

Kentucky Department of Education
Office of Special Education and Early Learning
Division of IDEA Monitoring and Results

Annual Determinations on the Special Education Performance of Districts

Pursuant to [Section 1416 \(d\)\(2\)\(A\)](#) of the Individuals with Disabilities Education Act and [34 C.F.R. Section 300.602 \(b\)\(i\)\(A\)](#), states are required to make determinations annually on the special education performance of local educational agencies (LEAs) within the state in relation to established targets found in the State Performance Plan (SPP).

States must make determinations consistent with the same levels used by the Office of Special Education Programs (OSEP) as follows:

- A) Meets Requirements;
- B) Needs Assistance;
- C) Needs Intervention; or
- D) Needs Substantial Intervention.

The Kentucky Department of Education (KDE), Office of Special Education and Early Learning (OSEEL) through the Division of IDEA Monitoring and Results (DIMR) uses the following indicators in the SPP to make LEA determinations based on data and performance:

- **Indicator 1 Graduation** – percent of youth with Individual Education Programs (IEPs) graduating with a regular diploma
- **Indicator 2 Drop Out**– percent of youth with IEPs dropping out
- **Indicator 4B Suspension/Expulsion** – percent of LEAs with significant discrepancy by race/ethnicity
- **Indicator 9 Disproportionate Representation** – percent of LEAs with disproportionate representation of racial/ethnic groups due to inappropriate identification
- **Indicator 10 Disproportionate Representation in Specific Disability Categories** – percent of LEAs with disproportionate representation of racial/ethnic groups in specific disability categories due to inappropriate identification
- **Indicator 11 Child Find** – percent of children evaluated within 60 days of parental consent
- **Indicator 12 Early Childhood Transition** – percent of children found Part B eligible with an IEP implemented by their third birthday
- **Indicator 13 Secondary Transition**– percent of youth aged 16 or older with measurable, annually updated IEP goals and appropriate transition assessment, services and courses

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The following explanations describe how the DIMR measures whether an LEA meets or does not meet specific requirements for SPP indicators, additional outcome measures and on-site monitoring visits. LEAs may also be determined as *Persistent Failure to Comply/Not Able to Comply* through other means.

Determination Measures:

Measure	<i>Description of Measure</i>
Indicator 1:	<p><i>Graduation rates of Students with Disabilities</i></p> <p>Met Target: The percent of youth with disabilities graduating with a regular diploma is equal to or exceeds the state’s target rate.</p> <p>Did Not Meet Target: The percent of youth with disabilities graduating with a regular diploma fell below the state’s target.</p>
Indicator 2:	<p><i>Dropout rates of Students with Disabilities</i></p> <p>Met Target: The percent of youth with disabilities ages 14-21 who dropped out is equal to or less than the state’s target rate.</p> <p>Did Not Meet Target: The percent of youth with disabilities ages 14-21 who dropped out exceeds the state’s target rate.</p>
Indicator 4B:	<p><i>Significant Discrepancy of Out-of-School Removals greater than 10 Days by race or ethnic sub-group</i></p> <p>Met Target: Students with disabilities were not subject to out-of-school removals for greater than 10 days, in any race category, at a rate significantly discrepant from the statewide rate of out-of-school removals of children with disabilities for greater than 10 days.</p> <p>Did Not Meet Target: Students with disabilities in one or more race categories were subject to out-of-school removals for greater than 10 days at a rate that was significantly discrepant from the statewide rate for out-of-school removals for more than 10 days.</p>
Indicator 9	<p><i>Disproportionate representation in any race category that is the result of inappropriate identification</i></p> <p>Met Target: Students with disabilities were not disproportionately identified in any race category due to inappropriate identification.</p> <p>Did Not Meet Target: Students with disabilities were disproportionately identified in any race category due to inappropriate identification.</p>

