

Appendix A: General Supervision System (Introduction)

The OSE has twenty-one dedicated staff members that provide general supervision to the state. Staff includes:

Administration: Director (1), Assistant Director (2), Dispute Resolution Coordinator/Special Education Attorney (1)

Dispute Resolution Team: Dispute Resolution Coordinator/Special Education Attorney (also part of administration), Complaint Investigators (3), Dispute Resolution Support Specialist (1)

Fiscal Team Assistant Director (also part of administration), Grants and Medicaid Specialist (1), Grants and Contracts Specialist (1), Senior Excess Cost Specialist (1), Excess Costs and Part B Grants Specialist (1), Excess Cost Support Specialist (1), Fiscal Specialist (2)

Technical Assistance/Monitoring Team Assistant Director (also part of administration), Senior Special Education Specialist (1), Special Education Specialist (3), Intense Interventionist Specialist (1), Data Specialist (1)

As a result of a long and productive working relationship with the Parent Training and Information Center, IDOE is one of a few states, if not the only state, that provides office space for a staff member from our parent resource center, IN*SOURCE, which helps to facilitate a close working relationship between the two entities. The IN*SOURCE staff member is an integral part of the OSE, attending the OSE staff meetings and is asked to speak to family members who call in with questions.

Following the Individuals with Disabilities Education Act (IDEA), corresponding regulations, and, Article 7, (Indiana's special education rules), the OSE personnel are to ensure that students with disabilities are provided FAPE so they can be involved and make progress in the general education curriculum.

The OSE system of general supervision includes a cohesive, coordinated set of the activities described below. It is important to note that though personnel have an assigned area of responsibility, work is not done in isolation. Staff work closely with one another as each is dependent upon the others for updates, sharing of information, and communication of issues that impact the entire office. The OSE routinely engages in cross-training of team members. For example, each of the dispute resolution, fiscal and monitoring staff members are also leading, or are part of, specific project teams, answering general inquiries on a rotational basis, serving on or providing administrative support for councils and boards, and assisting with review processes during peak times.

Staff work in partnership with other offices and divisions within the department including:

Superintendent of Public Instruction; Chief of Staff; Title Grants and Support; Legislative Affairs; Early Learning/Curriculum and Instruction; Workforce and Innovation; Communications; eLearning; Information Technology; School Improvement; Social, Emotional, and Behavioral Wellness; Finance; School & Community Nutrition; Licensing; Assessment; and Accountability.

Staff also work closely with other state agencies that provide support for students with disabilities including: Department of Health; Family and Social Services Administration (specifically working with First Steps, Division of Disabilities and Rehabilitation Services, Vocational Rehabilitation Services, Office of Early Childhood and Out of School Learning, Department of Child Services, Division of Family Resources, Office of Medicaid Policy and Planning, Division of Mental Health and Addiction, Division of Contracts Management, Division of Financial Management); Department of Workforce Development; Indiana School for the Blind and Visually Impaired; Indiana School for the Deaf; Department of Correction; Office of the Attorney General; Department of Administration; State Board of Education; State Budget Agency; State Board of Accounts; and Legislative Services Agency.

GENERAL SUPERVISION COMPONENTS

For the purposes of this document Indiana is using a modified version of the U.S. Department of Education's guidance that OSEP offered in the Regional Implementation Meetings - Building the Legacy: IDEA 2004, "Concepts of General Supervision." Indiana has identified eight components of general supervision which will be discussed in detail later in this introduction: State Performance Plan/Annual Performance Report; Policies, Procedures, and Effective Implementation; Integrated Monitoring Activities; Fiscal Management; Data on Processes and Results; Improvement Correction, Incentives and Sanctions; Effective Dispute Resolution; and Targeted TA and Professional Development.

1) State Performance Plan (SPP)/Annual Performance Report (APR)

The current SPP is effective from FFY2013 through FFY2018. The SPP describes each of the 17 federal indicators and provides a target for each. Each indicator is categorized as either compliance (the target is 100% or 0%, depending upon the indicator) or results (the target is set by the OSE based on trend analysis and stakeholder input). Some are measured by a statewide number, others include a compilation of LEA information, i.e. the percentage of LEAs that meet the target.

Submitted to OSEP each year, the APR reflects the performance of Indiana LEAs based upon data collected per indicator and includes the findings made, allowing a year for correction by LEAs that did not meet the targets set for specific indicators. See "Integrated Monitoring Activities," below for a description of data collection.

The SPP and APR are posted on the IDOE <https://www.doe.in.gov/specialed/results-driven-accountability>.

