

IDENTIFICATION AND CORRECTION OF IDEA NONCOMPLIANCE

Identification of Noncompliance:

The Utah State Office of Education (USOE) monitoring specialist reviews data collected from and/or submitted by each LEA to ensure compliance with the regulatory requirements of the IDEA. LEAs have the option to correct noncompliance within three weeks of data collection before the USOE issues written findings of noncompliance. The USOE will review the additional data submitted by the LEA and verify whether the data demonstrate compliance, and issue a finding if the data demonstrate noncompliance. Regardless of the specific level of noncompliance, if the USOE identifies noncompliance, the LEA will be notified in writing of the noncompliance and of the requirement that the noncompliance be corrected as soon as possible, but in no case later than one year from identification.

Correction of Noncompliance:

The Office of Special Education Programs (OSEP) requires that all noncompliance be corrected as soon as possible, but in no case later than one year from the date of notification of noncompliance. The USOE has considered various ways in which LEAs could document the correction of compliance errors. The USOE has made an effort to consider methods that will require the least amount of time and effort for LEAs while providing the USOE with evidence verifying corrections.

Before the USOE can conclude and report that noncompliance has been corrected, it must first verify, consistent with the OSEP Memo 09-02, that the LEA;

- Prong 1 – Has corrected each individual case of noncompliance, and
- Prong 2 – Is correctly implementing the specific regulatory requirements (i.e., subsequently achieved 100% compliance), based on the USOE review of the updated data.

Prong 1: Correcting each individual case of noncompliance

To document that individual student-level noncompliance is corrected; LEAs must demonstrate that the student file is compliant with regulatory requirements. For any noncompliance concerning child-specific requirements that are not subject to a specific timeline requirements, the LEA must submit documentation that the LEA has corrected each individual case of noncompliance, unless the student is no longer within the jurisdiction of the LEA. These items include requirements such as:

- Eligibility determination is not current or complete.
- Eligibility criteria are not met.
- Evaluation Summary Report is not current or complete.
- IEP is not current or complete.
- IEP content does not meet criteria (i.e., measurable goals, PLAAFP statements include current data and how the disability affects progress in the general curriculum, state-wide assessment, ESY decision, etc.).
- Consent for Initial Placement is missing or unsigned by parents.
- Copy to Parent documentation is missing.
- Transition Plan is missing or incomplete.
- Age of Majority notification missing.
- Language proficiency and assessment documentation missing.
- Prior Written Notice missing.
- Documentation that Procedural Safeguards were provided to parents missing.
- Documentation of IEP and eligibility team participation missing.
- Change in Placement missing.

LEAs may select one of the following three (3) procedures to show correction of individual noncompliance (prong 1):

Method A:

The LEA could list each file by school, student name, DOB, and classification; list the errors; and give dates of new/current documentation that shows file is in compliance. For example:

School	Student	Compliance Items	Evidence of Correction	Documentation of Correction
Jojo Junior High	Sam Jones 5/6/03 ID	No current IEP Notice of meeting: placement not listed as purpose	2/10/10 Training 2/10/10, files rechecked and correct 3/10/10	Submitted documentation of corrected files.
	John Smith etc.	Transition plan missing No consent for initial placement	2/10/10 2/10/10	Submitted documentation of corrected files.

Method B:

The LEA could document the required evidence by writing the evidence on the individual file report received from the USOE and submitting to the USOE.

Utah Program Improvement Planning System Student Record Review Individual Student File Report USOE
<hr style="border-top: 1px dashed black;"/> Jane Doe Student Record #1 Classification: SLD Age: 13.4 Date of Last IEP: 1/16/2010 Date of Most Recent IEP: 8/23/2010 Teacher: John Smith
<hr style="border-top: 1px dashed black;"/> All items in the file for Jane Doe were found to be in compliance with the following exceptions: [* indicates that the item is a systemic problem for this set of files.]
Continuing Eligibility Items CEL.7 Parents given copy of Eligibility Determination Documentation Problem: No documentation that copy was given. <u>Copy mailed to parent 9/12/2010</u>
Continuing/Reevaluation IEP * CIEP.8 IEP team documents present levels of educational performance. [USOE Rule III.I. p. 46] Problem: PLAAFP missing. <u>New IEP 9/12/2010</u>

Method C:

The LEA could submit the required evidence by making copies of the evidence on the individual file report received from the SEA and submitting them to the USOE.

Item	Evidence to Submit (Copies of Completed Forms)
Current Eligibility Document and Evaluation Summary	Eligibility Document and Evaluation Summary
Current IEP Consent for Initial Placement	Signature page Signed consent document
Transition Plan	Copy of current and complete plan

For any noncompliance concerning child specific timeline requirements, the LEA must submit documentation to the USOE that the required action (e.g., the evaluation, reevaluation, or IEP) was completed, though late.

Prong 2: Correctly implementing the specific regulatory requirements (i.e., subsequently achieved 100% compliance), based on the USOE review of the updated data

To document that the LEA is correctly implementing the specific regulatory requirements, the LEA will review additional student special education files, regardless of the level of noncompliance, and submit documentation that the LEA has achieved 100% compliance. The number of additional files reviewed by the LEA will be determined based on the identified root cause of noncompliance and the following factors:

- The level of noncompliance,
- The LEA's willingness to collaborate and consult with the USOE,
- The LEA's history of correction of noncompliance, and
- The size and demographics of the LEA.

The USOE is committed to supporting LEA efforts to improve results for students with disabilities through the framework of compliance. If you have any questions, please do not hesitate to call the USOE Monitoring Specialist, Tiffanie Owens at 801-538-7806 or Tiffanie.Owens@schools.utah.gov.

References:

- [OSEP Timely Correction Memo](#)
- <http://spp-apr-calendar.rrfcnetwork.org/explorer/view/id/417/?1>
- [Frequently Asked Questions Regarding Identification and Correction of Noncompliance and Reporting on Correction in the State Performance Plan \(SPP\)/Annual Performance Report \(APR\)](#)