

# Special Education Accountability Q&A October 2008 (Revised August 2010)

## Overview

This question and answer document addresses the primary federal and state requirements for special education accountability under the Individuals with Disabilities Education Act (IDEA 2004). The document is divided into five sections:

- a. State Performance Plan and the 20 Performance Indicators (questions 1 and 2)
- b. The Four Determination Levels (questions 3 through 15)
- c. Correction of Non-Compliance (questions 16 through 20)
- d. Program Review Process (questions 21 through 23)
- e. Significant Disproportionality (questions 24 through 28)

## State Performance Plan and the 20 Performance Indicators

### **1. What is the State Performance Plan (SPP)?**

*Answer:* The SPP is designed to evaluate states' efforts to implement Part B of the Individuals with Disabilities Education Act (IDEA 2004). In December 2005, all states were required to develop and submit to the Federal Office of Special Education Programs (OSEP) a comprehensive State Performance Plan that analyzes the state's current performance. Performance is rated on 20 federally-mandated Indicators. States set annual targets for improvement in the 20 Indicators across a 6-year period (2005-06 through 2010-11), and establish a framework for improvement activities to help the state reach the identified targets. See question 2 below and Appendix A for a more complete description of the 20 Indicators.

Every year, states are required to develop and submit an Annual Performance Report (APR) that: (1) describes the state's current level of performance on each of the 20 Indicators, (2) analyzes any progress or slippage made on each Indicator during the preceding year in relation to the target, and (3) documents improvement activities that the state has implemented (or will implement) to improve performance for that Indicator. The data for many of these Indicators are based on data reports submitted by districts to the Office of Superintendent of Public Instruction (OSPI). Washington's State Performance Plan and Annual Performance Reports are posted on the Office of Superintendent of Public Instruction (OSPI) website at: [www.k12.wa.us/SpecialEd/Data/SPP-APR.aspx](http://www.k12.wa.us/SpecialEd/Data/SPP-APR.aspx).

### **2. What are the 20 Performance Indicators?**

*Answer:*

1. Graduation rates
2. Dropout rates

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3. Statewide assessments (including AYP, participation, and proficiency)
- 4a. Suspension and expulsion rates
- 4b. Suspension and expulsion rates by race/ethnicity
5. Least Restrictive Environment (LRE ages 6-21)
6. Preschool LRE - with typically developing peers
7. Early childhood outcomes
8. Parent involvement
9. Disproportionate representation in special education
10. Disproportionate representation in specific disability categories
11. Timely initial evaluation and eligibility after parent consent
12. Part C transition to Part B - IEP implemented by 3<sup>rd</sup> birthday
13. Secondary transition IEPs
14. Postsecondary outcomes
15. General supervision – timely correction of non-compliance
16. Timely resolution of citizen complaints
17. Timely adjudication of due process requests
18. Resolution settlement agreements
19. Mediation agreements
20. Timely and accurate State-reported data

Indicators 4b, 9, 10, 11, 12, 13, 15, 16, 17, and 20 are “Compliance Indicators”, meaning that they have a federally-mandated target of either 100% (as in “100% of children with parental consent to evaluate will be evaluated and eligibility determined within 35 school days” (Indicator 11)) or 0% (as in “0% of districts will have disproportionate representation of racial and ethnic groups in special education that is the result of inappropriate identification” (Indicator 9)). The remaining Indicators are “Results Indicators”, meaning that states can establish their own targets for improvement, depending on their baseline data. See Appendix A for a more complete description of the 20 Indicators.

### **The Four Determination Levels**

#### **3. What are the four levels of determination?**

*Answer:* The U.S. Department of Education (DOE) is required to rate states according to their performance regarding the implementation of part B of IDEA. The DOE then requires states to rate districts located in their state across the same four levels:

1. Meets Requirements
2. Needs Assistance
3. Needs Intervention
4. Needs Substantial Intervention

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These determinations must be made annually for all school districts in the state. (See IDEA Section 616(a), 34 CFR §300.600 & 300.602, and WAC 392-172A-07012)

#### **4. What are the criteria that are used to assign determination levels to school districts?**

*Answer:* States are required by the Department of Education to consider, at a minimum, the following four criteria when placing districts into the four determination levels:

1. Audit results
2. Timely correction of identified non-compliance
3. Timely and accurate data
4. Performance on Compliance Indicators 9, 10, 11, 12, and 13

States may also consider other factors, such as performance on other Indicators, including the Results Indicators. At this time, the State of Washington is only applying the minimum required criteria.

#### **5. What are the criteria that Washington will use to place districts in the determination levels?**

*Answer:* Washington will use the four federally-required criteria for district determinations in our state. The rubric that will be used can be found in Appendix B of this document, and is described in detail in questions 6 through 9 below.

#### **6. What are the specific parameters for criterion 1 – audit results?**

*Answer:* For this criterion, the State will be examining unresolved special education audit findings that are material in nature. In order to Meet Requirements for this criterion, the district must have **resolved** all special education audit findings. If the district has unresolved special education audit findings, the district will be determined to Need Intervention for this criterion. (See Appendix B for instructions on how to use all four criteria to calculate the district's final determination level.)

