

2008 Local Education Agency (LEA) Determinations

State's Review and §616 Determination Criteria for Local Education Agencies (LEA)

Pursuant to the Individuals with Disabilities Education Act, 2004 (IDEA 2004) [Section 616\(a\)\(1\)\(C\)\(i\)](#) and [34 CFR §300.608\(a\)](#), states are required to make "Determinations" annually under [Section 616\(d\)](#) on the performance of LEAs' programs for students with disabilities. In making such Determinations, the State will assign an LEA one of the following Determination levels:

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

Determination Criteria

States must consider the following factors in making "Determinations" for LEAs:

1. Performance on compliance indicators in the State Performance Plan (SPP), (Indicators 9 and 10 only in 2008; Indicators 9-13 in 2009 and beyond);
2. Whether data submitted by LEAs is valid, reliable, and timely;
3. Uncorrected noncompliance from other sources (complaints resolution, due process, and monitoring)
4. Any audit findings

States may choose to include additional components in making determinations. The TEA has incorporated for the first time this year the following component:

5. Performance Based Monitoring (PBM) Stage of Intervention for the special education program area

Determination Levels

An LEA will be assigned a Determination level and may be subject to specific enforcement actions based on the assigned level, as indicated in the following matrix:

2008 LEA Determinations Matrix

Determination Level: Meets Requirements – LEA compliant in all areas and meets criteria for # 5		
Determination Criteria	Enforcement Action - Federal	Enforcement Action - State
1. SPP Compliance* <ul style="list-style-type: none"> • Indicators 9 / 10: No disproportionate representation or disproportionate representation is not the result of inappropriate identification <li style="text-align: center;">and • Indicators 11, 12, 13: Demonstrate 95% compliance for each indicator 	None required	None required

Determination Level: Meets Requirements – LEA compliant in all areas and meets criteria for # 5

Determination Criteria	Enforcement Action - Federal	Enforcement Action - State
<p>2. Valid, Reliable and Timely Data</p> <ul style="list-style-type: none"> • Meet the Person Identification Database (PID) Error Rate Standard for the summer and fall collections 		
<p>3. Status of Uncorrected Noncompliance</p> <ul style="list-style-type: none"> • No noncompliance or noncompliance corrected no later than one year after identification <p>4. Financial Audits</p> <ul style="list-style-type: none"> • Superior Achievement, Above Standard Achievement, Standard Achievement or not rated <p>5. Program Effectiveness PBM:</p> <ul style="list-style-type: none"> • NS • N/A: Year After On-Site 		

Determination Level: Needs Assistance – LEA non-compliant in one area or meets criteria for # 5		
Determination Criteria	Enforcement Action - Federal	Enforcement Action - State
<p>1. SPP Noncompliance*</p> <ul style="list-style-type: none"> • Indicators 9 / 10: Disproportionate representation is the result of inappropriate identification <p style="text-align: center;">or</p> <ul style="list-style-type: none"> • Indicators 11, 12, 13: Failure to demonstrate 95% compliance for each indicator <p>2. Valid, Reliable and Timely Data Noncompliance</p> <ul style="list-style-type: none"> • Failure to meet the Person Identification Database (PID) Error Rate Standard for the summer and fall collections <p>3. Status of Uncorrected Noncompliance</p> <ul style="list-style-type: none"> • Uncorrected Noncompliance: Correction still outstanding one or more years after identification <p>4. Financial Audits Noncompliance</p> <ul style="list-style-type: none"> • Substandard Achievement <p>5. Program Effectiveness PBM:</p> <ul style="list-style-type: none"> • 1A or 1B • 1A: Pilot-CIP Continuation • 1B: Pilot-CIP Continuation • 1A: Year After On-Site • 1B: Year After On-Site 	<p>State shall take one or more of the following actions if the district receives this determination for 2 or more consecutive years:</p> <ul style="list-style-type: none"> ▪ Provide technical assistance ▪ Direct the use of funds ▪ Impose special conditions <p>State must prohibit LEA from reducing LEA’s maintenance of effort under § 300.203 for any fiscal year</p>	<p><u>Focused Data Analysis (FDA) or FDA with Program Effectiveness Review</u></p> <p><u>Continuous Improvement Plan</u></p>