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Measure	<i>Description of Measure</i>
Indicator 10:	<p><i>Disproportionate representation in any race category for specific disabilities that is the result of inappropriate identification</i></p> <p>Met Target: Students with disabilities were not disproportionately identified in the specified disability categories due to inappropriate identification.</p> <p>Did Not Meet Target: Students with disabilities were disproportionately identified in at least one of the specified disability categories due to inappropriate identification.</p>
Indicator 11:	<p><i>Determine eligibility within State established timelines.</i></p> <p>Met Target: LEA met timelines in determining eligibility 100% of the time.</p> <p>Did Not Meet Target: LEA did not meet timelines in determining eligibility 100% of the time.</p>
Indicator 12:	<p><i>Part C to Part B Referral: Eligibility Determination made and an IEP developed and implemented by the third birthday.</i></p> <p>Met Target: All children receiving services under Part C of the IDEA have their eligibility for services under Part B determined and when eligible, had an IEP developed and implemented no later than the child’s third birthday.</p> <p>Did Not Meet Target: Not all children receiving services under Part C of the IDEA had their eligibility for services under Part B determined and, or had an IEP developed and implemented by their third birthday if eligible for services.</p>
Indicator 13:	<p><i>Youth age 16 and older have IEPs with all required postsecondary transition requirements in place.</i></p> <p>Met Target: All youth age 16 and older have IEPs with all required postsecondary transition requirements in place.</p> <p>Did Not Meet Target: Not all youth age 16 and older have IEPs with all required postsecondary transition requirements in place.</p>
Participation in Statewide 4th Grade KSA Math Assessment:	<p><i>Data from the School Report Card are used to determine individual LEA’s participation rates.</i></p> <p>Met Target: LEA has a participation rate of 95% or greater for its special education students in the 4th grade math assessment.</p> <p>Did Not Meet Target: LEA has a participation rate less than 95% for its special education students in the 4th grade math assessment.</p>
Participation in Statewide 8th Grade KSA Math Assessment:	<p><i>Data from the School Report Card are used to determine individual LEA participation rates.</i></p> <p>Met Target: LEA has a participation rate of 95% or greater for its special education students in the 8th grade math assessment.</p> <p>Did Not Meet Target: LEA has a participation rate of less than 95% for its special education students in the 8th grade math assessment.</p>

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Measure	<i>Description of Measure</i>
Participation in Statewide 4th Grade KSA Reading Assessment:	<p><i>Data from the School Report Card are used to determine individual LEA participation rates.</i></p> <p>Met Target: LEA has a participation rate of 95% or greater for its special education students in the 4th grade reading assessment.</p> <p>Did Not Meet Target: LEA has a participation rate of less than 95% for its special education students in the 4th grade reading assessment.</p>
Participation in Statewide 8th Grade KSA Reading Assessment:	<p><i>Data from the School Report Card are used to determine individual LEA participation rates.</i></p> <p>Met Target: LEA has a participation rate of 95% or greater for its special education students in the 8th grade reading assessment.</p> <p>Did Not Meet Target: LEA has a participation rate of less than 95% for its special education students in the 8th grade reading assessment.</p>
Performance on 8th Grade KSA Math Assessment:	<p><i>Data from the School Report Card are used to determine individual LEA performance rates.</i></p> <p>Met Target: Percent of students with disabilities in the LEA scoring proficient or above on the 8th grade math assessment is equal to or greater than the statewide percent of all 8th grade students in the state scoring proficient or above on the math assessment.</p> <p>Did Not Meet Target: Percent of students with disabilities in the LEA scoring proficient or above on the 8th grade math assessment is less than the statewide percent of all 8th grade students in the state scoring proficient or above on the math assessment.</p>
On-Site Monitoring Visit:	<p><i>General Supervision:</i> LEA received an on-site monitoring visit due to specific criteria resulting in finding(s) of non-compliance. A finding of any non-compliance during an on-site monitoring visit could result in the LEA failing to meet standards depending on the severity and if the issue is considered systemic and ongoing by the DIMR Director or the OSEEL Associate Commissioner.</p> <p>Met Target: On-site monitoring team found no instances of non-compliance.</p> <p>Did Not Meet Target: On-site monitoring team found one or more instances of non-compliance.</p>

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Additional Factors Outside of the Determination Scoring Rubric Process

