

STATE ADVISORY PANEL FOR EXCEPTIONAL CHILDREN

Sept. 8, 2011 Minutes

Agenda Item	Key Points	Discussion/Recommendations	Next Steps
Call to Order, Welcome and Introductions	Introduced members and guests		
Panel Business			
	Approval of June 15, 2011 Minutes Revised SAPEC Manual	Handout #1 – June 15, 2011 Meeting Minutes. Jed Morrison moved to accept the June 15, 2011 minutes and Cynthia Macintosh seconded. The minutes were approved. Manual contents were provided to members on a CD and the documents needed for the meeting and reference were printed and provided in a folder.	
	OSEP Mega Conference	Debbie Zielinski, SAPEC Chair, attended the U.S. Department of Education (USDoe) Office of Special Education Programs (OSEP) Mega Conference representing SAPEC and she shared information from the conference. Ohio’s presentation at OSEP on Closing the Achievement Gap project with the Data Accountability Center (DAC) was a success. DAC and two districts from southwest Ohio presented on how they brought their teachers together and worked in teams that included parents to increase achievement. One district increased achievement by 40 percent in a six month period. This presentation will also be given at the Ohio Special Education Leadership Conference in September. ODE may use this as a model and pilot with other districts in the future. Ohio Department of Education’s (ODE’s) next OSEP Verification Visit will be in 2013.	
Committee Reports			
	Executive Committee	The Executive Committee met in August to discuss this year’s SAPEC meetings, committees and the manual. Debbie Zielinski is the Executive Committee Chair.	
	Membership Committee	Jason Johnson is the Chair of the Membership Committee. This committee is responsible for the annual process of sending out and collecting applications. There are a number of members whose terms will expire in June 2012 and this committee will work to fill necessary	

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		vacant positions.	
	Election Committee	Elaine Siefring is the Chair of the Election Committee. Elections committee holds one or two meetings a year. Election committee is responsible for recruiting the members-at-large and vice-chair positions if there are not enough applications. The Election Committee reviews members-at-large and vice-chair applications and compiles a slate for vote by SAPEC members.	
	Policies and Procedures Ad Hoc Committee	<p>Marsha Wiley is the Chair of the Policies and Procedures Committee. This committee is charged with reviewing and proposing changes to the SAPEC Bylaws. This committee will meet this fall and bring suggested changes to the Bylaws to the panel.</p> <p>Several items in the Bylaws that are being reviewed by the Committee: 1) Resignation and removal of a member from the executive committee; and 2) Ex-Officio status of past chair on the panel.</p>	Policies and Procedures Committee meet in fall.
	Volunteer Opportunities to Serve on Committees	A sign-up sheet was circulated around the room to recruit members for the committees.	
ODE Update			
	OEC Special Education Leadership Conference	September 19–20, 2011 at the Greater Columbus Convention Center. Many national speakers will be presenting and numerous vendors will be present. The agenda and registration information are available online at www.Edresourcesohio.org .	
	Comprehensive System of Monitoring for Continuous Improvement	<p>Comprehensive System of Monitoring for Continuous Improvement Presentation – Handout #2</p> <p>During the 2009 Verification Visit from USDoE OSEP, Ohio was found to have deficiencies in the monitoring system. OSEP also had concerns with the integrity of the data in EMIS and the small size of the staff to implement all the duties outlined in IDEA. As a result, Ohio received a determination of Needs Assistance.</p> <p>Ohio received technical assistance from the North Central Regional Resource Center (NCRRC) and the Data Accountability Center (DAC) to assist with making changes and improvements. As part of ODE's</p>	

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		<p>corrective action plan:</p> <ul style="list-style-type: none"> • All local education agencies (LEAs) will be reviewed annually at varying levels of intensity; • IDEA Onsite Reviews include fiscal, early childhood and data verification; and • Received additional staff positions. <p>Monitoring System Information—Handout #3</p> <p>Types of Monitoring:</p> <ul style="list-style-type: none"> • Selective Review-specific issue(s) comes to the attention of OEC staff through various means which can trigger a selective review of the LEA specific to that issue. Selective Reviews are individualized based on issues and is the most intensive type of review; • Onsite Review-includes IDEA, Fiscal, Gifted and Preschool Special Education Reviews including parent meetings, interviews with district staff, record reviews and EMIS data verification; • Compliance Indicator Reviews-Indicators 4, 9, 10, 11, 12, 13 and 20. Compliance with submitting surveys—Indicators 8 and 14; • Due Process/Complaints—if a large number of complaints are received from one district, they may receive a selective review. <p>Components of Monitoring:</p> <ul style="list-style-type: none"> • Review of data and student records; • Identification of noncompliance; • Corrective Actions; • Verification of accurate and timely reporting; • Verification of Correction (2 prongs must be completed): <ul style="list-style-type: none"> ○ Individual cases of noncompliance ○ Systemic Noncompliance—LEA must show that it is correctly implementing the specific regulatory 	

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		<p>requirements and has achieved 100 percent compliance; and</p> <ul style="list-style-type: none"> • Clearance or sanctions applied. <p>If an LEA is found out of compliance they must submit a corrective action plan (CAP). LEAs with noncompliance receive technical assistance and professional development from the regions State Support Team (SST). LEAs must complete the two prongs of correction before they can be cleared from monitoring.</p> <p>If an LEA does not correct the two prongs of noncompliance they are subject to progressive sanctions which are:</p> <ul style="list-style-type: none"> • Required professional development and technical assistance from the region's SST; • Revision of CAP to address identified issues; • Redirect IDEA Part-B funds to areas of need; and • Withhold IDEA Part-B funds. 	
	Complaints, Mediations and IEP Facilitations	Handout #4. Review of Complaints, Mediations, IEP Facilitations since June 1 – August 31, 2011	
	Due Process Hearings, State Level Reviews and Resolution Meetings	Handout #5. Review of Due Process Hearings, State Level Reviews and Court Decisions from March to August 31, 2011	
Determinations	ODE Determination	Ohio received a determination of Needs Assistance from the USDoE which is an improvement on the determination received one year ago.	
	LEA Determinations	<p>LEA Determinations Presentation – Handout #6</p> <p>Each LEA must receive an annual determination from ODE. When making LEA determinations, ODE must consider the LEA's performance on compliance indicators, whether data submitted by the LEA are valid, reliable and timely, LEA uncorrected noncompliance from other sources and any audit findings against the LEA. States may also consider: performance on results indicators and other information however most states, including Ohio, do not consider these when making determinations.</p>	

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Scholarship Program Updates	Autism Scholarship Program Jon Peterson Special Needs Scholarship	<p>Administration of the Autism Scholarship Program moved from the Office for Exceptional Children to the Office of Quality School Choice.</p> <p>The Jon Peterson Special Needs Scholarship draft rules are going to the state board of education this month and being posted for public comment. Members were provided an information sheet, Handout #7, about the scholarship and a copy of the draft rules, Handout #8, for review.</p> <p>This scholarship is only a school age program—no preschool. Cannot be used in combination to the Autism Scholarship Program. Application deadlines are set by statute. There will be a comparison document available that compares the rights under the scholarship program and rights under IDEA.</p> <p>There will be a 5 percent cap on the number of scholarships to be awarded –about 14,000 scholarships available (calculated from the December Child Count). If demand exceeds the number of scholarships available, priority will be given to returning students and a lottery process will be used. Money will be taken from the district of residence and is calculated based on the student’s disability. Maximum of \$20,000.</p> <p>School district of residence must still evaluate and determine eligibility of the child and must continue to reevaluate and prepare individualized education programs (IEPs) for the child on a yearly basis. However, the school district of residence is no longer responsible for providing the child a free appropriate public education (FAPE).</p> <p>Provider Participation:</p> <ul style="list-style-type: none"> • Providers must be registered with ODE who must approve their educational program • Must prepare profiles of their special education programs • Must administer the state assessments • Must conduct background checks 	

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		<ul style="list-style-type: none"> Have services provided by appropriately licensed staff Cannot discriminate Must report the child's progress to school district of residence. <p>Students who participate in the scholarship programs are included in the state aggregate for statewide assessments but do not count in the district of residence's scores.</p>	
Member Questions			
Constituency Reports		<p>McKinney Vento Homeless Education--Homeless Education Workshop being held at the Columbus Convention Center on October 5, 2011.</p> <p>National Association of Pupil Service Administrators (NAPSA) Conference is October 16-18, 2011 in Cincinnati, OH and focuses heavily on technology for students with disabilities. Conference is open to teachers, parents, administrators and principals.</p> <p>Buckeye Association of School Administrators (BASA)—Concerns with Washington DC. There is a super-committee charged with cutting 1 ½ trillion dollars in federal budget over the next ten years. Concerns regarding the relaxation of federal maintenance of effort requirements.</p> <p>Ohio Department of Youth Services (ODYS) is downsizing. Ohio River Valley Facility is closing this month.</p>	
Public Comments		No public comment.	
Adjourn		April Siegel Green motioned to dismiss and Marsha Wiley seconded. Meeting Adjourned.	

**State Advisory Panel for Exceptional Children (SAPEC)
Worthington Schools Education Center-Board Room 101
AGENDA**

Thursday, Sept. 8, 2011

9:30	Call to Order <ul style="list-style-type: none">• Welcome• Introductions	Debbie Zielinski, Chair
9:45	Panel Business <ul style="list-style-type: none">• Approval of June 15, 2011 Meeting Minutes• Revised Manual• Member List Review• Report on OSEP Mega Conference	Debbie Zielinski, Chair
10:15	Committee Reports <ul style="list-style-type: none">• Membership Committee• Election Committee• Policies & Procedures Ad Hoc Committee• Volunteer Sign-up	Jason Johnson, Membership Chair Elaine Siefring, Election Chair Marsha Wiley, Policies & Procedures Chair
10:45	Break	
11:00	OEC Updates <ul style="list-style-type: none">• OEC Special Education Leadership Conference• Comprehensive System of Monitoring for Continuous Improvement update• SST Information and Activities for 2011-2012	Thomas Lather, Interim Director, OEC
11:45-1:00	Lunch	
1:00	Complaints, Mediation and Due Process Update	Chrissy Cline and Ann Guinan, OEC
1:30	Determinations <ul style="list-style-type: none">• ODE's Determination• Local Education Agencies Determinations Process and Decisions	Thomas Lather, Interim Director, OEC
2:15	Scholarship Program Updates <ul style="list-style-type: none">• Autism Scholarship Program Update• Jon Peterson Special Needs Scholarship	Sharon Jennings, Assistant Attorney General
3:00	Constituency Reports (SAPEC members to report on relevant activities planned by the organization or constituency they represent.)	Panel Members
3:15	Public Comments (Opportunity for non-SAPEC members to comment on agenda items.)	Debbie Zielinski, Chair
3:30	Adjourn	Debbie Zielinski, Chair

STATE ADVISORY PANEL FOR EXCEPTIONAL CHILDREN

June 15, 2011 Minutes

Agenda Item	Key Points	Discussion/Recommendations	Next Steps
Call to Order, Welcome and Introduction	Introduced members and guests	Two state board members have been appointed to the panel. Mary Rose Oakar has been reappointed and Angela Thi Bennett is a new appointment.	
Panel Business			
	Approval of April 7, 2011 Minutes	April Siegel Green moved to accept the April 7, 2011 minutes, Handout #1, and Denise Conrad seconded. The minutes were approved.	
Committee Reports			
	Membership Committee	Review of the process for reviewing the applications. The membership committee proposed a slate of applicants. The panel votes to move or not to move the slate forward to the superintendent of public instruction. The superintendent makes the final appointments which should happen at the end of June.	
	Election Committee	<p>Review of Ballot. Review of vice-chair position which serves a total of five years: 2 years as vice chair, 2 years as chair and one year as an ex-officio member.</p> <p>Member-at-large is a 2 year term who serves as a member of the executive committee and on either the elections committee or membership committee. May also be appointed to other adhoc committees as needed.</p>	
Caseload Ratio Project Update		<p>Caseload Ratio update – Handouts #2 and #3</p> <p>3 recommendations from the Steering Committee</p> <ol style="list-style-type: none"> 1. The Ohio Department of Education (ODE) will incorporate a review of the service provider ratios into our existing monitoring process. 2. Allow educational agencies to apply for the opportunity to participate in a study of alternative processes for calculating the full time equivalency (FTE) of service provider ratios. 3. Conduct further study and evaluation regarding: service provider ratios, the workload of intervention specialists and related service personnel, and the calculation of ratios. <ul style="list-style-type: none"> • Researcher – Charles Carlin, University of Akron <ul style="list-style-type: none"> ○ Designing a statewide survey 	

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June 15, 2011 Minutes

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		<ul style="list-style-type: none"> ○ Providing guidance and support to educational agencies in developing and implementing service provider ratios that consider scheduling and time demands related to student needs – OAC 3301-51-09(I)(1)(a-d). 	
	Results of Voting	<p>Jason Johnson – Vice-Chair Mary Murray – Member-at-large Jennifer Brickman—Member-at-large</p> <p>Slate – approved to move forward to the state superintendent of public instruction.</p>	Propose the slate to the Superintendent of Public Instruction to make appointments to SAPEC.
	2011-2012 Meeting Dates	Dates and location for next year’s meetings—Handout #4. Sept. 7 th —new member orientation from 6:30-8:00-Location TBD.	
ODE Update			
	General Update	Kathe Shelby spoke briefly about the State Performance Plan (SPP), Special Education Profiles and Determinations and the new monitoring system. Shared a flyer regarding the OEC Special Education Leadership Conference being held in September, Handout #5.	
	Ohio Longitudinal Transition Study (OLTS)	<p>Handout #6. The OLTS is a required survey that large local education agencies (LEAs) must participate every year; the smaller LEAs are on a cycle to participate once every 4 years.</p> <p>ODE has provided a report to each of the State Support Team (SST) regions. Schools can also get this report just for their district.</p> <p>OLTS focuses on the transition planning and what students with disabilities are doing after graduating from high school (College, Work, training program, etc.).</p> <p>Discussed the 1 percent cap on the Alternate Assessment (Federal requirement). Alternate assessment is to be used for the most severely cognitively disabled students. In past years, districts were allowed to</p>	

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		<p>request a waiver to exceed the 1 percent cap but this is no longer allowed. It depends on the size of the districts of how many of the alternately assessed student's scores count toward the pass rate for the district. Some schools point the finger at their students with disabilities for not meeting the pass rate.</p> <p>Adequate Yearly Progress (AYP) – Subgroup of students with disabilities are causing some districts to not meet AYP. The U.S. Department of Education (USDOE) is considering providing waivers. However, AYP is helping raise expectations for students with disabilities.</p>	
	<p>Budget and Legislative Update</p>	<p>Special Education will be flat funded. Maintenance of Effort (MOE) in special education funding is required by LEAs and the state. MOE is spending the same amount on special education services that was spent last year.</p> <p>In the budget is the Jon Peterson Scholarship program for children with disabilities. It will function much like the Autism Scholarship Program (ASP) and was modeled after it. It is also a parental choice scholarship.</p> <p>The district of residence (DOR) must write the initial individualized education program (IEP). Then, the parent takes the IEP and the scholarship money to receive services for the student elsewhere. The DOR must write another IEP the next year. The DOR is also responsible for completing the 3 year reevaluation. These requirements are burdensome for the DOR since they are not receiving funds for this.</p> <p>Review of proposed reorganization of ODE, Handout #7. The Office for Exceptional Children (OEC) may be moved under the Center for Curriculum and Assessment.</p>	
	<p>Special Education Determinations 2011 – Kara Waldron</p>	<p>Handout #8. Determinations evaluate the performance of each LEA and their implementation of IDEA requirements. Determinations focus on the SPP Compliance Indicators.</p>	

