

## **How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2013: Part B**

In making our determination for each State under section 616(d) of the Individuals with Disabilities Education Act (IDEA), we considered the totality of the information we have about a State. This includes the State's FFY 2011 Annual Performance Report (APR)/State Performance Plan (SPP); information from monitoring and other public information, such as Special Conditions on the State's grant award under Part B; and other issues related to State compliance with the IDEA.

As further detailed below, in making each State's 2013 determination, the Department used a Compliance Matrix, reflecting the following data:

1. The State's FFY 2011 data for Part B Compliance Indicators 4B, 9, 10, 11, 12, 13, 15, and 20 (including whether the State reported valid and reliable data for each indicator); and, if the data reported under Indicators 11, 12, and 13 reflected compliance between 90% and 95% (or for Indicators 4B, 9, and 10 were between 5% and 10%), whether the State demonstrated correction of all findings of noncompliance it had identified in FFY 2010 under such indicators;
2. The State's FFY 2011 data, reported under section 618 of the IDEA, for the timeliness of State complaint and due process hearing decisions;
3. Whether the Department imposed Special Conditions on the State's FFY 2012 Part B grant award and those Conditions are in effect at the time of the determination, and the number of years for which the State's Part B grant award has been subject to Special Conditions; and
4. Whether there are any findings of noncompliance identified in FFY 2009 or earlier by either the Department or the State that the State has not yet corrected.

As further detailed below, the Compliance Matrix indicates a score of 0, 1, or 2, for each of the compliance indicators in item one above and for the additional factors listed in items two through four above. Using the cumulative possible number of points as the denominator, and using as the numerator the actual points the State received in its scoring under these factors, the Compliance Matrix reflects a percentage score that was used to determine the State's 2013 determination as follows:

1. Meets Requirements – a State's 2013 determination is Meets Requirements if the matrix percentage was at least 90%.<sup>1</sup>
2. Needs Assistance -- a State's 2013 determination is Needs Assistance if the matrix percentage was at least 75%, but less than 90%.

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<sup>1</sup> In determining whether a State has met this 90% matrix criterion, the Department will round up from 89.5% (but no lower) to 90%. Similarly, in determining whether a State has met the 75% matrix criterion discussed below, the Department will round up from 74.5% (but no lower) to 75%.

3. Needs Intervention -- a State's 2013 determination is Needs Intervention if the matrix percentage was less than 75%, and a State met one or more of the following criteria (which were the criteria for a determination of Needs Intervention in 2012):
  - a. Compliance below 50% for Indicators 11, 12, 13, or 15, or for timely State complaint decisions or timely due process decisions; or above 50% for Indicators 4B, 9 or 10;
  - b. The State provided no data or did not provide valid and reliable data for Indicators 4B, 9, 10, 11, 12, 13, or 15; or
  - c. The State has been subject to Special Conditions for multiple years for failing to comply with key IDEA requirements, the noncompliance has been long-standing, the State's data in response to the Department's FFY 2012 Special Conditions demonstrate continued noncompliance, and those Special Conditions are in effect at the time of the 2013 determination.

Needs Substantial Intervention – The Department did not make a determination of Needs Substantial Intervention for any State in 2013.

### **Detailed Discussion of the 2013 Part B Compliance Matrix**

#### **Scoring of the Matrix for Compliance Indicators 4B, 9, 10, 11, 12, and 13**

In the attached State-specific 2013 Part B Compliance Matrix, a State received points as follows for each of Compliance Indicators 4B, 9, 10, 11, 12, and 13<sup>2</sup>:

- Two points, if either:
  - The State's FFY 2011 data for the indicator were valid and reliable, and reflect at least 95%<sup>3</sup> compliance (or, for Indicators 4B, 9, and 10, reflect no greater than 5%)<sup>4</sup>; or
  - The State's FFY 2011 data for the indicator were valid and reliable, and reflect at least 90% compliance (or, for Indicators 4B, 9, and 10, reflect no greater than 10%); and the State identified one or more findings of noncompliance in FFY 2010 for the indicator, and has demonstrated correction of all findings of noncompliance identified in FFY 2010 for the indicator. Such full correction is indicated in the matrix with a "Y" (for

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<sup>2</sup> A notation of "NA" (for not applicable) in the "Performance" column for an indicator denotes that the indicator is not applicable to that particular State. The points for that indicator are not included in the denominator for the matrix, and the indicator does not impact the final matrix percentage for the State or its determination.

