

FFY 2022 Determination Overview
Part C & Part B
July 1, 2022 – June 30, 2023

The Individuals with Disabilities Education Act (IDEA) is focused on state accountability for Part C and Part B Indicators defined in the Office of Special Education's (OSEP) State Performance Plan. Annually, the OSEP evaluates each state's performance on these Indicators, and, as a result, assigns each state to one of four levels of determination: "Meets Requirements," "Needs Assistance," "Needs Intervention," or "Needs Substantial Intervention." The Maryland State Department of Education (MSDE) anticipates receiving its current federal determination status for Part C and Part B in late June or early July 2024.

To receive a State determination, the Individuals with Disabilities Education Act (IDEA) requires states to evaluate each local lead agency (LLA) for the IDEA Part C early intervention services and each local education agency (LEA)/public agency (LEA/PA) for the IDEA Part B special education performance on the established Indicators. As a result of that evaluation, the state is to assign each LLA and LEA to one of four levels of determination status: "Meets Requirements," "Needs Assistance," "Needs Intervention," or "Needs Substantial Intervention." In making determinations, the OSEP requires states to consider:

- Performance on Results and Compliance Indicators;
- Validity, reliability (accuracy), and timeliness of data submitted;
- Uncorrected noncompliance from other sources;
- Audit findings; and
- Other information.

The Maryland State Department of Education (MSDE), Division of Early Intervention/Special Education Services (DEI/SES), uses a results-based rubric on identified indicators to rate the performance for each LLA and LEA/PA in meeting the State's targets as defined by the State Performance Plan for Part C and Part B. The status and results for each LLA and LEA/PA will be posted, as required, on the MSDE Public Website of State Performance Plan Results at <http://mdideareport.org> no later than July 1, 2024.

The following **Part C** indicators are included in assigning FFY 2022 determinations:

Results		Compliance	
2	Primary service setting	1	Timely services
3A	Birth – 4 outcomes – Social emotional skills	7	45 day timeline
3B	Birth – 4 outcomes – Knowledge and skills	8A	Transition – timely transition outcomes
3C	Birth – 4 outcomes – Use of appropriate behaviors	8B	Transition – timely notification to LEA and SEA
4A	Family survey - Know their rights	8C	Transition - timely transition planning meeting
4B	Family survey - Effectively communicate their children’s needs		
4C	Family survey - Help their children develop and learn		
5	Child find 0-1		
6	Child find 0-3		
Correction of Noncompliance		Data and Submission of Reports	
Timely Correction of Noncompliance		Timely and Accurate Submissions	
<ul style="list-style-type: none"> • Dispute resolution • Indicator data • Comprehensive monitoring • Fiscal findings 		<ul style="list-style-type: none"> • Data submissions • Fiscal reports • Improvement and corrective action plans 	

The following **Part B** indicators are included in assigning FFY 2022 determinations:

Results		Compliance	
1	Students with IEPs graduating with a regular diploma	4B	Suspension/expulsion – significant discrepancy disaggregated by race/ethnicity (included as part of Significant Disproportionality)
2	Students with IEPs dropping out	9	Disproportionate representation disaggregated by race/ethnicity (included as part of Significant Disproportionality)
3A	Participation on assessments	10	Disproportionate representation disaggregated by race/ethnicity and disability (included as part of Significant Disproportionality)
3B	Proficiency on general assessments	11	Initial evaluation timeline
3C	Proficiency on alternate assessments	12	Part C to B transition
3D	Proficiency gap between SWD and SWoD	13	Secondary transition
4A	Suspension/Expulsion – Significant discrepancy in single or multiple suspensions/expulsions > 10 Days	Correction of Noncompliance	
5A	LRE for students Ages 6-21 -Inside the regular classroom 80% or more of the day;	Timely correction of noncompliance	
5B	LRE for students Ages 6-21 -Inside the regular classroom less than 40% of the day; and	<ul style="list-style-type: none"> • Dispute resolution • Indicator data • Comprehensive monitoring • Fiscal findings 	
5C	LRE for students Ages 6-21- In separate schools, residential facilities, or housebound/hospital placements.	Data and Submission of Reports	
6A	Early childhood settings – Inside regular EC settings majority of time; and	Timely and accurate submissions	
6B	Early childhood settings – Attending special education class, separate school, or residential facility	<ul style="list-style-type: none"> • Data submissions • Fiscal reports • Improvement and corrective action plans 	
7	Preschool early childhood outcomes	Significant Disproportionality	
8A	Preschool parent survey	Identification of significant disproportionality	
8B	School age parent survey	<ul style="list-style-type: none"> • Identification • Placement • Disciplinary removal 	
14C	Post-school outcomes		

The MSDE supports the efforts and work of each LLA and LEA/PA to improve child/student performance and to identify and correct noncompliance with federal and State requirements. The MSDE, DEI/SES comprehensive system of general supervision, Birth - 21, is encompassed in the Differentiated Framework. The Differentiated Framework includes two parallel systems of support. The left represents four tiers of general supervision: "Universal," "Targeted," "Focused," and "Intensive." The inverted right represents the corresponding tiers of performance support. The processes embedded in the *Differentiated Framework* include: Data collection; Data verification; Identification of LEA/PA performance status; LEA/PA improvement; Reporting; and Enforcements. Within these processes are the essential components of Maryland’s comprehensive system of general supervision:

- 1) Effective policies and procedures;
- 2) State Performance Plan (SPP) goals and targets;
- 3) Accountability to Improve Performance (AIP);
- 4) Fiscal management;
- 5) Dispute resolution; and
- 6) Targeted technical assistance and support.