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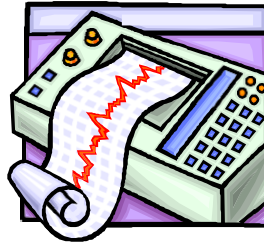
Agenda Item	Key Points	Discussion/Recommendations	Next Steps															
		<p>ODE receives a determination from USDOE. ODE makes determinations for all LEAs using the same four categories of determinations used by USDOE: meets requirements, needs assistance, needs intervention and needs substantial intervention.</p> <p>A stakeholder meeting was held to discuss the determinations and assist ODE with making decisions on the most fair and best way to make Determinations. Two members from SAPEC participated.</p> <p>Determinations Criteria</p> <ol style="list-style-type: none"> 1. Performance on compliance indicators 2. Whether data submitted by the LEA are valid, reliable and timely 3. Uncorrected noncompliance from other sources 4. Any audit findings <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="background-color: #800000; color: white;">Category</th> <th style="background-color: #800000; color: white;">2010 LEAs</th> <th style="background-color: #800000; color: white;">2011 LEAs</th> </tr> </thead> <tbody> <tr> <td>Meets Requirements</td> <td style="text-align: center;">666</td> <td style="text-align: center;">709</td> </tr> <tr> <td>Needs Assistance</td> <td style="text-align: center;">186</td> <td style="text-align: center;">204</td> </tr> <tr> <td>Needs Intervention</td> <td style="text-align: center;">4</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Needs Substantial Intervention</td> <td style="text-align: center;">0</td> <td style="text-align: center;">0</td> </tr> </tbody> </table> <p>Public Reporting – the 2010 LEA Determinations can be found on the ODE website, keyword search <i>district level performance data</i>.</p>	Category	2010 LEAs	2011 LEAs	Meets Requirements	666	709	Needs Assistance	186	204	Needs Intervention	4	0	Needs Substantial Intervention	0	0	
Category	2010 LEAs	2011 LEAs																
Meets Requirements	666	709																
Needs Assistance	186	204																
Needs Intervention	4	0																
Needs Substantial Intervention	0	0																
	Due Process Hearings, State Level Reviews and Resolution Meetings	Handout #9. All due process decisions, state level review officers decisions and decisions from the courts are posted on www.edresourcesohio.org .																
	Complaints, Mediations and IEP Facilitations	<p>Handout #9 continued. Mediations-from Sept 7, 2010 to March 31, 2011</p> <p>Letter of findings for formal written complaints are posted on www.edresourcesohio.org.</p> <p>The number of complaints filed against a district can trigger an ODE/OEC Selective Review of the district.</p>																

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	Graduation Rate	<p>Handouts #10 and #11. Changes to the way Graduation Rate is being calculated which is federally required by Elementary and Secondary Education Act (ESEA) and No Child Left Behind (NCLB). The new graduation rate calculation set by the USDOE is based on graduating within four years of entering the 9th grade.</p> <p>Handouts #10 and #11 were sent out to superintendents and special education directors on June 8, 2011 explaining the change to the calculation and reminding them that they must provide a free appropriate public education (FAPE) to students with disabilities according to their IEP and cannot be forced to graduate in 4 years. This change is a concern for drop-out prevention schools.</p>	
		Recognized members who terms have expired with a Certificate of Appreciation from the State Superintendent of Public Instruction.	
Constituency Reports		Bowling Green State University is working on an Autism program and blended early childhood special education program.	
Public Comments		No public comment.	
Adjorn/Passing of the Gavel		<p>Debbie Zielinski will be the SAPEC Chair next year. Terri McIntee will serve as an ex-officio member on SAPEC in 2011-2012.</p> <p>Mary Murray motioned to dismiss. Janet Lineberry seconded. Meeting adjourned.</p>	

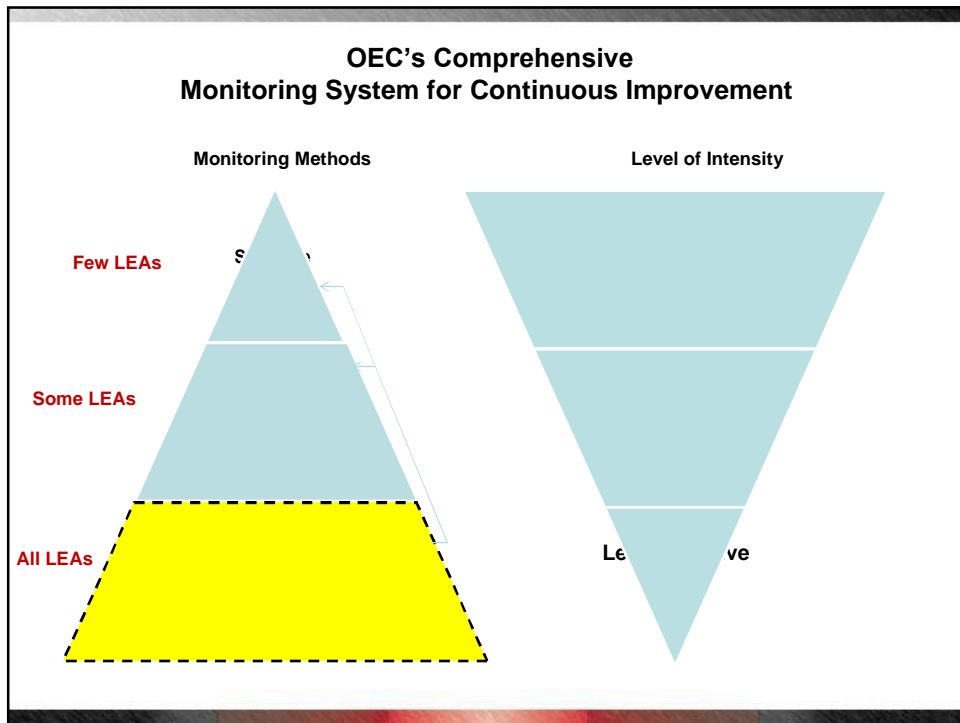
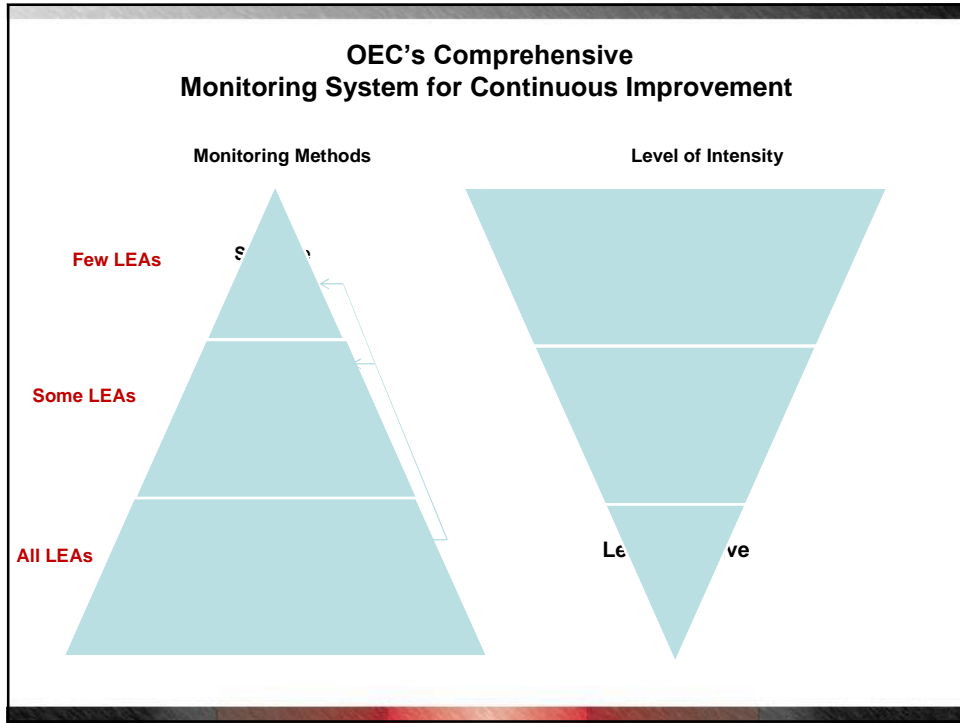
OEC's Comprehensive System of Monitoring for Continuous Improvement



OEC's Comprehensive System of Monitoring for Continuous Improvement

As part of ODE's CAP:

- All LEAs will be reviewed annually at varying levels of intensity
- IDEA on-site reviews include fiscal, early childhood and data verification
- Selection and scheduling of LEAs for on-site reviews coordinated with PACTS (Federal Program Reviews)



SPP Indicators

Compliance Indicators	Results Indicators
9 & 10: Disproportionality	1: Graduation
11: Child find	2: Dropout
12: Early childhood transition	3: Assessment
13: Secondary transition	4: Discipline
15: General supervision	5: School-age LRE
16: Complaint timelines	6: Preschool LRE
17: Due process timelines	7: Preschool outcomes
20: Data submission	8: Parent involvement
	14: Postsecondary outcomes
	18: Resolution sessions
	19: Mediations

Indicators Requiring Action by LEAs

- Indicator 4 (Discipline Discrepancy)
- Indicators 9 & 10 (Disproportionality)
- Indicator 11 (Initial Evaluations)
- Indicator 12 (Early Childhood Transition)
- Indicator 13 (Secondary Transition Planning)
- Indicator 20 (Timely and Accurate data)

Compliance with submitting surveys



- Indicator 8 (Parent Involvement)
- Indicator 14 (Postschool Outcomes)

<p>Are young children with disabilities entering kindergarten ready to learn?</p>	<ul style="list-style-type: none"> Indicator 6 Preschool Educational Environments Indicator 7 Preschool Outcomes Indicator 12 Early Childhood Transition from Part C to Part B
<p>Are children with disabilities achieving at high levels?</p>	<ul style="list-style-type: none"> Indicator 3 Statewide Assessment Indicator 4 Suspension/Expulsion Indicator 5 School-age Educational Environments
<p>Are youth with disabilities prepared for life, work and postsecondary education?</p>	<ul style="list-style-type: none"> Indicator 1 Graduation Indicator 2 Dropout Indicator 13 Secondary Transition Indicator 14 Postsecondary Outcomes
<p>Does the district implement IDEA to improve services and results for children with disabilities?</p>	<ul style="list-style-type: none"> Indicator 8 Facilitated Parent Involvement Indicator 9 Disproportionality (Across Disability Categories) Indicator 10 Disproportionality (Specific Disability Categories) Indicator 11 Child Find Indicator 15 Timely Correction of Noncompliance Findings Indicator 20 Timely and Accurate Data

2010-2011 Ohio Special Education *Sample School District* OHN: 000000
 Ohio Department of Education

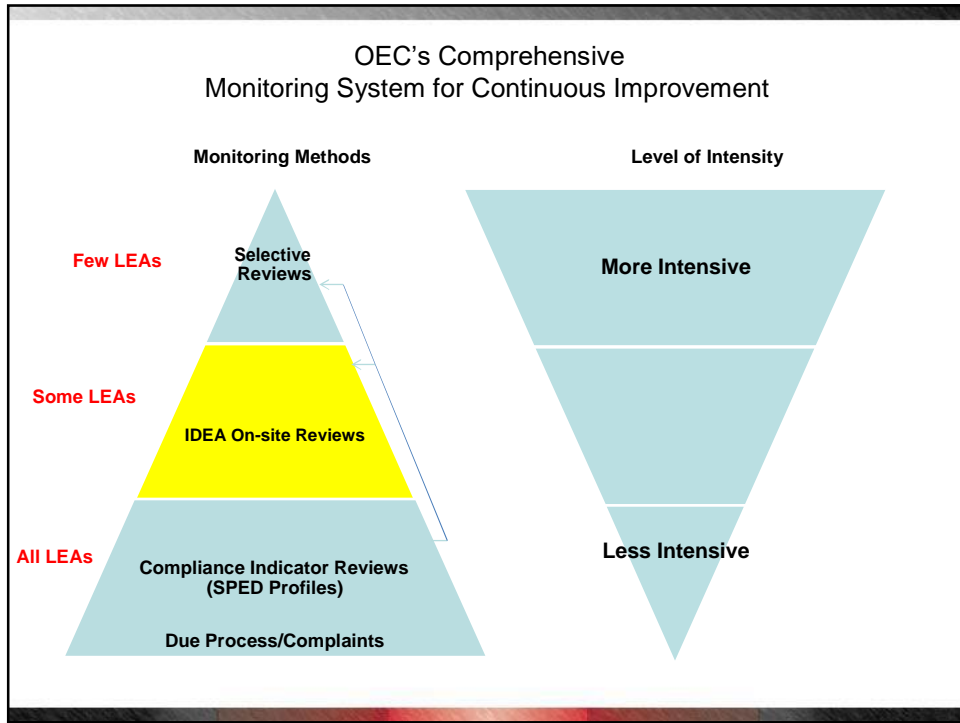
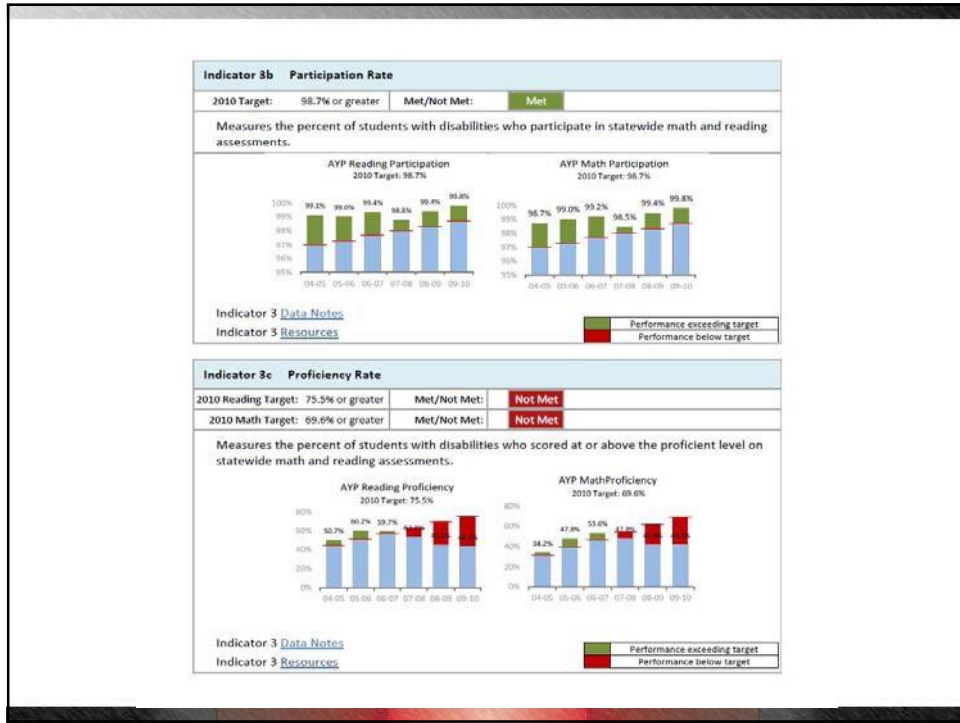
Profile

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA) requires each state to have in place a State Performance Plan (SPP). This plan describes and evaluates the state's efforts to implement the requirements of IDEA. The SPP includes annual targets for 20 indicators identified by the Office of Special Education Programs at the U.S. Department of Education.

