



Question: Why does the NDE, Office of Special Education Monitor districts?

Answer: The Individuals with Disabilities Education Act (IDEA) is a law that makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children. According to **20 U.S.C. 1412** of IDEA, **State Departments of Education are responsible for supervising school districts and ensuring that all children with disabilities receive a free appropriate public education.**

A State Educational Agency:	A Local Educational Agency (District):
<ul style="list-style-type: none">• Set policy and regulations• Ensure compliance with federal and State laws that apply to SWD• Acquire and distribute IDEA funding• Assess PEA performance• Monitor schools	<ul style="list-style-type: none">• Operate schools• Enforce federal and state laws, policies, and standards that apply to SWD• Develop and implement local Educational policies and curriculum• Hire and supervise teaching staff

FAPE is provided at public expense, under public supervision and direction, without charge to parents, and in conformity with an IFSP/IEP. FAPE is provided through Federal and State/Local Funding. IDEA specifically sets out requirements for use of all federal funding:

- IDEA provides funding for the education of children with disabilities as well as for early intervention services.
- Available to all public schools requiring that state departments ensure that districts must follow the IDEA.
- These IDEA funds come in the form of formula grants and SEA administrative funds to support professional development and projects withing the state educational agency and local districts.





In order to receive IDEA federal funding:

1. State Educational Agencies must ensure that districts have a system that ensures that FAPE is provided for students with disabilities who are enrolled in their schools
2. Districts must have a system that provides FAPE!

NOTE: Even if a district does NOT receive IDEA federal funding, it is still responsible for implementing IDEA regulations – just without fiscal support.

How does NDE, OSE ensure a FAPE is provided?

The IDEA requires SEAs to have a system of General Supervision:

- Outlines SEA's accountability for enforcing the implementation of the IDEA and ensures continuous improvement, resulting in improved educational and functional outcomes
- Ensures districts are able to provide a FAPE to children with disabilities

What are the components of General Supervision?

Professional Development & Technical Assistance	Programmatic & Fiscal Monitoring	Dispute Resolution	Fiscal & Data Operations
---	----------------------------------	--------------------	--------------------------

What does programmatic monitoring mean?

Programmatic monitoring requirements are outlined in the IDEA (§300.600-602, §300.606-608). The NDE, Office of Special Education Part B and Part C Monitoring Protocols can be found here:

<https://www.education.ne.gov/sped/monitoring/>.





States must monitor implementation of IDEA and annually report on performance. The Office of Special Education does this through monitoring activities in both Part B and Part C, annually.

The focus of monitoring must be on improving educational and functional outcomes and ensuring that districts meet the requirements of IDEA:

- OSE does this by using data to identify outcome focus areas and SSIP
- OSE conducts file review through differentiated monitoring activities

Why does NDE, OSE monitor the way it does?

The Office of Special Education works to balance outcomes and compliance. This is done through the review of the State Systemic Improvement Plan (SSIP) required targeted improvement plans, outcome focus area analysis, and file review. Includes all outcome focus areas required by federal reporting. The monitoring cycle year system, with designated activities each year, helps with predictability for districts. Differentiated monitoring activities are based on individual PEA performance related to APR indicators outlined in the OSE Risk Analysis tool, NeCOUNTS.

Why does the Risk Analysis tool use so much global data?

The NeCounts tool helps NDE, OSE understand the special education system "data story" at the district level. General supervision of districts includes quantitative and qualitative indicators according to targets identified in Nebraska's State Performance Plan. These indicators measure compliance and performance in the areas of FAPE, LRE, child find, student achievement, dispute resolution, secondary transition planning, and more. There are 17 total federal indicators and the OSE incorporates other ESSA and accountability elements such as chronic absenteeism, CSI/TSI/ATSI determination, and fiscal accountability to name a few.





The risk analysis is processed on districts annually, if the data story overall looks positive, the special education system is probably in good shape. This means that when it is time to monitor, a less SEA intensive support type of monitoring (data review or self assessment) may be considered. If the data story does not look positive, the system may be at higher risk of not providing FAPE to children with disabilities. This means that when it is time to monitor, a more SEA intensive support type of monitoring (onsite) may be considered.

Who holds the SEAs accountable?

The Office of Special Education Programs oversees the implementation of the IDEA through the OSEP monitoring framework, Results Driven Accountability (RDA), which combines results and compliance.

There are three measures of accountability:

1. State Performance Plan /Annual Performance Report (SPP/APR):
measures results and compliance
2. SEA Determinations: reflect state performance on results and compliance
3. Differentiated monitoring & support

How does OSEP hold the SEA accountable?

- Through submission of state-level data, which includes the APR and SSIP, among others
- Through SEA Determinations, which are based on a number of indicators, including graduation rate and performance on assessments for students with disabilities
- Through OSEP's recently revised monitoring system (DMS 2.0), where the SEA's general supervision policies, procedures, and practices are reviewed





Why does it matter how OSEP holds NDE, Office of Special Education accountable?

- Flexibility with high-level decision-making and funding comes from positive SEA Determinations
- NDE, OSE's success in demonstrating it upholds standards of FAPE comes from districts success in demonstrating provision of FAPE
- NDE, OSE submits data to OSEP to support performance that is largely generated and submitted to NDE by districts

The Nebraska Department of Education, Office of Special Education and district's successes are symbiotic!

What does it mean to have findings of noncompliance after a monitoring?

If any noncompliance is found as a result of the completion of monitoring activities, a corrective action plan (CAP) will be developed. A CAP is developed through a collaborative process between the district and OSE. The purpose of a CAP is to assist the district in putting into place policies, procedures, and practices that will bring the district back into compliance and build a model for the district to sustain that compliance

Does every district receive a CAP at the conclusion of a monitoring?

No. The NDE, OSE is obligated to assign corrective action, per the OSEP 09-02 memo and OSEP guidelines, to any noncompliance at the conclusion of monitoring activities. Our purpose is not to create findings but if we do find noncompliance, it is our obligation to both identify findings and to work with the district through corrective action.

Corrective action is not intended to be punitive! It is not held against districts unless timelines related to correction are not followed.





Speaking of timelines, what about COVID-19?

There are no federal waivers regarding any IDEA requirements, thus:

- Timelines must be met by both the SEA and district (e.g., initial evaluations, dispute resolution, data reporting).
- SEA must report as IDEA requires (APR, SSIP, PEA determinations, etc.)
- Monitoring must continue in order to accurately report and ensure implementation of general supervision

Does the NDE, OSE have any flexibility at all regarding monitoring requirements?

There is some flexibility in how the SEA mandates enforcement related to CAP timelines, based on mandated closure or other extenuating circumstances.

Examples of flexibilities include:

- Due dates adjustments made for monitorings during Spring 2020 due to mandated closure, which could potentially be applied again for another closure
- Flexibilities in sample sizes for all monitoring types is being considered on an individual district basis, started 2020 and continues through next year
- Onsite monitoring activities are being adjusted and individualized to district circumstances as needed, including sample size, scheduling, and safety considerations

The Office of Special Education appreciates the Local Educational Agencies (districts) continued adjustments as we continue through the Differentiated Monitoring processes during 2020 and as we move into 2021.



SOS

SPED
SPECIAL EDUCATION