Measure	Description of Measure
Persistent Failure or Not Able to Comply:	<p><i>General Supervision:</i> LEA is under a Corrective Action Plan (CAP) or orders of Hearing Officer or otherwise found by OSEEL/DIMR to be in violation of the IDEA or other Federal or State Laws and regulations for three (3) or more consecutive years for the same issue, and the KDE has determined that the LEA has failed to comply, or, after two (2) or more years, OSEEL has determined the LEA is not able to comply.</p> <p>Met Target: LEA complied with all CAPs or Decisions of a Hearing Officer on a timely basis and provided sufficient documentation to demonstrate it is making substantial effort and progress to comply.</p> <p>Did Not Meet Target: LEA fails or is not able to comply with a CAP or orders of a Hearing Officer or to meet the requirements of the IDEA as determined by the KDE.</p>

Criteria for LEA Determination:

A finding of ***Persistent Failure to Comply/Not Able to Comply*** supersedes all other factors used in the Determinations process and is documented on the *Determinations Scoring Rubric* as either ***No Finding*** or ***Needs Substantial Intervention (NSI)***. A status of ***No Finding*** means the LEA’s Determination will be based on other factors described below. A status of ***NSI*** in this category means the LEA has been identified as either Persistent Failure to Comply or Not Able to Comply and will have a Determination of ***Needs Substantial Intervention***.

A finding of ***Non-Compliance*** during an ***on-site monitoring visit*** can result in a score of 1 or 3 or a decision the LEA fails to meet program requirements. The DIMR Director or OSEEL Associate Commissioner may, at their discretion, determine that non-compliance found during an ***on-site monitoring visit*** warrants a *Final Determination* at any level. Otherwise, a finding of ***Non-Compliance*** during an *On-Site Monitoring Visit* depends on the severity or number of non-compliance instances found and could result in a score of 1 or 3. This score is combined with the LEA’s scores across the other measures included in the *Determinations Scoring Rubric* and is used to calculate the LEA’s *Final Determination*.

LEAs receive scores on the *Determinations Scoring Rubric* in up to three categories; ***indicators***, ***additional outcome data*** and possibly ***on-site monitoring visits***. LEAs that received on-site monitoring visits for the reviewed year or that have outstanding CAPs from a prior year are included in the on-site visit category. The rubric is used to assign a score to each of the categories and to document the KDE’s annual Determinations of each local LEA’s special education program.

- ***Indicators*** category: LEAs receive a *Cumulative Indicator Score* from 0 to 8, depending on the number of indicators in this measure that failed to meet state targets. When the total of all eight (8) indicators is **4** or more, the LEA fails to meet program requirements. If the total is less than **4**, the determination depends on the LEA’s total score on the scoring matrix.

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- **Outcomes** categories: LEAs receive a *Cumulative Outcome Score* from 0 to 2. This means the LEA cannot fail to meet program requirements based on this data alone. The scoring for this category is based on the LEA's success in meeting the state's targets for the participation of students with disabilities in statewide math and reading assessments at the 4th and 8th grade levels and their performance on the 8th grade math assessment. While all four participation rates are individually scored, the overall score for participation will either be 0 or 1 to indicate the LEA met or failed to meet all participation targets. The participation score is combined with the performance score (0 or 1), to produce the Outcomes Category score.
- **On-Site Monitoring Visit** category: LEAs found to have non-compliance or not to have closed a CAP from a prior year monitoring visit can receive a score of 3 or depending on the severity of the issues may be found not to meet program requirements and placed in any of the levels of determination at the discretion of the DIMR Director or OSEEL Associate Commissioner.
- If the total score across all categories is 4 or more, the LEA fails to meet program requirements for that year. If the total score is less than 4 the *Final Determination* is **Meet Requirements**.
- For LEAs that fail to meet requirements the *Final Determination* is based on their *Final Determination* from the prior year. If the prior year's *Final Determination* was Needs Assistance 1 (NA1), this year's *Final Determination* will be Needs Assistance 2 (NA2). If last year the determination was NA2, then this year the finding is Needs Intervention 1 (NI1), followed by each subsequent year escalating through NI2 and NI3.

Persistent Failure to Comply/Not Able to Comply, though included on the *Determinations Scoring Rubric*, is independent of the *Determination Scoring Matrix*. LEAs identified as **Persistent Failure to Comply/Not Able to Comply** receive a *Final Determination* of **NSI** regardless of their score. LEAs with Findings of Non-Compliance resulting from an **On-Site Monitoring Visit** may have a *Final Determination* of any level as determined by the DIMR Director or the OSEEL Associate Commissioner as described in **Table A: Determinations Scoring Guide** contained in this document.