#### **7. What are the specific parameters for criterion 2 – timely correction of non-compliance?**

*Answer:* Districts are required to correct all issues of non-compliance identified by the State as soon as possible, but no later than one year from identification. The verification (confirmation) of corrections by the local Educational Service District (ESD) and the validation (approval) of corrections by OSPI must also occur within this one year timeline. In Washington, non-compliance notifications are issued in November and January of each school year. The data window for the issuance of determinations closes on September 30<sup>th</sup> of each year. As an example, if the district receives notification of non-compliance in November 2009 or January 2010, that non-compliance must be

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corrected, verified, and approved no later than September 30<sup>th</sup>, 2010, or it would impact the district's November 2010 determination level. Districts with non-compliance identified on November 1, 2010 or January 2011 must correct, including verification and validation, by September 30<sup>th</sup>, 2011 or it will impact the district's November 2011 determination level, and so on.

If the district corrects all non-compliance as soon as possible, but no later than September 30<sup>th</sup>, the district can be considered as Meets Requirements for this criterion. If a district corrects the identified non-compliance, but does not correct it by September 30<sup>th</sup>, the district will be considered as Needs Intervention for this criterion. If the district does not correct the identified non-compliance, the district will be considered as Needs Substantial Intervention for this criterion. Please note: Due to the serious nature of uncorrected issues of non-compliance, there is no Needs Assistance level for this criterion. For more information on this criterion, please refer to the section of this Q&A that is titled *Correction of Non-compliance*. (See Appendix B for instructions on how to use all four criteria to calculate the district's final determination level.)

For more information regarding this criterion, please refer to the *Correction of Non-compliance* section of this Q&A, beginning on page 7.

### **8. What are the specific parameters for criterion 3 – timely and accurate data?**

*Answer:* Washington uses seven data reports that are annually submitted by districts as the measure for this criterion:

1. Special Education Personnel Employed & Needed (Due 12/17)
2. Child Count/Least Restrictive Environment (Due 12/31)
3. Special Education Students Suspended/Expelled (Due 6/30)
4. Preschool Outcomes (Due 7/15)
5. Timeline for Initial Evaluation (Due 7/15)
6. Transition from Part C to Part B (Due 7/15)
7. Quarterly district reports on the use of ARRA (American Recovery and Reinvestment Act) IDEA Part B funds (due quarterly in 2009-10 and 2010-11)

Each year's determinations are based on the previous school year's data. So for this criterion, the previous year's report submissions would be analyzed. The timeliness and accuracy of data reports submitted in 2009-10 would impact November 2010's determinations, reports submitted in 2010-11 would impact November 2011's determinations, and so on.

In order to Meet Requirements for this criterion, districts must submit all 7 of these reports in a timely and accurate manner. This means that the report is submitted on or before the due date and is accurate (i.e. – data are from the correct reporting period, calculations are correct, and the instructions for that report were followed). If the district submits 4, 5, or 6 timely and accurate reports, the district

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will be considered as Needs Assistance for this criterion. If the district submits 1, 2, or 3 timely and accurate reports, the district will be considered as Needs Intervention for this criterion. If the district does not submit any timely and accurate reports, the district will be considered as Needs Substantial Intervention for this criterion. (See Appendix B for instructions on how to use all four criteria to calculate the district's final determination level.)

Please note: Beginning with the November 2011 Determinations, the following report will also be included in the list of those required under criterion 3:

- Post School Outcome Survey (due on or before 11/1)

### **9. What are the specific parameters for criterion 4 – performance on the Compliance Indicators?**

*Answer:* As described previously, five Compliance Indicators are federally required to be considered as part of this criterion (see Appendix A for the full wording of these Indicators):

9. Disproportionate representation in special education that is the result of inappropriate identification
10. Disproportionate representation in specific disability categories that is the result of inappropriate identification
11. Timely initial evaluation and eligibility – within 35 school days after receiving parent consent
12. Part C transition to Part B - IEP implemented by the student's 3<sup>rd</sup> birthday
13. Secondary transition IEP components

The following performance measures will be used regarding these five Compliance Indicators:

- a. Meets Requirements – Performance of 95% or higher on Indicators 11, 12, and 13, and disproportionate representation is not the result of inappropriate identification.
- b. Needs Assistance – Performance of 65 to 94.9% on Indicators 11, 12, or 13, and disproportionate representation is not the result of inappropriate identification.
- c. Needs Intervention – Performance of less than 65% on Indicators 11, 12, or 13, or disproportionate representation is the result of inappropriate identification.

Please note: There is no Needs Substantial Intervention level for this criterion. (See Appendix B for instructions on how to use all four criteria to calculate the district's final determination level.)

### **10. When will the annual notifications take place?**

*Answer:* Annual determinations will be issued on or around November 1<sup>st</sup> of each year. Issuing determinations each fall, based on the district's previous year's performance, allows the district time to make changes throughout the current year and have a positive impact on their data for the following year's determinations. Much of the information needed to make determinations is included in the *Performance Data Profiles*, which are published each August/September on the OSPI website

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([www.k12.wa.us/SpecialEd/Data/default.aspx](http://www.k12.wa.us/SpecialEd/Data/default.aspx)), so districts are able to calculate their own determination level prior to the November 1<sup>st</sup> issuance if they choose.

