

2009 Local Education Agency (LEA) Determinations

State's Review and §616 Determination Criteria for Local Education Agencies (LEA)

Pursuant to the Individuals with Disabilities Education Act, 2004 (IDEA 2004) [Section 616\(a\)\(1\)\(C\)\(i\)](#) and [34 CFR §300.608\(a\)](#), states are required to make "Determinations" annually under [Section 616\(d\)](#) on the performance of LEAs' programs for students with disabilities. In making such Determinations, the State will assign an LEA one of the following Determination levels:

- Meets the requirements
- Needs assistance
- Needs intervention
- Needs substantial intervention

Determination Criteria

Federally Required Elements

States must consider the following four *federally required elements* in assigning a Determination level for LEAs:

1. Performance on compliance indicators 9, 10, 11, 12, and 13 in the State Performance Plan (SPP);
2. Whether data submitted by LEAs is valid, reliable, and timely;
3. Uncorrected noncompliance from other sources (complaints resolution, due process, residential facility monitoring and monitoring activities); and
4. Any audit findings

State Defined Elements

States may choose to define additional elements in making determinations. In order to more accurately reflect LEA performance as indicated by data results, the TEA has incorporated the following *state defined element*:

5. Performance-Based Monitoring (PBM) Program Effectiveness (stage of intervention for the special education program area)

Determination Rating

The State reviews LEA information in all five elements, assigns a point value for each element, and aggregates the total in order to establish an LEA's determination level.

The following matrix provides a crosswalk from the determination level to the total of rating points associated with each level.

Crosswalk of Rating Scale to Determination Level

Determination Level	Total Rating Points
Meets Requirements	0 Points
Needs Assistance	1-2 Points
Needs Intervention	3 Points
Needs Substantial Intervention	4 or more Points

2009 Determinations Data Elements

An LEA will be assigned a Determination level based on the data reviewed in the following matrix.

Federally Required Element	Description	Data Source/Timeframe
1. State Performance Plan (SPP) Compliance Indicators	<p>Performance on SPP Compliance Indicators:</p> <ul style="list-style-type: none"> • 9: Disproportionality of racial and ethnic groups (African American, Asian, Hispanic, Native American, White) in the special education program that is the result of inappropriate identification • 10: Disproportionality of racial and ethnic groups (African American, Asian, Hispanic, Native American, White) by specific disability (Autism, Emotional Disturbance, Learning Disability, Mental Retardation, Other Health Impaired, Speech Impairment) in the special education program that is the result of inappropriate identification • 11: Child Find (Timely Evaluation) • 12: Early Childhood Transition • 13: Secondary Transition 	<p>Division of IDEA Coordination</p> <p>Data submission for the 2007-2008 school year</p>
2. Valid, Reliable, and Timely Data	<p>Performance on Person Identification Database (PID) Reporting: Fall and Summer Collections</p>	<p>Public Education Information Management System (PEIMS)</p> <p>Data submission for the 2007-2008 school year</p>

Federally Required Element	Description	Data Source/Timeframe
3. Status of Uncorrected Noncompliance	Performance in timely correction of identified noncompliance (e.g. identified in a given school year and corrected as soon as possible but not later than one year after identification)	Division of Program Monitoring and Interventions (Monitoring) October 1, 2007 to October 1, 2008 Division of IDEA Coordination (Complaints Resolution and Adverse Due Process Hearings) July 1, 2007-June 30, 2008
4. Financial Audits	Financial performance	Division of Financial Audits 2005-2006 and 2006-2007 School FIRST Rating Performance is based on level of achievement in managing district finances, as reflected in the Financial Integrity Rating System of Texas (FIRST) for two consecutive years

State Defined Element	Description	Data Source
5. Program Effectiveness	Overall Program Effectiveness in Performance-Based Monitoring System (PBM)	Division of Program Monitoring and Interventions October 1, 2007 to October 1, 2008

