

NDE SPECIAL EDUCATION PART B FOCUSED MONITORING PROCESS

A Guide for Implementing Monitoring Activities in Support of Program Improvement

August 2023

District Monitoring Protocol

Introduction

Improving educational results for children with disabilities requires a continued focus on the full implementation of IDEA to ensure that each child's educational placement and services are determined on an individual basis, according to the unique needs of each child, and are provided in the least restrictive environment. Focused monitoring provides an opportunity for the district to link the findings from the monitoring activities to support the implementation of a targeted improvement plan.

Overview

The federal regulations require states to monitor the implementation of IDEA. The primary focus of the state's monitoring must be on:

Ensuring that school districts in the state meet the requirements of the Individuals with Disabilities Education Act (IDEA), with particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

The Office of Special Education monitors districts annually based on a weighted risk analysis of all Special Education data submitted. Through the analysis, districts then receive focused or differentiated monitoring in four priority areas.

The Monitoring Priority Areas are:

1. Provision of a free appropriate public education (FAPE) in the Least Restrictive Environment (LRE) including compliance with the requirements of the Individualized Education Plan (IEP);
2. Procedural Safeguards;
3. General Supervision including:
 - a) Child Find (evaluation and identification of children and youth with disabilities)
 - b) Transition
4. Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

Principles of Monitoring and Outcomes

1. Ensure compliance with the IDEA and 92 NAC 51 through individualized district response and implementation.
2. Support the linkages between compliance and improvement (RDA) by collecting data to support improvement activities leading to improved outcomes for students with disabilities.

NECounts

Annual Weighted, Risk Analysis

The Office of Special Education (OSE) monitors districts on an annual basis using a weighted, risk analysis called NECounts. The goal of NECounts is to create a comprehensive process that looks at all districts across a variety of factors/indicators that affect outcomes for students with disabilities. The factors used include:

- All Indicator data required for OSEP reporting,
- TIP review information,
- Dispute resolutions,
- Timely and accurate data submissions,
- Chronic absenteeism,
- Maintenance of effort (MOE) and
- Audit findings.

This process uses a risk analysis to identify districts whose data may indicate a district is at high, medium, or low risk and in need of technical assistance in improving outcomes for students with disabilities. From this process, 20% of districts in the high-risk category will then engage in the focused (differentiated) monitoring process for that calendar year.

The focused (differentiated) monitoring process will include the development of a data profile. This will provide opportunity for districts to share the story behind the data and drive supports needed to ensure students with disabilities are successful. The process will engage districts in a more meaningful dialogue regarding the data that districts currently report, enhancing a communication system between NDE and the district to develop improvements in moving Nebraska forward.

Focused Monitoring

The NDE- OSE focused monitoring process is a differentiated process that allows for individualization at the District level. The framework for Focused Monitoring is composed of the following components:

1. A District **Data Collection** which is an opportunity for the District to provide responses to questions about the data reviewed that lead to selection.
2. The **Focused File Review** completed by the NDE Special Education Monitoring Team based on areas of high risk.
3. The **Clarification Meeting** which is completed with the School District. Participants include the NDE Special Education Monitoring Team Members, District staff, and ESU Support Personnel (if desired).

NECounts					
FAPE		Identification/Procedural Safeguards		General Supervision/ Individualized Education Program	
<i>Least Restrictive Environment</i>	<i>Discipline</i>	<i>Transition Program</i>			
Indicator 5	Indicator 4	Indicator 1	Indicator 8	Indicator 3	Indicator 15
Indicator 6	Indicator 9	Indicator 2	Indicator 9	Indicator 12	Indicator 16
	Indicator 10	Indicator 12	Indicator 10	Indicator 13	Indicator 17
		Indicator 13	Indicator 11	MOE	Subrecipient Audits
		Indicator 14		Chronic Absenteeism	
				*File Review (IEP, PWN, etc) Policies and Procedures	

District Data Collection

(See Protocol Step 3)

Districts will be asked to respond to a questions about the data determined to be high risk.

Comprehensive Review

(See Protocol Step 4)

The NDE Monitoring Team will utilize information gathered within the District Data Collection and NECounts Risk Analysis to determine which portions of the file review to conduct. The file review will be used to analyze the results and the impact on the priority areas.

Clarification Meeting

(See Protocol Step 5)

Following the completion of the Focused File Review, the NDE Monitoring Team will conduct a clarification meeting with district representatives to collect additional information and/or data that will assist in the outlining of any improvement activities.

Identification of Areas of Improvement/Findings

(See Protocol Step 6)

Following the Focused File Review and the Clarification Meeting, the NDE Monitoring Team will review information from the Focused File Review, ask for clarification of processess and procedures to develop recommendations for areas of improvement.

