

How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act Part B in 2015: Entities with Determinations Based on Compliance¹

In making our determination for each State under section 616(d) of the Individuals with Disabilities Education Act (IDEA), we considered the totality of the information we have about a State. This includes the State's Federal fiscal year (FFY) 2013 State Performance Plan (SPP)/Annual Performance Report (APR); information from monitoring and other public information, such as Special Conditions on the State's grant award under Part B; and other issues related to State compliance with the IDEA.

As further detailed below, in making the 2015 determination for each of the entities with Determinations Based on Compliance, the Department used a Compliance Matrix, reflecting the following data:

1. The State's FFY 2013 data for Part B Compliance Indicators 11 and 13, and where applicable, Indicator 12² (including whether the State reported valid and reliable data for each indicator); and, if the FFY 2013 data the State reported under those indicators reflected compliance between 90% and 95%, whether the State demonstrated correction of all findings of noncompliance it had identified in FFY 2012 under such indicators;
2. The timeliness and accuracy of data reported by the State under sections 616 and 618 of the IDEA;
3. The State's FFY 2013 data, reported under section 618 of the IDEA, for the timeliness of State complaint and due process hearing decisions;
4. Whether the Department imposed Special Conditions on the State's FFY 2015 IDEA Part B grant award and those Conditions are in effect at the time of the 2015 determination, and the number of years for which the State's Part B grant award has been subject to Special Conditions; and
5. Whether there are any findings of noncompliance identified in FFY 2011 or earlier by either the Department or the State that the State has not yet corrected.

As further detailed below, the Compliance Matrix indicates a score of 0, 1, or 2, for each of the compliance indicators in item one above and for the additional factors listed in items two through five above. Using the cumulative possible number of points as the denominator, and using as the

¹ In making 2015 determinations, the Department did not have sufficient results data to use when making determinations for the following entities: American Samoa, the Bureau of Indian Education, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands. Therefore, the Department is using these criteria, which are similar to the Department's 2013 and 2014 determinations criteria.

² Indicator 12 measures the percent of children referred by a State's early intervention program for infants and toddlers with disabilities under Part C of the IDEA prior to age 3, who are found eligible for Part B, and who have an individualized education program developed and implemented by their third birthdays. Indicator 12 is not applicable to the Bureau of Indian Education, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

numerator the actual points the State received in its scoring under these factors, the Compliance Matrix reflects a percentage that was used to calculate the 2015 determination, as follows:

1. Meets Requirements – a State’s 2015 determination is Meets Requirements if the matrix percentage was at least 90%,³ unless the Department imposed Special Conditions on the State’s last three (FFYs 2012, 2013, and 2014) IDEA Part B grant awards, and those Special Conditions are in effect at the time of the Department’s 2015 determination.
2. Needs Assistance - a State’s 2015 determination is Needs Assistance if the matrix percentage was at least 75%, but less than 90%, or was below 75% but the State does not meet the criteria for Needs Intervention set forth below. A State would also be Needs Assistance if its matrix percentage was at least 90%, but the Department has imposed Special Conditions on the State’s last three (FFYs 2012, 2013, and 2014) IDEA Part B grant awards, and those Special Conditions are in effect at the time of the Department’s 2015 determination.
3. Needs Intervention - a State’s 2015 determination is Needs Intervention if the matrix percentage was less than 75%, and the State met one or more of the following criteria (which were the criteria for a determination of Needs Intervention in 2013 , and – for the entities -- 2014):
 - a. Compliance is below 50% for one or more of the following Compliance Indicators (11, 12, or 13); or timely State complaint decisions or timely due process hearing decisions;
 - b. The State provided no data or did not provide valid and reliable data for the following Compliance Indicators: 11, 12, or 13; or
 - c. The State has been subject to Special Conditions for multiple years for failing to comply with key IDEA requirements, the noncompliance has been long-standing, the State’s data in response to the Department’s FFY 2014 Special Conditions demonstrate continued noncompliance, and those Special Conditions are in effect at the time of the Department’s 2015 determination.
4. Needs Substantial Intervention – The Department did not make a determination of Needs Substantial Intervention for any State in 2015.

Scoring of the Matrix for Compliance Indicators 11, 12, and 13

In the attached State-specific 2015 Part B Compliance Matrix, a State received points as follows for each of Compliance Indicators 11, 12, and 13⁴:

- Two points, if either:
 - The State’s FFY 2013 data for the indicator were valid and reliable, and reflect at least 95%⁵ compliance); or

³ In determining whether a State has met this 90% matrix criterion, the Department will round up from 89.5% (but no lower) to 90%. Similarly, in determining whether a State has met the 75% matrix criterion discussed below, the Department will round up from 74.5% (but no lower) to 75%.

⁴ A notation of “N/A” (for “not applicable”) in the “Performance” column for Indicator 12 denotes that the indicator is not applicable to that particular State. The points for that indicator are not included in the denominator for the matrix, and the indicator does not impact the final matrix percentage for the State or its determination.

