fast five

Five Principles (Plus One!) to Guide State Monitoring

A key responsibility of state education agencies (SEAs) under the Individuals with Disabilities Education Act (IDEA) is to monitor local education agency (LEA) implementation of the law (34 C.F.R. § 300.600–604). This Fast Five details five principles (plus one!) that we recommend SEAs incorporate as part of their LEA monitoring. In addition to the principles described below, it is important to note that states' IDEA grants are subject to the U.S. Department of Education General Administrative Regulations, often referred to as Uniform Guidance (UG) (C.F.R. § 200).[1]

1. Every LEA is monitored within a specified period of time.

States should ensure that they monitor all entities that are responsible for providing a free appropriate public education (FAPE) to students in the state within a specified period of time or cycle of monitoring. This principle applies to charter LEAs, traditional LEAs, and unique entities such as schools for the deaf or the blind, residential facilities, regional programs, or other unique arrangements existing within a state's context.

States have flexibility in designing their monitoring schedule. However, over a defined period of time, all LEAs and entities should be monitored in some way by the SEA. State decisions about which LEAs to monitor each year can be determined by a cyclical schedule (typically three-six years), by a risk analysis, or some combination of both. Many states have chosen to use both a cycle and a risk assessment to decide which LEAs will be monitored in a given year. For example, the state may plan to monitor all LEAs on a five-year cycle, but also use a risk assessment to determine if any LEAs should be moved earlier or later in the schedule based on their performance, the number of students they serve, and/or other criteria as described in Principle 2 below. In addition, if data or other information reveals the need for it, states have the responsibility to monitor any LEA at any time, regardless of where the LEA is in the monitoring cycle or their risk assessment results.

2. Monitoring is data-driven.

State decisions about which LEAs to monitor as well as the depth and breadth of monitoring activities should be based on data. Most often, these decisions will start with a risk assessment, which may include available data about the LEA or entity, such as previous compliance levels, achievement results, size of grant award, number of students served, tenure of the special education coordinator/director or other critical staff, annual LEA determinations, or other factors (e.g., specific priorities of the state, performance on SPP/APR indicators, dispute data). Data from a risk assessment can be used to adjust the timing of LEA monitoring, influence the intensity of the monitoring review (e.g., desk audit or onsite), and/or determine whether comprehensive or focused monitoring is needed (e.g., monitoring focused on a particular issue, such as eligibility determinations or LRE decision-making, as opposed to a broad-based review).

Data can also influence specific priorities for monitoring at the state level (for all LEAs in the state) or for the needs of a particular LEA at a particular time. Analyzing data available to the state about LEA implementation of IDEA (e.g., compliance data, results data, dispute resolution data) can help identify trends, challenges, and gaps, and inform state monitoring priorities from year to year. Likewise, data and information gathered from the monitoring process can inform individual LEA, regional, or statewide needs for technical assistance or professional development. State monitoring practices should not be static but should be flexible in response to the SEA's analysis of relevant data. State monitoring can change from year to year, or vary from LEA to LEA, based on data from a variety of sources, including feedback from a variety of stakeholders.

Data also play a critical role in identifying noncompliance. Specifically, state decisions about what constitutes compliance or noncompliance should be based on data. The monitoring process involves gathering and reviewing data from a variety of sources (e.g., individual student files, interviews, surveys, timeline logs, observations). Some data, such as student files or timeline logs, may clearly reveal noncompliance. However, other information gathered from interviews, classroom observations, or survey results may need to be triangulated with other data sources to document noncompliance.

3. Monitoring *includes* data reported in the State Performance Plan/Annual Performance Report (SPP/APR) *but also goes beyond* the SPP/APR.

IDEA regulations lay out minimal monitoring requirements for states, as follows:

- 34 C.F.R. § 300.120: requires monitoring of Least Restrictive Environment (LRE).
- 34 C.F.R. § 300.149: clarifies that the state is responsible for general supervision of all programs for students with disabilities eligible under IDEA. The state must ensure it has policies and procedures for implementation of IDEA, including those requirements for monitoring and enforcement of IDEA.
- 34 C.F.R. § 300.170: requires states to examine data, disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities.