The Office for Exceptional Children (OEC) annually develops a Special Education Profile for each LEA, displaying the LEA's performance on SPP indicators. In order to support LEAs' ongoing efforts to improve results for children with disabilities, these indicators have been organized into four essential questions to help guide continuous improvement.

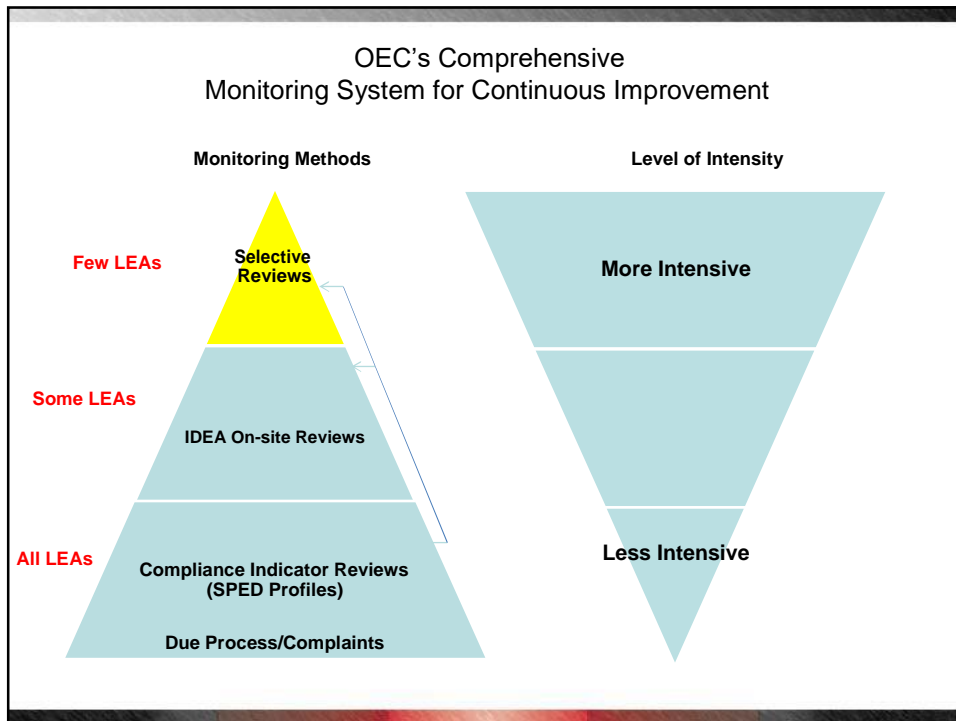
Indicator	Target	Result	Met/Not Met	Action Required
Are young children with disabilities entering kindergarten ready to learn?				
12 Early Childhood Transition	100.0%	100.0%	Met	
6 Preschool LRE	(Not included at this time)			
7 Preschool Outcomes	(Not included at this time)			
Are children with disabilities achieving at high levels?				
19 AYP Proficiency Rate	Met: 80%	Not Met	Not Met	
16 Participation Rate	98.7% or greater	99.2%	Met	
26 Reading Proficiency Rate	75.2% or greater	44.1%	Not Met	
26 Math Proficiency Rate	69.6% or greater	42.1%	Not Met	
42 Discipline Discrepancy Exemption	Less than 1%	N/A	N/A	
43 Discipline Discrepancy Suspension	Less than 1%	N/A	N/A	
48 Disproportionality Occurrence	Risk Ratio < 3.5	N/A	N/A	
53 LRE Inside Regular Class 80%	49.4% or greater	39.3%	Not Met	
58 LRE Inside the Regular Class 40%	11.3% or greater	14.3%	Not Met	
56 LRE - Separate Facilities	0.2% or less	0.4%	Met	
Are youth with disabilities prepared for life, work and postsecondary education?				
1 Graduation	87.0% or greater	92.7%	Met	
2 Dropout	12.4% or lower	7.2%	Met	
13 Secondary Transition Plan	100.0%	100.0%	Met	Yes
14 Postsecondary Outcomes Survey	Participation when required	In process	Not Met	Yes
Does the district implement IDEA to improve services for children with disabilities?				
8 Parent Involvement Survey	Participation when required	Complete	Met	
9 Disproportionality All Categories	Risk Ratio < 3.5	N/A	N/A	
10 Disproportionality Specific Categories	Risk Ratio < 3.5	N/A	N/A	
11 Child Find - Timely Initial Evaluations	100.0%	95.5%	Not Met	Yes
15 Timely correction of noncompliance	No uncorrected noncompliance	None	Met	
20 Timely and Accurate Data	No 809 issues	Indicator 12	Not Met	Yes

Ohio Department of Education Special Education Profile 2010-11 3



IDEA On-site Reviews

- Coordinated with PACTS monitoring cycle for selection of districts
 - Includes IDEA, Fiscal, Gifted, and Preschool Special Ed reviews
 - Components include:
 - Parent meetings
 - Interviews
 - Record Reviews
 - EMIS Data Verification
- SST's provide TA/PD to LEAs



Selective Review

- Conducted as needed
- Most intensive review
- Review process is individualized based on issues

Components of Monitoring

- 1) Review Data/Student Records
- 2) Identification of Noncompliance
- 3) Corrective Actions
- 4) Verification of Correction (2 prong)
 - a) Individual Cases of Noncompliance
 - b) Systemic Noncompliance
- 5) Verification of Accurate and Timely Reporting
- 6) Clearance or Sanctions Applied

Corrective Action Plan

- The Corrective Action Plan (CAP) must address individual and systemic issues
- Activities must ensure 100% correction
- Plan must be submitted 30 days from written notification

Verification of Correction - 2 Prong Approach



- Prong 1 – LEA must correct each individual case of noncompliance; and
- Prong 2 – LEA must show that it is correctly implementing the specific regulatory requirements, i.e. it has achieved 100% compliance, based on a review of updated data.

Verification of Correction Required by OSEP



Can OEC verify correction:

- When a CAP is submitted?
NO
- When a CAP is approved?
NO
- When the CAP activities are completed?
No
- When new policies and/or procedures are approved?
No
- When OEC has documentation that individual cases have been corrected and LEA practice has changed?

YES!!

Verification of Accurate and Timely Reporting

- In addition to verifying correction by reviewing updated student records, OEC will also verify that the information in the records matches the data reported in EMIS
- Example: Indicator 11 – OEC will compare the dates reported in EMIS to the dates on the consent form and initial evaluation team report

Correction Process

Clearance

LEAs have demonstrated they have met the two prongs of correction within one year of the finding.

Progressive Sanctions

LEAs have NOT met the two prongs within one year:

1. Required PD/TA from the SST
2. Revision of CAP to address identified issues
3. Redirect Part B funds to areas of need
4. Withhold funds



Integrated Monitoring Activities

Ohio's system of general supervision includes a comprehensive monitoring system to provide oversight in the implementation of IDEA requirements and performance on SPP indicators at the local level.

Ohio's Comprehensive Monitoring System for Continuous Improvement is designed to:

- Identify non-compliance from a variety of sources;
- Ensure correction in a timely manner;
- Verify that data reported reflect actual practice; and
- Ensure consistency with the requirements set forth in [OSEP Memorandum 09-02](#).

Monitoring activities are designed to ensure continuous examination of performance for compliance and results, both on-site and off-site. Monitoring protocols focus on specific priority areas selected, according to SPP/APR targets and improvement needs.

The three components of Ohio's Comprehensive Monitoring System are:

- 1) Compliance Indicator Reviews;
- 2) On-site Reviews; and
- 3) Selective Reviews.

All LEAs participate in some level of monitoring review annually. Each review method involves a different level of intensity and resources from both OEC and LEAs.

Figure 3: Ohio's Comprehensive Monitoring System for Continuous Improvement



**SUMMARY OF DUE PROCESS HEARINGS,
STATE LEVEL REVIEWS, AND
MEDIATIONS**

June 1, 2011 through August 31, 2011

- I. Redacted copies of the hearing officers' decisions, state level review officers' decisions, and decisions from the courts are posted on www.edresourcesohio.org. The Due Process Case Archive which had been posted on the Ohio Department of Education (ODE) website has been taken down and is no longer available.

II. SUMMARIES

Hearings since 1976:

Impartial Hearing Officer Decisions	465
Appeals to State Level Review Officers	256
Expedited Hearing Officer Decisions	11

Mediations since 1998:

Total Mediations	1,336
Successful Mediations	1,038
Unsuccessful Mediations	289

- III. There were twenty eight (28) requests for impartial due process hearings between June 1, 2011 and August 31, 2011. Seven (7) decisions were written by hearing officers involving four (4) school districts. Three (3) state level review decisions were written involving two (2) school districts. There were no court decisions rendered during this time period.
- IV. Resolution meetings were held during the thirty day resolution period for three (3) of the due process hearing requests. Zero (0) resolution meetings were held over the thirty day resolution period. Zero (0) of these resolution meetings resulted in written settlement agreements which resulted in the withdrawal of the due process hearing request.

Summary of Complaints, Mediations and IEP Facilitations

June 1, 2011 through August 31, 2011

Presented to SAPEC on September 8, 2011

1. Redacted copies of Letters of Findings for formal written complaints are posted on www.edresourcesohio.com.

2. SUMMARIES

From June 1, 2011 through August 31, 2011 nine (9) direct requests for mediation were filed with the Office for Exceptional Children (OEC). The following results were documented:

Of the 9 mediations requested, three (33%) of those requests resulted in mediations not being held.

- Agreements were reached in 3/9 mediations which is 33%. Of the mediations held, 50% (3/6) of the mediations resulted in agreements.
- Agreements were not reached in 1/9 mediations which is 11%. Of the mediations held, 17% (1/6) of the mediations did not result in agreements.
- Two of the requests are in the process of being scheduled.

From June 1, 2011 through August 31, 2011 facilitators were requested for seventeen (17) individualized education program (IEP) team meetings. The following results were documented:

- Of the 17 facilitated IEP team meetings requested, 1 was not held.
- IEPs were signed in 8/17 facilitations which is 47%. Of the facilitations held, 50% (8/16) resulted in signed IEPs.
- IEPs were not agreed upon in 0/17 facilitations which is 0%. Of the facilitations held, 0% did not result in an agreed upon IEP.
- Eight of the facilitated IEP team meetings are in the process of being scheduled.

3. From June 1, 2011 through August 31, 2011, sixty-four (64) formal written complaints were filed with the OEC. Based on the documented information in the new database, there were approximately 250 issues in these complaints. The issues appear below. The number in parenthesis after the issue documents the number of times that issue was found in complaints.

- Prior Written Notice (55)
- Development, review and revision of IEP (34)
- When IEPs are in effect (24)
- Definition of the IEP (23)
- Evaluation procedures (16)
- Delivery of services (12)
- Parent participation (10)
- Required members at the IEP team meeting (9)
- Extended school year services (6)
- Least restrictive environment (6)

- Child find (5)
- Continuum of placements (5)
- Free, appropriate public education (FAPE) (5)
- Parental consent (5)
- Placement (5)
- Related services (5)
- Disability determination (4)
- Access to the IEP (2)
- Authority of school personnel (2)
- Length of school day (2)
- Service provider ratios (2)
- Transition (2)
- Transportation (2)
- Content of IEP (1)
- Definition of special education (1)
- Independent educational evaluations (IEEs) (1)
- Non-academic services (1)
- Non-academic settings (1)
- Progress reports (1)
- Protections for children not determined eligible (1)
- Screening (1)
- Special factors (1)
- Specially designed instruction (1)

Three (3) of the formal written complaints which were filed in the time period defined above were determined to be insufficient. This resulted in sixty-one (61) formal written complaints which were opened and assigned to a consultant for investigation. Eight (8) of those sixty-one (61) complaints, or about 13% were assigned to a mediator. Three (3) of those eight (8) complaints, or 38% were resolved successfully in mediation. Five (5) of the complaints assigned to a mediator are in the process of being scheduled.

4. The monitoring section of the OEC conducts selective reviews when systemic problems are discovered through a variety of means such as through the Educational Management Information System (EMIS), through multiple complaints, or through the on-going monitoring system.
5. The following list is comprised of all school districts and community schools against which complaints were filed with the OEC during the time period from June 1, 2011 through August 31, 2011. The number in parenthesis after the name is the number of complaints filed with the OEC. Not all complaints are investigated as they may be insufficient for a variety of reasons, the parents and the district reach agreement either through an alternative dispute resolution process or through an informal discussion between the parent(s) and the district or community school, the parent chooses to withdraw the complaint, or the issues are resolved through a due process hearing. The asterisk beside some districts indicates multiple complaints which were filed by one or two complainants.

Akron City (1)
Beachwood City (1)
Bloom Carroll Local (1)
Brunswick (1)
Canal Winchester (1)
Canton City (1)
*Cincinnati Public (5)
Cleveland Metropolitan (2)
Columbus City (3)
Dublin City (1)
Euclid City (1)
Fairfield City (1)
Gahanna-Jefferson (2)
Georgetown Exempted Village (1)
*Goshen (3)
Hilliard City (2)
Hubbard Exempted Village (1)
Hudson City (1)
Lynchburg-Clay (1)
Mad River (1)
Maple Heights City (1)
Medina (1)
Middletown City (1)
Mt. Healthy (1)
Newark City (2)
Northwest Local (2)
Perry Local – Stark County (1)
River Valley Local (1)
Rock Hill (1)
Ross Local (1)
Russia Local (1)
SouthWestern City (2)
South Point Local (1)
Sylvania (1)
Tipp City (1)
Toledo City (1)
Twinsburg (1)
Upper Arlington City (2)
Upper Sandusky (1)
Williamsburg Local (1)
Worthington City (1)

Community Schools

A+ Arts Academy (1)
F.C.I. Academy (2)
Horizon Science Academy – Columbus (2)
Noble Academy – Columbus (1)
Patriot Prep. Academy (1)

SUMMARY OF DUE PROCESS HEARINGS, STATE LEVEL REVIEWS, AND COURT DECISIONS

June 1, 2011 through August 31, 2011

I. Toledo City School District (Lucas County) SE 2102-2007

Due Process Hearing Issues - This case was remanded back to the Impartial Hearing Officer (IHO) by the State Level Review Officer (SLRO). The SLRO ordered the IHO to hear the following issues: Whether the district failed to conduct annual IEP meetings during the 2007-2008 school year; whether the district failed to provide Individualized Education Programs (IEPs) to the student during the 2007-2008 school year; whether the district failed to participate in IEP meetings during the 2007-2008 school year; whether the district followed appropriate procedures for inviting parents to the IEP meetings during the 2007-2008 school year; whether the district provided the parents procedural safeguards notice that included information about parental rights for participation in IEP meetings; whether the district failed to have required persons present at resolution sessions that occurred during the 2007-2008 school year.

