

2010 Local Educational Agency (LEA) Determinations

State's Review and §616 Determination Criteria for Local Educational 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

Federally Required Elements

States must consider the following four *federally required elements* in assigning a Determination level for LEAs:

1. Performance on compliance indicators 9, 10, 11, 12, and 13* in the State Performance Plan (SPP);
2. Whether data submitted by LEAs is valid, reliable, and timely;
3. Uncorrected noncompliance from other sources (complaints resolution, due process, residential facility monitoring and monitoring activities); and
4. Any audit findings

* Indicator 13 is not part of the 2010 Determinations analysis because states were not required to report on Indicator 13 in the FFY 2008 Annual Performance Report submitted in February 2010

State Defined Elements

States may choose to define additional elements in making determinations. In order to more accurately reflect LEA performance as indicated by data results, the TEA has incorporated the following *state defined element*:

5. Performance-Based Monitoring (PBM) Program Effectiveness (stage of intervention for the special education program area)

Determination Rating

The State reviews LEA information in all five elements, assigns a point value for each element, and aggregates the total in order to establish an LEA's determination level. The following matrix provides a crosswalk from the determination level to the total of rating points associated with each level.

Crosswalk of Rating Scale to Determination Level

Determination Level	Total Rating Points
Meets Requirements	0 Points
Needs Assistance	1-2 Points
Needs Intervention	3 Points
Needs Substantial Intervention	4 or more Points

2010 Determinations Data Elements

An LEA will be assigned a Determination level based on the data reviewed in the following matrix.

Federally Required Element	Description	Data Source/Timeframe
1. State Performance Plan (SPP) Compliance Indicators	Performance on SPP Compliance Indicators: <ul style="list-style-type: none"> • 9: Disproportionality of racial and ethnic groups (African American, Asian, Hispanic, Native American, White) in the special education program that is the result of inappropriate identification • 10: Disproportionality of racial and ethnic groups (African American, Asian, Hispanic, Native American, White) by specific disability (Autism, Emotional Disturbance, Learning Disability, Mental Retardation, Other Health Impaired, Speech Impairment) in the special education program that is the result of inappropriate identification • 11: Compliance with Initial Evaluation Timelines • 12: Compliance with Early Childhood Transition Timelines • 13: Compliance with Secondary Transition IEP Requirements* 	Division of IDEA Coordination Data submission for the 2008-2009 school year
2. Valid, Reliable, and Timely Data	Performance on Person Identification Database (PID) Reporting: Fall and Summer Collections	Public Education Information Management System (PEIMS) Data submission for the 2008-2009 school year

* Indicator 13 is not part of the 2010 Determinations analysis because states were not required to report on Indicator 13 in the FFY 2008 Annual Performance Report submitted in February 2010

Federally Required Element	Description	Data Source/Timeframe
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 but not later than one year after identification)	Division of Program Monitoring and Interventions (Monitoring) October 1, 2008 to October 1, 2009 Division of IDEA Coordination (Complaints Resolution and Adverse Due Process Hearings) July 1, 2008-June 30, 2009
4. Financial Audits	Financial performance	Division of Financial Audits 2008 and 2009 School FIRST Ratings Performance is based on level of achievement in managing district finances, as reflected in the Financial Integrity Rating System of Texas (FIRST) for two consecutive years

State Defined Element	Description	Data Source
5. Program Effectiveness	Overall Program Effectiveness in Performance-Based Monitoring System (PBM)	Division of Program Monitoring and Interventions 2008-2009 School Year

Explanation of 2010 Determinations Data Elements

1. **State Performance Plan (SPP) Compliance Indicators:**

To meet the data element standard, districts must not have disproportionate representation that is the result of inappropriate identification (SPP indicators 9 and 10), and must report 95% to 100% compliance with SPP indicators 11 and 12 for the 2008-2009 school year.

Note: Although data were collected on SPP indicator 13 in 2008-2009, states were not required to report on Indicator 13 in the FFY 2008 Annual Performance Report submitted in February 2010; therefore Indicator 13 is not included in the 2010 Determinations analysis SPP Indicator 13. Data collected in 2009-2010 will be part of the 2011 Determinations analysis.

2. **Valid, Reliable, and Timely Data:**

To meet the data element standard, districts must meet the Person Identification Database (PID) Error Rate Standard for reporting based on the summer and fall collections, July 1, 2008 to June 30, 2009.

3. **Uncorrected Noncompliance:**

To meet the data element standard, districts must have corrected all identified noncompliance as soon as possible, but not later than one year after notification from the Agency of the noncompliance.

Uncorrected noncompliance is noncompliance that has not been corrected one year after the district was notified of the noncompliance by the state. Residential facility monitoring and monitoring activity data are based on uncorrected noncompliance during the October 1, 2008 to October 1, 2009 calendar year. Complaints resolution and (due process) hearing decision corrective action data are based on uncorrected noncompliance from July 1, 2008 to June 30, 2009. A district that fails to correct previously identified noncompliance within the October 1, 2008 to October 1, 2009 calendar year is considered to have uncorrected noncompliance, regardless of whether the noncompliance is corrected at the time the district is assigned a Determination level.

