

What is a Local Education Agency (LEA) Annual Determination?

The *Individuals with Disabilities Education Act* (IDEA) Part B regulations, § 300.600(a)(2), require states to make determinations annually about the performance of each local education agency (LEA), using the categories *meets requirements*, *needs assistance*, *needs intervention*, and *needs substantial intervention* (§ 300.603(b)(1)). The Office of Special Education and Rehabilitative Services (OSERS) 2009 memo, [Questions and Answers on Monitoring, Technical Assistance, and Enforcement](#), provides further details on factors states must consider when making LEA determinations, including

- performance on State Performance Plan/Annual Performance Report (SPP/APR) compliance indicators;
- valid and reliable data;
- correction of identified noncompliance; and
- other data available to the state regarding the LEA's compliance with IDEA, including relevant audit findings.

LEA Determination Information

The State will issue determinations annually in the [SD STARS community page](#) where administrators will have access. Determination reports are available by June 1 of each year. LEAs who require technical assistance and support based on their determinations will receive targeted assistance from the State Educational Agency (SEA) as described below.

South Dakota Determination Criteria

LEA determinations are based on the required components by the United States Office of Special Education Programs (OSEP) which includes:

- SPP/APR Indicators 4b, 9, 10, 11, 12, and 13
- Valid, Reliable, and Timely Data [1]
- Uncorrected Non-Compliance
- Dispute Resolution Compliance
- Accountability Compliance
- Any Audit Findings including MOE, CEIS, Single Audit, Child Count, and IDEA Application

OSEP allows SEAs to have a performance of 95% to 100% to meet the compliance indicator criteria for Levels of Determination, South Dakota has incorporated this option for LEA Determinations. OSEP has called this substantial compliance and is used only for Determinations. LEAs are still required to meet the annual compliance targets of 100% for indicators 11, 12, and 13 and 0% for indicators 4b, 9 and 10. Any LEA within the range of 95-99.9% must correct the non-compliance through a corrective action plan and work toward 100% compliance.

South Dakota's number one goal is for LEAs to meet SPP compliance targets and other compliance areas. In order to emphasize that goal, South Dakota has created weighted point criteria for each area. Table 1-1 indicates how many points a LEA can obtain for each area and the criteria.

Table 1-1

Area	Definition/ Criteria	Points Earned
Compliance Indicators or Other Compliance	Meet 95% to 100%; Met 0% or Met Compliance	3
Correction of Non-Compliance	Completing Corrective Action Plans within 12 months.	2
Meeting Timeline	Valid, Reliable, and Timely Data	1
Total Points a District can earn		48 points

Levels of Determination

SEAs must place LEAs in a Determination level based on their performance on the State Performance Plan compliance indicators and other monitoring data according to Section 616(d) of the IDEA and ARSD:

24:05:20:23.04. State enforcement -- Determinations. On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA.

Based on the criteria above, South Dakota LEA’s will be placed in one of the following Determination Levels based on points accrued.

Determination Level	Maximum Points Earned	Minimum Points Earned
Meets Requirements	48	38
Needs Assistance	37	29
Needs Intervention	28	19
Needs Substantial Intervention	18	0

Needs Assistance: If the department determines, for two consecutive years, that a school district needs assistance in implementing the requirements of Part B of the IDEA, the department shall take one or more of the following actions:

(1) Advise the district of available sources of technical assistance that may help the district address the areas in which the district needs assistance. Assistance may include assistance from the department's special education programs, other offices of the department, other state agencies, technical assistance providers approved by the department, and other federally-funded nonprofit agencies. The department shall require the district to work with appropriate entities. Such technical assistance may include:

(a) The provision of advice by experts to address the areas in which the district needs assistance, including explicit plans for addressing the area of concern within a specified period of time;

(b) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically-based research;

(c) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

(d) Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the IDEA, and private providers of scientifically-based technical assistance; and

(2) Identify the district as a high-risk grantee and impose special conditions on the district's grant under Part B of the IDEA.

Needs Intervention: If the department determines, for three or more consecutive years, that a district needs intervention in implementing the requirements of Part B of the IDEA, the department shall require the district to prepare a corrective action plan if the department determines that the district should be able to correct the problem within one year or withhold, in whole or in part, any further payments to the district under Part B of the IDEA.