Decision of the Impartial Hearing Officer (IHO) - The IHO found that the district did not have an IEP in place for the student for the 2007-2008 school year. The district did schedule and convene IEP meetings, but the parents either left before the meetings began because they could not tape record the meetings or because the district's attorney was present, or they would not come to the meetings because the district would not meet criteria that the parents required the district to meet prior to the parents agreeing to attend an IEP meeting. The IHO further found that the parents refused to follow an earlier IHO order from an earlier due process hearing that required the parents to return their child to school and have the child independently evaluated. The combination of these factors made it impossible, in the IHO's opinion, to create a valid IEP for the child. The district did provide the parents with their procedural safeguards notice, but it was not the most up to date version of the document. The IHO determined that the difference between the older version received by the parent and the up to date version did not contain any additional information that was germane for the parents and therefore there was no substantive harm to the parents or the child. The IHO determined that two resolution sessions were held and that although they were not conducted in complete compliance with the federal regulations no substantive harm was done to either the parents or the child.

II. Toledo City School District (Lucas County) SE 2383-2009

Due Process Hearing Issues - The parents alleged that the district had not provided any service to their child for the 2007-2008 and 2008-2009 school years. The parents further alleged that the district had not met with the parents at any time during the 2007-2008 or 2008-2009 school years in order to develop an IEP for their child. The parents requested compensatory education and reimbursement of their costs for providing an education for their child for the past two years.

Decision of the IHO - The IHO dismissed the case because the parents, when called to testify by the district's attorney, refused to answer any questions by invoking spousal immunity since they had discussed the particulars of the case with each other. The IHO ruled that spousal immunity did not apply in an administrative hearing under the Individuals with Disabilities Education Act (IDEA) and even if it did apply the parents were using spousal immunity inappropriately .

III. Indian Valley Local School District (Tuscarawas County) SE2535-2011

Due Process Hearing Issues - The parent alleged that their child was a child with a disability even though the district had never identified the child under IDEA. The parent further alleged that the district and parent had entered into a mediated agreement and the district did not follow the agreement for deescalating the child's behavior. Finally, the parent alleged that the district did not conduct a manifestation determination prior to suspending the child.

Decision of the IHO - The IHO found that the child was not a child with a disability under IDEA. Therefore, the district was not required to conduct a manifestation determination nor could the IHO rule on whether or not the behavior of the child was or was not a manifestation of his disability. The IHO also found that he could not rule on the contents of the mediated agreement as it was a confidential agreement and not subject to review by an IHO. The IHO did inform the parent that they may take the issue of the mediated settlement into a court of competent jurisdiction. The IHO found for the district on all issues.

IV. Princeton City School District (Hamilton County) SE 2548-2011E

Due Process Hearing Issues - The parent alleged the following issues: the child's category should be cognitively disabled (CD) and not multiply disabled (MD); the child was not currently in the least restrictive environment (LRE); the child's placement had not been determined annually; district personnel had retaliated against the child for actions by the parent; the district had not used the child's assistive technology (AT) appropriately; and the child had not been provided instruction in social studies or science;

Decision of the IHO - The IHO removed this case from the expedited track as the issues did not qualify this hearing request as an expedited request. The IHO found that the classification of MD was appropriate; the child's placement was LRE and appropriate; the child's placement had been determined annually; there was no evidence of retaliation; and the district had provided a free appropriate public education (FAPE) to the child. The IHO did order the district to maintain and provide an AT device for the child since they had written such a device into the child's IEP at the parent's request.

V. Toledo City School District (Lucas County) SE 2580-2011E

Due Process Hearing Issues - The parent alleged that the child's behavior was a manifestation of his disability and that the district erred in finding the behavior to not be a manifestation of the child's disability. The district challenged the sufficiency of the parent's complaint.

Decision of the IHO - The IHO determined that the parent's request for hearing was insufficient because the parent's request did not contain a fact or a proposed resolution. The IHO gave the parent fourteen (14) days to amend the complaint. The parent did not respond to the IHO's request to amend their complaint and the IHO dismissed the case as insufficient.

SUMMARY OF CASES BY THE STATE LEVEL REVIEW OFFICER (SLRO)

I. Forest Hills Local School District (Hamilton County) SE 2381-2009

Due Process Hearing Issues - The parents alleged in their due process hearing request that there were no measurable goals or objectives on the IEP and no behavior plan. The parents further alleged that the district did not conduct an assistive technology assessment, did not provide the parents an independent educational evaluation upon request, did not provide prior written notice as required by law, did not provide the parents access to their child's educational records, did not invite the child to the IEP team meeting, and did not consider the parents reports and information when making educational decisions. They further alleged that there was no research based reading instruction, inappropriate provision of related services, an inadequate transition plan, no adequate measure of progress, no access to the general curriculum and extracurricular activities and no extended school year services; The parents paid for some material for a class and they believed this was a violation of their procedural safeguards and their right to FAPE. Finally, the parents alleged that the school staff were not trained appropriately, there was no meaningful parent participation in the IEP team process, the district made a unilateral placement decision, and there was no notice of the transfer of rights when the child turned seventeen (17).

Decision of the IHO - The IHO ruled for the district on the following items: the placement is FAPE in the LRE; the parents have fully participated in the IEP process; the transition plan is appropriate; the child's educational needs do not warrant a behavior plan; the progress reports meet minimum requirements; ESY services are not necessary to provide the child FAPE; the school staff are adequately trained; the parent did have a minor out of pocket expense for bread for a life skills class, but the cost was so minimal that the IHO determined there was no corrective action needed; the district did complete the notice of the transfer of rights at the age of majority and it was provided to the parents since they sought and acquired legal guardianship of the child at age eighteen (18); the IEE was completed by order of the IHO during the hearing process; PWN was not provided one time due to a miscommunication between the parties and therefore no corrective action was required; the district did not deny access to records and the district did not retaliate against the parents;

The IHO ruled for the parents on following items: The child does need an assistive technology (AT) assessment and an AT device provided based on the assessment; the district must have a regular education teacher at the IEP team meetings; the district does need to rewrite the IEP with measurable goals and objectives including the following: a structured reading program for forty (40) minutes per school day that targets fluency, a speech goal to address initiating speech, a math goal for numbering and money skills and math instruction for forty (40) minutes per school day; and a goal to address independent movement (orientation and mobility training). Finally, the district is to provide the child compensatory education for two hundred and forty hours (240) hours in reading and for two hundred and forty hours (240) hours in math.

Decision of the SLRO - The SLRO modified in part and affirmed in part the decision of the IHO. The SLRO found that the district provided the child with FAPE during the relevant time periods in all socialization, all related services, transition services and vocational services. The SLRO further found that the district did not deny the child FAPE in relation to the occupational therapy (OT) goals or services during the relevant time periods and the 2007-2008, 2008-2009 and 2009-2010 IEPs provided a meaningful educational benefit to the child in all of the above stated areas. Finally the SLRO ruled that the parents were provided meaningful participation in the IEP process and they were not entitled to any additional compensatory services over what the IHO had already ordered the district to provide.

II. Ravenna City School District (Portage County) SE 2574-2011

Due Process Hearing Issues - The parent alleges that the child's IEP does not meet the child's individual needs, was not modified to meet her needs during summer school, does not provide the child FAPE and is not calculated to allow her child to progress in the general education curriculum.

Decision of the IHO - The district challenged the sufficiency of the parent's request for hearing alleging that the parent's request did not contain a proposed resolution to the issues raised and the parent was not a proper party to pursue a due process hearing because the child was eighteen (18) years old. The IHO found that the parent's request for hearing did not contain a proposed resolution, but was still sufficient because the parent only had to propose a resolution to the extent known at the time of the request for hearing. The IHO further found that the parent was a proper party because the parent had due process rights of their own and only an evidentiary hearing could determine what rights the parent was claiming.

Decision of the SLRO - The district appealed the decision of the IHO. The SLRO upheld the IHO on both issues.

III. **Ravenna City School District (Portage County) SE 2574-2011 and SE 2577-2011**

Due Process Hearing Issues - The parent alleges that the child's IEP does not meet the child's individual needs, was not modified to meet her needs during summer school, does not provide the child FAPE and is not calculated to allow her child to progress in the general education curriculum.

Decision of the IHO - The IHO consolidated case SE 2574-2011 and SE 2577-2011 because the earlier case was filed by the parent and the latter was filed by the child who is over the age of majority. The parent asked the IHO to step down as the IHO because he was not impartial. The parent believed the IHO had spoken to the district without the parent's knowledge or involvement about issues relating to the case. The IHO ruled that he would not recuse himself from the case and that he did not have ex parte communications with district personnel or their attorney.

Decision of SLRO- the SLRO affirmed the IHO's ruling.

IV. **Ravenna City School District (Portage County) SE 2574-2011**

Due Process Hearing Issues - The parent alleges that the child's IEP does not meet the child's individual needs, was not modified to meet her needs during summer school, does not provide the child FAPE and is not calculated to allow her child to progress in the general education curriculum.

Decision of the IHO - The IHO consolidated case SE 2574-2011 and SE 2577-2011 because the earlier case was filed by the parent and the latter was filed by the child who is over the age of majority. The district argued that the child's request for hearing be dismissed because the issues are beyond the two year statute of limitations. The IHO denied the district's request stating that the statute of limitations includes language to the effect that the two year period begins when the parent knew or should have known about the issues. The IHO ruled that an evidentiary hearing was the only way to determine when the parent knew about the issues contained in the request for hearing.

Decision of the SLRO - The SLRO upheld the IHO's ruling agreeing that additional facts are necessary to determine the time periods relevant to the statute of limitations.

SUMMARY OF CASES APPEALED TO THE COURTS

West Clermont Local School District (Clermont County) SE 2284-2010 (1:10-cv-520)

Decision of the Court - The court ruled in favor of the parent finding that the district did not provide the child FAPE. The district appealed the decision to the Sixth Circuit Court.

Ohio Department of Education

Special Education Determinations 2011

We Will Cover:

- Background
- Determinations requirements
- Determinations process
- Criteria and calculations
- Public reporting
- Enforcement actions
- Questions?



What are Determinations?

- IDEA 2004 requires each state to make annual determinations on the performance of each local district
- Determinations evaluate implementation of IDEA requirements
- The Office of Special Education Programs (OSEP) at the U.S. Department of Education applies one of **four** determinations to each state and territory
- In making determinations of LEAs, states must use the same four categories as OSEP:
 - (1) Meets Requirements
 - (2) Needs Assistance
 - (3) Needs Intervention
 - (4) Needs Substantial Intervention

Background

The Individuals with Disabilities Education Improvement Act of 2004 requires each state to have in place a **State Performance Plan (SPP)** that evaluates the state's efforts to implement the requirements and purposes of IDEA Part B.

State Performance Plan

The SPP, submitted every six years, includes measurable and rigorous targets for the 20 indicators established by OSEP under three monitoring priority areas:

- Free and Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE);
- Disproportionality;
- General Supervision, including –
 - ✓ Child Find
 - ✓ Effective Transition
 - ✓ Effective General Supervision

State Performance Plan

Compliance Indicators	Results Indicators
9 & 10: Disproportionality	1: Graduation
11: Child find	2: Dropout
12: Early childhood transition	3: Assessment
13: Secondary transition	4: Discipline
15: General supervision	5: School-age LRE
16: Complaint timelines	6: Preschool LRE
17: Due process timelines	7: Preschool outcomes
20: Timely, valid & reliable data	8: Parent involvement
	14: Post-school outcomes
	18: Resolution sessions
	19: Mediation agreements

To make determinations states must consider:

- 1) Performance on compliance indicators;
- 2) Whether data submitted by the LEA are valid, reliable, and timely;
- 3) Uncorrected noncompliance from other sources; and
- 4) Any audit findings.

In addition, states can also consider:

- Performance on results indicators; and
- Other information.

Finding from OSEP's monitoring visit:

When making annual determinations on the performance of its LEAs, Ohio did not consider:

- (1) LEA-specific audit findings; and
- (2) Whether LEAs submitted valid and reliable data.