<sup>3</sup> In determining whether a State has met this 95% compliance criterion, the Department will round up from 94.5% (but no lower) to 95%. Similarly, in determining whether a State has met the 90% criterion discussed below, the Department will round up from 89.5% (but no lower) to 90%. In addition, in determining whether a State has met the 75% criterion discussed below, the Department will round up from 74.5% (but no lower) to 75%.

<sup>4</sup> For Indicators 4B, 9, and 10 a very high level of compliance is generally at or below 5%.

yes) in the “Full Correction of Findings of Noncompliance Identified in FFY 2010” column.<sup>5</sup>

- One point, if the State’s FFY 2011 data for the indicator were valid and reliable, and reflect at least 75% compliance (or for Indicators 4B, 9, and 10 reflect no greater than 25%), and the State did not meet either of the criteria above for two points.
- Zero points, under any of the following circumstances:
  - The State’s FFY 2011 data for the indicator reflect less than 75% compliance (or, for Indicators 4B, 9, and 10, reflect greater than 25%); or
  - The State’s FFY 2011 data for the indicator were not valid and reliable;<sup>6</sup> or
  - The State did not report FFY 2011 data for the indicator.<sup>7</sup>

### **Scoring of the Matrix for Compliance Indicators 15 and 20**

In the attached State-specific 2013 Part B Compliance Matrix, a State received points as follows for each of Compliance Indicators 15 and 20:

- Two points, if the State’s FFY 2011 data for the indicator were valid and reliable, and reflect at least 95% compliance.
- One point, if the State’s FFY 2011 data for the indicator were valid and reliable, and reflect at least 75% and less than 95% compliance.
- Zero points, under any of the following circumstances:
  - The State’s FFY 2011 data for the indicator reflect less than 75% compliance; or
  - The State’s FFY 2011 data for the indicator were not valid and reliable; or
  - The State did not report FFY 2011 data for the indicator.

### **Scoring of the Matrix for Timely State Complaint Decisions and Timely Due Process Hearing Decisions**

In the attached State-specific 2013 Part B Compliance Matrix, a State received points as follows for timely State complaint decisions and for timely due process hearings, as reported by the State under section 618 of the IDEA:

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<sup>5</sup> An “N” (for no) in that column denotes that the State has one or more remaining findings of noncompliance identified in FFY 2010 for which the State has not yet demonstrated correction. An “NA” (for not applicable) in that column denotes that the State did not identify any findings of noncompliance in FFY 2010 for the indicator.

<sup>6</sup> If a State’s FFY 2011 data for any compliance indicator are not valid and reliable, the matrix so indicates in the “Performance” column, with a corresponding score of 0. The explanation of why the State’s data are not valid and reliable is contained in the attached compliance data summary notes.

<sup>7</sup> If a State reported no FFY 2011 data for any compliance indicator, the matrix so indicates in the “Performance” column, with a corresponding score of 0.

- Two points, if the State's FFY 2011 data were valid and reliable, and reflect at least 95% compliance.
- One point, if the State's FFY 2011 data reflect at least 75% and less than 95% compliance.
- Zero points, if the State's FFY 2011 data reflect less than 75% compliance.
- Not Applicable (NA), if the State's data reflect less than 100% compliance, and there were fewer than ten State complaint decisions or ten due process hearing decisions.

**Scoring for Long-Standing Noncompliance (Includes both Uncorrected Identified Noncompliance and Special Conditions)**

In the attached State-specific 2013 Part B Compliance Matrix, a State received points as follows for the Long-Standing Noncompliance component:

- Two points, if the State has:
  - No remaining findings of noncompliance identified in FFY 2009 or earlier, by OSEP or the State; and
  - No Special Conditions on its FFY 2012 grant award that are in effect at the time of the 2013 determination.
- One point, if either or both of the following occurred:
  - The State has remaining findings of noncompliance, identified by OSEP or the State, in FFY 2009, FFY 2008, and/or FFY 2007, for which the State has not yet demonstrated correction (see the FFY 2011 Response Table for specific information regarding these remaining findings of noncompliance); and/or
  - The Department has imposed Special Conditions on the State's FFY 2012 Part B grant award and those Special Conditions are in effect at the time of the 2013 determination.
- Zero points, if either or both of the following occurred:
  - The State has remaining findings of noncompliance, identified by OSEP or the State, in FFY 2006 or earlier, for which the State has not yet demonstrated correction (see the FFY 2011 Response Table for specific information regarding these remaining findings of noncompliance); and/or
  - The Department has imposed Special Conditions on, at a minimum, the State's last three (FFY 2010, FFY 2011, and FFY 2012) IDEA Part B grant award, and those Special Conditions are in effect at the time of the 2013 determination.