2) Policies, Procedures, and Effective Implementation

The Indiana special education rules are promulgated in the Indiana Administrative Code at 511 IAC 7-32, 7-49. This rule is commonly known as Article 7, and there is an agency version that includes a table of contents and an index for reader reference.

Navigating the Course: Finding your way through Indiana's Special Education Rules was written to provide an overview and a practical resource to help parents, advocates, school personnel, and students understand the requirements of Indiana's special education rules, Article 7.

When questions arise as LEAs and local programs implement Article 7, necessary clarification is provided by the Director of Special Education, and this guidance/clarification is often included through the Question/Answer Section of the "From the Director" newsletter and is posted on the OSE's Moodle Community, which is the IDOE online resource for education stakeholders. In addition to the various learning communities found on Moodle, users can also find curriculum resources and academic standards, and post questions and/or suggestions. Moodle is available as a resource not just to Special Education Directors, but to parents, teachers, both general and special education, building principals, superintendents and any other education stakeholder.

Article 7 and Navigating the Course are aligned with IDEA and are implemented by local programs, including LEAs and state-run programs. The documents are referenced by the OSE personnel when providing TA in calls and emails to the general public, and both serve as the basis of any TA and training offered through the OSE. Both are posted on our website in English and Spanish.

3) Integrated Monitoring Activities

Annually, the OSE makes a determination whether LEAs meet the requirements and purposes of IDEA Part B, which is reflected in Article 7. The OSE makes this determination based upon data collected throughout the year and compares it to the indicator targets in the SPP, information obtained through LEA monitoring activities, and any other publicly available information. The OSE categorizes each LEA as:

- 1) Meets Requirements and purposes of Part B of IDEA;
- 2) Needs Assistance in implementing the requirements of Part B of IDEA;
- 3) Needs Intervention in implementing the requirements of Part B of IDEA; or

4) Needs Substantial intervention in implementing the requirements of Part B of the Act.

Depending upon the LEA determination, the OSE may offer TA/training, require a corrective action plan to resolve the root cause issue(s), and/or put special conditions on funds of an LEA. LEA determinations for FFY 2013-2018 are posted on the OSE's public RDA website, <https://www.doe.in.gov/specialed/results-driven-accountability>. The LEA determinations were renamed "RDA Determination Letters" beginning with FFY 2017.

The OSE conducts various monitoring activities that focus on improving educational results and functional outcomes for all children with disabilities, and ensuring that LEAs and other educational programs meet the program requirements under Part B of the IDEA. The OSE conducts monitoring activities through the collection and analysis of data that the LEAs submit throughout the year. These data are compared to the targets as defined in the SPP. As explained in the APR Introduction, Indiana has implemented RDA, using not only the SPP results and compliance indicators, but other results data as well as data timeliness.

There are seventeen specific SPP indicators, tied to three overarching themes that are the cornerstones to Part B of IDEA:

- 1) Provision of FAPE in the least restrictive environment;
- 2) General supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services; and
- 3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification of the student with a disability.

The OSE Technical Assistance/Monitoring Team members are each responsible to monitor LEA compliance/results with/for specific indicators found in the SPP. Depending on how the information is reported in the APR, the team members analyze either LEA data or statewide data. Indicators 4, 9, 10, 11 and 12 collect and analyze data annually. Indicator 13 continues on a three year rotation.

In addition, all noncompliance identified through Indiana's effective dispute resolution process must be corrected as soon as possible and no later than one year after the noncompliance has been identified.

As the LEA information becomes available from IDOE data collections, the members of the team review the data for completeness and work with the individual LEAs as necessary to make sure the data was accurately submitted. In some cases, for example the disproportionality indicators, the data is sent to a

vendor who is responsible for clean-up, analysis, and synthesis of the data. The data is then compared to the targets identified in the SPP. Some information submitted by an LEA for compliance indicators are determined to meet the targets based strictly on data, i.e., did the identification of a student's eligibility for special education occur within the state identified timelines. However, other compliance decisions take additional factors into account before determining if there is a finding of noncompliance. Depending upon the indicator, in addition to an analysis of the data, a team member may look at LEAs policies, procedures and practices as part of the noncompliance decision.

With the implementation of RDA, data is collected for the additional results data elements and whether data was submitted on a timely basis. The LEA data is then either placed into a quintile (results elements), compared to a compliance target (compliance indicators), or deemed on time (timely data element). The LEA is awarded points dependent upon targets reached successfully.