Annual LEA Determinations

Previous Process

- ✓ Were primarily based on APR compliance data and correction in the same year
- ✓ Changed from year to year

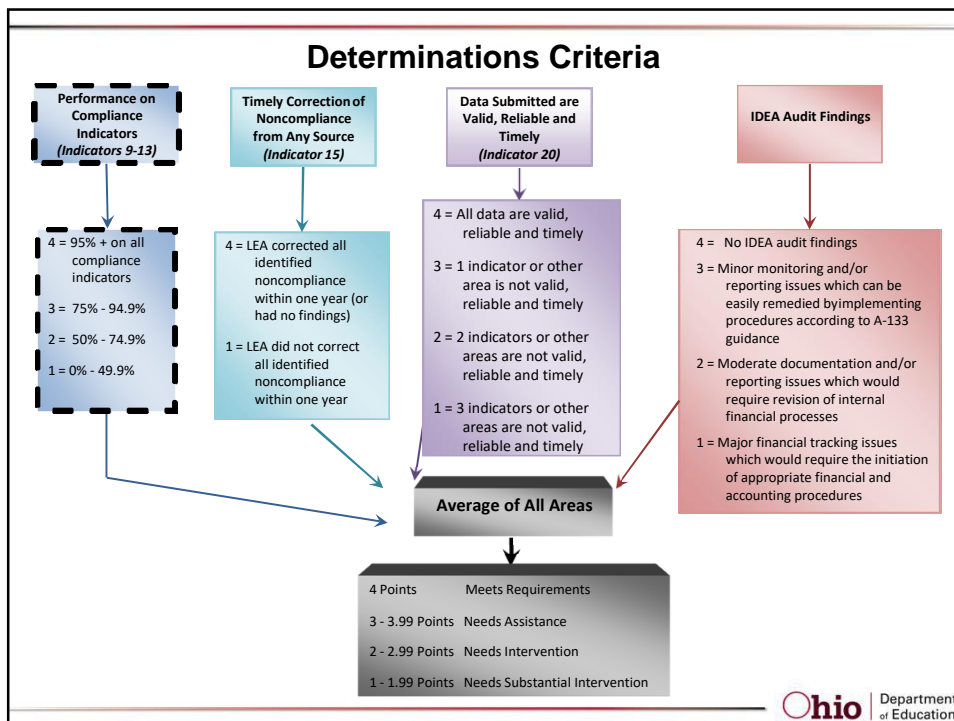
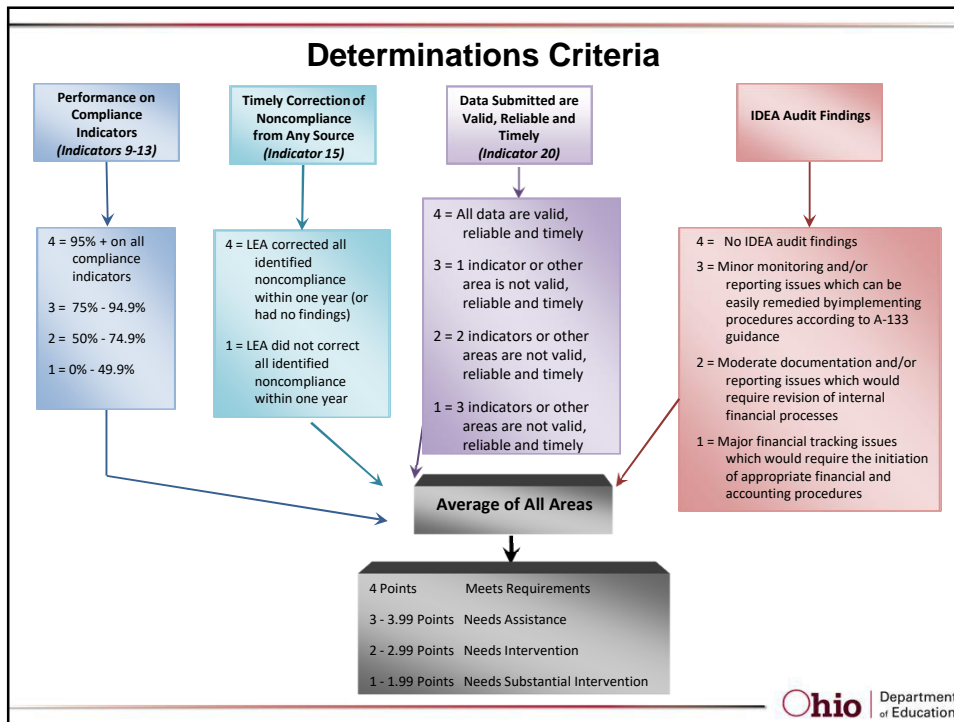
New Process

- Will be based on:
- ✓ APR compliance data
 - ✓ Valid/timely data
 - ✓ Correction of noncompliance from the previous year
 - ✓ IDEA audit findings

To establish criteria for making LEA determinations OEC convened a stakeholder group with representation from:

- Urban, suburban and rural school districts
- Community schools
- ESCs and SSTs
- The State Advisory Panel for Exceptional Children
- The Ohio Coalition for the Education of Children with Disabilities
- The Buckeye Association of School Administrators
- The Ohio Association of Pupil Service Administrators





Indicator 9

Indicator: Disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.

Data source: 2009-2010 EMIS year-end enrollment files; calculated to identify LEAs with significant risk ratios.

Points	Criteria
4	LEA <u>does not have</u> disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.
1	LEA <u>does have</u> disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.
NR	LEA does not meet the minimum group-size of 30.

Indicator 10

Indicator: Disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.

Data source: 2009-2010 EMIS year-end enrollment files; calculated to identify LEAs with significant risk ratios.

Points	Criteria
4	LEA <u>does not have</u> disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.
1	LEA <u>does have</u> disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification.
NR	LEA does not meet the minimum group-size of 30.

Indicator 11

Indicator: Percent of children who were evaluated within 60 calendar days of receiving parental consent for initial evaluation.

Data source: Data collected in 2009-2010 EMIS year-end Special Education Event Record.

Note: No minimum group size applied.

Points	Criteria
4	95% or higher
3	75 – 94% <i>or</i> Finding of noncompliance from data investigation
2	50 – 74%
1	0 – 49%
NR	0 students with initial evaluations in 2009-2010

Indicator 12

Indicator: Percent of children referred by Part C, who are found eligible for Part B, and who have an IEP developed and implemented by their 3rd birthdays.

Data source: Data collected in 2009-2010 EMIS year-end Special Education Event Record.

Note: No minimum group size applied.

Points	Criteria
4	95% or higher
3	75 – 94% <i>or</i> Finding of noncompliance from data investigation
2	50 – 74%
1	0 – 49%
NR	0 students transitioning from Part C in 2009-2010

Indicator 13

Indicator: Percent of youth aged 16 and above with an IEP that includes:

- 1) Appropriate measurable **postsecondary goals** that are annually updated and based upon an age appropriate **transition assessment**;
- 2) Transition **services**, including courses of study, that will reasonably enable the student to meet those postsecondary goal;
- 3) Annual **IEP goals** related to the student's transition services needs;
- 4) Evidence that the **student was invited** to the IEP Team meeting where transition services are to be discussed; and
- 5) Evidence that, if appropriate, a **representative** of any participating agency **was invited** to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.

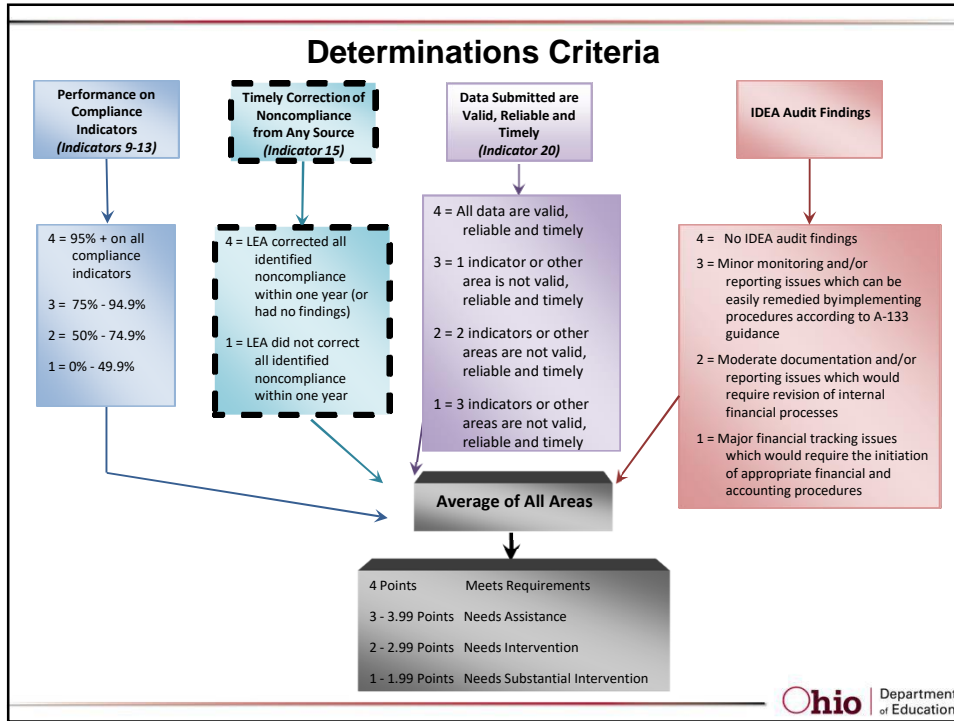
Indicator 13

Data source: Data collected in 2009-2010 EMIS year-end Special Education Event Record.

Notes:

- 1) States have the option to include Indicator 13 this year; stakeholder group chose to include it.
- 2) No minimum group size applied.

Points	Criteria
4	95% or higher
3	75 – 94% <i>or</i> Finding of noncompliance from data investigation
2	50 – 74%
1	0 – 49%
NR	0 students of transition age in 2009-2010

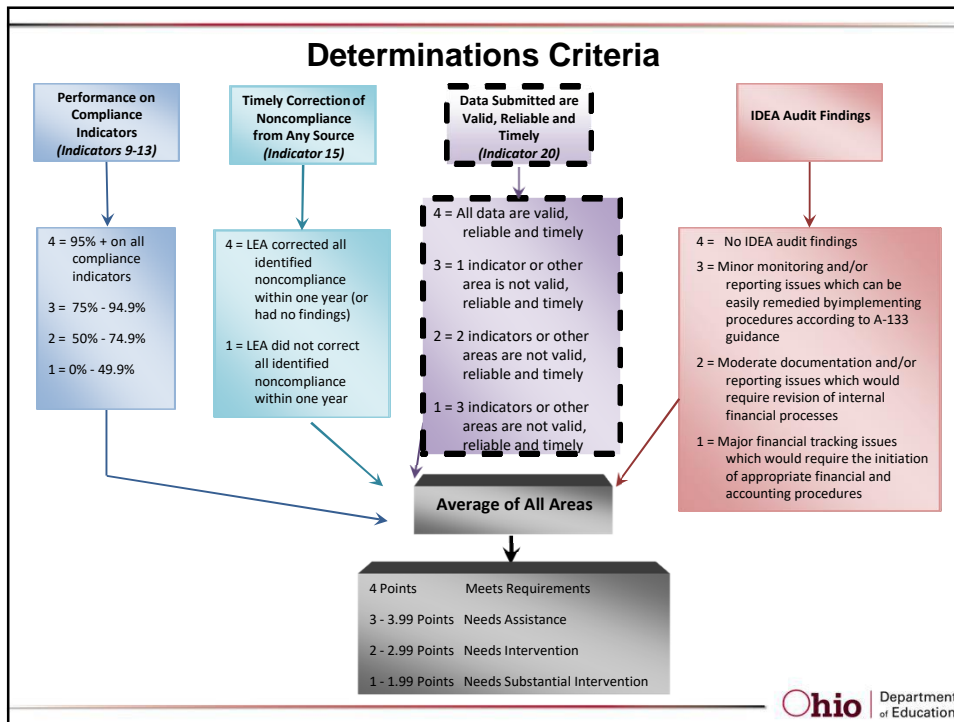


Indicator 15

Indicator: Identified **noncompliance** is corrected as soon as possible but in no case later than one year from identification.

Data source: Specific to findings made in 2008-2009 and due for correction in 2009-2010.

Points	Criteria
4	LEA corrected all identified noncompliance within one year (or did not receive a finding of noncompliance).
1	LEA did not correct all identified noncompliance within one year.



Indicator 20

Indicator: LEA reported data are valid, reliable and timely.

Data source: Valid, reliable and timely data submission evaluated for:

- a) Initial evaluations (Indicator 11);
- b) Early childhood transition (Indicator 12);
- c) Secondary transition planning (Indicator 13); and
- d) Other areas of the 09-10 year-end Special Education Event Record.

Points	Criteria
4	All data are valid, reliable and timely.
3	One component of a) – d) is not valid, reliable, and/or timely.
2	Two components of a) – d) are not valid, reliable, and/or timely.
1	Three or more components of a) – d) are not valid, reliable, and/or timely.
0	Significant under- or non-reporting of special education data.

Sources of Indicator 20 Information

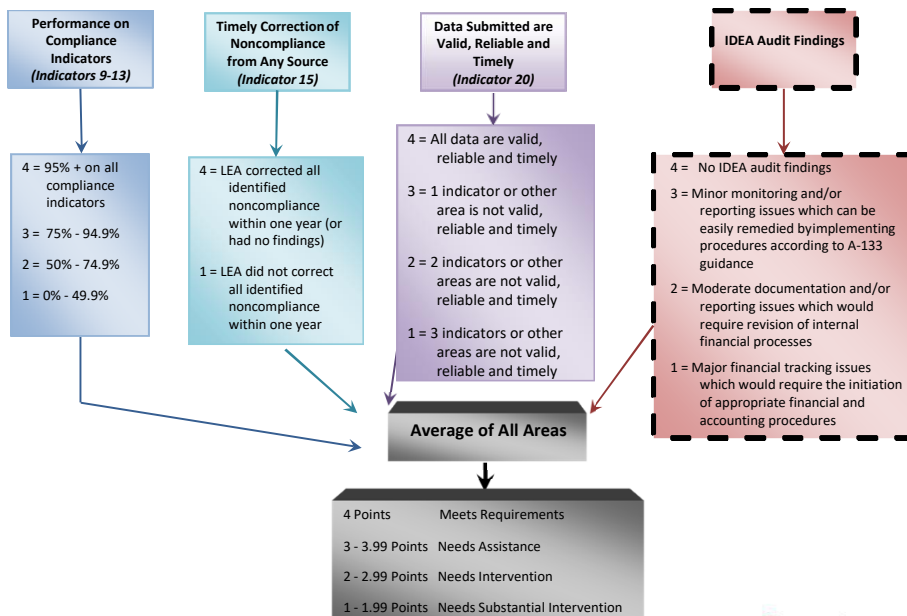


Verification of special education data through:

- 1) IDEA onsite reviews;
- 2) Compliance indicator reviews.

Did the records reflect actual practice?

Determinations Criteria



Audit Findings

Data source: Audits conducted by the Ohio Auditor of State's Office during the 2009-2010 school year.

Points	Criteria
4	No IDEA audit findings.
3	Minor monitoring and/or reporting issues which can be easily remedied by implementing procedures according to A-133 guidance.
2	Moderate documentation and/or reporting issues which would require revision of internal financial processes.
1	Major financial tracking issues which would require the initiation of appropriate financial and accounting procedures.
NR	Not audited in 2009-2010.