Additionally, 34 C.F.R. § 300.600 requires states to monitor and enforce IDEA Part B with priority areas of

- provision of FAPE in the LRE;
- state implementation of general supervision including child find, effective monitoring, the use of resolution meetings and mediation, and a system of transition services; and
- disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

Most of the priority areas listed above are included in the SPP/APR that states must submit annually to the U.S. Department of Education. States are also required to report the progress of LEAs toward the state targets outlined in their SPPs/APRs. Therefore, the SPP/APR is an important annual monitoring tool for the state because it provides information about each LEA. However, the SPP/APR must not be the *only* tool a state uses to monitor LEAs. States should monitor additional IDEA requirements, such as IEP development and review, implementation of discipline requirements, eligibility requirements, and application of and protection of procedural safeguards, as well as state-specific requirements that often include class size or personnel qualifications. For more information on factors to monitor beyond the SPP/APR, please see the related NCSI Fast Five: Monitoring Beyond the SPP/APR: Five Factors (Plus One!) to Consider.

Data can also influence specific priorities for monitoring at the state level (for all LEAs in the state) or for the needs of a particular LEA at a particular time.

4. Verification of correction of noncompliance is a two-step state process.

LEAs are required to correct any identified noncompliance as soon as possible, but no longer than one year from identification. States are then required to verify this correction and ensure appropriate implementation of the requirements. States must have a process in place for two-step verification of correction of identified noncompliance.[2]

First, the state must have a process to ensure the specific, student-level files with identified noncompliance have been corrected (unless the child is no longer under the jurisdiction of the LEA). The state should review the noncompliant record for the student to verify the correction has been made appropriately for that student. For noncompliance related to timeline requirements, the state should verify that each evaluation/assessment or initial IEP was completed, even though it will by definition be late.

Second, the state must have a process to ensure that once the individual student-level corrections have been verified, the LEA is also correctly implementing the requirement for all students as related to the noncompliance that was found, such as measurable IEP goals or transition plans in place by age 16. This verification is achieved by reviewing subsequent LEA data — through desk reviews, an onsite visit, and/or database review. The data must reflect 100% compliance relative to the area(s) of noncompliance, following the

individual-level correction. The state should have a rationale for *what* data they review as well as *how much* data they review in order to verify LEA compliance in previously identified areas of noncompliance. States should also fully document and track their processes and the results of the subsequent review.

With regard to indicators in the SPP/APR, states must clearly describe their processes for the correction of noncompliance and the verification of correction in the appropriate sections in the template. It is important that states fully articulate the actions the SEA takes (as opposed to the actions of the LEA) to verify correction.

In some circumstances, states may allow LEAs to correct noncompliance prior to the issuance of findings. Doing so is allowable with several caveats: the state must still verify the correction of noncompliance at the two levels, even though a finding was not issued; and if the noncompliance is related to an SPP/APR indicator, the state must report the original level of noncompliance in the SPP/APR, even though a formal finding was not issued.

If the state is unable to verify LEA correction of noncompliance within one year of identification (either because the LEA did not correct all individual instances of noncompliance or it cannot demonstrate 100% implementation of the regulations), the LEA enters into what is known as "longstanding noncompliance". At this point, the state must consider additional enforcement actions to ensure the LEA corrects the longstanding noncompliance.

5. Incentives, sanctions, and enforcement actions are specified and implemented.

An important component of state general supervision systems is sustaining compliance and improved results once they are achieved. States should have a written process for incentivizing improvement as well as applying sanctions or other enforcement actions when LEAs do not meet compliance or performance requirements.