The various data points that make up each of the two RDA elements are weighted within the category, based on the stakeholder input. Stakeholders include special education directors, educators, IRN personnel (including parent representation) and the State Advisory Council on the Education of Children with Disabilities (SAC). The RDA calculations are then run, resulting in two separate indexes. One is a determination index that is comprised of compliance indicators and data timeliness. The second is an index based on the results indicators that place all LEAs within a level of differentiated support. The results index influences an LEA's determination, in that to qualify for Meets Requirements, an LEA's results index must be above 41.56.

The OSE assigns a range of scores for each of the determination categories (Meets Requirements, Needs Assistance, Needs Intervention, or Needs Substantial Intervention). The LEA is assigned a determination category based on the RDA determination score. Additionally, the OSE assigns a range of scores for each of the results TA categories (Level 1, Level 2, or Level 3). The LEA is assigned a TA category based on the RDA determination score. Differentiated support is then provided to the LEA based on the assigned category.

Letters are sent to LEAs detailing their scores on each of the two elements that make up RDA (results and compliance/data timeliness) and the LEA determination category. This letter includes finding(s) of noncompliance in regard to the compliance indicators and the designation of a results TA level. If an LEA is out of compliance, it must, as necessary, determine the root cause of noncompliance and develop a corrective action plan to address the reason(s) for noncompliance. The designated OSE education specialist provides assistance throughout the process and maintains regular contact with the LEA staff responsible for correction of the identified noncompliance and/or next steps in results TA. This regular contact is in the form of telephone calls, face to face visits, as well as emails consisting of discussion about the issues, provision of TA and identification of resources to assist with correction.

Using a two-pronged approach, education specialists are responsible to work with their assigned LEAs to verify that each incidence of noncompliance is corrected within the required timelines (Prong 1). For example, verification that Transition IEPs are developed during the appropriate timeframe and contain all required components. The education specialist is also responsible for reviewing updated data to ensure that any systemic issues causing noncompliance are addressed (Prong 2). If it is discovered during these regular contacts that the LEA is not making sufficient progress in correcting noncompliance, more concentrated TA is provided to ensure verification of correction during the required timeline. Once the correction has been verified, the LEA is issued a letter documenting that the noncompliance has been corrected. If the LEA is unsuccessful in correcting noncompliance within the required timelines, the OSE will impose the appropriate sanctions and/or enforcement.

Go to this webpage: <https://www.doe.in.gov/specialed/data>. Then see the 618 Reporting section. The posted Excel workbooks have information about each LEA for each compliance or results indicator and whether the target was achieved by the LEA.

4) Fiscal Management

The OSE is responsible for three fiscal management areas:

A. Distribution and Monitoring of Federal Part B Funds: The Part B grants consist of section 611 (students ages 3-21) and section 619 (students ages 3-5). The purpose of these funds is to pay the costs of providing special education and related services to students who are eligible for special education services. These funds are to supplement state, local and other federal funds. The OSE team members provide intensive TA to LEA personnel to ensure the funds are utilized and reported appropriately.

The funds are distributed through an application process which includes:

An LEA budget that is built upon allowable costs, e.g., personnel/benefits, equipment, purchased services, materials, etc.; Identification of a proportionate share of Part B funds that will be spent on equitable services for parentally-placed private school children with disabilities; Maintenance of Effort, which requires 1) an LEA budget at least the same amount of local or state and local funds on the education of students with disabilities as the LEA spent for the same purpose in the most recent fiscal year, and 2) an LEA expend at least the same amount of local-or state and local - funds on the education of students with disabilities either by the per capita or aggregate option in comparison to the most recent fiscal year the LEA met MOE using the same option; Identification of Excess Costs, ensuring that an LEA can demonstrate that IDEA funds are used only for the excess costs that are required to provide FAPE to children with disabilities; Coordinated Early Intervening Services (CEIS). CEIS can be a voluntary or mandated process by which an LEA may expend up to 15% of the LEA's total 611 and 619 Part B funds on students who have been identified as at risk for special education services. If an LEA has exceeded

the Indiana defined bar for discipline, special education identification or least restrictive environment, the LEA is mandated to expend exactly 15% of its total 611 and 619 allocations on students who have not been identified as needing special education or related services but need academic and behavioral support to succeed in a general education environment.

The OSE personnel not only distribute Part B funds in accordance with federal requirements, they assure the funds are used in accordance with federal and state requirements, by providing oversight on the use of funds.

The OSE personnel monitor for the appropriate use of the Part B funds. For example, the proportionate share of Part B funds must be documented by the LEA through submitted quarterly reports that include an itemization of expenditures and costs. The OSE provides assistance to LEAs regarding maintenance of effort, clarifying that expenses should be consistent year to year, logically be connected to special education, and that expenses be tracked for audit purposes.

