
Due Diligence Reviews

NHED FACT SHEET



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Due Diligence Review

The State Educational Agency (SEA) has a legal obligation to ensure that every eligible child receives a Free Appropriate Public Education (FAPE). The general supervision components at the SEA for New Hampshire, include a myriad of review areas, including a Due Diligence Review (DDR) in response to allegations of non-compliance. There are instances when compliance issues are not discovered using the monitoring process or the other dispute resolution mechanisms, the latter of which is generally dependent on parents or other concerned parties to raise compliance concerns.

The goal of DDR is to address individual and systemic issues in a manner that ensures expeditiously and effectively processing potential non-compliance of a Local Educational Agency (LEA) without creating barriers to relationships between parents and districts. Affirmatively addressing compliance issues that are not discovered using the monitoring process may lessen the need for parents and other parties to resort to state complaints or due process hearings, while simultaneously meeting our general supervisory responsibilities

The NHED Bureau of Special Education Support developed a DDR process following the release of [Memo 23-01](#) by the US Department of Education, Office of Special Education Programs (OSEP) titled, *Guidance on State General Supervision Responsibilities under Parts B and C of the IDEA*.

Identification of Potential DDR

The Bureau may become aware of a potential DDR allegation in multiple ways including but not limited to:

- News reports,
- Parent or other constituents,
- Other staff; or
- During typical job duties

When this happens, the DDR team meets to discuss the allegations and determine whether there is enough credible information to look into it further. If the team decides not to move forward, no further action is taken. If the team decides that it warrants a further look, a staff member will be assigned as the lead and will conduct a review. The review may include but not limited to:

- Desk audit,
- Request for further information; or
- An announced or unannounced visit in accordance with RSA 186-c:5.

Initial Review of Allegation(s)

To avoid unnecessary burden on districts, the DDR staff will do as much as possible to determine an allegation's sufficiency prior to reaching out to the district. However, there are times additional information will be needed that cannot be done during a desk audit. When this occurs, the DDR lead will notify the district via **email** of the initial review and request specific information. This does **not** mean there is a substantiated allegation. This simply means that the DDR team needs more information before determining if this is a credible allegation.

After reviewing all of the information, and discussing with the LEA, the DDR team will determine whether the allegation is substantiated or not. The district's superintendent and special education administrator will be notified via email of this determination. If the allegation was determined to not be substantiated, the review will be closed and the district will be notified that no further action will be required. If the allegation is deemed substantiated the DDR lead will issue a pre-finding corrective action to the district. Prior to the issuance of the pre-finding corrective action the DDR lead will contact the district to discuss and share the information related to the pre-finding corrective action. No pre-finding corrective action or finding of non-compliance from a DDR will be issued without contact with the LEA.

Pre-Finding Corrective Action

A notification of a pre-finding corrective action will include how the Department reached their conclusion as well as the necessary steps the district must take to remedy the allegation. In compliance with federal guidance referenced above, the district will have 90 days to complete the corrective action plan. Although the pre-finding corrective action phase is 90 days, there may be times where the district is required to comply incrementally within the 90 days.

If the district complied with the corrective action and provided all of the required information to their DDR lead within the 90-day timeframe, an email will be sent closing out the DDR allegation and no further action will be taken. A finding of non-compliance will not be issued if the corrective action is completed, and the allegation is corrected within the 90-day timeframe

Non-Compliance with Pre-Finding Corrective Action

If the district does not comply with the corrective action within the required period, the Commissioner of Education, in accordance with RSA 186-C:5(VI), shall notify the superintendent and local school board. The findings and corrective actions will be posted on the Department of Education website and the State Advisory Committee on the Education of Students with Disabilities will be informed.

Non-compliance may result in enforcement actions in accordance with RSA 186-C:5(V)(d), which include but are not limited to:

- Voluntary or mandatory technical assistance,
- Mandatory targeted professional development,
- Compensatory education,
- Referral for review of professional licensure or certification requirements,
- Cessation of programs,
- Targeting or redirection of federal funds,
- Ceasing payments of state or federal special education funds,
- Additional review or monitoring,
- Repayment of misspent or misapplied state and/or federal funds; or

Referral to the Department of Justice. Any enforcement actions must be completed within 1 year of the original date of notification or further sanctions may be implemented.