### **11. How will districts be notified of their annual determination level?**

*Answer:* District determinations will be posted on OSPI's iGrants system (Form Package 442) on or around November 1<sup>st</sup> of each year.

Districts can calculate their own determination level prior to November 1<sup>st</sup>. The rubric contained in Appendix B, as well as the district's data profile, will assist the district in calculating their level of determination prior to official notification. The data profiles are posted on OSPI's website at: [www.k12.wa.us/SpecialEd/Data/default.aspx](http://www.k12.wa.us/SpecialEd/Data/default.aspx).

### **12. What are the consequences for being identified as Needs Assistance?**

*Answer:* Districts identified in need of assistance, as described in WAC 392-172A-07012, may receive technical assistance resources in the area(s) in which the district did not meet the requirements. Sources of technical assistance will include assistance from the district's local Educational Service District (ESD), and may also include assistance from federal resource centers, advice from experts, federal guidance publications, collaboration with colleges/universities, etc. Districts identified in need of assistance for two consecutive years may be required to work with a specific entity for technical assistance and/or conditions may be imposed on the district's use of IDEA Part B funds. (See Appendix C for more information.)

Technical assistance resources to support districts in improving performance across all 20 Indicators can be found on OSPI's website at: [www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx](http://www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx).

### **13. What are the consequences for being identified as Needs Intervention?**

*Answer:* Districts identified in need of intervention *may* be required to prepare and implement a plan of improvement and/or corrective action and may receive priority for a focused program review, in addition to the actions described under question 12 above. Districts identified in need of intervention for three consecutive years *will be required* to prepare a corrective action plan or compliance agreement that includes specific timelines for correction, and further IDEA Part B payments may be withheld, in whole or in part. (See Appendix C for more information.)

Technical assistance resources to support districts in improving performance across all 20 Indicators can be found on OSPI's website at: [www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx](http://www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx).

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**14. What are the consequences for being identified as Needs Substantial Intervention?**

*Answer:* If at any time a district is determined to be in need of substantial intervention, OSPI is federally required to withhold or recover further IDEA Part B payments, in whole or in part. In addition, the district will receive a focused program review of the issues that resulted in this determination, and will be required to develop and implement a corrective action plan or compliance agreement that includes specific timelines for correction. (See Appendix C for more information.)

Technical assistance resources to support districts in improving performance across all 20 Indicators can be found on OSPI's website at:  
[www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx](http://www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx).

**15. Will the districts' determination levels be made public?**

*Answer:* Under current federal guidance, states are not required to publish or publicly report the results of the determinations for districts in their state.

**Correction of Non-Compliance** *(see also question 7)*

**16. What is the federal requirement for the identification and correction of non-compliance?**

*Answer:* Federal guidelines state: "regardless of the specific level of non-compliance, if a state finds non-compliance in a district, it must notify the district in writing of the non-compliance, and of the requirement that the non-compliance be corrected as soon as possible, and in no case more than one year after the state's identification (i.e., the date on which the state provided written notification to the district of the non-compliance)" (from OSEP's *Frequently Asked Questions on Identification and Correction 9/3/08*). This means that districts that are not at 100% compliance on all of the Compliance Indicators are required to correct their non-compliance as soon as possible, but no later than one year from identification, **even if the district is determined to Meet Requirements for that Indicator** (see question 9). The state's verification and validation of the correction(s) must also take place within this one year period. A description of the identification and correction of non-compliance must be provided in the state's Annual Performance Report (under Indicator 15).

**17. What are the sources for non-compliance that might be identified by the state?**

*Answer:* States are required to issue written notification to districts regarding non-compliance that is identified through any of the state's general supervisory activities. For our state, this would include,

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but is not limited to, program review activities (such as onsite visits and self-studies), citizen complaints/due process results, Safety Net submissions, district data submissions, and district performance on the Compliance Indicators.

### **18. When and how will districts be notified of non-compliance identified by the state?**

*Answer:* Issues of non-compliance will be posted through OSPI's iGrants system (Form Package 442). On or around November 1<sup>st</sup> of each year, districts with identified issues of non-compliance will be able to access a description of the identified non-compliance in the district's Form Package 442. A smaller round of district notifications will occur on or around January 31<sup>st</sup> of each year for non-compliance that is identified through onsite visits that take place in the fall, or through other state-level monitoring activities. Districts will be required to correct the non-compliance as soon as possible, but no later than April 30<sup>th</sup> of each year. Local ESDs will also be notified of non-compliance that was found in districts located within their region.

Districts with non-compliance identified through a citizen's complaint and/or due process hearing will be notified through the written complaint/due process decision. Please note: The notification, correction, verification, and validation of non-compliance that is identified through a citizen complaint or due process decision is processed through the corresponding decision order and required corrective action plan, and not through the process described in questions 19 and 20 below.

### **19. How will districts document that they have corrected the identified non-compliance?**

*Answer:* The correction of identified non-compliance will be summarized and reported to OSPI through iGrants, Form Package 442. Form Package 442 is due from districts no later than April 30<sup>th</sup>.

