

General

Technical Edits: The U.S. Department of Education's (Department), Office of Special Education Programs (OSEP) has made technical edits to the Part C Measurement Table and the Part C State Performance Plan/Annual Performance Report (SPP/APR) Related Requirements document to align to guidance OSEP released on July 24, 2023, entitled, "Office of Special Education Programs State General Supervision Responsibilities Under Parts B and C of the IDEA" (OSEP QA 23-01).

Discussion: The U.S. Department of Education's vision is that all infants and toddlers with disabilities are identified and receive early intervention services as early as possible. To meet this vision, State lead agencies (LAs) must have a comprehensive system in place so that all infants and toddlers with delays or disabilities who are eligible for Individual with Disabilities Education Act (IDEA) Part C early intervention services are promptly and equitably identified and evaluated. This requires that States continuously examine and improve policies and practices aimed at identifying and evaluating infants and toddlers for delays and disabilities, particularly those who have been historically underserved by IDEA Part C. OSEP has developed through an informal federal interagency effort, resources and a series of Implementation Technical Assistance Guides that

identify strategies and highlight resources and best practices for ensuring that families have equitable access to IDEA Part C services.

To improve State's child find analysis, OSEP is proposing to revise the instructions for Part C Indicators 5 and 6 to request States to conduct root cause analyses of child find identification rates, including reviewing data (if available) on the number of children referred, evaluated, and identified. This root cause analysis may include examining not only demographic data (such as race and ethnicity data reported under IDEA section 618 and Indicators 5 and 6), but also other child-find related data available to the State (such as geographic location, family income, primary language, etc.). The majority of State LAs have other available data that can be triangulated and analyzed with the data reported under Indicators 5 and 6. OSEP proposes that States should report the results of their analyses under the "Additional Information" section of the Indicators 5 and 6.

OSEP further notes that States must include in their SPP/APRs information on the reasons for slippage (an explanation of slippage in indicators where the State did not meet its target. 2 C.F.R. § 200.329(c)(2)(ii)). Thus, OSEP is clarifying that, if a State is required to report on the reasons for slippage under results Indicators 5 and 6 when the targets are

not met, then the State must include the results of its analyses under the “Additional Information” section of Indicators 5 and 6.

Changes: OSEP is proposing to revise the instructions in the Measurement Table for Indicators 5 and 6 to read: The State should conduct root cause analysis of child find identification rates, including reviewing data (if available) on the number of children referred, evaluated, and identified. This analysis may include examining not only demographic data but also other child-find related data available to the State (geographic location, family income, primary language, etc.). The State should report the results of this analysis under the “Additional Information” section of this indicator. If the State is required to report on the reasons for slippage, the State must include the results of its analyses under the “Additional Information” section of this indicator.

Comment: OSEP received one comment each pertaining to Indicator 3, Indicator 4, Indicator 11, stakeholder involvement, and the comparison of States in the determination process.

Discussion: These five comments are unrelated to the proposed changes identified in this Information Collection; therefore, OSEP declines to address them at this time.

Changes: None.

Indicator 12

Comment: One commenter representing an advocacy organization expressed overall support for the inclusion of the proposed indicator focused on general supervision as part of the SPP/APR. Additionally, several commenters representing LAs, and national membership organizations expressed opposition to the inclusion of the proposed indicator focused on general supervision. Many of these commenters reported that this proposed change would result in: (1) an additional burden for SEAs/LAs, which the comments indicated, are currently strained for resources and personnel; and (2) a perceived shift in OSEP's focus from improving outcomes for infants, toddlers and children with disabilities towards prioritizing compliance with IDEA.

Discussion: OSEP appreciates the feedback received from all stakeholders who either supported or opposed the inclusion of the proposed general supervision indicator. While OSEP understands the concerns that have been expressed by some commenters, we believe that the inclusion of the proposed general supervision indicator will result in greater transparency with local EIS providers and programs, parents, and other stakeholders regarding the State's general supervision responsibilities and compliance with IDEA, which ultimately will help improve outcomes for infants and toddlers with disabilities and their families.

