-1, C-7, and C-8C), in addition to the steps enumerated above, the State must ensure that the LEA or EIS program has completed the required action (e.g., the evaluation or initiation of services), though late, unless the child is no longer within the jurisdiction of the LEA or EIS program. In ensuring that each individual case of noncompliance has been corrected, the State does not need to review each child's record in the LEAs or EIS programs where the noncompliance occurred, but rather may review a reasonable sample of the previously noncompliant files to verify that the noncompliance was corrected.

Issue 2 – Factoring Correction into Evaluation of Substantial Compliance

For purposes of the Department's IDEA section 616 determinations issued since June 2007, we considered a State to be in substantial compliance relative to a compliance indicator if the State's data indicate a very high level of compliance (generally 95% or above), or if the State nonetheless demonstrated correction of identified noncompliance related to that indicator. In the interest of fairness to all States, we will evaluate whether a State demonstrated correction of identified noncompliance related to an indicator when we make our 2009 determinations based on the FFY 2007 APRs, and will use the same approach we used in 2007 and 2008. However, some States are reporting very low levels of compliance year after year, while also reporting that they have corrected previously identified noncompliance. This concerns us because it indicates that systemic correction of noncompliance did not occur. Thus, in the interest of improving LEA and EIS program performance and ultimately improving results for infants, toddlers, children and youth with disabilities, beginning with our 2010 determinations:

- (1) We will no longer consider a State to be in substantial compliance relative to a compliance indicator based on evidence of correction of the previous year's noncompliance if the State's current year data for that indicator reflect a very low level of compliance (generally 75% or below); and
- (2) We will credit a State with correction relative to a child-specific compliance indicator only if the State confirms that it has addressed each instance of noncompliance identified in the data for an indicator that was reported in the previous year's APR, as well as any noncompliance identified by the Department more than one year previously. The State must specifically report for each compliance indicator whether it has corrected all of the noncompliance identified in its data for that indicator in the prior year's APR as well as that identified by the Department more than one year previously.

For example --

- Reporting correction of noncompliance identified in on-site monitoring findings alone will not be sufficient to demonstrate correction if the data reported in a State's prior year's APR showing noncompliance were collected through the State's data system, and the monitoring findings do not include all of the instances of noncompliance identified through the prior year's data.
- In order to report correction of noncompliance identified in data based on a statewide sample, the State would need to track the noncompliance identified in the sample data reported in its prior year's APR back to the specific LEAs or EIS programs with noncompliance and report correction for those LEAs or EIS programs.

In other words, a State's demonstration of correction needs to be as broad in scope as the noncompliance identified in the prior year's data.

We hope that you find the information in this memorandum helpful in collecting and reporting data for your future SPP/APR submissions. OSEP is committed to supporting your efforts to improve results for infants, toddlers, children and youth with disabilities and looks forward to working with your State over the next year. If you have any questions, would like to discuss this further, or would like to request technical assistance, please do not hesitate to call your OSEP State Contact.

cc: Part B State Directors
Part C Coordinators

Appendix C



Program Name
Pre-Onsite Monitoring Meeting
Date/Date Range

Time **Overview of Monitoring Visit** *Location*

Program Staff:

OSSE Staff:

Time **Data Review** *Location*

Program Staff:

OSSE Staff:

Time **Visit Process and Agenda** *Location*

- Record Review
- Interviews

Program Staff:

OSSE Staff:

Time **Remaining Questions/Next Steps** *Location*

Program Staff:

OSSE Staff:





Program Name
On-Site Monitoring Visit
Date/Date Range

Day 1: [Day], [Date]

Time **Welcome, Overview** *Location*

Program Staff:

OSSE Staff:

Time **Interview: Administrator
(Individual)** *Location*

Program Staff:

OSSE Staff:

Time **Interview: Service Coordinator
(Individual)** *Location*

Program Staff:

OSSE Staff:

Time **Interview: Service Coordinator
(Individual)** *Location*

Program Staff:

OSSE Staff:



| Time | Parent Interview | Location |
|------|------------------|----------|
| | Program Staff: | |
| | OSSE Staff: | |

| Time | Exit | Location |
|------|----------------|----------|
| | Program Staff: | |
| | OSSE Staff: | |