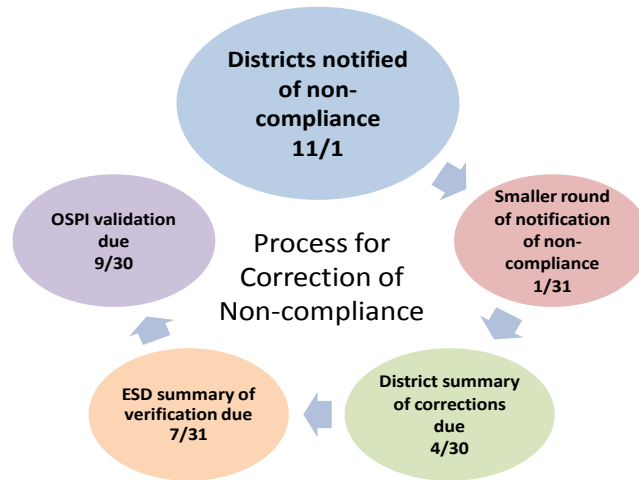
### **20. How will the correction of non-compliance be verified and approved by the State?**

*Answer:* Special education representatives from the regional ESDs will assist OSPI in verifying (confirming) that the district's corrections, as summarized in their Form Package 442, have been made. Verification activities include file and/or data reviews, and may also include onsite visits, staff interviews, observations, etc. The ESD representative will provide a summary of the activities he/she completed to verify the district's corrections on the district's Form Package 442 before submitting 442 to OSPI for review and approval by July 31<sup>st</sup>.

Validation (approval) activities, such as review of correction and verification summaries, and ongoing future activities such as file sampling, review of district-submitted data and/or IEPs, program review visits, etc., will be conducted by OSPI. Districts will receive notification through the iGrants system when their correction of non-compliance (Form Package 442) has been approved by OSPI.

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An overview of this annual process is shown on the diagram below:



## Program Review Process

### **21. What are the priority areas for program review activities?**

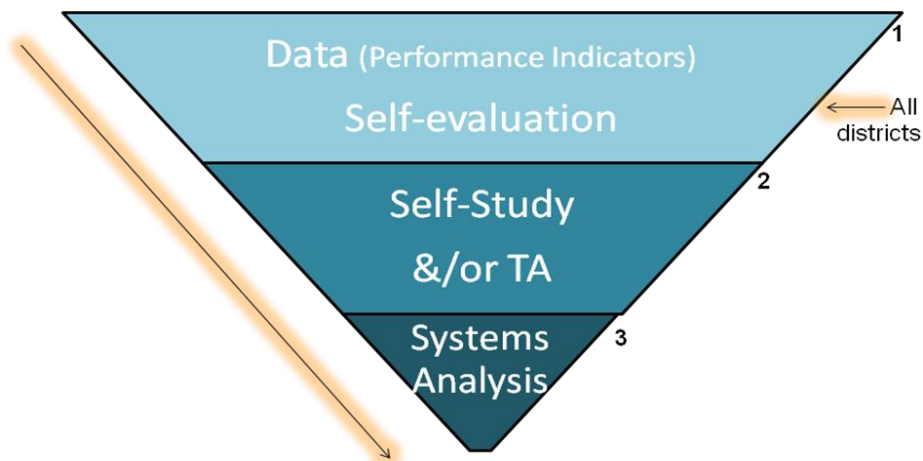
*Answer:* The focus of the program review team involves two priority areas: Disproportionate Representation (Indicators 9 and 10) and Secondary Transition (Indicators 1, 2, 13, and 14). The tools and templates for the Disproportionality and Secondary Transition Self-studies can be found on OSPI's website at: [www.k12.wa.us/SpecialEd/programreview/SelfStudy.aspx](http://www.k12.wa.us/SpecialEd/programreview/SelfStudy.aspx). Technical assistance resources related to disproportionality and secondary transition can be found on OSPI's website at: [www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx](http://www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx).

Routine compliance reviews are also conducted for institutions across the state, selected annually.

### **22. How are school districts being selected for program review activities in these two areas?**

*Answer:* The program review team uses a multi-level process for selecting districts to participate in additional program review activities, as shown on the diagram below:

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In the first level of review, which involves all school districts and educational service agencies acting as an LEA in the state on an annual basis, the program review team analyzes district data across the priority Indicators described in question 21 above as well as each district's self-evaluation, which is embedded in the annual federal fund application. If the district's data across these priority Indicators meet the threshold set by the program review team as being "at risk", and the self-evaluation completed by the district does not adequately describe: (1) unique factors that are impacting the district's data, (2) activities the district has already completed to address the issue(s), and (3) a plan of activities that the district will implement during the upcoming year to initiate improvement, then the district could be selected to move on to the second step of the program review process – the Self-Study. Additionally, some districts may be identified as needing technical assistance, and OSPI will provide potential resources for these districts to utilize. Technical assistance resources to support districts in improving performance across all 20 Indicators can be found on OSPI's website at: [www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx](http://www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx).