The total score an LEA can receive on the *Determinations Scoring Rubric* for **Indicators, Additional Outcomes Data and On-Site Monitoring** range from a minimum of **0** to a maximum of **13** points. A *Cumulative Score* of **4 or more** across these categories means the LEA failed to meet special education program requirements for the measured year and will have a *Final Determination* of something other than **MEETS** depending on the LEA's *Final Determination* from the prior year.

When an LEA fails to meet established targets on 4 or more of the measures on the *Determinations Scoring Rubric* it fails to meet program requirements that year and will have a *Final Determination* of **Needs Assistance (NA1/NA2), Needs Intervention (NI1/NI2/NI3) or possibly even Needs Substantial Intervention (NSI)** depending on the number of years the LEA has failed to meet requirements and the severity of the compliance issues.

(See **Table A: Determinations Scoring Guide** on the following page).

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Table A: Determinations Scoring Guide

Score from the Determination Scoring Rubric	Determination	
0-3	<i>Meets Requirements (MEETS)</i>	
4 and above	<i>Needs Assistance (NA)</i>	
	NA1	<ul style="list-style-type: none"> • First year of Needs Assistance
	NA2	<ul style="list-style-type: none"> • Second consecutive year of Needs Assistance
	<i>Needs Intervention (NI)</i>	
	NI1	<ul style="list-style-type: none"> • Third consecutive year of Needs Assistance
	NI2	<ul style="list-style-type: none"> • Fourth consecutive year of Needs Assistance
	NI3	<ul style="list-style-type: none"> • Fifth consecutive year of Needs Assistance
	<i>Needs Substantial Intervention (NSI)</i>	
	<ol style="list-style-type: none"> 1. Sixth Consecutive year of Needs Assistance (<i>unless the OSEEL Associate Commissioner upon the recommendation of the DIMR Director determines sufficient improvement</i>); or 2. Finding of <i>Persistent Failure or Not Able to Comply</i>; or 3. Results of an On-Site Monitoring Visit (Based on Monitoring Team Findings described Below) 	

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Table A: Determinations Scoring Guide (Continued)

Score from the Determination Scoring Rubric	Determination
Persistent Failure to Comply or Not Able to Comply	LEAs that are identified as <i>Persistent Failure to Comply</i> or <i>Not Able to Comply</i> will have a Determination of <i>Needs Substantial Intervention</i> (NSI) regardless of any other factors.
Results of an On-Site Monitoring Visit	<p>An LEA may have a status in this area of <i>No Visit, Compliant, or Non-Compliant</i> documented on the <i>Determinations Scoring Rubric</i>. A status of <i>No Visit</i> or <i>Compliant</i> means other factors will be used to decide the LEA’s Determination. However, a status of <i>Non-Compliant</i> in this category coupled with any other concern on the scoring rubric will dictate a Determination as follows (<i>Depending on the nature and quantity of Non-Compliances, an On-Site Monitoring Visit could result in failure to Meet requirements without any other concerns from the rubric.</i>)</p> <ul style="list-style-type: none"> • An <i>On-Site Monitoring Visit</i> finding non-compliance along with other failed measures will result in the LEA not meeting special education requirements. The final Determination is based on the <i>Determinations Scoring rubric</i> along with the LEA’s performance the previous year. • An <i>On-Site Monitoring Visit</i> resulting in multiple non-compliances may result in a determination of Needs Assistance (NA1/NA2), Needs Intervention (NI1/NI2/NI3) or Needs Substantial Intervention (NSI) at the discretion of the Associate Commissioner of OSEEL upon the recommendation of the DIMR Director.

Determination Levels:

Meets Requirements (MEETS)

LEA scored either **0, 1, 2 or 3** on the *Determinations Scoring Rubric*.

Needs Assistance (NA)

LEA scored a **4 or more** on the *Determinations Scoring Rubric*. If this is the first year of scoring 4 or more on the *Determinations Scoring Rubric* the LEA Determination will be *NA1*. The 2nd consecutive year of failing to receive *MEETS* on the rubric (or a prior year Determination of *NA1*), the LEA Determination will be *NA2*.