- The State’s FFY 2013 data for the indicator were valid and reliable, and reflect at least 90% compliance; and the State identified one or more findings of noncompliance in FFY 2012 for the indicator, and has demonstrated correction of all findings of noncompliance identified in FFY 2012 for the indicator. Such full correction is indicated in the matrix with a “Y” (for “yes”) in the “Full Correction of Findings of Noncompliance Identified in FFY 2012” column.⁶
- One point, if the State’s FFY 2013 data for the indicator were valid and reliable, and reflect at least 75% compliance, and the State did not meet either of the criteria above for two points.
- Zero points, under any of the following circumstances:
 - The State’s FFY 2013 data for the indicator reflect less than 75% compliance; or
 - The State’s FFY 2013 data for the indicator were not valid and reliable;⁷ or
 - The State did not report FFY 2013 data for the indicator.⁸

Scoring of the Matrix for Timely and Accurate State-Reported Data

In the attached State-specific 2015 Part B Compliance Matrix, a State received points as follows for Timely and Accurate State-Reported Data⁹:

- Two points, if the OSEP-calculated percentage reflects at least 95% compliance.

⁵ In determining whether a State has met this 95% compliance criterion, the Department will round up from 94.5% (but no lower) to 95%. Similarly, in determining whether a State has met the 90% criterion discussed below, the Department will round up from 89.5% (but no lower) to 90%. In addition, in determining whether a State has met the 75% criterion discussed below, the Department will round up from 74.5% (but no lower) to 75%.

⁶ An “N” (for “no”) in that column denotes that the State has one or more remaining findings of noncompliance identified in FFY 2011 for which the State has not yet demonstrated correction. An “N/A” (for “not applicable”) in that column denotes that the State did not identify any findings of noncompliance in FFY 2011 for the indicator.

⁷ If a State’s FFY 2013 data for any compliance indicator are not valid and reliable, the matrix so indicates in the “Performance” column, with a corresponding score of 0. The explanation of why the State’s data are not valid and reliable is contained in the attached compliance data summary notes of the Part B FFY 2012 SPP/APR Response Table.

⁸ If a State reported no FFY 2013 data for any compliance indicator, the matrix so indicates in the “Performance” column, with a corresponding score of 0.

⁹ OSEP used the Part B Timely and Accurate Data Rubric to award points to States based on the timeliness and accuracy of their sections 616 and 618 data. A copy of the rubric is attached to the progress page in the OSEP Response to the State’s FFY 2013 SPP/APR in GRADS 360. On the first page of the rubric, entitled “Part B Timely and Accurate Data-SPP/APR Data,” States are given one point for each indicator with valid and reliable data and five points for SPP/APRs that were submitted timely. The total points for valid and reliable SPP/APR data and timely submission are added together to form the APR Grand Total. On page two of the rubric, the State’s section 618 data are scored based on information provided to OSEP on 618 data timeliness, completeness, edit checks, and data notes from EDFacts. The percentage of Timely and Accurately Reported Data is calculated by adding the 618 Data Grand Total to the APR Grand Total and dividing this sum by the total number of points available for the entire rubric. This percentage is inserted into the Compliance Matrix

- One point, if the OSEP-calculated percentage reflects at least 75% and less than 95% compliance.
- Zero points, if the OSEP-calculated percentage reflects less than 75% compliance.

Scoring of the Matrix for Timely State Complaint Decisions and Timely Due Process Hearing Decisions

In the attached State-specific 2015 Part B Compliance Matrix, a State received points as follows for timely State complaint decisions and for timely due process hearings, as reported by the State under section 618 of the IDEA:

- Two points, if the State's FFY 2013 data were valid and reliable, and reflect at least 95% compliance.
- One point, if the State's FFY 2013 data reflect at least 75% and less than 95% compliance.
- Zero points, if the State's FFY 2013 data reflect less than 75% compliance.
- Not Applicable (N/A), if the State's data reflect less than 100% compliance, and there were fewer than ten State complaint decisions or ten due process hearing decisions.

Scoring of the Matrix for Long-Standing Noncompliance (Includes both Uncorrected Identified Noncompliance and Special Conditions)

In the attached State-specific 2015 Part B Compliance Matrix, a State received points as follows for the Long-Standing Noncompliance component:

- Two points, if the State has:
 - No remaining findings of noncompliance identified, by OSEP or the State in FFY 2011 or earlier; and
 - No Special Conditions on its FFY 2014 grant award that are in effect at the time of the 2015 determination.
- One point, if either or both of the following occurred:
 - The State has remaining findings of noncompliance identified, by OSEP or the State, in FFY 2011, FFY 2010, and/or FFY 2009, for which the State has not yet demonstrated correction (see the OSEP Response to the State's FFY 2013 SPP/APR for specific information regarding these remaining findings of noncompliance); and/or
 - The Department has imposed Special Conditions on the State's FFY 2013 Part B grant award and those Special Conditions are in effect at the time of the 2015 determination.
- Zero points, if either or both of the following occurred:
 - The State has remaining findings of noncompliance identified, by OSEP or the State, in FFY 2008 or earlier, for which the State has not yet demonstrated correction (see the OSEP Response to the State's FFY 2013

SPP/APR for specific information regarding these remaining findings of noncompliance); and/or

- The Department has imposed Special Conditions on the State's last three (FFYs 2012, 2013, and 2014) IDEA Part B grant awards, and those Special Conditions are in effect at the time of the 2015 determination.