For those districts completing a Self-Study, the results of the Self-Study will determine if further review in the form of a Systems Analysis (focused onsite visit) needs to occur. In most cases, districts will not be selected to receive a Systems Analysis visit unless they have already participated in the Self-Study process.

Routine compliance reviews are also conducted for institutions across the state, selected annually.

### **23. What are the basic timelines for program review activities?**

*Answer:* The timelines for the various steps of the annual program review process are listed below:

- a. October through February – Program review team reviews district data and self-evaluations (LEA federal fund applications).
- b. February– Districts that have been selected to participate in the Secondary Transition Self-Study will be notified and will receive training on how to complete the various steps of the Self-Study process.

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- c. March– Districts that have been selected to participate in the Disproportionality Self-Study will be notified and will receive training on how to complete the various steps of the Self-Study process.
- d. March through June – Selected districts will complete their self-studies.
- e. May 31<sup>st</sup> – Secondary Transition Self-Studies are due.
- f. June 30<sup>th</sup> – Disproportionality Self-Studies are due.
- g. June through September – Program review team will review the results of the self-studies.
- h. September/October – Districts will receive a summary of the review team’s analysis of their Self-Study, including recommendations for improvement activities and/or notification that they have been selected to receive an onsite Systems Analysis visit.
- i. November/December – Systems Analysis visits will be conducted in selected districts.
- j. August through June – Routine compliance reviews conducted in selected institutions.

### **Significant Disproportionality**

#### **24. What is significant disproportionality?**

*Answer:* States are required (34 CFR §300.646) to collect and examine data **annually** from school districts to determine if significant disproportionality **based on race or ethnicity** is occurring with respect to:

- a. the identification of children as children with disabilities,
- b. the identification of children with a particular disability,
- c. the placement of children in particular educational settings, or
- d. the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

The designation of significant disproportionality must be based **solely on the existence of discrepant data**, regardless of whether or not the disproportionality is the result of inappropriate identification.

#### **25. What is Washington’s definition of significant disproportionality?**

*Answer:* Washington defines significant disproportionality as a weighted risk ratio of **4.0 or greater for three consecutive years** for any racial/ethnic group in **any** of the following areas:

- a. the identification of children as children with disabilities,
- b. the identification of children with a particular disability,
- c. the placement of children in particular educational settings (LRE Tables 2, 3, 28, or 29), **or**
- d. the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

A minimum “n” size is used for both target and comparison groups. For more information regarding significant disproportionality, visit: [www.k12.wa.us/SpecialEd/programreview/Disproportionality.aspx](http://www.k12.wa.us/SpecialEd/programreview/Disproportionality.aspx).

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### 26. How will districts be notified of a significant disproportionality designation?

*Answer:* Districts that meet the criteria for significant disproportionality will be notified through OSPI's iGrants system (Form Package 442) on or around November 1<sup>st</sup> of each year.

### 27. What are the consequences for being identified as significantly disproportionate?

*Answer:* Districts that are identified as significantly disproportionate must take the following actions:

- Review and, if appropriate, revise the district's policies, procedures, and practices related to the significantly disproportionate area (identification, discipline, and/or placement of students);
- Publicly report on any revisions made to their policies, procedures, and practices; and
- Reserve the maximum amount (15%) of federal flow through funds under WAC 392-172A-06000, consistent with WAC 392-172A-06085, to provide comprehensive coordinated early intervening services (CEIS) to students in the school district, particularly, but not exclusively, students in those groups that were significantly overidentified.

A summary of the district's policy, procedure, and practice review (relating to actions (a) and (b) above), including any revisions made as a result, must be submitted to OSPI through iGrants Form Package 442 **no later than April 30<sup>th</sup>**. The district's plan for providing comprehensive CEIS (relating to action (c) above) must be completed and submitted through iGrants Form Package 266 in the spring of each year. Districts that are designated as significantly disproportionate in November 2010, for example, must submit their plan for using 15% of their 2011-12 federal flow through funds (Form Package 266) in the spring of 2011.

Technical assistance resources related to disproportionate representation, discipline, and placement can be found at: [www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx](http://www.k12.wa.us/SpecialEd/programreview/TechnicalAssistance.aspx). Additional information regarding significant disproportionality can be found at: [www.k12.wa.us/SpecialEd/programreview/Disproportionality.aspx](http://www.k12.wa.us/SpecialEd/programreview/Disproportionality.aspx).

### 28. What are coordinated early intervening services (CEIS)?

*Answer:* CEIS are services for students in kindergarten through grade twelve, with a particular emphasis on students in kindergarten through grade 3, who are **not currently identified as needing special education or related services**, but who need additional academic and behavioral support to succeed in a general education environment. Under IDEA 2004, it is permissible for districts to choose to use up to 15% of their federal flow through funds to develop and implement CEIS. Districts that are designated as significantly disproportionate are **required to use the maximum amount (15%)** to provide comprehensive CEIS to serve students in the school district, particularly, but not exclusively, students in those groups that were significantly overidentified.