The DEI/SES has aligned its responsibility for general supervision with tiers of engagement for program support and technical assistance to provide a Multi-Tiered System of Support for monitoring and technical assistance to address the needs of each LEA/PA. The *Differentiated Framework* illustrates the shared responsibility and shared accountability to improve results for children and youth with disabilities. The DEI/SES is committed to maintaining compliance and providing supports to improve the quality of special education services. An LEA/PA is assigned to a tier of general supervision and oversight based upon performance on federal compliance and results indicators, correction of noncompliance, analysis of data, fiscal management, and monitoring findings. The corresponding programmatic support an LEA/PA can expect to receive is differentiated and

based on their assigned tier and a comprehensive analysis of the public agency's needs. *The Differentiated Framework* directs the DEI/SES' attention to LEAs/PAs in need of more comprehensive engagement, technical assistance, and support to enable those LEAs/PAs to meet indicator targets, improve results, narrow the achievement gap, correct identified noncompliance, and maintain compliance.

A majority of the LEAs/PAs are currently in the Universal Tier of General Supervision. This represents LEAs/PAs that have met identified performance and compliance criteria, resulting in a determination status of "Meets Requirements" or is in the first year of "Needs Assistance." The LEAs/PAs assigned to the Universal Tier of General Supervision have no findings of noncompliance or have corrected all findings of noncompliance within one year, or have demonstrated subsequent correction, and/or have maintained compliance.

Each LEA/PA is monitored annually through a desk audit and cross-divisional data analysis of SPP Indicators, local priorities, and fiscal data. Additionally, a cyclical general supervision monitoring of select LEA/PAs includes, at a minimum, student record reviews for IDEA requirements, a review of policy, procedures, and practices, interviews, observations, case studies, and sub-recipient fiscal monitoring. Each LEA/PA develops and self-monitors an internal work plan including Local Priority Flexibility to address locally identified needs.

Universal Tier

In the Universal Tier of Engagement, the focus is on professional development/learning and support to address statewide needs based on overall State trend data (e.g., performance on SPP Indicators, child outcomes, and student achievement). This includes general information related to special education policies, procedures and practices, as well as the general work of the MSDE. Examples of statewide technical assistance include State and regional professional development, online tools, resources through Maryland Learning Links, and Technical Assistance Bulletins. Comprehensive monitoring for the universal tier occurs once every four years.

Targeted Tier

An LEA/PA receiving a determination status of "Needs Assistance" for two consecutive years or "Needs Intervention" for one year is assigned to the Targeted Tier of General Supervision. An LEA/PA in this tier may have an active Corrective Action Plan(s) (CAPs) for uncorrected noncompliance.

Comprehensive monitoring occurs every three years and includes customized data analysis with real-time local and State data. Activities may include, but are not limited to: student record reviews using selected sections of the student record review document, a review of policies, procedures, and practices, a review of the LEA/PA's system of general supervision, interview questions, and/or case studies. State and local joint cross-departmental and cross-divisional teams are formed to address identified needs. The LEA/PA develops a local Improvement Plan which is submitted to and approved by the DEI/SES.

In accordance with 34 C.F.R. §300.604(a), if Maryland determines, for two consecutive years, a public agency needs assistance under §300.603(b)(1)(ii) in implementing the requirements of the IDEA, the MSDE must take one or more of the following actions:

- (1) Advise the public agency of available sources of technical assistance that may help to address the identified areas in which the public agency needs assistance;
- (2) Direct the use of federal funds, in accordance with 34 C.F.R. §300.604(a)(2), on the area or areas in which the public agency needs assistance; and/or
- (3) Identify the public agency as a high-risk grantee and impose special conditions on the public agency application for federal funds under the IDEA.

The corresponding Targeted Tier of Engagement focuses on professional learning and support (training, coaching, and technical assistance) to address the needs of the LEA/PA on specific topics identified through general supervision. It is a responsive and proactive approach to prevent the LEA/PA from needing substantial support. The LEA/PA leadership is required to engage with the DEI/SES to review State and local data and information in order to implement an Improvement Plan that is approved by the DSE/EIS to build capacity to effectively address the identified needs. Evaluation and periodic feedback are critical elements of Targeted Engagement. A Targeted Assistance and Support Committee (TASC) team, consisting of jointly identified local and state cross-divisional members, provides performance-based and responsive support.