Protocol Steps for Part B Focused Monitoring Year 1

Step 1: Notification of Special Education Monitoring and Review of Focused Monitoring Existing Data

Districts selected in the 20% pull of weighted, risk analysis are notified that they will participate in the Part B Focused Monitoring Process for that school year.

The District Superintendent and Director of Special Education will receive notification on August 31st of the school year. A copy of the letter will be posted on the ILCD portal, under the Accountability tab Monitoring sub-tab for future reference.

The notification from the Office of Special Education will include:

- Monitoring Team and Lead Contact;
- Questionnaire related to Risk Areas
- Monitoring Protocol
- NECounts Determinations; and
- Link to the Introductory Webinar

Step 2 - Introductory Webinar

The purpose of the Introductory Webinar is to:

- Review the monitoring process,
- Outline due dates.
- Provide information to help districts understand their data profile, which includes an explanation of where the data comes from and what areas are considered high risk. Review of the data profile may also help districts determine areas they may want assistance with.

Step 3 – Data Questionnaire

The purpose of the Data Questionnaire is to obtain information about district processes which may have led to data considered high risk. The monitoring teams will determine which questions to include on the questionnaire based on areas considered high risk. Responses to the questionnaire will assist teams in determining which areas of the file review are required during monitoring.

The Data Questionnaire should be returned to the Monitoring Team Lead on or before November 1, 2023.

Step 4 – Comprehensive Review

Districts will be assigned an NDE Monitoring Team who will utilize the most recent child count information to select files for monitoring. The districts will be notified of the student files to be reviewed as part of the NDE Comprehensive Review by the NDE-OSE Data Manager. The District may:

1. Provide access to their electronic student system (SRS, Infinite Campus, etc.), or
2. Provide the paper version of the student files sent via ILCD.

The NDE Monitoring Team will conduct a file review based on areas identified as high risk during the NECounts Risk Analysis Process. Other areas may be targeted for review as required by the State's General Supervision requirements.

The following items are part of the Comprehensive Review:

- **Data: Performance Report, Nebraska Education Profile, Trend Data**
Data from the Performance Report, Nebraska Education Profile, and related trend data is reviewed. Significant elements or results will be discussed and an analysis of the impact on the priority areas of monitoring.
- **Forms Review**
To determine whether the district has practices in place which are likely to result in full implementation of the special education regulations; NDE will review the school district forms for documenting and implementing IDEA and Rule 51 regulations.
- **Policies, Procedures and Practices**
School Districts are required to have policies, procedures, and practices which are consistent with the requirements of the IDEA and Rule 51. All policies should be uploaded to ILCD by March 31 for the comprehensive review by NDE.
- **Complaint Investigations and Due Process Cases**
Complaints and due process hearings filed within the previous year, with instances of noncompliance identified and corrected through either of these processes must be included in the student file review to ensure that corrections continue to be in place. (Link to a document for a protocol)
- **Indicator 13 Self-Assessment**
School districts are responsible for conducting a self-assessment on ILCD for Indicator 13. The self-assessment consists of questions based on the NTACT checklist to determine whether each student's IEP contains the required components for post-secondary transition planning. Self-assessment data is then verified by NDE.
- **Correction of Previously Identified Noncompliance**
As part of the Comprehensive Review, the NDE Special Education Monitoring Team will review any previous letter of findings of non-

compliance within Complaints, Due Process, Equity (Significant discrepancy, disproportionality, and disproportionate representation) and previous Monitoring efforts (Indicator 11 and Indicator 12). The NDE Monitoring Team will note any corrective actions taken by the district to ensure correction.

- **Previous fiscal reviews or sub-recipient fiscal reviews**

Fiscal reviews or sub-recipient fiscal reviews conducted during the previous year will be reviewed to determine whether it is necessary to review specific standards during the Focused Summary Meeting. If a fiscal review or sub-recipient review resulted in a finding of noncompliance, the standard which was the basis for that finding must be reviewed during the on-site visit.

- **Review of District Files**

The NDE Monitoring Leads, in collaboration with the Data Team, will select the student files to be reviewed during the comprehensive review. The number of students within the district will have an impact on the number of files reviewed during the comprehensive review. During this step a focused review of the student files (potentially including pre-school and transition age depending on analysis) will be completed and will focus on the areas identified as high risk based on the NECounts Risk Analysis. Pursuant to 92 NAC 004.01; 34 CFR 300.600, the NDE, Office of Special Education, maintains authority to access all student files for the purpose of general supervision. Districts will be asked to provide individual student access. At some point you may be asked to provide access to your entire system if it is deemed warranted by the Monitoring Team.