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Activities for implementing CEIS may include: (a) professional development for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavior interventions, including scientifically based literacy instruction, and where appropriate, instruction on the use of adaptive and instructional software; and (b) providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction. Funds may also be used to carry out CEIS aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965 (ESEA) if such funds are used to supplement, and not supplant, funds made available under ESEA. (See 34 CFR §300.226 and WAC 392-172A-06085)

Districts using IDEA funds for CEIS, regardless of whether that use is voluntary or mandatory, must report annually to OSPI: (a) the number of students who received CEIS services; and (b) the number of students receiving CEIS services who subsequently receive special education and related services during the two-year period after receiving CEIS.

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## **Appendix A – The 20 Performance Indicators**

*(Note: The Indicators were revised by OSEP in the spring of 2009 – below are the current definitions)*

1. Percent of youth with IEPs graduating from high school with a regular diploma.
2. Percent of youth with IEPs dropping out of high school.
3. Participation and performance of children with IEPs on statewide assessments:
  - a. Percent of districts with a disability subgroup that meets the State’s minimum “n” size that meet the State’s AYP targets for the disability subgroup.
  - b. Participation rate for children with IEPs.
  - c. Proficiency rate for children with IEPs against grade level, modified, and alternate academic achievement standards.
4. Rates of suspension and expulsion:
  - a. Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs ; and
  - b. Percent of districts that have: (a) a significant discrepancy, by race or ethnicity, in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs; and (b) policies, procedures, or practices that contribute to the significant discrepancy and do not comply with requirements relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards.
5. Percent of children with IEPs aged 6 through 21 served:
  - a. Inside the regular class 80% or more of the day;
  - b. Inside the regular class less than 40% of the day; and
  - c. In separate schools, residential facilities, or homebound/hospital placements.
6. Percent of children aged 3 through 5 with IEPs attending a:
  - a. Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program; and
  - b. Separate special education class, separate school, or residential facility.
7. Percent of preschool children aged 3 through 5 with IEPs who demonstrate improved:
  - a. Positive social-emotional skills (including social relationships);
  - b. Acquisition and use of knowledge and skills (including early language/communication and early literacy); and
  - c. Use of appropriate behaviors to meet their needs.
8. Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities.

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9. Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.
10. Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.
11. Percent of children who were evaluated within 35 school days (State established timeline) of receiving parental consent for initial evaluation.
12. Percent of children referred by Part C prior to age 3, who are found eligible for Part B, and who have an IEP developed and implemented by their third birthdays.
13. Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition services needs. There also must be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.
14. Percent of youth who are no longer in secondary school, had IEPs in effect at the time they left school, and were:
  - a. Enrolled in higher education within one year of leaving high school.
  - b. Enrolled in higher education or competitively employed within one year of leaving high school.
  - c. Enrolled in higher education or in some other postsecondary education or training program; or competitively employed or in some other employment within one year of leaving high school.
15. General supervision system (including monitoring, complaints, hearings, etc.) identifies and corrects noncompliance as soon as possible but in no case later than one year from identification.
16. Percent of signed written complaints with reports issued that were resolved within 60-day timeline or a timeline extended for exceptional circumstances with respect to a particular complaint.
17. Percent of adjudicated due process hearing requests that were adjudicated within the 45-day timeline or a timeline that is properly extended by the hearing officer at the request of either party, or in the case of an expedited hearing, within the required timelines.

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18. Percent of hearing requests that went to resolution sessions that were resolved through resolution session settlement agreements.
19. Percent of mediations held that resulted in mediation agreements.
20. State reported data (618 and State Performance Plan and Annual Performance Report) are timely and accurate.

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**Appendix B – Determinations Scoring Rubric** *(instructions for using this rubric are on pages 19 and 20)*

CRITERION	MEETS REQUIREMENTS (1)	NEEDS ASSISTANCE (2)	NEEDS INTERVENTION (3)	NEEDS SUBSTANTIAL INTERVENTION (4)
1. Did the district resolve all special education audit findings (if any)? <i>[Source - the school district's Business Manager]</i>	<b>yes</b>		<b>no</b>	
2. Were all identified issues of non-compliance corrected by the district, including verification and validation by the ESD and OSPI, as soon as possible but no later than one year from identification? <i>[Source - OSPI general supervision, including program reviews, Safety Net, citizen complaints, etc.]</i>	<b>yes</b>		<b>no</b> <i>(corrected, but not timely)</i>	<b>no</b> <i>(not timely &amp; uncorrected non-compliance remains)</i>
3. Did the district submit timely and accurate data (Indicator 20)? <i>[Source - District-submitted data reports, see next page]</i>	<b>yes</b> <i>(all 7 reports – see next page)</i>	<b>yes</b> <i>(4, 5, or 6 reports - see next page)</i>	<b>yes</b> <i>(1, 2, or 3 reports - see next page)</i>	<b>no</b> <i>(no reports submitted timely and accurately - see next page)</i>
4a. Did the district demonstrate substantial compliance (on SPP Indicators 11, 12, and 13)? <i>[Source - District-submitted reports (Ind. 11 and 12 - see next page), Safety Net &amp;/or onsite visit (Ind. 13)]</i>	<b>yes</b> <i>(95% or higher on all three Indicators, &amp;/or n&lt;reqd)</i>	<b>65.0% to 94.9%</b>	<b>Below 65%</b> <i>(on any of the three Indicators)</i>	
4b. Is disproportionate representation the result of <u>inappropriate identification</u> (Indicators 9, 10)? <i>[Source OSPI - Monitoring and program review – Systems Analysis visits]</i>	<b>no</b>		<b>yes</b>	