To support improved outcomes for infants, toddlers and children with disabilities and their families, SEAs, LEAs, LAs,

and EIS programs and providers must fully implement IDEA and identify instances in which noncompliance has occurred, as required under 34 C.F.R. § 303.700(e). Through identification of noncompliance, targeted support and resources can be provided to help ensure the full implementation of IDEA; systemic trends of noncompliance can be identified; and correction of any noncompliance can occur. The information contained in the proposed general supervision indicator provides the transparency needed for analysis, correction, and support to occur. As OSEP noted in the explanation and rationale that accompanied the proposed revisions to the SPP/APR, several factors contributed to OSEP's decision to propose a new indicator focused on general supervision. These factors include:(1) throughout the COVID-19 pandemic, OSEP heard from stakeholders about barriers to accessing early intervention services, including that some children went without necessary services, and that the rates of both referrals to IDEA and evaluation under IDEA decreased; and (2) Through its monitoring activities, OSEP has learned that virtually all monitored-States have not been monitoring EIS program and provider activities outside of the SPP/APR compliance indicators.

Monitoring for IDEA requirements beyond the SPP/APR compliance indicators is critical for SEAs/LAs as part of the State's general supervision responsibilities under IDEA section

635 and 34 C.F.R. § 303.120. Therefore, the proposed general supervision indicator simply requires States to separately report on this longstanding IDEA requirement. Under 34 C.F.R. §§ 303.120 and 303.700(e), SEAs/LAs are required to monitor EIS program and provider activities related to all IDEA requirements and identify instances of noncompliance. While a State's general supervision responsibility to monitor its local programs is a longstanding IDEA requirement, OSEP recognizes that, since the FFY 2013 SPP/APR, States have not had to report through a separate indicator within the SPP/APR.

To provide States with sufficient time to plan and implement the reporting requirements outlined in the proposed general supervision indicator, OSEP is phasing in the general supervision indicator to require reporting on the identification and correction of all findings of noncompliance as part of the State's general supervision responsibilities, which includes findings made through fiscal monitoring, Part C SPP/APR Related Requirements, and other areas of monitoring by the State. Starting with the FFY 2023 SPP/APR (submitted in February 2025), States will be required to report on the identification and correction of all noncompliance related to the SPP/APR compliance indicators. OSEP believes that by requiring States to report on all findings of noncompliance, there will be greater transparency regarding noncompliance identified, which can lead to improved

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outcomes in each of the areas addressed in Indicators 1, 7, 8A, 8B, and 8C. Ultimately, this general supervision indicator will be broadened in the next SPP/APR cycle for FFY 2026 through FFY 2031 to also require reporting on the identification and correction of all noncompliance related to the State's general supervision responsibilities. This would include fiscal monitoring, related requirements for results indicators, and other areas of monitoring by the State.

Monitoring, identifying and correcting findings of noncompliance provide the information necessary to know whether infants and toddlers with disabilities and their families are receiving needed IDEA Part C services. Therefore, OSEP believes that a comprehensive, rigorous general supervision system, that is publicly reported as part of the SPP/APR, is a critical element to improving outcomes for infants and toddlers with disabilities and their families.

Changes: None.

Comment: Several commenters representing SEAs/LAs believe that the proposed general supervision indicator prioritizes compliance with IDEA over a focus on improved outcomes for infants and toddlers with disabilities and their families.

Discussion: OSEP appreciates the commenters' concern but does not agree that including the proposed general supervision indicator

will detract from improving outcomes for infants and toddlers with disabilities and their families. As noted previously, OSEP believes that timely identification and correction of noncompliance, which addresses noncompliance at both the systemic and the individual child levels, can contribute to improving outcomes for infants, toddlers and children with disabilities. With comprehensive monitoring for all IDEA requirements, States can determine where changes should be made at the State and/or local levels to fully implement IDEA. OSEP remains committed to results driven accountability and improving outcomes for infants, toddlers and children with disabilities and their families, ensuring access to fair, equitable, and high-quality early intervention services. Therefore, OSEP believes States must have effective integrated systems of general supervision that include strong focus on both compliance and results.

Changes: None.

Comment: Several commenters representing SEAs/LAs recommended that OSEP release new general supervision guidance prior to requiring SEAs/LAs to implement an indicator focused on general supervision. Specifically, the commenters requested that OSEP clarify expectations for a reasonably designed system of general supervision.