The OSE staff monitor that the CEIS funds are spent appropriately. The LEA must itemize expenditures and costs, report the number of students receiving services through CEIS funding and the number of students eligible for special education services after receiving services during a reporting period, and a description of the activities implemented through use of the funds that will be sustained. The members of the fiscal team work closely with the TA/monitoring team in this process.

The OSE utilizes a portion of the Part B funds for administrative support, including contracts to entities for the provision of TA and professional development to LEAs.

B. Medicaid Reimbursements: the OSE staff provide policy support for all school-based Medicaid claiming as well as TA to participating LEAs. For covered IEP-required services (e.g., physical therapy, nursing services, etc), the LEA is reimbursed at the Medicaid-allowable rate per service and recovers federal funds pursuant to applicable federal and state laws and rules. Subject to applicable federal policy, an LEA can also participate in Medicaid Administrative Claiming to recover the allowable portion of its state and locally funded costs to facilitate healthcare access for all its potentially eligible students. The OSE also provides contracted systems support, training, and claim calculation assistance to LEAs that participate in Medicaid Administrative Claiming.

C. Excess Cost Funding: The OSE personnel manage a state line item fund that can be accessed by the LEA to cover the excess costs of educating students whose disabilities are of such intensity as to preclude achievement in the existing local public school setting.

The LEA may access this fund using an application that justifies the school's inability to meet the student's extraordinary educational need without this funding. The application is primarily based upon the services that are identified in the IEP of the student, including consideration of least restrictive environment and includes detailed information about any private vendor and the costs of the service(s). The funding may pay for services that include, but are not limited to, the following:

- (a) A public or private residential program when services in a residential setting are necessary for the student to benefit from special education.
- (b) Nonresidential services necessary to enable the student to remain in the community without resorting to residential placement or to return to the local community from a residential placement.

The OSE personnel administer the funding process from receipt of application to payment for services via a state contract with either a private vendor or directly with the LEA. The state contract regulations involve IDOE Finance Division and several other state agencies.

5) Data on Processes and Results

School and LEA staff prepare and submit data regarding students, personnel, and other required data via the IDOE STN Application Center and DOE Online. Public schools, including charter schools, and accredited nonpublic schools submit required data. There are various required data submissions during the school year, some of which are specific to special education students: child count, personnel, and educational environments, student exiting information, discipline, assessment, and dispute resolution.

The information is also used to complete the annual performance report required by OSEP, and as mentioned previously, as part of the RDA system.

Section 618 of the Individuals with Disabilities Education Act (IDEA) requires that each state submit data about children with disabilities, ages 3 through 21, who receive special education and related services under Part B of IDEA. This data includes:

assessment, child count, educational environments, discipline, dispute resolution, educational environments, exiting, maintenance of effort reduction and coordinated early intervening services, personnel.

Data is used to inform all of the projects that the OSE is involved in. The OSE provides data to members of the general public, school personnel, State Board of Education, and legislators. Confidentiality laws are followed.

In 2019 the OSE conducted LEA RDA Data Retreats at which LEAs were asked to review data and discuss next steps including developing intermediate and long range goals. In 2020 the OSE will be providing RDA Roadshows. The roadshow is designed to assist LEAs in understanding their new RDA matrices, changes from last year's matrices, the RDA Planning Tool and data that LEAs receive based on special education indicators.

6) Improvement, Correction, Incentives and Sanctions

As stated earlier, the OSE personnel ensure that students with disabilities are provided FAPE so they can be involved and make progress in the general education curriculum. The OSE has the state authority to enforce regulations, policies and procedures to ensure LEA compliance. The OSE assists the LEA, through guidance, TA and training, and in the correction of deficiencies that are identified. If the LEA deficiencies persist, the OSE has a range of activities that may be utilized to assist in the correction. In the event the LEA does not correct noncompliance within one year, the OSE considers imposing sanctions ranging from more intensive TA to placing special conditions on the use of Part B funds.

Additionally, in the dispute resolution process there are elements of improvement, correction, incentives and sanctions. Additionally, the dispute resolution process is explained more thoroughly below (see #7).

A) Complaint Investigation: The complaint is submitted to the OSE and a complaint investigator investigates the allegations then develops a report which reflects the identified issue(s), the findings of fact, conclusions, and corrective action, if any.

B) Mediation: is a voluntary and confidential process that provides a trained and impartial mediator to facilitate discussion between the parent(s) and school to help the parties resolve a disagreement. If the disagreement is resolved through mediation, the parties must put their agreement in a written agreement.

C) Dispute Resolution Hearing: At the conclusion of the hearing, the Independent Hearing Officer considers all of the information and issues a written decision.