Calculating Determinations

OEC:

- Calculates determinations by averaging the points assigned to the LEA for each of the areas listed previously
- Identifies the overall LEA determination by linking the average to the corresponding determination category

Overall Determination Score	
Determination	Criteria
Meets Requirements	4.0 points
Needs Assistance	3.0-3.9 points
Needs Intervention	2.0-2.9 points
Needs Substantial Intervention	1.0-1.9 points



Performance on Compliance Indicators		Uncorrected Noncompliance from Other Sources	Data Submitted are Valid, Reliable and Timely	IDEA Audit Findings															
Indicator	Points	Indicator	Points	Indicator	Points														
9	No disproportionality in special education due to inappropriate identification NR	15	Findings not corrected within one year: None 4	20	Data issues: Indicator 11 3	Audit findings: None NR													
10	No disproportionality in specific categories due to inappropriate identification NR																		
11	Percent of children evaluated within 60 days of parental consent – Onsite Review 3																		
12	Percent of children transitioning from Part C with an IEP by age 3 – 100.0% 4																		
13	Percent of youth ages 16 and above with an IEP that includes all required transition planning elements – 100.0% 4																		
		<table border="1"> <thead> <tr> <th colspan="2">Calculation</th> </tr> </thead> <tbody> <tr> <td>Total points</td> <td>18</td> </tr> <tr> <td>Number of indicators with data</td> <td>5</td> </tr> <tr> <td>Average of all points</td> <td>3.60</td> </tr> </tbody> </table>				Calculation		Total points	18	Number of indicators with data	5	Average of all points	3.60						
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Number of indicators with data	5																		
Average of all points	3.60																		
<table border="1"> <thead> <tr> <th>Categories</th> <th>Score</th> </tr> </thead> <tbody> <tr> <td>Meets Requirements</td> <td>4.0 points</td> </tr> <tr> <td>Needs Assistance</td> <td>3.0 – 3.9 points</td> </tr> <tr> <td>Needs Intervention</td> <td>2.0 – 2.9 points</td> </tr> <tr> <td>Needs Substantial Intervention</td> <td>1.0 – 1.9 points</td> </tr> </tbody> </table>		Categories	Score	Meets Requirements	4.0 points	Needs Assistance	3.0 – 3.9 points	Needs Intervention	2.0 – 2.9 points	Needs Substantial Intervention	1.0 – 1.9 points	<table border="1"> <thead> <tr> <th>Overall Score</th> <th>Determination</th> </tr> </thead> <tbody> <tr> <td>3.60</td> <td>Needs Assistance (Year 2)</td> </tr> </tbody> </table>				Overall Score	Determination	3.60	Needs Assistance (Year 2)
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Overall Score	Determination																		
3.60	Needs Assistance (Year 2)																		
<p><i>NR – not rated due to no data reported or data below minimum group size for Indicators 9 & 10</i></p>																			

Appeals Process

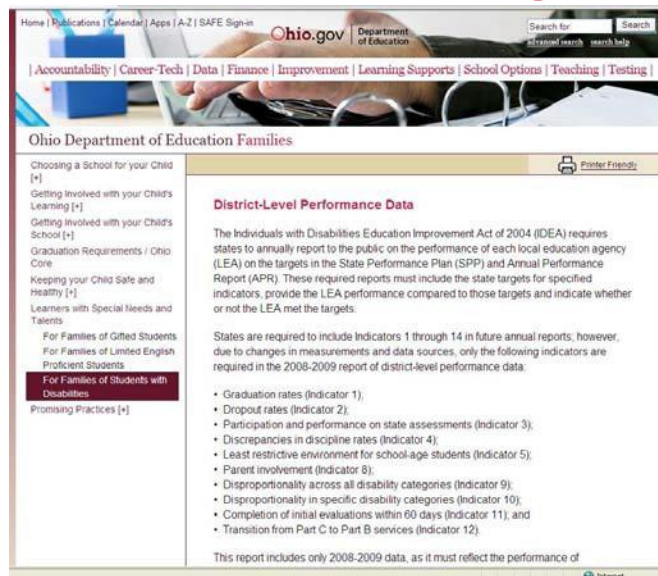
- ✓ Other states, like Illinois, use an appeals process for determinations
- ✓ Illinois **does not** allow appeals based on data (stakeholder group aligned with this)
- ✓ Appeals must be submitted within 30 days
- ✓ LEAs encouraged to contact OEC before submitting an appeal



Public Reporting

- States have been required to publicly report LEAs' SPP/APR data, but not determinations
- In May, 2011 states reported the 2010 LEA determinations to OSEP as part of Table 8 for the IDEA Section 618 data collection  (see www.ideadata.org) 
- Stakeholder group chose to publicly report 2011 LEA determinations

Public Reporting



The screenshot shows the Ohio Department of Education Families website. The main content area is titled "District-Level Performance Data". It explains that the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) requires states to annually report to the public on the performance of each local education agency (LEA) on the targets in the State Performance Plan (SPP) and Annual Performance Report (APR). These required reports must include the state targets for specified indicators, provide the LEA performance compared to those targets and indicate whether or not the LEA met the targets.

States are required to include Indicators 1 through 14 in future annual reports; however, due to changes in measurements and data sources, only the following indicators are required in the 2008-2009 report of district-level performance data:

- Graduation rates (Indicator 1);
- Dropout rates (Indicator 2);
- Participation and performance on state assessments (Indicator 3);
- Discrepancies in discipline rates (Indicator 4);
- Least restrictive environment for school-age students (Indicator 5);
- Parent involvement (Indicator 8);
- Disproportionality across all disability categories (Indicator 9);
- Disproportionality in specific disability categories (Indicator 10);
- Completion of initial evaluations within 60 days (Indicator 11), and
- Transition from Part C to Part B services (Indicator 12).

This report includes only 2008-2009 data, as it must reflect the performance of

DIRM	District	County	District Type	2010 Determination	Typical Students Enrollment	SWD Enrollment	1 - Graduation Rate			
							08-09	Target	Met?	08-09
011470	A.B. Graham Academy	Champaign	Community	NR	<10	24	NR	87.50%	NR	NR
000556	A+ Arts Academy	Franklin	Community	Meets Requirements	128	12	NR	87.50%	NR	NR
000912	Academic Acceleration Academy	Franklin	Community	Needs Assistance	142	<10	NR	87.50%	NR	NR
007982	Academy of Arts and Humanities	Trumbull	Community	NR	223	19	NR	87.50%	NR	NR
008094	Academy of Arts and Sciences	Lorain	Community	Meets Requirements	118	<10	NR	87.50%	NR	NR
000784	Academy of Columbus	Franklin	Community	Needs Assistance	319	28	NR	87.50%	NR	NR
011507	Achieve Career Preparatory Academy	Lucas	Community	NR	176	68	NR	87.50%	NR	NR
045187	Ada Exempted Village	Hardin	Public	Meets Requirements	607	111	100.00%	87.50%	Met	0.00%
061903	Adams County/Ohio Valley Local	Adams	Public	Meets Requirements	3,297	711	94.83%	87.50%	Met	5.17%
049494	Adena Local	Ross	Public	Meets Requirements	1,056	165	92.86%	87.50%	Met	7.14%
043489	Akron City	Summit	Public	Needs Assistance	18,987	4,408	80.75%	87.50%	Not Met	19.25%
149054	Akron Digital Academy	Summit	Community	Needs Assistance	545	189	29.51%	87.50%	Not Met	70.49%
045906	Alexander Local	Athens	Public	Meets Requirements	1,292	385	100.00%	87.50%	Met	0.00%
045757	Allen East Local	Allen	Public	Meets Requirements	1,031	151	87.50%	87.50%	Met	12.50%
000139	Alliance Academy of Cincinnati	Hamilton	Community	Meets Requirements	349	47	NR	87.50%	NR	NR
043497	Alliance City	Stark	Public	Meets Requirements	2,345	534	76.00%	87.50%	Not Met	24.00%
143396	Alternative Education Academy	Lucas	Community	Needs Assistance	1,474	326	63.64%	87.50%	Not Met	36.36%
046847	Amanda-Clearcreek Local	Fairfield	Public	Meets Requirements	1,574	215	87.50%	87.50%	Met	12.50%
045195	Arnerherst Exempted Village	Lorain	Public	Meets Requirements	3,343	636	86.11%	87.50%	Not Met	13.89%
049759	Anna Local	Shelby	Public	Needs Assistance	1,112	114	100.00%	87.50%	Met	0.00%
046623	Ansonia Local	Darke	Public	Meets Requirements	541	107	100.00%	87.50%	Met	0.00%
048207	Anthony Wayne Local	Lucas	Public	Meets Requirements	4,059	421	93.10%	87.50%	Met	6.90%
048991	Antwerp Local	Paulding	Public	Meets Requirements	587	101	66.67%	87.50%	Not Met	33.33%
000560	Apex Academy	Cuyahoga	Community	Meets Requirements	568	52	NR	87.50%	NR	NR
047415	Arcadia Local	Hancock	Public	Meets Requirements	516	56	100.00%	87.50%	Met	0.00%
046631	Arcanum-Butler Local	Darke	Public	Meets Requirements	929	92	100.00%	87.50%	Met	0.00%
047043	Archbold Area Local	Fulton	Public	Needs Assistance	1,149	150	100.00%	87.50%	Met	0.00%
047423	Arlington Local	Hancock	Public	Meets Requirements	505	104	100.00%	87.50%	Met	0.00%

Enforcement Actions

Needs Assistance (Year 1)

ODE Enforcement Actions

Inform LEAs of technical assistance available from State Support Teams (SSTs) and other resources

Needs Assistance (Year 2)

ODE Enforcement Actions

Require training by SSTs with other LEAs in NA-2

Needs Intervention

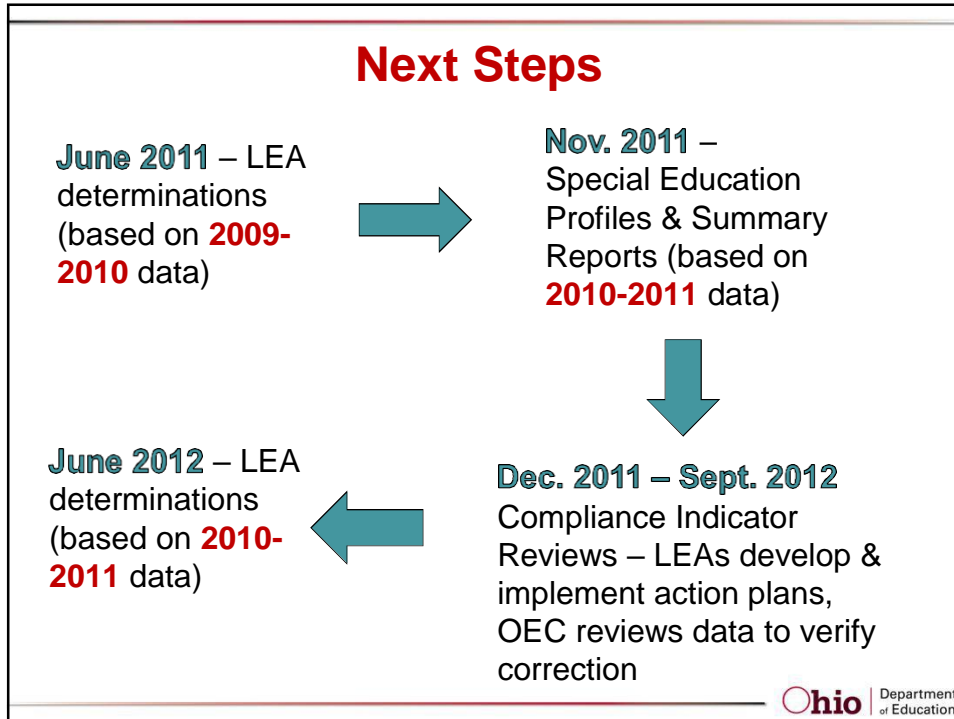
ODE Enforcement Actions

Require individualized training and technical assistance from SSTs specific to identified areas

Needs Substantial Intervention

ODE Enforcement Actions

- Withhold funds;
- Require completion of specific corrective actions before release of funds; and
- Require intensive SST support



Questions?

Ohio Department of Education

Jon Peterson Special Needs Scholarship Rules
Summary of Key Provisions
September 8, 2011

Eligibility (3301-101-03)

- To be eligible for this scholarship, a child must be identified as a child with a disability under IDEA by the public school district.
- The child must be school age (5 to 21).
- If the child is a first-time applicant, there can be no pending administrative or judicial proceedings pending regarding the child's eligibility or IEP.
- The child must take state assessments.

Jon Peterson Special Needs Scholarship Rules
Summary of Key Provisions
September 8, 2011

The Application Process (3310-101-04)

- Application deadlines, which are set by statute, are:
 - April 15 for scholarships for educational terms beginning between July 1 and December 31; and
 - November 15 for educational terms beginning between January 1 and June 30.
 - Scholarships will be awarded for the entire year to April 15 applicants. The second application period will be used to award scholarships to newly applying students, assuming scholarships are still available.

Jon Peterson Special Needs Scholarship Rules
Summary of Key Provisions
September 8, 2011

Responsibilities of Public School Districts (3310-101-05)

- The school district of residence must evaluate and determine eligibility under IDEA.
- Public school districts must continue to reevaluate and prepare IEPs for students who are using scholarships.
- Once a family elects to receive a scholarship, the district of residence is no longer responsible for providing that child with a FAPE. Providers must be registered with the Department, which must approve their educational programs.

Jon Peterson Special Needs Scholarship Rules
Summary of Key Provisions
September 8, 2011

Award of Scholarships (3310-101-06)

- If demand exceeds the scholarships available, priority will be given to returning students and a lottery process will be used.

Maximum Scholarship Amounts (which are further limited to the tuition charged by the provider)

<u>Special Education Category</u>	<u>Scholarship Funding per Student</u>
1 – Speech	\$7,196
2 – Learning Disability	\$7,608
3 – Hearing or Vision Impaired	\$14,832
4 – Major Health Impairments	\$17,902
5 – Multi-handicapped	\$20,000
6 – Autism, Traumatic Brain Injury or Hearing and Vision Impaired	\$20,000

Jon Peterson Special Needs Scholarship Rules
Summary of Key Provisions
September 8, 2011

Provider Participation (3310-101-09)

- Providers must be registered with the Department, which must approve their educational programs.
- Providers must prepare profiles of their special education programs, in a form to be prescribed by the Department, for the purpose of providing information to scholarship applicants.
- Providers must administer the state assessments to scholarship children, must agree to conduct background checks, must have services provided by appropriately licensed staff, must not discriminate based on race, gender or national origin, and must report the child's progress to the school district of residence.

Jon Peterson Special Needs Scholarship Program

In this year's budget bill, the General Assembly created a new scholarship program, the Jon Peterson special needs scholarship program. The program will begin in the 2012-2013 school year. The first application deadline (for scholarships beginning between July 1, 2012 and December 31, 2012) will be April 15, 2012.

The special needs scholarship program creates a scholarship that a student with a disability can use to attend a chartered nonpublic school or other registered private provider. The scholarship is used to implement the IEP developed by the child's school district, and is awarded for an amount that is calculated based upon the child's disability category and limited to no more than the tuition costs charged by the school or provider. The number of scholarships awarded is limited to 5% of the number of students with disabilities in the state.

The program will be administered by the Ohio Department of Education, through the Office of Quality School Choice and Funding.

Some of the key features of the program include:

- To be eligible for this scholarship, a child must be identified as a child with a disability under IDEA.
- Providers must be registered with the Department, which must approve their educational programs.
- Providers must prepare profiles of their special education program, in a form to be prescribed by the Department, for the purpose of providing information to scholarship applicants.
- If demand exceeds the scholarships available, priority will be given to returning students and a lottery process will be used.
- Once a family elects to receive a scholarship, the district of residence is no longer responsible for providing that child with a FAPE.
- Public school districts must continue to reevaluate and prepare IEPs for students who are using scholarships.