Appendix D

| | | | |
|------------------|----------------|-----------------|----------------------|
| Child Name & ID: | Reviewer Name: | Date of Review: | Service Coordinator: |
|------------------|----------------|-----------------|----------------------|

| Item | Citation | Topic/APR Indicator | Response | Corrective Action |
|--|-----------------|---------------------|---|--|
| 9 Child's Current Evaluation is Comprehensive | § 303.321(b) | Evaluation/7 | <p>The child's current evaluation meets the criteria for a comprehensive evaluation.</p> <p>Yes = The evaluation report contains information on child's cognitive, fine motor, gross motor, communication and social emotional functioning.</p> <p>No = The evaluation report does not contain information on all five developmental domains.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | Reconvene the evaluation team and conduct a comprehensive, multidisciplinary evaluation. |
| 10 Child's Current Evaluation is Multidisciplinary | § 303.321(a)(1) | Evaluation/7 | <p>The child's current evaluation meets the criteria for a multidisciplinary evaluation.</p> <p>Yes = The evaluation report is signed by two individuals with credentials from different disciplines OR the evaluation report is signed by one individual with credentials from two disciplines.</p> <p>No = The evaluation report is signed by one individual who has credentials in only one discipline OR the evaluation report is signed by two individual with credentials in the same discipline.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | Reconvene the evaluation team and conduct a comprehensive, multidisciplinary evaluation. |

| | | | |
|------------------|----------------|-----------------|----------------------|
| Child Name & ID: | Reviewer Name: | Date of Review: | Service Coordinator: |
|------------------|----------------|-----------------|----------------------|

| Item | Citation | Topic/APR Indicator | Response | Corrective Action |
|---|------------------------|---------------------|---|---|
| 11 Evaluation Documents Child and Family Strengths and Needs | § 303.321(c)(1) | Evaluation/7 | <p>The current evaluation or IFSP contains documentation of an assessment of the unique strengths and needs of that infant or toddler.</p> <p>Yes = The evaluation or the IFSP contains a section that documents the child and family's strengths and needs.</p> <p>No = The evaluation or the IFSP does not contain a section that documents the child and family's strengths and needs.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | Amend the IFSP to include the strengths and needs of the child and family. |
| 12 Evaluation or IFSP contains Family Assessment | § 303.321(c)(2) | Evaluation/7 | <p>The current evaluation or IFSP contains a family-directed assessment of the resources, priorities, and concerns of the family.</p> <p>Yes = The IFSP identifies family's concerns, priorities and resources OR the IFSP contains documentation that the family did not wish to share concerns, priorities and resources.</p> <p>No = The IFSP does not identify the family's concerns, priorities and resources.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | Amend the IFSP to include the family's concerns, priorities and resources section of the IFSP or document that the family did not wish to share concerns, priorities and resources. |
| 13 Evaluation or IFSP Identify Supports and Services for the Family | § 303.321(a)(1)(ii)(B) | Evaluation/4 | The current evaluation or IFSP identifies the supports and services necessary to enhance the family's capacity to meet the developmental needs of that infant or toddler. | Reconvene the IFSP team and complete the supports and |

| | | | |
|------------------|----------------|-----------------|----------------------|
| Child Name & ID: | Reviewer Name: | Date of Review: | Service Coordinator: |
|------------------|----------------|-----------------|----------------------|

| Item | Citation | Topic/APR Indicator | Response | Corrective Action |
|--|-----------------|---------------------|---|--|
| and Child | | | <p>Yes = Supports and services are listed on the IFSP.</p> <p>No = Supports and services are not listed on the IFSP.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> | services section of the IFSP. |
| 14 Evaluations and Assessments Were in Child or Family's Native Language | § 303.321(a)(5) | Evaluation/4 | <p>The file documents that the current evaluations and assessments of the child were conducted in the native language of the child.</p> <p>Yes = Evaluations and assessments were conducted in the child's primary language, as indicated in the child's record.</p> <p>No = Evaluations and assessments were conducted in a language other than the child's primary language, as indicated in the child's record.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> | <p>Convene the evaluation and IFSP teams and discuss the impact that conducting the evaluation in a language other than the child's primary language may have had in the results of the evaluation.</p> <p>Document the discussion. If the team feels that there may have been a substantial impact on the results, reevaluate the child in his or her native language.</p> <p>Provide documentation of discussion and</p> |