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<b>Criterion 3 – The Six Required Data Reports (<i>must be both timely and accurate</i>):</b>
<b>1. Special Education Personnel Employed &amp; Needed</b> (Federal 618 requirement, due December 17 <sup>th</sup> )
<b>2. Child Count/Least Restrictive Environment</b> (Indicators 5, 6, 9, 10 & Fed. 618 requirement, due December 31 <sup>st</sup> )
<b>3. Special Education Students Suspended/Expelled</b> (Indicator 4, Fed. 618 requirement, due June 30 <sup>th</sup> )
<b>4. Preschool Outcomes</b> (Indicator 7, due July 15 <sup>th</sup> )
<b>5. Timeline for Initial Evaluation</b> (Indicator 11, due July 15 <sup>th</sup> )
<b>6. Transition from Part C to Part B</b> (Indicator 12, due July 15 <sup>th</sup> )
<b>7. Quarterly reports on the use of ARRA (American Recovery and Reinvestment Act) Part B funds</b> (due quarterly beginning in 2009-10)
<b><i>For the November 2011 Determinations, this list will also include:</i></b> <b>Post School Outcome Survey</b> (Indicator 14, due on or before November 1 <sup>st</sup> )

For further information regarding these reports, including due dates, templates, and instructions, visit OSPI's website at: [www.k12.wa.us/SpecialEd/Data/ModelStateForms.aspx](http://www.k12.wa.us/SpecialEd/Data/ModelStateForms.aspx).

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**Blank Template:**

CRITERION	MEETS REQUIREMENTS (1)	NEEDS ASSISTANCE (2)	NEEDS INTERVENTION (3)	NEEDS SUBSTANTIAL INTERVENTION (4)
1. Did the district resolve all special education audit findings (if any)? <i>[Source - the school district's Business Manager]</i>				
2. Were all identified issues of non-compliance corrected by the district, including verification and validation by the ESD and OSPI, as soon as possible but no later than one year from identification? <i>[Source - OSPI general supervision, including program reviews, Safety Net, citizen complaints, etc.]</i>				
3. Did the district submit timely and accurate data (Indicator 20)? <i>[Source - District-submitted data reports, see next page]</i>				
4a. Did the district demonstrate substantial compliance (on SPP Indicators 11, 12, and 13)? <i>[Source - District-submitted reports (Ind. 11 and 12 - see next page), Safety Net &amp;/or onsite visit (Ind. 13)]</i>				
4b. Is disproportionate representation the result of <u>inappropriate identification</u> (Indicators 9, 10)? <i>[Source OSPI - Monitoring and program review – Systems Analysis visits]</i>				

**Instructions** – Using the rubric on pages 17 and 18, place a checkmark on the table above in the appropriate column for the district for each criterion as described below:

1. Source = the school district's Business Manager. If the district had no special education audit findings and/or resolved all special education audit findings, place a check under "Meets Requirements". If the district has unresolved special education audit findings, place a check under "Needs Intervention".
2. Source = Citizen complaint and due process decisions, and District Non-compliance Worksheet. If OSPI identified any non-compliance, the district would have been notified through the written decision (complaints/due process) and/or through the District Non-compliance Worksheet (posted to iGrants Form Package 442 on November 1<sup>st</sup> and January 31<sup>st</sup> of each school year). If no non-compliance was identified in the district, place a check under

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“Meets Requirements”. If the district corrected the identified non-compliance (including verification by the ESD and approval by OSPI) as soon as possible, but no later than one year after receiving notification from OSPI, place a check under “Meets Requirements”. If the correction process, including verification and validation (approval), was completed, but not within 1 year, place a check under “Needs Intervention”. If the district has not yet corrected the identified non-compliance, and the one-year timeline has passed, place a check under “Needs Substantial Intervention”.