Step 5: Clarification Meetings

On February 15, 2024, each district will be sent a calendar with meeting times available to sign up for a time for a clarification meeting. The purpose of the clarification meeting is to review information from the comprehensive review and for the district to provide any missing documentation that may have been identified. The District should consider inviting to the clarification meeting the following team members:

- District administrator(s)
- General education teacher(s)
- Special education teacher(s)
- Special education director(s) or coordinator(s)
- ESU special education director, if applicable
- Related services provider(s)
- Early childhood teacher
- Other as appropriate (parents, students, MTSS facilitator(s), etc.)

Step 6: Identification of Areas of Improvement/Findings

On or before April 15, 2024, the NDE Monitoring team will provide a report including the findings from the Comprehensive Review and review of existing data to make recommendations for areas of improvement as well as possible corrective action. The report will elicit one of the following actions:

1. If there is noncompliance identified during the review of the regulations, procedures, and practices, the report will be served as a Letter of Findings and a Corrective Action Plan (CAP) must be developed, approved within 45 calendar days, and activities must be completed within one (1) year of the notification of noncompliance. [OSEP Memo 23.01](#)
2. If noncompliance is not identified during the review of the regulations, procedures and practices, recommendations for improvement will be issued to the school district.
3. If there is no noncompliance identified and there are no recommendations for improvement, a close out letter will be issued.

Step 7: Submission of CAP and NDE Approval

The District has 45 calendar days from the letter of findings April 15, 2024, to submit the CAP and any subsequent training materials for approval. Each monitoring team is responsible for the approval of the assigned district's CAP.

If a school district's CAP is not approved upon initial submission, the review team sends it back and the district has 10 days to submit the corrected CAP.

The submission, approval and completion of the Corrective Action Plan must be completed within 9 months (NDE requirement), but no longer than one year from the date of receipt of the Letter of Findings. Districts have 1 year from the time they receive their letter of findings to complete CAP regardless of when the CAP is "approved."

Requirements for CAPs based on [OSEP Memo 23.01](#)

1. Correct the IEPs, MDTs, or issues identified as being noncompliant (Immediate Correction [Prong 1]).
2. Develop and implement training; revise policies and/or procedures to address the areas of noncompliance (Subsequent correction [beginning of Prong 2]).
3. Review additional IEPs, MDTs or other documentation to ensure areas identified as noncompliant have been corrected (Subsequent correction [Prong 2]).

The CAP must include each of the regulations found to be out of compliance in individual files. For each regulation found to be in noncompliance, the

Corrective Action Plan must contain the actions which will be taken by the district to ensure full implementation of the regulation in the future, the timelines and persons responsible for taking the actions, and the way the corrective actions will be evaluated.

Approval Process for CAPs -

When the district has developed the CAP, it will be submitted to the District's NDE Monitoring Team for review and approval. The NDE review will either "Approve" or "Disapprove" the Corrective Action Plan. If the Corrective Action Plan is approved, the district is notified and may proceed with the implementation of the CAP. If the Corrective Action Plan is disapproved, the district will need to revise the CAP, and resubmit.

1. District develops their own training/PD targeting the specific areas of noncompliance identified - Submit PowerPoint, policy/procedure/practice change (this could be the corrected form the district will begin using), and/or training materials to the assigned Monitoring Team for approval.
2. District chooses to complete an NDE "approved" training/webinar/PD/guidance submitted to the assigned Monitoring Team for approval.

Protocol Steps for Part B Focused Monitoring Year 2

Step 2.1 - Completion of Corrective Action Plan Activities

Pursuant to 92 NAC 51-004.14D, all noncompliance must be corrected as soon as possible, and in no case no later than one year from the date on which the district is notified of a finding of noncompliance. All activities associated with the correction and verification of correction of noncompliance will be completed by the District.

Corrective Action Plan (CAP)

Throughout the corrective action process, interaction between the school district and the NDE Monitoring Team will be documented to ensure that the corrective action process is completed within the timeline. Documentation will be maintained regarding each step of the corrective action process (i.e. when the plan is submitted for approval; when the plan is approved by NDE; when the plan is completed).

Implementation of the Corrective Action Plan

The intention of the NE Counts Analysis is to develop a synthesis of training and technical assistance needs in each region based on the data provided by each District. Corrective Action Plan implementation may be completed through regional training/technical assistance.

The NDE Monitoring Team is prepared to assist the district with the implementation of the corrective action planning. Assistance may include:

- Targeted Technical Assistance, as needed at the state, district, or ESU level;
- Providing additional training to the district staff;
- Providing materials for trainings;
- Contacting a possible consultant/presenter;
- Reviewing proposed revisions to policy, procedures, and practices;
- Assisting the district in developing or revising their forms.

Step 2.2 - Documentation and NDE Verification of Correction of Noncompliance

NDE will take the following steps to determine that the noncompliance has been corrected. These are not exclusive steps, other steps may be added as needed to document that the correction of noncompliance has been completed successfully.