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| | | | | reevaluation, if appropriate, to OSSE. |
| 15 Evaluation Includes Child History | § 303.321(b)(2) | Evaluation/4 | <p>The current evaluation includes a record of the child's history (including interviewing the parent).</p> <p>Yes = Evaluation contains a summary of the child's medical and social history.</p> <p>No = Evaluation does not contain a summary of the child's medical and social history.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> | Reevaluate child and include a record of the child's history in this evaluation. |
| 16 Evaluation Process Included the use of a Formal Evaluation Tool | § 303.321(b)(1) | Evaluation/4 | <p>The current evaluation documents the administration of an evaluation instrument.</p> <p>Yes = The evaluation identifies the use of a specific evaluation instrument.</p> <p>No = The evaluation does not identify the use of a specific evaluation instrument.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> | Reevaluate child with a specific, identified evaluation instrument. |

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| 17 Evaluation Included a Review of Other Information | § 303.321(b)(4) | Evaluation/4 | <p>The current evaluation contains a review of information from other sources such as family members, other care-givers, medical providers, social workers, and educators, if necessary, to understand the full scope of the child's unique strengths and needs.</p> <p>Yes = Evaluation reviews information from the family and at least one other source (either by interview or report).</p> <p>No = Evaluation contains information from only one other source.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | Reevaluate the child and include information from the family and from at least one other source in the evaluation. |
| 18 Evaluation Contains Medical Record Review | § 303.321(b)(5) | Evaluation/4 | <p>The current evaluation contains a review of medical, educational, or other records.</p> <p>Yes = Evaluation contains a summary of medical or educational records.</p> <p>No = Evaluation does not contain a summary either medical records or educational records.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | Reevaluate child and include a record of the child's medical and or educational history in this evaluation. |

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| 19 Prior Written Notice Contains Required Elements | § 303.421(b) | Evaluation/4 | <p>Prior written notice for the evaluation contains all required elements.</p> <p>Yes = Prior written notice contained:</p> <ul style="list-style-type: none"> ▪ The action that is being proposed or refused; ▪ The reasons for taking the action; ▪ A description of mediation in § 303.431, ▪ How to file a State complaint in §§ 303.432 through 303.434 ▪ How to file a due process complaint in the provisions adopted under § 303.430(d). <p>No = Prior written notice does not contain all listed components.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | No child level correction possible. |
| 20 Evaluation Prior Written Notice Was Given Timely | § 303.421(a) | Evaluation/4 | <p>Prior written notice was provided to the parent(s) a reasonable time before the lead agency or an EIS provider proposes, or refuses, to initiate or change the identification, evaluation.</p> <p>Yes = Prior written notice was provided to the family at least one day prior to the meeting.</p> <p>No = Prior written notice was not provided OR Prior written notice was provided the same day as the meeting.</p> | No child level correction possible. |

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| | | | <input type="radio"/> Yes <input type="radio"/> No | |
| 22 IFSP includes Measurable Results or Measurable Outcomes | § 303.344(c) | Individualized Family Service Plan (IFSP)/3 | <p>The current IFSP includes a statement of the measurable results or measurable outcomes expected to be achieved for the child and family.</p> <p>Yes = The IFSP has at least one measurable goal or outcome statement.</p> <p>No = The IFSP does not have one or more goal or outcomes statement OR none of the goals or outcome statements is measurable.</p> <input type="radio"/> Yes <input type="radio"/> No | Amend the IFSP to include measurable results or measurable outcomes. |
| 23 IFSP Goals Include Progress Measures | § 303.344(c)(1) | Individualized Family Service Plan (IFSP)/3 | <p>The current IFSP goal statements contain criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes identified in the IFSP is being made.</p> <p>Yes = The goal statement lists criteria and procedures to determine that progress is being made AND The goal statement has a timeline for attainment.</p> <p>No = The goal statement does not list criteria or procedures to determine that progress is being made OR The goal statement does not have a timeline for attainment.</p> <input type="radio"/> Yes | Amend the IFSP to revise the outcomes page to include criteria and procedures for goals to be met; include a timeline for attaining these goals in the IFSP. |