Determination Level: Needs Intervention – LEA non-compliant in two areas or meets criteria for # 5

Determination Criteria	Enforcement Action - Federal	Enforcement Action - State
<p>1. SPP Noncompliance*</p> <ul style="list-style-type: none"> • Indicators 9 /10: Disproportionate representation is the result of inappropriate identification <li style="text-align: center;">or • Indicators 11, 12, 13: Failure to demonstrate 95% compliance for each indicator <p>2. Valid, Reliable and Timely Data Noncompliance</p> <ul style="list-style-type: none"> • Failure to meet the Person Identification Database (PID) Error Rate Standard for the summer and fall collections <p>3. Status of Uncorrected Noncompliance</p> <ul style="list-style-type: none"> • Uncorrected Noncompliance: Correction still outstanding one or more years after identification <p>4. Financial Audits Noncompliance</p> <ul style="list-style-type: none"> • Substandard Achievement <p>5. Program Effectiveness PBM:</p> <ul style="list-style-type: none"> • 2 or 2: Year After On-Site • 3 or 3: Year After On-Site 	<p>State shall take any of the actions described above, and require one or more of the following if the district receives this determination for 3 or more consecutive years:</p> <ul style="list-style-type: none"> ▪ A corrective action plan or improvement plan ▪ LEA to enter into a compliance agreement ▪ Withhold or seek to recover funds <p>State may refer the matter for appropriate legal enforcement action</p>	<p>State shall take any of the actions described above, and require the following:</p> <p><u>Public Program Performance Review Local Education Agency (LEA) Public Meeting (PBM: 2)</u></p> <p><u>Compliance Review (PBM: 3)</u></p>

Determination Level: Needs Substantial Intervention – LEA non-compliant in three areas or meets criteria for # 5

Determination Criteria	Enforcement Action - Federal	Enforcement Action - State
<p>1. SPP Noncompliance*</p> <ul style="list-style-type: none"> ▪ Indicators 9 / 10: Disproportionate representation is the result of inappropriate identification <li style="text-align: center;">or • Indicators 11, 12, 13: Failure to demonstrate 95% compliance for each indicator <p>2. Valid, Reliable and Timely Data Noncompliance</p> <ul style="list-style-type: none"> • Failure to meet the Person Identification Database (PID) Error Rate Standard for the summer and fall collections <p>3. Status of Uncorrected Noncompliance</p> <ul style="list-style-type: none"> • Uncorrected Noncompliance: Correction still outstanding one or more years after identification <p>4. Financial Audits Noncompliance</p> <ul style="list-style-type: none"> • Substandard Achievement <p>5. Program Effectiveness PBM:</p> <ul style="list-style-type: none"> • 4 • 1A: Tech Asst Team • 1A: Year After On-Site-Oversight • 3: Year After On-Site-Oversight • N/A: Year After On-Site-Oversight • 1A or B: Escalated Oversight • 1B: Escalated Oversight • 2: Escalated Oversight • 3: Escalated Oversight • 4: Escalated Oversight • N/A: Escalated Oversight • N/A: Monitor Assigned • N/A: No PEIMS/Testing Data from LEA 	<p>State shall take any of the actions described above, and require one or more of the following:</p> <ul style="list-style-type: none"> ▪ Recover funds ▪ Withhold further payments ▪ Refer to legal authorities 	<p>State shall take any of the actions described above, and require the following:</p> <p><u>Special Education On-site Review</u></p> <p>Any of the actions pursuant to <u>Texas Administrative Code (TAC) §89.1076</u></p>

(*only SPP Indicators 9 and 10 are considered for 2008 Determinations; SPP Indicators 9, 10, 11, 12 and 13 are considered for 2009 and beyond)

Appeals of Determination Levels *Needs Intervention* or *Needs Substantial Intervention*

If an LEA believes a specific data element is inaccurate, the LEA may appeal an assigned Determination Level. An appeal must be made within **30 calendar days** of the date on the Determination Level notification letter, and the request for appeal must include the submission of all information necessary for the TEA to reconsider the original Determination status assignment. **Appeals must be based on the accuracy of specific data elements only.** Appeals based on information other than the accuracy of a specific data element are unallowable.