4. **Financial Audits:**

To meet the data element standard, districts must have a Superior, Above Standard, or Standard Achievement rating in the School Financial Integrity Rating System of Texas (FIRST) for two consecutive years (2008 and 2009 FIRST Ratings).

5. **2008-2009 Performance-Based Monitoring (PBM) Program Effectiveness:**

To meet the data element standard, districts must not be staged in the PBM system.

Stage of Intervention in the PBM System and meeting state supervision and oversight requirements for special education programs as required by state and federal law. Performance-Based Monitoring Analysis System (PBMAS) data resulting in 2009-2010 intervention staging generally are based on data from the 2008-2009 school year.

2010 Determinations Rating Scale

Federally Required Element	Description	Rating Points
1. State Performance Plan (SPP) Compliance Indicators	Performance on SPP Compliance Indicators 9, 10, 11, and 12: <ul style="list-style-type: none"> • 4 indicators in 95%-100% compliance • 1 or more indicators less than 95% compliance 	0 points 1 point
2. Valid, Reliable, and Timely Data	Person Identification Database (PID) Error Rate Standard for the fall and summer collection <ul style="list-style-type: none"> • Both collections meet the PID Error Rate standard • Both collections exceeded the PID Error Rate standard 	0 points 1 point
3. Status of Uncorrected Noncompliance	Timely correction of identified noncompliance (e.g. identified in a given school year and corrected no later than one year after identification) <ul style="list-style-type: none"> • No uncorrected noncompliance • Uncorrected noncompliance 	0 Points 1 Point
4. Financial Audits	School FIRST status rating for two consecutive years <ul style="list-style-type: none"> • Superior, Above Standard, or Standard Achievement • Substandard Achievement or Suspended Due to Data Quality 	0 Points 1 Point

State Defined Element	Description	Rating Points
5. Program Effectiveness	Overall Program Effectiveness in Performance-Based Monitoring System (PBM) <ul style="list-style-type: none"> • Not Staged • Stage 1A or 1B • Stage 2 • Stage 3 • Stage 4 	0 points 1 point 2 points 3 points 4 points

Appeals Process

If an LEA believes a specific data element reviewed in the determination process is inaccurate, the LEA may appeal an assigned Determination Level. However, only LEAs assigned a Determination Level of Needs Intervention or Needs Substantial Intervention may appeal. An LEA must make an appeal within 30 calendar days of the date on the Determination Level Notification letter. The request for appeal must include the submission of all information necessary for TEA to reconsider the original Determination status assignment. The TEA will acknowledge receipt of the request for appeal and a Determination Status Appeal Response letter when the review is completed.

LEAs that are eligible to appeal must include in their request a contact person's name, email, phone number, and the superintendent's name and signature. The completed form should be sent to the following address:

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

The TEA will evaluate the appeal based on information provided in the appeal request form. TEA will not consider any appeal received after the 30-calendar day timeframe.

Enforcement Actions

States are required to take enforcement actions with LEAs based on the LEA's Determination Level. The TEA has established and implements a system of interventions and sanctions, in accordance with the Individuals with Disabilities Education Act, 20 United States Code, §§1400 et seq., Texas Education Code (TEC), §29.010, and TEC, Chapter 39, as necessary to ensure program effectiveness and compliance with federal and state requirements regarding the implementation of special education and related services.

In accordance with TEC, §39.131(a), the TEA may combine any intervention and sanction. LEAs with a Determination Level of Needs Assistance for two or more consecutive years; Needs Intervention for three or more consecutive years, or Needs Substantial Intervention in any given year are subject to the following interventions and sanctions referenced in 19 Texas Administrative Code §89.1076:

- (1) on-site review for failure to meet program or compliance requirements;
- (2) required fiscal audit of specific program(s) and/or of the district, paid for by the district;
- (3) required submission of corrective action(s), including compensatory services, paid for by the district;
- (4) required technical assistance, paid for by the district;
- (5) public release of program or compliance review findings;
- (6) special investigation and/or follow-up verification visits;
- (7) required public hearing conducted by the local school board of trustees;
- (8) assignment of a special purpose monitor, conservator, or management team, paid for by the district;
- (9) hearing before the commissioner of education or designee;
- (10) reduction in payment or withholding of funds;
- (11) lowering of the special education monitoring/compliance status and/or the accreditation rating of the district; and/or
- (12) other authorized interventions and sanctions as determined by the commissioner.

In addition, LEAs with a Determination Level of Needs Assistance for two or more consecutive years must seek technical assistance and report to the TEA on technical assistance received. LEAs with a Determination Level of Needs Assistance or lower are prohibited from reducing maintenance of effort under § 300.203 for any fiscal year.

No enforcement action is required of LEAs that are at the Meets the Requirements Determination Level.