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| | | | <input type="radio"/> No | |
| 24 Services Page of IFSP is Complete | § 303.344(d)(i) | Individualized Family Service Plan (IFSP)/3 | <p>The current IFSP indicates the location, length, duration, frequency, intensity, method of delivery and payment source for the early intervention services.</p> <p>Yes = The services summary page of the IFSP contains:</p> <ul style="list-style-type: none"> ▪ Location of services (home, community, length of service (length of time the service is provided during each session of service), ▪ Duration of service (projected start and end dates for services), ▪ Frequency and intensity of services (number of days or number of sessions per specified time period), ▪ Method (how service is provided to the child—in a group, individually or as consultation between providers) AND ▪ Payment source (Medicaid, private insurance or parent fees). <p>No = One or more of the required elements is missing.</p> <p> <input type="radio"/> Yes <input type="radio"/> No </p> | Amend the IFSP so that the services section includes location, length, duration, frequency, intensity, method of delivery and payment source. |
| 25 IFSP includes Statement of Natural Environment for Service Delivery | § 303.344(d)(1)(ii)(A) | Individualized Family Service Plan (IFSP)/2 | The current IFSP contains a statement that each early intervention service is provided in the natural environment for that child or service to the maximum extent appropriate, or a justification as to why an early intervention service will not be provided in the natural | Amend the IFSP to indicate the reason that services are not provided in the natural environment. |

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| | | | <p>environment.</p> <p>Yes = Services on the IFSP are conducted in the child's natural environment OR a statement as to why an early interventions service is not provided in the natural environment is listed on the IFSP.</p> <p>No = Services on the IFSP are not conducted in the child's natural environment.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> | |
| 26 Prior Written Notice Was Provided in the Parent's Native Language | § 303.421(c)(1)(ii) | Individualized Family Service Plan (IFSP)/7 | <p>Prior written notice was provided to the parent in the parent's native language.</p> <p>Yes = There is written evidence that shows that the notice was provided in the native language of the parent or other mode of communication used by the parent OR documentation exists that shows that the notice was translated orally or by other means to the parent in the parent's native language or other mode of communication.</p> <p>No = There is no written evidence that shows that the notice was provided in the native language of the parent or other mode of communication used by the parent AND there is no written evidence that shows that the notice was translated orally or by other means to the parent in the parent's native language or other mode of communication.</p> | No child level correction possible. |

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| | | | <input type="radio"/> Yes <input type="radio"/> No | |
| 27 IFSP Prior Written Notice Was Given Timely | § 303.421(a) | Individualized Family Service Plan (IFSP)/7 | <p>Prior written notice was provided to the parent(s) a reasonable time before the IFSP meeting is held.</p> <p>Yes = Prior written notice was provided to the family at least one day prior to the meeting.</p> <p>No = Prior written notice was not provided OR Prior written notice was provided the same day as the meeting.</p> <input type="radio"/> Yes <input type="radio"/> No | No child level correction possible. |
| 28 IFSP Meeting Included all Required Participants | § 303.343(a), (b) | Individualized Family Service Plan (IFSP)/7 | <p>The current IFSP Team meeting included all required participants.</p> <p>Yes =</p> <ul style="list-style-type: none"> ▪ The IFSP Team meeting included the parent or parents of the child; ▪ Other family members, as requested by the parent, <i>if feasible to do so</i>; ▪ An advocate or person outside of the family, <i>if the parent requests that the person participate</i>; ▪ The service coordinator designated by the public agency to be responsible for implementing the IFSP; ▪ A person or persons directly involved in conducting the | Reconvene the IFSP meeting and ensure participation by all required participants. |

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| | | | <p>evaluation AND</p> <ul style="list-style-type: none"> As appropriate, persons who will be providing early intervention services under this part to the child or family. <p>No = One or more of the required participants did not attend the IFSP meeting.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | |
| 29 Transition Plan Included Parent Training and Discussion of Future Placements | § 303.344(h)(2)(ii) | Individualized Family Service Plan (IFSP)/8 | <p>The IFSP steps section includes discussions with, and training of, parents regarding future placements and other matters related to the child's transition.</p> <p>Yes = For all children who are 2 years 3 months old or over, the child's IFSP includes a transition plan that lists steps and services that identify discussions with and training of parents regarding the child's potential future placements.</p> <p>No = The child is 2 years 3 months or older and the IFSP does not contain a transition plan that lists steps and services that identify discussions with and training of parents regarding the child's potential future placements.</p> <p><input type="radio"/> Yes <input type="radio"/> No</p> | As part of an IFSP amendment, develop a transition plan that lists steps and services that identify discussions with and training of parents regarding the child's potential future placements. |
| 30 Transition Plan Included Procedures to Prepare Child for | § 303.344(h)(2)(ii) | Individualized Family Service Plan (IFSP)/8 | <p>The IFSP steps section includes procedures to prepare the child for changes in service delivery, including steps to</p> | As part of an IFSP amendment, develop a transition plan that |