Discussion: OSEP agrees with the commenters that there has been a need for updated and consolidated guidance regarding the general supervision responsibilities of States under IDEA. On July 24, 2023, OSEP released guidance entitled, 'Office of Special Education Programs State General Supervision Responsibilities Under Parts B and C of the IDEA' (OSEP QA 23-01). This guidance incorporates longstanding policy and supersedes the following three previously issued guidance documents: Frequently Asked Questions Regarding Identification and Correction of Noncompliance and Reporting on Correction in the SPP/APR (Sep. 3, 2008); OSEP Memorandum 09-02: Reporting on Correction of Noncompliance in the Annual Performance Report Required under Sections 616 and 642 of the Individuals with Disabilities Education Act (Oct. 17, 2008)(OSEP Memo 09-02); and Questions and Answers on Monitoring, Technical Assistance, and Enforcement (Revised Jun. 2009). This guidance is intended to provide States with accessible and actionable information necessary to exercise their general supervision responsibilities to ensure that all infants, toddlers and children with disabilities have available to them either appropriate early intervention services or a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and that the rights of infants, toddlers and children

with disabilities and their parents and families are protected. Likewise, this guidance provides States with information to support the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infant and toddlers with disabilities and their families. With respect to commenters' request regarding the timing of general supervision guidance, this guidance was effective before SEAs/LAs will be required to implement the proposed general supervision indicator with their February 2025 submission of their FFY 2023 SPP/APR. Additionally, OSEP, together with OSEP funded technical assistance centers, will continue to provide technical assistance through a variety of engagement opportunities, such as national technical assistance calls, roundtable discussions, blog posts, and presentations at national conferences.

Changes: None.

Comment: Several commenters representing SEAs/LAs expressed their belief that the proposed general supervision indicator is duplicative with OSEP's DMS 2.0 process and State-designed systems for meeting IDEA general supervisory requirements under 34 C.F.R. § 303.120(a).

Discussion: OSEP does not agree with the commenters that including a general supervision indicator within the SPP/APR

would be duplicative with OSEP's DMS 2.0 process. OSEP believes that the information States provide in the SPP/APR, including through the proposed general supervision indicator, is a complementary, not duplicative, effort to the information collected and analyzed during OSEP's DMS 2.0 process. While both the SPP/APR and DMS 2.0 processes evaluate a State's efforts to implement the requirements and purposes of Part C of IDEA and describe how the State will improve such implementation, consistent with 34 C.F.R. § 303.700, the SPP/APR provides required information annually, while the DMS 2.0 process examines the policies, procedures, and practices of a subset of States on a non-annual, cyclical schedule. Therefore, while a State's general supervision data and system are analyzed by OSEP during the DMS 2.0 process, the inclusion of the general supervision indicator within the SPP/APR allows for transparency and annual public reporting on findings of noncompliance for every State.

Comment: Commenters discussion of monitoring systems raised questions about their understanding of pre-finding correction (i.e., if a State allows for correction of identified noncompliance prior to the State issuing a written finding).

Discussion: In July 2023, OSEP issued State General Supervision Responsibilities Under Parts B and C of the IDEA (OSEP QA 23-01) guidance to better inform SEAs, LAs, LEAs, and EIS programs and

providers of their general supervision responsibility over their local programs.

In response to the commenters concerns regarding how the general supervision indicator accounts for States reporting on identified noncompliance that was corrected before the State issued a written finding, known as pre-finding correction, OSEP agrees that the information contained in the proposed general supervision indicator was unclear. Specifically, OSEP recognized that the reference to 'pre-finding correction finding' listed as an example of a reason why a State may report differences in the number of written findings in the data table for the proposed general supervision indicator and the number of findings reported within the indicator itself may have caused confusion. States report instances of pre-finding correction within the context of the indicator itself as part of the State's requirement to provide an explanation if the State's prior year's compliance data were less than 100% compliance. OSEP has revised the proposed general supervision indicator to remove the reference to pre-finding correction in the examples of reasons why there may be differences in the number of findings reported in the general supervision indicator and in the specific compliance indicator. For more information regarding the reporting of pre-finding correction, please see OSEP's guidance, OSEP QA 23-01.

Changes: OSEP has revised the data table included in the proposed general supervision indicator by removing the reference to 'pre-finding correction finding.'

Comment: Multiple comments from individuals and parent advocacy organizations expressed support for OSEP to re-establish the IDEA Part C SPP/APR Related Requirements document, particularly with Part B but these comments would also apply to Part C.

Discussion: OSEP agrees with these commenters and is reinstating the IDEA Part C SPP/APR Related Requirements document, that was previously approved in 2017. This document includes a list of each of the Monitoring Priorities and Indicators in the SPP/APR and the statutory and regulatory requirements that are related to each priority and indicator. Starting with the FFY 2023 SPP/APR (due in February 2025), States will be required to report only on the correction of noncompliance related to the SPP/APR compliance indicators. Ultimately, this indicator will be broadened in the next SPP/APR cycle for FFY 2026 through FFY 2031 to also require reporting on the correction of noncompliance related to all findings of noncompliance, including fiscal monitoring, IDEA Part C SPP/APR related requirements, and other areas of monitoring by the State.