Needs Intervention (NI)

LEA scored a **4 or more** on the *Determinations Scoring Rubric*. If this is the 3rd consecutive year of failing to receive *MEETS* on the *Determinations Scoring Rubric* (a prior year Determination of *NA2*) the LEA Determination will be *NI1*. The 4th consecutive year (a prior year Determination of *NI1*) results in a Determination of *NI2*. The 5th consecutive year results in a Determination of *NI3*. An LEA could maintain an NI3 determination for multiple successive years if the OSEEL determines the LEA is taking steps to address concerns and improve performance.

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Needs Substantial Intervention (NSI)

- LEA scored **4 or more** on the *Determinations Scoring Rubric*. If this is the sixth consecutive year of failing to receive **MEETS** on the rubric (or the prior year’s Determination was NI3) the LEA Determination could be **NSI unless the** Associate Commissioner of OSEEL upon the recommendation of the DIMR Director determines sufficient progress is occurring; or
- If the LEA is found to meet the criteria for **Persistent Failure to Comply/Not Able to Comply**, *the LEA Determination will be NSI.*

Additional Determination Factors

AN LEA may be placed in one of the above Determination levels outside of the *Determination Scoring Rubric* based on the results of an **on-site monitoring visit**. In addition, when an LEA is determined to meet the criteria for **Persistent Failure to Comply/Not Able to Comply**, the LEA determination is Needs Substantial Intervention (**NSI**) regardless of any other factors.

The results of an **on-site monitoring visit** may find no, single or multiple areas of non-compliance. Based on the number of non-compliances an LEA may have a Determination of Meets (**MEETS**), Needs Assistance (**NA1** or **NA2**), Needs Intervention (**NI1**, **NI2** or), or Needs Substantial Intervention (**NSI**) regardless of the score on the *Determination Scoring Rubric*. Determinations that are pursuant to the findings of an **on-site monitoring visit** are outlined in **Table A: Determinations Scoring Guide** above.

Enforcement Actions:

IDEA regulations at [34 C.F.R. Section 300.600 \(a\)\(3\)](#) specifically designate the enforcement actions that states must apply.

Table B: Enforcement Actions

Determination	Level	Enforcement Actions
Meets Requirements	MEETS	None
Needs Assistance	NA1	None
	NA2	The KDE may take one or more of the following actions: <ul style="list-style-type: none"> ● Advise the LEA of available resources for technical assistance to address areas in need of assistance ● Direct the use of State-level funds in the area(s) in which the LEA needs assistance ● Identify the LEA as a high-risk grantee and impose special conditions on the LEA’s Part B grant

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Determination	Level	Enforcement Actions
Needs Intervention	<i>NI1/NI2</i>	The KDE shall take one or more of the actions listed above for NA2 .
	<i>NI3</i>	<p>In addition to actions listed under <i>NA2</i> that the KDE <u>may</u> take, the KDE shall take one or more of the following actions:</p> <ul style="list-style-type: none"> • Require the LEA to prepare a corrective action plan or improvement plan if KDE determines the LEA should be able to correct the problem within one year • Require the LEA to enter into a compliance agreement under the General Education Provisions Act (GEPA), if the KDE believes the LEA cannot correct the problem within one year • For each year of the determination, withhold not less than 20% and not more than 50% of the LEA’s awards under Part B of the IDEA, until the LEA has sufficiently addressed the intervention area(s) • Seek to recover funds under GEPA • Withhold in whole or in part, further payments to the LEA of IDEA, Part B funds • Refer the matter for appropriate enforcement action
Needs Substantial Intervention	<i>NSI</i>	<p>The KDE shall take one or more of the following actions any time it determines an LEA needs substantial intervention in implementing Part B of IDEA, or if there is a substantial failure to comply with any condition of the LEA’s eligibility under Part B:</p> <ul style="list-style-type: none"> • Recover funds under GEPA • Withhold, in whole or in part, further payments to the LEA under Part B of the IDEA • Refer the case to the Office of the Inspector General at the U.S. Department of Education • Refer the matter for appropriate enforcement action