Only an LEA with a Determination Level of *Needs Intervention* or *Needs Substantial Intervention* may appeal. The appeals process is unavailable for an assigned Determination Level of *Needs Assistance*. An appeal may be made by letter to the following address:

**Determination Status Appeal
Texas Education Agency
Division of IDEA Coordination
1701 N. Congress
Austin, Texas 78701**

TEA staff will not contact school districts for additional information if the documentation provided with the request for appeal is insufficient. The appeal will be evaluated based on information provided in the appeal request. Late appeals will not be considered.

Explanation of 2008 Determinations Data Elements

- State Performance Plan (SPP) Compliance Indicators: Performance is based on a district's data involving various SPP indicators (see chart below). Data are based on the 2006-2007 school year.
- Valid, Reliable, and Timely Data: Performance is based on the Public Education Information Management System (PEIMS) Edit+ Reports Data Review of Person Identification Database (PID) Error Rate. Data are based on the 2006-2007 summer and fall collections.
- Uncorrected Noncompliance: Performance is based on timely correction of identified noncompliance related to complaints resolution, due process, and monitoring. Noncompliance is considered corrected if identified in a given school year and corrected as soon as possible or no later than one year after identification. Data are based on the 2006-2007 school year.
- Financial Audits: performance is based on level of achievement in managing district finances, as reflected in the Financial Integrity Rating System of Texas (FIRST). Data are based on the 2005-2006 school year, as reflected in the 2007 FIRST rating, the most recent available data.
- 2007-2008 Performance-Based Monitoring (PBM) Intervention Stage: stage is based on Performance-Based Monitoring Analysis System (PBMAS) indicator results and meeting state supervision and oversight requirements for special education programs as required by state and federal law. PBMAS data resulting in 2007-2008 intervention staging generally are based on the 2006-2007 school year.

2008 Determinations Data Elements

Federally Required Element	Description	Data Source
1. State Performance Plan (SPP) Compliance Indicators*	Performance on SPP Compliance Indicators: <ul style="list-style-type: none"> • 9 / 10: Disproportionate Representation that is the result of inappropriate identification • 11: Child Find (Timely Evaluation) • 12: Early Childhood Transition • 13: Secondary Transition (*only SPP Indicators 9 and 10 are considered for 2008 Determinations; SPP Indicators 9, 10, 11 12 and 13 are considered for 2009 and beyond)	Division of IDEA Coordination
2. Valid, Reliable, and Timely Data	Performance in meeting the Person Identification Database (PID) Error Rate Standard for the summer and fall collections	Division of Program Monitoring and Interventions
3. Status of Uncorrected Noncompliance	Performance in timely correction of identified noncompliance (e.g. identified in a given school year and corrected as soon as possible or no later than one year after identification)	Division of Program Monitoring and Interventions
4. Financial Audits	Performance on financial audits	Division of Financial Audits
State Defined Element	Description	Data Source
5. Program Effectiveness	Overall Program Effectiveness in Performance-Based Monitoring System (PBM)	Division of Program Monitoring and Interventions

Influencing Determination Status: What can LEAs do?

Coordinated, Proactive and Data-based Activities

LEAs are encouraged to involve their district Superintendent in the LEA Determination process in order to ensure effective coordination of related district activities and functions, including activities involving both general and special education. LEAs should consider taking proactive steps to positively influence determination status by making use of a data-based decision making process. Because data provided to districts through PEIMS is often beyond the timeframe required to make timely and accurate data-based decisions, districts should consider establishing local processes for collecting and analyzing data. In making data-based decisions, districts are also encouraged to make use of the [Special Education Ad Hoc Reporting System \(SPEARS\)](#), a dynamic reporting tool designed for accessing and analyzing data related to special education.