3. Source = the seven data reports (listed on page 18). (Note: Current data for this criterion will be available through the performance data profiles, which are posted to OSPI’s website in August/September. To look up the district’s data for this criterion, refer to the district’s profile located at: [www.k12.wa.us/SpecialEd/Data/default.aspx](http://www.k12.wa.us/SpecialEd/Data/default.aspx). Type in the district’s CCDDD number, and locate the results for Indicator 20.) Count the number of reports, of the seven listed, that were submitted both on time and accurately during the 2009-10 school year. If all six were timely and accurate, place a check under “Meets Requirements”. If 4, 5, or 6 were timely and accurate, place a check under “Needs Assistance”. If 1, 2, or 3 were timely and accurate, place a check under “Needs Intervention”. If no reports were timely and accurate, place a check under “Needs Substantial Intervention”.
- 4a. Source = Performance Data profiles (which will be posted to OSPI’s website in August/September). Using the data profile described in number 3 above, look up the district’s 2009-10 data for Indicators 11, 12, and 13. (Note: Indicators in which the district did not meet the minimum “n” size will not be used when making the District Determinations. The minimum “n” sizes for Indicators 11, 12, and 13 are 10% of the relative population for that Indicator, based on the district’s November 2009 child count data. The “n” sizes are calculated as follows: Indicator 11 = 10% of the district’s 3 through 21 year old special education population, Indicator 12 = 10% of the district’s 3 year old special education population, and Indicator 13 = 10% of the district’s 16 through 21 year old special education population). If the data for all three of these Indicators are 95% or higher (or are identified as “n/a”, “no students”, “no review”, “n<reqd”, etc.), place a check under “Meets Requirements”. If any of the Indicators are between 65% and 94.9%, place a check under “Needs Assistance”. If any are under 65%, place a check under “Needs Intervention”.
- 4b. Source = Disproportionality Self-studies and onsite Systems Analysis visits. Districts that did not receive an onsite Systems Analysis visit in the fall of 2009 should place a check under “Meets Requirements” for this criterion. If the district did receive an onsite Systems Analysis visit in the fall of 2009, and the review team determined that the disproportionality was not due to inappropriate identification, place a check under “Meets Requirements”. If the onsite review team determined that the disproportionality was due to inappropriate identification, place a check under “Needs Intervention”.

### Final Determination Level

**Whichever checkmark is the furthest to the right is the district’s final determination level. For example, if the district Meets Requirements for audit results and timely correction, Needs Assistance for timely/accurate data and Indicators 12 and 13, and Needs Intervention for Indicator 11, the final determination for the district would be Needs Intervention.**

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**Appendix C – Overview of Technical Assistance and Enforcement Actions for Each Level**

LEVEL	Program Review Activities	Technical Assistance (TA)	Improvement Activities	Federally-mandated Enforcement Action(s)
<b>(1) MEETS REQUIREMENTS (MR)</b>	No changes to program review schedule.	District may receive technical assistance (TA) on general areas of need, if necessary.	District may receive recommendations for improvement in identified area(s) of need, if necessary.	There are no federally-mandated enforcement actions for districts that Meet Requirements.
<b>(2) NEEDS ASSISTANCE (NA)</b>	No changes to program review schedule.	On-site technical assistance from OSPI if district is on the schedule for an on-site program review visit in the year an NA determination was issued. If not visited that year, district may receive technical assistance call and/or resources in area(s) where it did not meet requirements. Sources of technical assistance will include the local ESD, and may also include assistance from federal resource centers, advice from experts, distinguished professionals, collaboration with colleges/universities, etc. The district may be required by OSPI to work with a specific entity for technical assistance and/or improvement planning.	District may receive recommendations for improvement in certain areas of need. Informational resources will be made available to districts that are in NA, including electronic resource communities, publications, national informational and technical assistance centers, etc., to assist with improvement activities.	Districts identified as Needs Assistance <u>for two consecutive years</u> (“ <b>NA2</b> ”) may be required to work with a specific entity for technical assistance, and/or conditions may be imposed on the district's use of IDEA Part B funds. (Note: Determinations issued in November 2009 were considered to be year 1 with regard to these enforcement actions).

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LEVEL	Program Review Activities	Technical Assistance (TA)	Improvement Activities	Federally-mandated Enforcement Action(s)
<b>(3) NEEDS INTERVENTION (NI)</b>	District may receive priority for a focused program review. This may result in an on-site visit and/or an in-depth, district-completed Self-Study.	District will receive recommendations for improvement in any area that was considered NA (in the case there are areas rated as NA). District will receive TA resources for improvement (see TA listed under Needs Assistance above).	District may be required to prepare and implement a plan of improvement and/or corrective action. OSPI will provide advice or assistance in defining strategies toward moving from one status to another. OSPI may partner districts to form mentor relationships for districts in need of intervention.	Districts identified as Needs Improvement <u>for three consecutive years</u> (“ <b>NI3</b> ”) will be required to implement a corrective action plan and/or compliance agreement with specified timelines for correction, and/or further IDEA Part B fund payments may be withheld, in whole or in part ( <i>34 CFR §300.604 (b)(2)(v)</i> ). (Note: Determinations made in November 2009 were considered to be year 1 with regard to these enforcement actions).
<b>(4) NEEDS SUBSTANTIAL INTERVENTION (NSI)</b>	District will receive a focused program review of the issues that resulted in this determination. May lead to a comprehensive review of all federal programs, as well as general education.	District will receive recommendations for improvement in any area that was considered NA or NI (in the case there are areas rated as NA or NI apart from the NSI area(s)). District will receive TA resources for improvement (see TA listed under Needs Assistance above).	District will be required to develop and implement corrective action plan. OSPI may partner districts to form mentor relationships for districts in need of substantial intervention.	Districts will be required to implement a corrective action plan and/or compliance agreement. If, <u>at any time</u> , a district is determined to Need Substantial Intervention, further IDEA Part B payments will be withheld or recovered, in whole or in part ( <i>34 CFR §300.604 (b)(2)(v)</i> ). (Note: This enforcement action will begin with the determinations issued in November 2009.)