There are several ways states can incentivize improvement. One is to acknowledge LEAs for their accomplishments. For example, states can choose to award extra points to LEAs that show improvement or exceed state targets in their annual determinations. (For more information on LEA determinations requirements, please see this related NCSI Fast Five: Five Things to Know About State and LEA Determinations.) Additionally, publishing LEA-level SPP/APR profiles (required to be publicly reported) in a manner that allows comparison across LEAs can incentivize improvement and may prompt dialogue and strategy sharing across LEAs. States may also celebrate LEAs that have demonstrated significant improvement by recognizing them at a statewide conference or by sending their superintendent a certificate with accolades. States can also invite LEAs that have done well or shown improvement to share their experiences and practices with other LEAs. Finally, to reward LEAs for reaching specific milestones, some states offer financial incentives

(using IDEA discretionary funds) for specific projects or for LEAs to use in alignment with district priorities.

On the other side, some states use sanctions or enforcement actions when an LEA does not meet requirements after being allowed time and opportunity to improve, or when an LEA fails to correct noncompliance in a timely manner. IDEA defines some enforcement actions for LEA determinations and other instances of noncompliance. States can choose to define additional sanctions/enforcement actions and should clearly document them. Sanctions and enforcement actions may include technical assistance and/or professional development, conducting a root cause analysis to determine the reasons for noncompliance (with or without state involvement), corrective action plans, directed use of funds, or delaying or withholding funds.

6. Monitoring is integrated with the other components of the state's general supervision system.

Monitoring is an important component of a state's larger general supervision system. State general supervision systems have been described as having distinct but interconnected components. As currently characterized by the U.S. Department of Education's Office of Special Education Programs (OSEP), these components of general supervision are often referred to as "puzzle pieces" and include:

- Data
- Dispute Resolution
- Fiscal Management

- Implementation of Policies and Procedures
- Integrated Monitoring
- State Performance Plan/Annual Performance Report (SPP/APR)
- Sustaining Compliance and Improvement
- Technical Assistance and Professional Development

It is important that all components of a state's general system work seamlessly together. As the past National Center on Special Education Compliance Monitoring (NCSEAM) describes:

It is important to note that although the components are presented as separate pieces of a puzzle, the components connect, interact, and articulate to form a comprehensive system. Each component must inform and gain information from the other components. A state may have the independent components in place but not have an effective system, because the components do not connect together as a system. (Developing and Implementing an Effective System of General Supervision, 2007)

Integrating monitoring activities with other components of a state's general supervision system could look like this:

- Using SPP/APR and dispute resolution data to identify districts for monitoring and/or set monitoring priorities for the year.
- Reviewing monitoring data to develop responsive technical

assistance and professional development opportunities for LEAs.

- Integrating fiscal and programmatic monitoring activities or reviewing fiscal data or findings as part of program monitoring.

States should have a written description of their monitoring processes that outlines how monitoring works, what data influences monitoring decisions, and how information gathered through monitoring connects to other components of the general

supervision system. For more information on coherence in state general supervision systems, please see this related NCSI Fast Five: Five Drivers of Coherence in State General Supervision Systems.

Additional general supervision resources can be found on NCSI's website including:

- Fast Five: Monitoring Beyond the SPP/APR: Five Factors (Plus One!) to Consider
- Fast Five: Five State Strategies to Effectively Communicate and Reinforce IDEA Compliance Requirements

Endnotes

1 Specifically, the UG requires pass-through entities (SEAs) to assess each subrecipient's (LEA's) risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward to determine appropriate monitoring actions. The SEA must ensure that the subaward is used for authorized purposes and that funds are distributed in compliance with federal statutes and regulations. In addition, the SEA must ensure the timely and appropriate correction of any identified deficiencies including enforcement actions when necessary. Beyond these types of checks, the SEA monitoring process may also include training and technical assistance (2 C.F.R. § 200.332). For more information on risk assessments, please see the related NCSI Fast Five: Five Questions Answered about Risk Assessments.

2 OSEP requirements related to verification of correction of noncompliance: OSEP Memo 09-02 to Chief State School Officers Reporting on Correction of Noncompliance (October 17, 2008) and 2023 Part B SPP/APR Measurement Table