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| New Settings | | | <p>help the child adjust to, and function in, a new setting.</p> <p>Yes = For all children who are 2 years 6 months old or over, the child's IFSP includes a transition plan that lists steps that are designed to help the child adjust to, and function in a new setting.</p> <p>No = The child is 2 years 6 months or older and the IFSP does not include a transition plan that lists steps that are designed to help the child adjust to, and function in a new setting.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> | lists steps that are designed to help the child adjust to, and function in a new setting. |
| 32 Consent to Provide Services was Obtained | § 303.342(e) | Service Delivery/7 | <p>Written consent was obtained prior to the provision of early intervention services described in the IFSP.</p> <p>Yes = The parent signed a consent statement on the IFSP that authorizes the provision of early intervention services.</p> <p>No = The parent did not sign a consent statement on the IFSP that authorizes the provision of early intervention services.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> | Obtain consent to provide early intervention services immediately. |
| 34 IFSP items were complete | §§ 303.701(c) | IFSP/7 | <p>All applicable elements of the IFSP are completed.</p> <p>Yes = IFSP document has data entered for all applicable</p> | Amend IFSP so that all items are complete. |

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| | | | <p>sections.</p> <p>No = One or more critical elements of the IFSP document is blank or is missing information.</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p> | |

Appendix E

DC Early Intervention Program

Calendar of General Supervision Activities

July



- ☐ Generate database monitoring reports from SST (M)

August



- ☐ Issue database monitoring reports of noncompliance (M)
- ☐ Schedule pilot guided self-assessments with an EI program (TA)
- ☐ Release General Supervision manual to EI programs (A)

September



- ☐ EI programs submit corrections of noncompliance from database monitoring (M)
- ☐ Train EI programs on system of general supervision and monitoring processes (A)

October



- ☐ Review and analyze APR data (D)

November



- ☐ Submit Exiting and Dispute Resolution data to OSEP (D)
- ☐ Conduct guided self-assessment pilot (TA)

December



- ☐ Capture data for annual Child Count and Settings reports (D)
- ☐ Schedule guided self-assessments with EI programs (TA)

Ongoing activities: Review of improvement plans, prong 2 verification samples, review/approval of new or existing corrective action plans, review of data to determine trends and TA needs, fiscal and contract management.

Key: M = Monitoring; A = Administrative; D = Data; TA = Technical Assistance

DC Early Intervention Program

Calendar of General Supervision Activities

January



- ☐ Generate database monitoring reports from SST (M)
- ☐ Select EI Programs for on-site monitoring (M)

February



- ☐ Issue database monitoring reports of noncompliance (M)
- ☐ Notify EI programs of their selection for on-site monitoring (M)
- ☐ Conduct pre-site visits with EI programs selected for on-site monitoring (M)
- ☐ Submit the Annual Performance Report/State Performance Plan to OSEP (A)
- ☐ Submit Child Count and Settings data to OSEP (D)

March



- ☐ EI programs submit corrections of noncompliance from database monitoring (M)
- ☐ Conduct on-site visits with selected EI programs (M)
- ☐ Conduct guided self-assessment process with EI programs (TA)

April



- ☐ Submit Part C application and any accompanying documentation to OSEP (A)

May



- ☐ Issue on-site visit reports of noncompliance to EI programs (M)
- ☐ Issue annual performance determinations to EI programs (M)
- ☐ Issue annual report to the public on the performance of EI programs (A)

June



- ☐ Receive State Annual Determination from OSEP (A)
- ☐ Review and revise monitoring protocols and the general supervision manual (M)

Ongoing activities: Review of improvement plans, prong 2 verification samples, review/approval of new or existing corrective action plans, review of data to determine trends and TA needs, fiscal and contract management.

Key: M = Monitoring; A = Administrative; D = Data; TA = Technical Assistance