Maximum Scholarship Amounts

Special Education Category Scholarship Funding per Student

1 – Speech	\$7,196
2 – Learning Disability	\$7,608
3 – Hearing or Vision Impaired	\$14,832
4 – Major Health Impairments	\$17,902
5 – Multi-handicapped	\$20,000
6 – Autism, Traumatic Brain Injury or Hearing and Vision Impaired	\$20,000

Proposed rules for the implementation of the program are being introduced at the September meeting of the State Board of Education. It is expected that the final version of the rules will be adopted at the January 2012 meeting.

3301-101-01 Definitions.

The following terms are defined as they are used in this chapter of the Administrative Code:

(A) "Administrative or judicial mediations or proceedings" includes, but is not limited to, pending written complaints, mediations, or due process hearings with respect to the content of the individualized education program (IEP) that an alternative public provider or registered private provider would implement if a special needs scholarship is awarded to a child whose parent has applied for a scholarship for his or her child; or is implementing if a child was awarded a scholarship and is participating in the special needs scholarship program.

(B) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program and to which the eligible applicant owes fees for the services provided to the child:

(1) A school district that is not the school district in which the child is entitled to attend school or the child's school district of residence, if different;

(2) A public entity other than a school district.

(D) "Special needs scholarship program" has the same meaning as the Jon Peterson special needs scholarship program established in section 3310.52 of the Revised Code.

(E) "Category one" child is a child who has been identified with a disability of speech or language impairment as defined in rule 3301-51-01(B)(10)(xi).

(F) "Category two" child is a child who has been identified as specific learning disabled as that term is defined in rule 3301-51-01(B)(10)(x), developmentally delayed as that term is defined in rule 3301-51-01(B)(10)(c), or other health impairment-minor as defined in section 3317.02 of the Revised Code.

(G) "Category three" child is a child who has been identified as vision impaired as that term is defined in rule 3301-51-01(B)(10)(xiii), hearing impaired as that term is defined in rule 3301-51-01(B)(10)(vi) or a child who has been identified as severe behavior disabled as that term is defined in rule 3301-51-01(B)(10)(v).

(H) "Category four" child is a child who has been identified with an orthopedic impairment as that term is defined in rule 3301-51-01(B)(10)(viii) or having a other health impairment-major, as defined in section 3317.02 of the Revised Code.

(I) "Category five" child is a child who has been identified with multiple disabilities as that term is defined in rule 3301-51-01(B)(10)(vii).

(J) "Category six" child is a child who has been identified as autistic as that term is defined in rule 3301-51-01(B)(10)(i), as having traumatic brain injuries as that term is defined in rule 3301-51-01(B)(10)(xii), or as deaf-blind as that term is defined in rule 3301-51-01(B)(10)(iii).

(K) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(L) "Individualized education program (IEP)" means the written statement described in section 3323.011 of the Revised Code that is developed, reviewed, and revised in accordance with rule 3301-51-07 of the Administrative Code.

(M) "Eligible applicant" means any of the following:

(1) Either of the natural or adoptive parents, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case parent means the parent who is the residential parent as designated by the court. If the court issues a shared parenting decree, either parent is an eligible applicant. A parent whose custodial rights have been terminated is not an eligible applicant.

(2) A custodian who has been granted temporary, legal, or permanent custody by a court.

(3) A guardian who has been appointed by a court.

(4) A grandparent when a child is the subject of a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code or when a child is the subject of a caretaker authorization affidavit executed under sections 3109.64 to 3109.73 of the Revised Code.

(5) A surrogate parent appointed pursuant to division (B) of section 3323.05 and section 3323.051 of the Revised Code.

(6) A qualified special education child, if the child does not have a custodian or guardian and is at least eighteen years of age.

(N) "Qualified special education child" is a child for whom all of the following conditions apply:

(1) The child is at least five years of age and less than twenty-two years of age.

(2) The school district of residence, or the school district which the child is entitled to attend under the circumstances set forth in rule 3301-101-05(B), has identified the child as a child with a disability.

(3) The school district of residence, or the school district which the child is entitled to attend under the circumstances set forth in rule 3301-101-05(B), has developed an individualized education program under Chapter 3323. of the Revised Code for the child; and

(4) The child either:

(a) Was enrolled in the school district in which the child is entitled to attend school in any grade from kindergarten through twelve in the school year prior to the year in which a scholarship under this chapter is first sought for the child; or

(b) Is eligible to enter school in any grade kindergarten through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this chapter is first sought for the child.

(O) "Registered private provider" means a nonpublic school or other nonpublic entity that has been registered by the superintendent of public instruction under section 3310.58 of the Revised Code.

(P) "Scholarship" means a scholarship awarded under the Jon Peterson special needs scholarship program pursuant to sections 3310.51 to 3310.64 of the Revised Code.

(Q) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code, but does not include any community school established under Chapter 3314. of the Revised Code;

(R) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

Effective:

R.C. [119.032](#) review dates:

Promulgated Under: [119.03](#)

Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.51; 3310.56

3301-101-02 Jon Peterson Special Needs Scholarship Established.

(A) The purpose of the rules in Chapter 3301-101 of the Administrative Code is to prescribe procedures to implement the Jon Peterson Special Needs Scholarship established in section 3310.52 of the Revised Code.

(B) The Ohio department of education shall pay a scholarship to the parent or other eligible applicant of each qualified special education child upon application pursuant to procedures and deadlines established by the state board of education's rules in Chapter 3301-101 of the Administrative Code.

(C) Each scholarship shall be used only to pay all or part of the fees for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program (IEP) and that is operated by an alternative public provider or by a registered private provider.

(D) The purpose of the scholarship is to permit the parent or other eligible applicant of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's IEP once the IEP is finalized.

(E) The following prohibitions and provisions apply to the program:

(1) A scholarship shall not be awarded to the parent or other eligible applicant for a first-time scholarship while a child's IEP is being developed or while any administrative or judicial mediation or proceedings with respect to the content of the child's initial IEP are pending. Development of subsequent IEPs do not affect the applicant's and the child's continued eligibility for scholarship payments.

(2) The responsibility for developing the child's IEP lies with the school district in which the child is entitled to attend school, or the child's school district of residence, if different. The school district of residence, as the entity required to provide FAPE to the child, has the primary

responsibility for developing a child's IEP. The school district where the child is entitled to attend school may develop the IEP for a child for whom another district is the district of residence if:

(a) the school district developed the previous IEP for the child although it was not the district of residence;

(b) the school district of residence has agreed that the district may prepare the IEP; or

(c) the school district of residence fails to respond to an invitation to participate in the IEP process.

(3) A scholarship under this section shall not be used:

(a) For a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider; or

(b) For a child to attend a community school established under Chapter 3314. of the Revised Code.

(4) Nothing in section 3310.51, et seq., of the Revised Code or in the rules of Chapter 3301-101 of the Administrative Code or any other rules adopted by the state board of education shall prohibit a parent or other eligible applicant whose child attends a public special education program under a contract, compact, or other bilateral agreement, or whose child attends a community school, from applying for and accepting a scholarship so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program operated by an alternative public provider or a registered private provider.

Effective:

R.C. [119.032](#) review dates:

Promulgated Under: [119.03](#)

Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.52

3301-101-03 Eligibility to receive a scholarship.

(A) A child who did not receive a scholarship during the school year prior to the year for which a scholarship is sought must meet the following conditions to be eligible to participate in the scholarship program:

(1) The child will be at least five years of age and less than twenty-two years of age at the beginning of the school year for which the scholarship is sought;

(2) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has identified the child as a child with a disability under 20 U.S.C. 1401(3) and R.C. 3323.01(A);

(3) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has completed an IEP for the child;

(a) If the child is a first-time applicant, no administrative or judicial proceedings as defined in paragraph A of rule 3301-101-01 are pending regarding the contents of the IEP;

(b) If the child is seeking a subsequent scholarship, the existence of administrative or judicial proceedings about the subsequent IEP does not affect continued eligibility for a scholarship.

(c) Administrative or judicial proceedings regarding the services provided by the district do not affect the child's eligibility for a scholarship.

(4) The child was either:

(a) enrolled in the school district in which the child is entitled to attend school in any grade from kindergarten through twelve in the school year prior to the year in which a scholarship is first sought; or

(b) is eligible to enter grade kindergarten through twelve in the school district in which the child is entitled to attend school in the year for which a scholarship is sought; and

(5) the child and the child's parents are in compliance with the state compulsory attendance law under Chapter 3321. of the Revised Code.

(B) A child is not eligible for a scholarship if the department of education has approved a scholarship for the child under the educational choice scholarship pilot program, the autism scholarship program, or the pilot project scholarship program for the same year in which a scholarship is sought.

(C) In order to maintain eligibility for a scholarship, a student must take each state test or alternate assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while receiving a scholarship.

(D) Prohibitions

(1) The scholarship shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district of residence and another school district or other public provider.

(2) The scholarship shall not be used for a child to attend a community school established under Chapter 3314. of the Revised Code.

(3) Nothing in this rule shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this rule so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child.

Effective:

R.C. [119.032](#) review dates:

Promulgated Under: [119.03](#)

Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.51. 3310.52

3301-101-04 Application for a scholarship.

(A) The application deadline is the fifteenth day of April to receive a scholarship for an academic term that will begin between the first day of July and the thirty-first day of December. The application deadline is the fifteenth day of November to receive a scholarship for an academic term that will begin between the first day of January and the thirtieth day of June.

(B) An applicant seeking a scholarship for a student who is not currently receiving a scholarship shall complete and submit an application for the scholarship, along with all information and forms determined by the department to be necessary to determine eligibility and make scholarship award determinations. The information may include, but is not limited to the following:

- (1) Information and documentation required to identify the student,
- (2) Information and documentation required to identify and contact the student's parent(s) or guardian(s);
- (3) Information and documentation required to determine program eligibility including, but not limited to the student's residential address, district of residence, district or school in which the student is currently enrolled, if not the district of residence, and the current IEP.
- (4) Information and documentation related to the alternative public provider or registered private provider that has accepted the student for enrollment.
- (5) Information and documentation related to the determination of the correct scholarship amount, including, but not limited to a copy of the evaluation team report or other documentation related to disability category, and the provider's fee schedule;
- (6) A signed written consent that permits the school district of residence and/or the school district in which the child is entitled to attend school to release information or records to the department that are relevant to the application.

(C) An applicant seeking a scholarship for the year subsequent to a year in which a scholarship was received may be required to complete an application in the manner established by the department and provide the information and documentation that the department determines is necessary for the effective implementation of the program.

(D) In submitting an application for a scholarship, the applicant shall attest to the following:

- (1) That the information provided on the application is true and correct;

(2) That the applicant has received the profile of the provider's special education program required by R.C. 3310.521(B) and rule 3301-101-09;

(3) That the applicant has received the comparison document required by R.C. 3323.052;

(4) That the applicant understands that acceptance of a scholarship after the receipt of the comparison document is informed consent to the provisions of sections 3310.51 to 3310.64 of the Revised Code and to the provisions of 3301-101-01 to 3301-101-13 of the Ohio Administrative Code;

(5) That the applicant understands that acceptance of a scholarship relieves the school district of residence and the school district in which the student is entitled to attend school, if different, of the obligation to provide the child with a free and appropriate public education

(6) That the provider and the department will be informed immediately of any change in the student's residential address;

(7) That the student shall not be eligible to receive scholarships in subsequent years if the student fails to take each state test or alternate assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code;

(8) That only one application for the student has been submitted;

(9) That the applicant agrees to abide by the dispute resolution process outlined in rule [3301-101-12](#) of the Administrative Code;

(10) That the scholarship amount shall only be applied to the tuition of the enrolling provider and that the applicant understands that he or she will be required to pay tuition that exceeds the amount of the scholarship, and other fees and costs as prescribed by the policies of the provider; and

(11) Any other representations prescribed by the department determined to be necessary to ensure the effective implementation of the program and compliance with Chapter 3310. of the Revised Code.

(E) Application for program participation shall be made on forms or through electronic means as prescribed by the department. Applicants may designate, in writing, another entity to submit the application on behalf of the applicant. Such designation may be made only to registered providers or alternative public providers.

Effective:

R.C. [119.032](#) review dates:

Promulgated Under: [119.03](#)

Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.51, 3310.52

3301-101-05 Responsibilities of the school district of residence and the school district that the student is entitled to attend.

(A) Evaluation, reevaluation, and individualized education program (IEP). The school district of residence is responsible for the following activities in connection with an application for a scholarship and the administration of the scholarship program:

(1) The district of residence shall conduct an initial evaluation of a child in accordance with rule [3301-51-06](#) of the Administrative Code if a parent is applying for a scholarship for his or her child and the district suspects that the child is a child with a disability.

(2) The district of residence shall determine whether the child is a child with a disability as the term "child with a disability" is defined under 20 U.S.C. 1401(3) and R.C. 3323.01(A). The child must be a child with one of the disabilities listed and defined in paragraph (B)(10) of rule [3301-51-01](#) of the Administrative Code. By reason of that disability, the child must need special education and related services, as the term "special education" is defined in paragraph (B)(58) of rule [3301-51-01](#) of the Administrative Code and as the term "related services" is defined in paragraph (B)(52) of rule [3301-51-01](#) of the Administrative Code.

(3) If the district of residence determines that the child is a child with a disability, the child is considered to be a child with a disability for purposes of the scholarship program.

(4) Evaluations and IEPs must be completed for scholarship students within the timeframes set forth in rules 3301-51-06 and 3301-51-07, respectively. If the district has previously determined that a child is eligible under IDEA, but the eligible child does not have an IEP because the child is not currently enrolled in a public school, the district must prepare an initial IEP within thirty calendar days of receiving a request for an IEP from an applicant.

(5) If the district of residence determines that the child is a child with a disability, the district of residence shall conduct reevaluations of the child in accordance with rule [3301-51-06](#) of the Administrative Code unless the child is attending either a chartered or non-chartered nonpublic school. If the child is attending a chartered or non-chartered nonpublic school, the district where the school is located is responsible for the reevaluation of these children.

(6) If the district of residence determines that the child is a child with a disability, the district of residence shall develop an IEP that offers a free appropriate public education (FAPE) to the child.

(7) The district of residence shall annually update the IEP of each child participating in the scholarship program.

(8) The district is not obligated to provide a child participating in the scholarship program with FAPE.

(9) If, at any time, a parent of a child participating in the scholarship program decides to return the child to the district of residence, then the district of residence will be required to provide the child with FAPE.

(B) Circumstances under which the district in which the child is entitled to attend school shall develop the IEP. The district in which the child is entitled to attend school, if different than the school district of residence, may develop the IEP in the following circumstances:

(1) the school district in which the child is entitled to attend school may develop the IEP if the school district of residence has delegated these responsibilities to that school district.

(2) The district in which the child is entitled to attend school may develop the IEP if the school district of residence has failed to respond to an invitation from the district to participate in an IEP meeting.

(C) Reporting

The district of residence or the district in which the child is entitled to attend school will notify the department of education promptly when a child has withdrawn from the scholarship program and returned to the district.

(D) Transportation

A child attending a special education program with a scholarship shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

Effective:

R.C. [119.032](#) review dates:

Promulgated Under: [119.03](#)

Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.53

3301-101-06 Awarding scholarships.