If, through the process of compliance monitoring an LEA has a finding of non-compliance, the LEA must complete, as necessary, a root cause analysis to determine the reason(s) for non-compliance. From that, the LEA must develop a corrective action plan. The plan must then be implemented, and the non-compliance fixed within a year of the finding. If the non-compliance is not fixed within a year, the LEA is determined to be in continued non-compliance, and if not fixed after the second year, the LEA goes into

longstanding non-compliance. Findings, as well as any continued non-compliance, impacts the Determination score.

The Individuals with Disabilities Education Act (IDEA) requires the OSE to determine if each LEA meets the requirements of Part B of the IDEA. Based on an LEA's score on a number of criteria based upon compliance indicators, the LEA is ranked in one of four categories of determination:

Meets Requirements-No Action Needed by LEA;

Needs Assistance-LEA works with the OSE specialist; provided with resources;

Needs Intervention-LEA works with the OSE specialist; specific resource plan developed that LEA must follow; and

Needs Substantial Intervention-Individually determined. In recent years Indiana has had one district with this determination, and they were placed on Special Conditions for their Part B grant.

IDOE has imposed Special Conditions on one LEA for the grant award under Part B to ensure that the LEA General Supervision system (including monitoring, complaints, hearings, etc.) corrects noncompliance as required.

These special conditions were initially imposed because:

1. The failure of the LEA to implement requirements to evaluate and determine students eligible within 50 instructional days;
2. The failure of the LEA to implement requirements for transition services;
3. The failure of the LEA to implement requirements for transition services;
4. The failure of the LEA to implement requirements for discipline procedures;
5. The failure of the LEA to implement requirements for disproportionality in suspensions and/or expulsions;
6. The failure of the LEA to implement requirements for disproportionality in identification of students with disabilities based on race/ethnicity;
7. The failure of the LEA to implement requirements for Least Restrictive Environment;
8. The failure of the LEA to implement requirements for Maintenance of Effort;
9. The failure of the LEA general supervision system to timely correct noncompliance; and

10. The failure of the LEA to provide an appropriately certified sign language interpreter.

It should be noted that the LEA, though still under special conditions, has worked with the State throughout the APR reporting year to identify ways to increase compliance and has corrected some but not all of the failures identified above. The State took over the academics and finances of the LEA in FFY 2017, and this takeover resulted in a series of turnovers in administrative and management positions (including special education) throughout FFY 2018. As a result of these staffing changes, the lack of progress with some of the identified noncompliance areas, and lack of fidelity with internal data and data reporting, it has been determined appropriate that this LEA remain on special conditions. In FFY 2019 IDOE will carefully review each area of noncompliance identified above, data fidelity, and progress or slippage on all federal monitoring indicators in order to evaluate the feasibility of implementing a plan for the gradual release of this LEA from special conditions.

7) Effective Dispute Resolution

The working relationship between the student with a disability, his or her family, and school personnel is generally positive as all parties work together to make decisions about the student's education. When there is a disagreement that cannot be worked out at the local level there are three conflict resolution options available:

A) A complaint, which can be filed by anyone, alleges that a school is not complying with: state/ federal special education or related requirements; a signed mediation agreement; a signed resolution agreement; or, a hearing officer's orders.

A complaint may involve one student or a group of students. The complaint is submitted to the OSE and a complaint investigator investigates the allegations then develops a report which reflects the identified issue(s), the findings of fact, conclusions, and corrective action, if any.

B) Mediation may be used on a voluntary basis to resolve any disagreements between a parent and the LEA, including those involved in complaints and Dispute Resolution hearings. All parties must agree to participate in mediation which is conducted by a trained mediator. The discussions are confidential, and the mediation agreement is legally binding.

C) Dispute Resolution hearings involve an 'independent hearing officer'. The parent, 18 year old student, the school, or the IDOE may make a written request for a Dispute Resolution hearing. The process involves administrative proceedings similar to court, and the parties can be represented by counsel or non-attorney advocate. If the hearing was requested by the parent, the school is required to conduct a resolution session. The parties may agree to mediate in lieu of the resolution session. If the issue is not resolved or settled, a hearing will be conducted. The hearing officer makes a written decision, and there is an opportunity to appeal.

In addition to these three formal means of dispute resolution that are identified in Article 7, Indiana also offers facilitated IEP (FIEP) as a means to address concerns within the IEP team meeting, referred to, in Indiana, as the case conference committee (CCC). A trained facilitator is provided upon request and at no cost to the parties.

The OSE works with the LEAs, as well as the Parent Training and Information Center to ensure that parents receive and understand their rights and responsibilities.