Needs Substantial Intervention: Notwithstanding the provisions of this section, if the department determines that a district needs substantial intervention in implementing the requirements of Part B of the IDEA or that there is a substantial failure to comply with any condition of the district's eligibility under Part B of the IDEA, the department shall withhold, in whole or in part, any further payments to the district under Part B of the IDEA.

Source: 33 SDR 236, effective July 5, 2007.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

**(Add school year) South Dakota's
Initial Notification of Determination for (Add District Name)**

This is an initial notification of the determination of your LEA's status with regard to meeting the requirements of the IDEA 300.600-604 for Federal Fiscal Year (change each year) The LEA's determinations will become final on **Change each year.**

Indicator	State Target	LEA Data	LEA met Requirements (3 or 0 pts)	Corrected Non-Compliance within 1 year (2 or 0 pts)	Timely, Valid, Reliable Data? ¹ (1 or 0 pts)	Points Awarded
Indicator 4b ²	0%					
Indicator 9 ²	0%					
Indicator 10 ²	0%					
Indicator 11 ²	100%					
Indicator 12 ²	100%					
Indicator 13 ³	100%					
Accountability & Dispute Resolution Compliance ³	NA					
Audit Findings ⁴	NA					
					TOTAL POINTS EARNED	
"District Name" Determination Level						

Legend
NA – Not Applicable
NMY – Non-Monitoring Year

Determination Scale	
48 to 38	Meets the Requirements
37 to 29	Needs Assistance
28 to 19	Needs Intervention
18 to 0	Needs Substantial Intervention

¹ Timely, valid, and reliable data: All required data requested for state performance plan, 618 data tables, child count and other state requirements. Timely = submitted by due date; valid = data is correct; and reliable = accurate, consistent, and trustworthy over time.

² Indicators 4b, 9, 10, 11 and 12: All LEAs data are monitored annually.

³ Indicator 13 and Accountability Monitoring: LEAs are monitored on a 6-year cycle; however, all districts are included in determinations. Districts who have not engaged in an accountability review for the current reporting year receive full points.

⁴ Audit Findings: Maintenance of Effort, Voluntary Coordinated Early Intervening Services, Mandatory Comprehensive Coordinated Early Intervening Services, Child Count and IDEA application and fiscal single audit.

Administrative Rules of South Dakota (ARSD) 24:05

24:05:20:23. Compliance. If a school district either fails to voluntarily take steps to correct an identified deficiency or fails to take any of the corrective actions specified by the department or incorporated in a corrective action plan submitted by the school district and approved by the department, the department must notify the school district of the following:

- (1) The failure to voluntarily correct an identified deficiency constitutes a failure on their part to administer their special education program in compliance with federal law;
- (2) The actions the department intends to take in order to enforce compliance with state and federal law;
- (3) The right to a hearing prior to the department's exercise of its enforcement responsibility; and
- (4) The consequence the department's enforcement action would have on continued and future state and federal funding of that school district's special education programs.

Source: 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 33 SDR 236, effective July 5, 2007.

General Authority: SDCL 13-37-1.1.

Law Implemented: SDCL 13-37-1.1.

ARSD 24:43:07:01. Warnings, denial, suspension, or revocation of accreditation or approval. An adverse action against an application for accredited or approval status, or against a currently-in-effect accreditation or approval may be initiated by the secretary of education for just cause at any time. The adverse action may include a warning, denial, suspension, or revocation of the accredited or approved status. Until a final determination is made according to § 24:43:07:07, the school district or nonpublic entity is designated as "on probation." The change in accredited or approved status is available to the public in department publications and on the department's website.

ARSD 24:43:07:03. Warning and plan of corrective action. An accredited public school district or approved nonpublic entity that is found in violation of a state law or administrative rule required for the accredited or approved status will be issued a letter of warning by the secretary of education. The letter will cite the law or administrative rule or both and state the alleged violation that caused the warning to be issued and will set forth timelines for submission of a plan of corrective action.

ARSD 24:43:07:04. Suspension or revocation for uncorrected violations. An accredited public school district or approved nonpublic entity that does not present a plan of corrective action that corrects the violation within stated timelines, or that fails to implement a plan of corrective action with stated timelines, shall be recommended to the secretary of education for the status of "on probation" until a final determination is made or until satisfactory evidence of correction of the violation is presented to the Department of Education.