Focused Tier

An LEA/PA receiving a determination status of "Needs Assistance" for three consecutive years, "Needs Intervention" for two consecutive years, or "Needs Substantial Intervention" for one year is assigned to the Focused Tier of General Supervision. These LEA/PAs generally continue to have findings of noncompliance, have active CAPs for uncorrected noncompliance for two or more years, and demonstrate little progress despite general and targeted technical assistance. These LEA/PAs also may have issues meeting multiple state targets for results indicators.

Focused monitoring is enhanced and differentiated, includes in-depth data analysis, and requires the participation of the State and local superintendent as well as identified stakeholders. Focused monitoring occurs annually and may include, but is not limited to: student record reviews using selected sections of the DEI/SES record review document, a review of the LEA/PA's real-time data, a review of policies, procedures, and practices, a review of the LEA/PA's system of general supervision, interview questions, provider observations, and case studies. A Focused and Comprehensive Action Plan is jointly developed by the LEA/PA and DEI/SES.

At this level, the goal of the Focused Tier of Engagement is to direct substantial support to address the continuous lack of improvement of the LEA/PA through significant systems change. As described above, a joint multi-faceted State and local Focused Intervention and Accountability Team (FIAT) meet quarterly to develop, implement, and review progress in affecting systems change in policy, program, instructional practices, and professional learning at multiple systems levels. Principles of effective systems change, implementation, evaluation, and sustainability are foundational elements of the technical assistance. The LEA/PA develops a local Improvement Plan jointly with the DEI/SES. Frequent feedback and general supervision is maintained throughout the extent of the technical assistance. Comprehensive monitoring occurs every other year for LEA/PAs in the focused tier.

The State Superintendent and the DEI/SES Assistant State Superintendent work closely with the LEA Superintendent or local Public Agency Head to develop a cross-departmental, cross-divisional State and local implementation team. The MSDE provides increased oversight activities to assess progress and may direct federal funds, impose special conditions, and/or require regular submission of data. The LEA/PA leadership is required to participate in a quarterly joint State and local FIAT to review progress. Of note is that the state automatically assigns State Systemic Improvement Plan (SSIP) jurisdictions to the Focused Tier as those jurisdictions are provided with a substantial level of support.

In accordance with 34 C.F.R. §300.604(b), if Maryland determines, for three or more consecutive years, that a public agency needs intervention under §300.603(b)(1)(iii) in implementing the requirements of the IDEA, the MSDE must implement enforcement actions. The MSDE may:

- (1) Take any of the actions described in 34 C.F.R. §300.604(a); and/or
- (2) Take one or more of the following actions:
 - (i) Requires the public agency to prepare a corrective action plan or improvement plan if the MSDE determines that the public agency should be able to correct the problem within one year;
 - (ii) Require the public agency to enter into a compliance agreement under section 457 of the General Education Provisions Act, as amended, 20 U.S.C. §1221 et seq. (GEPA), if the MSDE has reason to believe that the public agency cannot correct the problem within one year;
 - (iii) For each year of the determination, withholds not less than 20 percent and not more than 50 percent of the State's funds under Section 611(e) of the IDEA, until the MSDE determines the public agency has sufficiently addressed the areas in which the public agency needs intervention;
 - (iv) Seeks to recover funds under Section 452 of the GEPA; and/or
 - (v) Withholds, in whole or in part, any further payments to the public agency under Part B of the IDEA.

Intensive Tier

At the highest tier, the Intensive Tier of General Supervision, an LEA/PA fails to progress and correct previously identified noncompliance despite receiving technical assistance and support. The failure to comply has affected the core requirements, such as the delivery of services to students with disabilities or to provide effective general supervision and oversight. The LEA/PA enters into a formal agreement with the MSDE to guide improvement and may have additional sanctions. The LEA/PA informs the MSDE of its unwillingness to comply with core requirements.

The Intensive Tier of Engagement focuses on providing support based on a Formal Agreement that is developed to guide improvement and correction with onsite supervision. The MSDE may direct, recover or withhold State or federal funds. Comprehensive monitoring occurs twice annually for LEA/PAs in the intensive tier.

In addition to the enforcement actions described above, if the MSDE determines a LLA or LEA/PA needs substantial intervention in implementing the requirements of the IDEA or that there is a substantial failure to comply with any condition of a public agency's eligibility under the IDEA, in accordance with 34 C.F.R. §300.604(c), the MSDE may take one or more of the following actions:

- (1) Recover Funds under section 452 of the GEPA; and/or
- (2) Withhold, in whole or in part, any further payments to the public agency under the IDEA.

Prior to withholding any funds under the IDEA, the MSDE provides reasonable notice and an opportunity for a hearing to the public agency involved, pursuant to the procedures in 34 C.F.R. §§ 300.180 through 300.183. Comprehensive monitoring occurs annually for LEA/PAs in the intensive tier.