The NDE Monitoring Team will select the student files for review which contain noncompliance issues, and additional student files to document that there are no further issues of noncompliance, and to verify that the CAP was effective in correcting the issues of noncompliance.

- Review the documentation submitted by the district that the Corrective Action Plan has been implemented (i.e. revised policies/procedures etc.).
- NDE will review the individual student files originally found to have noncompliance issues, unless the child is no longer within the jurisdiction of the school district or approved cooperative and additional student files. Reviewers should only review the areas identified as noncompliant to ensure correction. (Immediate correction [Prong 1])
- For subsequent correction (Prong 2), a new set of files will be selected and reviewed. NDE will review only those portions of the file review originally found noncompliant. Based on the subsequent review (Prong 2), NDE will determine whether the school district has corrected all areas of noncompliance and is now correctly implementing the specific regulatory requirements.
 - If new files reviewed are found out of compliance for the area targeted, the District is required to correct those files (immediate

correction [Prong 1]) and send additional files for review (subsequent correction [Prong 2]).

The Completion Date for the correction of all noncompliance is within one year of the date of the issuance of the Letter of Findings.

Step 2.3 - Closing the Corrective Action

The Closeout of the Corrective Action will be completed by the NDE Monitoring Team following the completion of all corrective action in year 2 notifying the District that they have completed the CAP successfully and the district has corrected the areas of noncompliance utilizing IDEA Regulations and 92 NAC 51 (Nebraska Rule 51). A CAP Closeout letter must be issued no later than one year from the date of the Letter of Findings.

Protocol Steps for Part B Focused Monitoring Year 3

Year 3 will include collection of trend data related to the File Review, Corrective Action, and Close Out Process that will focus on improvement efforts being made by the district. Completion of Year 3 will allow districts to be entered back into the focus monitoring opportunity based upon risk analysis.

Focused Monitoring Process Timetable

Monitoring Year Planning Steps PART B – Year 1	NDE/Persons Responsible	Timeline
<p>Step 1 - Notification of Special Education Monitoring and Review of Focused Monitoring Existing Data</p> <p>A letter of notification will be sent to the districts regarding monitoring activities to be completed during the current calendar year. The letter will be sent to the district Superintendent and Director of Special Education.</p> <p>The above letter of Notification sent to the district will include the following:</p> <ul style="list-style-type: none"> • Monitoring Protocol • Monitoring Team Lead and Contact • Instructions on Policies and Procedures 	Office of Special Education	August 31, 2023
<p>Step 2 – Introductory Webinar</p> <p>Districts watch Introductory Webinar. The purpose of the Webinar is to:</p> <ul style="list-style-type: none"> • Review the monitoring process and due dates. • Provide information and explanation to understand district data profiles. 	Office of Special Education	Introductory Webinar Release August 31, 2023 View Webinar Sept. – Nov. 2023
<p>Step 3 – Data Questionnaire</p> <p>Districts respond to data questionnaire to provide information about district processes that may have contributed to data being considered high risk.</p>	Districts	Data Questionnaire due November 1, 2023
<p>Step 4 – Comprehensive Review</p> <p>The Office of Special Education will ask the District to provide access to student files for review as part of the NDE Comprehensive Review. The District may also provide access to its electronic system (SRS, Infinite Campus, etc.) so that files can be reviewed during the completion of the Comprehensive Review, without a paper format. This will be decided between NDE and the individual District.</p> <p>The NDE Monitoring Team will conduct the Comprehensive Review.</p>	Data Team/Monitoring Team	November 15, 2023 – February 15, 2024
<p>Step 5 – Clarification Meetings</p> <p>The Monitoring Team will email Districts a calendar with times available for the Clarification Meeting. Each district will select a date and time for the clarification meeting.</p>	Monitoring Team and Districts	February 15, 2024 – April 15, 2024
<p>Step 6 – Notification to districts of Letter of Findings or Closeout Letter</p>	Monitoring Leads	April 15, 2024
<p>Step 7 – Submission of CAP and Approval</p> <p>The District has 45 calendar days from the letter of findings to submit the CAP and any subsequent training materials for approval. Each monitoring team is responsible for the approval of the assigned district's CAP. *More detailed information about submission and approval provided in the Monitoring Protocol.</p>	Submission by Districts Approval by NDE	Submitted by May 30, 2024

Monitoring Year Planning Steps PART B – Year 2	NDE/Persons Responsible	Timeline
Step 2.1 – Completion of Corrective Action Plan Activities (CAP) Follow the process as outlined in the Protocol and shared with the district through ILCD, including the verification of correction of noncompliance.	Districts	January 15, 2024 (9 months from the Letter of Findings)