Explanation of 2009 Determinations Data Elements

1. **State Performance Plan (SPP) Compliance Indicators:** Compliance on a LEA's data submitted for the 2007-2008 school year regarding SPP indicators 9, 10, 11, 12, and 13.
2. **Valid, Reliable, and Timely Data:** Person Identification Database (PID) Error Rate Standard reporting based on the summer and fall collections, July 1, 2007 to June 30, 2008.
3. **Uncorrected Noncompliance:** Uncorrected noncompliance is noncompliance that has not been corrected one year after the district was notified of the noncompliance by the state. Residential facility monitoring and monitoring activity data are based on uncorrected noncompliance during the October 1, 2007 to October 1, 2008 calendar year. Complaints resolution and (due process) hearing decision corrective action data are based on uncorrected noncompliance from July 1, 2007 to June 30, 2008. A district that fails to correct previously identified noncompliance within the October 1, 2007 to October 1, 2008 calendar year is considered to have uncorrected noncompliance, regardless of whether the noncompliance is corrected at the time the district is assigned a Determination level.
4. **Financial Audits:** School Financial Integrity Rating System of Texas (FIRST). Performance reflected by the 2005-2006 and 2006-2007 FIRST Ratings.
5. **2008-2009 Performance-Based Monitoring (PBM) Program Effectiveness:** Stage of Intervention in the Performance-Based Monitoring (PBM) System and meeting state supervision and oversight requirements for special education programs as required by state and federal law. Performance-Based Monitoring Analysis System (PBMAS) data resulting in 2008-2009 intervention staging generally are based on data from the 2007-2008 school year.

2009 Determinations Rating Scale

Federally Required Element	Description	Rating Points
1. State Performance Plan (SPP) Compliance Indicators	Performance on SPP Compliance Indicators 9, 10, 11, 12, and 13:	
	<ul style="list-style-type: none"> • 5 indicators in compliance • 1 or more indicators out of compliance 	<p>0 points</p> <p>1 point</p>
2. Valid, Reliable, and Timely Data	Person Identification Database (PID) Error Rate Standard for the fall and summer collection	
	<ul style="list-style-type: none"> • Both collections meet the PID Error Rate standard • Both collections exceeded the PID Error Rate standard 	<p>0 points</p> <p>1 point</p>
3. Status of Uncorrected Noncompliance	Timely correction of identified noncompliance (e.g. identified in a given school year and corrected no later than one year after identification)	
	<ul style="list-style-type: none"> • No uncorrected noncompliance • Uncorrected noncompliance 	<p>0 Points</p> <p>1 Point</p>

Federally Required Element	Description	Rating Points
4. Financial Audits	School FIRST status rating for two consecutive years	0 Points
	<ul style="list-style-type: none"> • Superior, Above Standard, or Standard Achievement • Substandard Achievement 	1 Point

State Defined Element	Description	Rating Points
5. Program Effectiveness	Overall Program Effectiveness in Performance-Based Monitoring System (PBM)	
	• Not Staged	0 points
	• Stage 1A or 1B	1 point
	• Stage 2	2 points
	• Stage 3	3 points
	• Stage 4	4 points

Appeals Process

If an LEA believes a specific data element reviewed in the determination process is inaccurate, the LEA may appeal an assigned Determination Level. However, only LEAs assigned a Determination Level of **Needs Intervention** or **Needs Substantial Intervention** may appeal. An LEA must make an appeal within 30 calendar days of the date on the Determination Level Notification letter. The request for appeal must include the submission of all information necessary for TEA to reconsider the original Determination status assignment. The TEA will acknowledge receipt of the request for appeal and a Determination Status Appeal Response letter when the review is completed.

LEAs that are eligible to appeal must include in their request a contact person's name, email, phone number, and the superintendent's name and signature. The completed form should be sent to the following address:

Determination Status Appeal
Texas Education Agency
Division of IDEA Coordination
1701 N. Congress
Austin, Texas 78701

The TEA will evaluate the appeal based on information provided in the appeal request form. TEA will not consider any appeal received after the 30-calendar day timeframe.

Enforcement Actions

States are required to take the following enforcement actions with LEAs based on the LEA's Determination Level:

Determination Level	Enforcement Actions
Meets Requirements	None
Needs Assistance	<p>State shall take one or more of the following actions if the district receives this determination for 2 or more consecutive years:</p> <ul style="list-style-type: none"> • Provide technical assistance • Direct the use of funds • Impose special conditions <p>State must prohibit LEA from reducing LEA's maintenance of effort under § 300.203 for any fiscal year.</p>
Needs Intervention	<p>State shall take any of the actions described above, and require one or more of the following if the district receives this determination for 3 or more consecutive years:</p> <ul style="list-style-type: none"> • A corrective action plan or improvement plan • LEA to enter into a compliance agreement • Withhold or seek to recover funds <p>State may refer the matter for appropriate legal enforcement action</p>
Needs Substantial Intervention	<p>State shall take any of the actions described above, and require one or more of the following:</p> <ul style="list-style-type: none"> • Recover funds • Withhold further payments • Refer to legal authorities