(A) Scholarships shall be awarded from among valid applications received by the deadlines stated in rule 3301-101-04 in the following priority order:

(1) First to any eligible student enrolled in grades kindergarten through twelve who received a scholarship in the school year immediately prior to the year for which the scholarship is sought and for whom eligibility has not been terminated pursuant to rule [3301-101-08](#) of the Administrative Code; and

(2) Then to other eligible students.

(B) The application deadline for applications for scholarships for the academic term beginning between the first of July and the thirty-first of December is April 15, and the application deadline for applications for scholarships for the academic term beginning the first of January and the thirtieth day of June is November 15. For each of these dates, the department shall establish a date by which all determinations as to the validity of each application and the eligibility of each student will be completed. An initial determination of scholarship awards shall be made for valid

applications received by the application date. Initial determinations shall be made in the following manner:

(1) If the number of valid applications received by the application deadline is equal to or less than the number of scholarships authorized by section 3310.52 of the Revised Code, scholarships shall be awarded to all eligible students. The department may establish procedures and dates for the acceptance of additional applications and for the awarding of scholarships consistent with the priorities specified in paragraph (A) of this rule.

(2) If the number of valid applications received by the application deadline exceeds the number of scholarships authorized by section 3310.52 of the Revised Code, no additional applications shall be accepted. Scholarships shall be awarded in the manner set forth in 3301-101-06(A)(3).

(3) Scholarships shall be awarded in the following manner:

(a) All eligible students who meet the condition described in paragraph (A)(1) of this rule shall be awarded scholarships if possible;

(b) If the number of eligible students who meet the condition described in paragraph (A)(1) exceed the number of scholarships authorized by section 3310.52 of the Revised Code, then scholarships shall be awarded giving priority based on the number of years the student has participated in the program. As between students with the same number of years of participation, the Ohio department of education will use a lottery system to determine eligibility, if needed.

(c) If the number of eligible students who meet the condition described in paragraph (A)(2) of this rule is equal to or less than the number of total scholarships authorized by section 3310.52 of the Revised Code minus the number of scholarships awarded to eligible students meeting the condition of paragraph (A)(1) of this rule, then all eligible students meeting the condition of paragraph (A)(2) of this rule shall be awarded scholarships;

(d) If after awarding scholarships to eligible students who meet the condition described in paragraph (A)(1) of this rule, the number of eligible students who meet the condition of paragraph (A)(2) of this rule exceeds the number of scholarships authorized by section 3310.52 of the Revised Code minus the number of scholarships awarded to eligible students meeting the condition of paragraph (A)(1) of this rule, the remaining scholarships shall be awarded through the use of a lottery system.

(C) Applicants and the provider identified by the applicant shall be notified of a scholarship award via mail within thirty days of award determination.

(D) If an eligible student who is awarded a scholarship subsequently decides the scholarship will not be utilized, the applicant shall notify the department of the intention to relinquish the scholarship. The department shall establish dates by when such notifications shall be made.

(E) Any eligible student who has not been awarded a scholarship shall be placed on a waiting list maintained by the department according to the order of the lottery. Scholarships shall be

awarded to eligible students on the waiting list as they are relinquished by other applicants in a manner to be specified by the department until such date as established by the department.

R.C. [119.032](#) review dates:

Promulgated Under: [119.03](#)

Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.52

3301-101-07 Transfer of scholarship.

Scholarships awarded pursuant to this program may be transferred to another registered provider or alternative public provider. The applicant and the provider accepting the transferred student shall notify the department in the manner prescribed by the department. The applicant may designate in writing that the provider enrolling the student notify the department on behalf of the applicant. Scholarships are not transferable to any other student.

R.C. [119.032](#) review dates:

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Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.64

3301-101-08 Termination of eligibility.

(A) Eligibility to continue to receive a scholarship in the school year in which it is being received shall be terminated if any of the following occur:

(1) It is determined that the application made for the program contained false information that, had it been correct, would have caused the scholarship recipient to be ineligible for the program; or

(2) The scholarship recipient is withdrawn from, or is expelled from, the provider in which the student is enrolled, and fails within thirty calendar days to enroll with another registered private provider or participating alternative public provider.

(B) Eligibility to receive scholarships in subsequent school years and to submit an application for continuing eligibility pursuant to paragraph (C) of rule [3301-101-04](#) of the Administrative Code shall cease if the scholarship recipient fails to comply with the provisions of rule [3301-101-04](#) of the Administrative Code.

(C) Eligibility to receive scholarships in subsequent school years shall not be terminated because a student failed to take a state test or alternate assessment prescribed for the student's grade level if a determination is made by the department that the provider failed to meet its obligation to administer the test.

(D) The applicant and the provider shall be notified by mail of termination of eligibility. Such notification shall include the effective date of the termination.

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Statutory Authority: 3301.07, 3310.64
Rule Amplifies: 3310.64

3301-101-09 Participation by providers.

(A) Each year, the department shall publish a list of registered private providers and alternative public providers who are participating in the scholarship program.

(B) To participate in the program, a private provider must register with the Ohio department of education in accordance with procedures determined by the Ohio department of education. No private provider shall enroll scholarship students or receive scholarship payments until the private provider is registered with the Ohio department of education. To be eligible for registration, a private provider must be able to demonstrate:

(1) That it will not discriminate on the basis of race, color, or national origin, regardless of whether the provider receives federal financial assistance.

(2) That it complies with sections 3319.39, 3319.391, and 3319.392 regarding background checks as if it were a school district.

(3) That the teaching and nonteaching professionals employed by the provider hold credentials that are appropriate for the qualified special education children enrolled in the special education program that it operates as determined by the Ohio department of education. The teaching and nonteaching professionals must meet the minimum standards of the applicable professional organization for individual or non-school providers. The private provider holds, and any employees hold, and any volunteers hold, appropriate credentials from the state board of education or appropriate credentials from a national or state board for their specific professions, and these credentials are related to the individualized education program (IEP) services that individual will be providing. If the private provider contracts with another provider who will be providing special education and related services to children in the scholarship program, the contracted provider and any subcontractors and employees or volunteers of both the contracted and subcontracted providers shall also hold appropriate credentials from the Ohio department of education or credentials from a national or state board for their specific professions.

(a) If any of the persons referenced in paragraph (A)(3) of this rule held credentials issued by the State Board of Education that are either currently suspended or have been revoked in accordance with Chapter 119 and section 3319.31 of the Ohio Revised Code, that person cannot provide services to a scholarship child, even though the party may hold credentials from a national or state board for his or her specific profession.

(b) If any of the persons referenced in paragraph (A)(3) of this rule holds appropriate credentials from a department of education of a state other than the state of Ohio, those credentials will be recognized as appropriate credentials under paragraph (A)(3) of this rule unless that party held credentials issued by the State Board of Education that are either currently suspended or have been revoked in accordance with Chapter 119 and section 3319.31 of the Ohio Revised Code.

(4) That the provider has obtained approval of its educational program by the department of education, in accordance with procedures determined by the department.

(5) That the provider meets applicable health and safety standards established by law.

(6) That it agrees to provide a record of the implementation of the IEP and a record of the student's progress to the school district who wrote the IEP, in the form and manner prescribed by the department.

(7) That it agrees to retain documentation regarding scholarship students as required by the department of education.

(8) That it agrees that if the provider declines to enroll a child receiving a scholarship, that it will notify the eligible applicant in writing of its reasons for declining to enroll the child.

(C) The registration requirements that apply to private providers do not apply to an alternative public provider. An alternative public provider who wishes to participate in the scholarship program shall notify the Ohio Department of Education, Office of School Options and Finance, in writing of its intent to participate. An alternative provider may utilize the scholarship program to enroll a child if the child's parent would owe fees for the services provided by the alternative public provider.

(D) In order to participate in the program, a registered provider or alternative public provider must make the following representations:

(1) That the provider shall annually communicate to the department its tuition or fee structure including all discounts and other adjustments offered or available;

(2) That the provider will prepare a profile of its special education program that contains the methods of instruction that will be utilized to provide services to children receiving scholarships and the qualifications of teachers, instructors, and all other persons who will provide services to scholarship children, in the form prescribed by the department.

(3) That the provider will provide this written profile to eligible applicants.

(4) That the provider shall administer tests or alternate assessments to students receiving scholarships and enrolled in grade levels for which tests are regularly administered pursuant to sections 3301.0710 and 3301.0712 of the Revised Code, and that the results of such tests shall be reported to the department pursuant to procedures established by the department;

(5) That the provider shall make its facilities and the records pertinent to the effective implementation of this chapter available at any time during regular business hours for announced or unannounced visits by department personnel responsible for ensuring compliance with this chapter, or by persons under contract with the department to perform compliance reviews;

(6) That the provider has in place sufficient student attendance recordkeeping procedures, including processes for documentation of excused absences;

- (7) That the provider has in place systems to ensure the confidential nature of student records;
- (8) That the provider shall promptly refund to the state any amounts overpaid on behalf of a student due to ineligibility, disenrollment, expulsion, data error, or for any other reason;
- (9) That the provider shall abide by its admission policy fairly and without discrimination with regard to students applying for or having been awarded scholarships pursuant to this chapter;
- (10) That the provider shall disenroll any scholarship student as soon as a determination is made that the student will no longer attend the school. Disenrollment shall be recorded as the last date that the student attended classes;
- (11) That the provider shall allow the department to monitor compliance with the provisions of this rule and of other laws and rules as they apply to chartered nonpublic schools and shall provide at the request of the department such information and copies of records as may be necessary to ensure such compliance, including:
- (a) Information and records related to school staff and volunteers including but not limited to license or certificate numbers, and background check results;
 - (b) Information and records related to school policies and procedures including but not limited to the parent or student handbook, admissions policies, and withdrawal and transfer policies; and
 - (c) Information and records related to building, vehicle and operational safety including but not limited to fire inspection reports, food service licenses and vehicle inspection reports.
- (E) The Ohio department of education may revoke the registration of a registered private provider if the department of education determines that the registered private provider is in violation of any of the provisions of section 3310.58 of the Revised Code, rules [3301-101-01](#) to [3301-101-13](#) of the Administrative Code, or program guidelines established by the Ohio department of education. In the alternative, the department of education may suspend a registered provider from participating in the program until it has corrected its noncompliance.
- (F) If a private provider's registration is revoked, the private provider is entitled to and may request a hearing under Chapter 119. of the Revised Code.
- (G) Any alternative public provider that does not fulfill its obligations under Chapter 3301-101 of the Administrative Code may be suspended from participation in the program for a period of time to be specified by the department, or until such time as the alternative public provider can provide assurances satisfactory to the department that it shall fulfill its obligations.

R.C. [119.032](#) review dates:

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Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.64

3301-101-10 Payment of scholarship amounts.

(A) Payment of scholarship amounts shall be made by warrant of the auditor of state made payable in the name of the eligible applicant, and the provider in which the student is enrolled. Warrants shall be mailed to the address provided by the provider.

(B) The maximum amount awarded to an eligible student shall be as follows:

- (1) For a category one student, seven thousand one hundred ninety six dollars;
- (2) For a category two student, seven thousand six hundred eight dollars;
- (3) For a category three student, fourteen thousand eight hundred thirty two dollars;
- (4) For a category four student, seventeen thousand nine hundred two dollars;
- (5) For a category five student, twenty thousand dollars; and
- (6) For a category six student, twenty thousand dollars.

(C) The actual amount of each scholarship shall be the lesser of the applicable net fees or tuition charged by the provider, or the maximum amount prescribed in paragraph (B) of this rule. The net fees or tuition shall be the fees or tuition amount specified by the provider minus all other financial aid, discounts and adjustments received for the student. In cases where discounts are offered for multiple students from the same family, and not all students in the same family are scholarship recipients, the scholarship amount shall be the lowest tuition to which the family is entitled.

(D) In the case where a child transfers during the course of the school year to another registered provider or participating alternative provider with a different tuition, the department shall prorate the amounts paid to each school based on the period of attendance at each school.

(E) In the case where overpayments are made on behalf of a participating student, the department shall inform the provider of the amount of the overpayment, and the provider shall refund the amount to the department.

(F) In the case where a student withdraws or is expelled from the provider, or where a student's eligibility to continue to receive a scholarship is terminated pursuant to paragraph (A) of rule 3301-11-09 of the Administrative Code, payment of the scholarship amount will be prorated based on the number of days the student was enrolled with the provider. Funded enrollment would end as of the last day of the student's attendance, or the effective date of the student's termination, whichever is earlier.

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Statutory Authority: [3301.07](#), [3310.64](#)

Rule Amplifies: [3310.64](#)

9/2/2011

3301-101-11 Entities designated to file applications.

Registered providers and alternative public providers may be authorized to file applications on behalf of applicants if so designated in writing by the applicant. In no case shall any financial charge be made to the applicant for application assistance.

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Rule Amplifies: 3310.64

3301-101-12 Dispute resolution.

(A) Filing complaints and due process requests

(1) Although the district of residence is not required to make FAPE available to a child with a disability who resides in the district and who is participating in the scholarship program, the parent of a child participating in the scholarship program has the right to file a written complaint or request for a due process hearing as provide by rule 3301-51-05 of the Administrative Code. A complaint or request for a due process hearing must allege that the district of residence violated a requirement of the Individuals with Disabilities Education Improvement Act of 2004 at 20 U.S.C. 1400, Public Law 108-446 of the 108th Congress, December 3, 2004 (IDEA), but may not allege a violation of any requirements involving the implementation of the IEP and whether the child has received FAPE.

(2) Any dispute as to whether a student is a child with a disability under 20 U.S.C. 1401(3) and R.C. 3323.01(A) and thus satisfies the eligibility requirement set forth in rule 3301-103-03(A)(2) must be resolved through the dispute resolution procedures set forth in IDEA and rule 3301-51-05(K).

(3) An applicant or other aggrieved person has the right to file with the Ohio department of education a written complaint that alleges that a violation of one of the requirements set forth in sections 3310.51, *et seq.*, and/or rules 3301-101-01, *et seq.* A complaint shall be forwarded, in writing, by an aggrieved party to the department. Attached to the complaint shall be any documentation supporting the position of the aggrieved party. The department shall review the documents and make such further inquiry as it determines is necessary. The department shall be the final authority in the resolution of the complaint.

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Statutory Authority: 3301.07, 3310.64

Rule Amplifies: 3310.64

3301-101-13 Program administration.

The department shall establish dates that constitute the deadlines for the various activities related to the implementation of this chapter. The department shall also adopt such procedures

as it determines necessary to implement this chapter. Such procedures shall include, but not be limited to:

- (A) Procedures for handling incomplete applications;
- (B) Procedures for conducting the lottery specified in rule [3301-101-06](#) of the Administrative Code;
- (C) Procedures for resolving questions of legal guardianship;
- (D) Procedures for improving program administration and client satisfaction through surveys and other processes; and
- (E) Procedures for reissuance of lost or damaged warrants.

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