Changes: None.

Comment: Several commenters representing SEAs/LAs described the staff shortages many states are experiencing. The commenters requested that OSEP delay the proposal for the general supervision indicator due to the additional burden and strain the completion of the general supervision indicator would have on SEA/LA staff and systems (including fiscal burden).

Discussion: OSEP agrees that shortages in personnel have presented challenges in the field of early intervention at the state and local levels. However, OSEP's proposed general supervision indicator does not require States to collect any additional or new information; rather, it requires the reporting of data and information already collected by States as part of a State's general supervision system. OSEP will consider how the Department's online SPP/APR submission tool can reduce redundancies and increase efficiencies within the administrative functions that are required to complete the SPP/APR.

Additionally, OSEP will continue to provide States with technical assistance and support through national technical assistance calls, broad dissemination of relevant resources, support from OSEP-funded technical assistance centers, and individual meetings with States.

Changes: None.

Comment: Several commenters representing SEAs/LAs expressed concerns that the general supervision indicator would take effect too soon and requested that any significant changes to the SPP/APR be delayed until OSEP released guidance for State implementation of IDEA's general supervision requirements. Additionally, several commenters suggested it is premature of OSEP to propose adding a general supervision indicator prior to completion of the first cycle of OSEP's DMS 2.0 cohort of States.

Discussion: As noted previously in this document, on July 24, 2023, OSEP released QA 23-01, guidance to provide States with accessible and actionable information necessary to exercise their general supervision responsibilities related to the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infant and toddlers with disabilities and their families. OSEP has weighed the concerns presented by commenters regarding States' ability to report on their general supervision obligations under IDEA sections 635 and 618 and 34 C.F.R. §§ 303.23(3)(i), 303.511(e), and 303.700(d)(2), against the urgent need to focus on improving outcomes for infants, toddlers and children with disabilities. OSEP does not agree with the commenters' request to delay the implementation of the proposed general supervision indicator. OSEP believes that improved outcomes for infants, toddlers and children with disabilities

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starts with compliance with IDEA. Therefore, OSEP believes that it has taken reasonable steps to support States' reporting of their general supervision obligations - for example, through the timely release of QA 23-01, the phased-in approach of the proposed general supervision indicator (as detailed in previous responses), and the requirement to report on existing data and information collected through the State's general supervision system, rather than creating new or additional data requirements, or information collection systems. Further, OSEP is committed to supporting States and, together with OSEP-funded technical assistance centers, will provide additional technical assistance to assist States.

Changes: None.

Comment: Several commenters from SEAs/LAs expressed concerns about their State's ability to meet the reporting requirements in the proposed general supervision indicator with their existing data systems. Many of these commenters believe that the proposed general supervision indicator would impose a technical burden on strained State systems due to the need to compile data from multiple sources, reformat data into the SPP/APR specifications, and adhere to requirements of the Department's online SPP/APR submission tool.



Discussion: OSEP acknowledges the strains that personnel shortages have created at all levels of early intervention and special education (as discussed previously) and appreciates the commenters' feedback regarding the administrative (and fiscal) impact the proposed general supervision indicator may have on State personnel. OSEP is committed to exploring possible ways to streamline the administrative process for populating the SPP/APR, including further exploring the functionalities of the Department's online SPP/APR submission tool to determine how OSEP can better support user needs. Additionally, while the proposed general supervision indicator does not require States to engage in any new data collection, OSEP acknowledges that the proposed general supervision indicator requires States to compile data from potentially multiple existing data sources. To that extent, compiling these existing data may impose a minimal burden on SEAs/LAs.

Changes: Based on feedback received during the 60-day public comment period, OSEP is proposing a nominal increase in the estimate of the reporting burden for this information collection. OSEP believes that any burden associated with this information collection is outweighed by the need for transparency and efforts to improve outcomes for infants, toddlers and children with disabilities gained by the focus on State general supervision systems under IDEA. It is estimated that it will take an average

of 5 hours, i.e., approximately the equivalent of a half-day meeting, to run reports or obtain relevant information from State staff regarding the correction of findings of noncompliance related to SPP/APR compliance indicators, analyze data, and complete data entry. Therefore, OSEP is revising the burden estimate to reflect an additional five hours in burden per response.