LEAs are encouraged to consider assembling an integrated program evaluation team, including general and special education representatives, to determine: 1) how the district will identify factors contributing to a Determination status; 2) how the district will address those factors in a way that will positively influence related data; and 3) how the district will develop a written plan for implementation. These activities should align to analysis and improvement processes already in place in the LEA, including PBM data analysis and improvement processes. LEAs are also encouraged to consider providing district-wide, coordinated training regarding the implementation of such a plan.

Performance on compliance indicators in the SPP, (Indicators 9 and 10 only in 2008)

SPP Indicators 9 and 10 are intended to identify over-representation or under-representation of students receiving special education services by race/ethnicity. To meet criteria for noncompliance on these indicators, over/under-representation must be the result of inappropriate identification of students. In order to positively influence these indicators, LEAs should review campus-level data to ensure that students are provided appropriate instruction that is effective for the majority of students. A [Response to Intervention \(RtI\)](#) process is an effective means of ensuring appropriate and effective instruction. LEAs can be relatively confident that a special education referral is appropriate when data indicates the student is failing to make progress when provided appropriate instruction.

In addition, LEAs should thoroughly review practices related to the identification of students with disabilities. LEAs should ensure that evaluation teams have a common understanding of the evaluation/identification process through district-level training and staff development activities. Resources related to disproportionate representation are available through the Texas Initiative for Disproportionate Representation in Special Education web site at [education service center \(ESC\) Region 1](#).

Whether data submitted by LEAs is valid, reliable, and timely

LEAs must ensure that student data is reliable and valid. This will involve coordination of data collection across districts and departments, in particular across general and special education. LEAs are encouraged to involve their district Superintendent and PEIMS staff in the LEA Determination process in order to ensure effective coordination of district data-collection activities.

Uncorrected noncompliance from other sources (complaints resolution, due process, and monitoring)

LEAs are highly encouraged to correct noncompliance as soon as possible but no later than one year after the date the district is notified of the noncompliance. Uncorrected noncompliance is considered the most significant criteria in the Determinations process and remedying the noncompliance should be given priority by districts.

Any audit findings

LEAs are encouraged to closely monitor general and special education finances so that funding processes are consistent and well-coordinated. It is advisable to involve the district Superintendent and business office staff in the LEA Determination process in order to ensure effective coordination of district financial activities and functions across both general and special education departments.

Public Reporting

While LEAs are not required to publicly report an assigned Determination Status, it is strongly encouraged that this information be shared with the community through options such as the district's website, a public notice in a local newspaper, and/or an announcement during a local Board of Education meeting. Additionally, LEAs are encouraged to inform the public regarding the meaning of an assigned level, as well as LEA efforts to improve results, including those related to program evaluation, self assessment, and data analysis.

Resources

[TEA Best Practices Clearinghouse](#): The Texas Education Agency (TEA) has established an online clearinghouse of information related to best practices of high-performing and highly efficient campuses, school districts, and charter schools in instruction, dropout prevention, business/management practices, and public school finance and resource allocation. The goal of the Clearinghouse is to provide information about best practices that is specific, actionable, and accessible to schools and interested members of the public.

[Texas Comprehensive Center](#): school improvement resources.

[Southeast Regional Resource Center](#): special education supports and resources.

[Legal Framework for the Child-Centered Educational Process](#): a template in an electronic format that summarizes state and federal requirements for special education by topic.

[National Center for Culturally Responsive Educational Systems](#): technical assistance and professional development to close the achievement gap between students from culturally and linguistically diverse backgrounds and their peers, and reduce inappropriate referrals to special education.

[School Self-Assessment Tool](#): a self-assessment for evaluating practices related to SPP Indicators 9 and 10.