

Oregon Department of Education
2023 E/ECSE Program Determination and Enforcement Matrix (based on 2021-2022 data)

Section 616 and 642 of the IDEA requires States to examine annually each program’s performance toward meeting the requirements under the IDEA and apply one of four Federal Determinations identified in statute to each program based on performance. Criteria used by the ODE in determining local performance include the extent of current compliance; timeliness and accuracy of data reporting; procedural noncompliance (audit) findings that have been corrected within required timelines; additional noncompliance identified through other sources; and compliance indicators from the State Performance Plan (SPP). Additional performance indicators identified in the SPP may be included.

The following table outlines the four Federal Determinations required to be applied to each program based on criteria used by ODE to make these determinations. The table also includes the ODE first year and ODE long-term enforcement activities required to be considered at each level. These actions are consistent with the level of concern signaled by the determination. ODE is not restricted from utilizing any other authority available to it to monitor and enforce the requirements of Part B and Part C.

ODE / Federal Determination: Meets Requirements
<p>No third year noncompliance; and</p> <p>95% or greater initial compliance or 100% correction of noncompliance within one year; and</p> <p>95% or greater compliance or 100% correction of noncompliance within one year for indicators C1, C7, C8 (A, B, C), B11, and B12; and</p> <p>No other data sources indicate noncompliance; and</p> <p>If the program did not meet these standards on only one indicator [correction of previous year’s noncompliance for C 1, C7,C8 (A, B, or C), B11, B12], the compliance level for that indicator was 90% or greater</p> <p style="text-align: center;">AND</p> <p>Data timely and accurate: All 3 program data submissions were completed within the designated windows for reporting and identified as accurate; or 2 out of 3 program data submissions were completed within the designated window for reporting; and 2 out of 3 program data submissions were identified as accurate; and No single program data submission was completed beyond the designated window for reporting and identified as inaccurate and required correction after the designated window for correction</p>
ODE First Year Enforcement: Meets Requirements
<p>If ODE determines that a program Meets Requirements it will consider taking one or more of the following actions (the highlighted actions are enforcement actions taken this year by ODE):</p> <p>ODE determines program has met all requirements and no further action is required;</p> <p>ODE offers technical assistance at the request of the program;</p> <p>ODE identifies program as in need of support in implementing the requirements within the timelines, which may include, but is not limited to, focused monitoring activities.</p>
ODE Long-term Enforcement: Meets Requirements
<p><i>Assigned to programs/programs when findings indicate program meets IDEA requirements. (Sec. 616 (d)(2)(A)(i) of the IDEA 2004)</i></p> <p>Any of the enforcement options under First Year Enforcement apply to Long-term Enforcement for programs that meet requirements for more than one consecutive year.</p>

ODE / Federal Determination: Need Assistance

No third year noncompliance; and

Between 50 and 94% initial compliance or through correction of noncompliance within one year; and/or

Between 50 and 94% initial compliance or between 50 and 94% compliance through correction of noncompliance within one year for one or more of the following indicators: C1, C7, C8 (A, B, C), B11, B12; and

No other data sources indicate noncompliance

AND

Data timely and accurate:

A minimum of 1 out of 3 data submissions was completed within the designated window for reporting; and

A minimum of 1 out of 3 data submissions was identified as accurate within the designated window or corrected within the designated window for correction; and

No single program data submission was completed beyond the designated window for reporting and identified as inaccurate and required correction after the designated window for correction

ODE First Year Enforcement: Need Assistance

If ODE determines that a program needs assistance implementing the requirements it will consider taking one or more of the following actions (the highlighted actions are enforcement actions taken this year by ODE):

Advises the program of available sources of technical assistance that may help address the areas in which the program needs assistance. Such technical assistance may include:

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

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

Designating and using distinguished EI/ECSE superintendents, program coordinators, teachers and others to provide advice, technical assistance, and support; and devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance and private TA providers.

Identify the program as a high-risk grantee and impose special conditions on the program's/program's grant under Part B or Part C of the Act. [34 CFR 300.604(a), 303.704(a)] [20 U.S.C. 1416(e)(1)]

ODE Long-term Enforcement: Need Assistance

If ODE determines for 2 consecutive years that a program needs assistance implementing the requirements it must consider taking one or more of the following actions (the highlighted actions are enforcement actions taken this year by ODE):

Any of the enforcement options under First Year Enforcement for needs assistance, and

Direct the use of program-level funds under section 611(e) of the Act to the area or areas in which the program needs assistance.

ODE / Federal Determination: Need Intervention:

Any third year noncompliance; or

Less than 50% initial compliance or through correction of noncompliance within one year; or

Less than 50% initial compliance or less than 50% compliance through correction of noncompliance within one year for one or more of the following indicators with Indicator C1, C7, C8 (A, B, C), B11, or B12 or through correction of noncompliance within one year;

Data verification by ODE indicates need for comprehensive review; and

No other data sources indicate noncompliance

AND

Data timely and accurate:

All 3 program data submissions were not completed within the designated window for reporting; or

All 3 program data submissions were identified as inaccurate and required correction after the designated windows for correction; or

Any single program data submission was completed beyond the designated window for reporting and identified as inaccurate and required correction after the designated window for correction

ODE First Year Enforcement: Need Intervention

If ODE determines that a program needs intervention in implementing requirements it will consider taking one or more of the following actions (the highlighted actions from needs assistance and below are enforcement actions taken this year by ODE):

The ODE may take any of the actions described in 34 CFR 300.604(a) or 34 CFR 303.704(a) (Needs Assistance).
Require the program to prepare a corrective action plan.

Prohibit the program from reducing the program's maintenance of effort under 34 CFR §300.608 or 34 CFR 300.708 for any fiscal year

ODE is not restricted from utilizing any other authority available to it to monitor and enforce the requirements of Part Band C

ODE Long-term Enforcement: Need Intervention

If the ODE determines, for three or more consecutive years, that a program needs intervention under 34 CFR 300.603(b)(1)(iii) or 34 CFR 303.703(b)(1)(iii) in implementing the requirements of Part B of the Act, it must consider taking one or more of the following actions (the highlighted actions are enforcement actions taken this year by ODE):

Any of the enforcement options under First Year Enforcement for needs intervention, and

Withhold not less than 20 percent and not more than 50 percent of the program's/program's funds under section 611(e) of the Act, until the ODE determines the program has sufficiently addressed the areas in which the program needs intervention.

Withhold, in whole or in part, any further payments to the program under Part B or C of the Act. [34 CFR 300.604(b) or 34 CFR 303.704(b)] [20 U.S.C. 1416(e)(2)]

Seek to recover funds under section 452 of GEPA.

ODE / Federal Determination: Needs Substantial Intervention

ODE reserves the right to identify a program as Needs Substantial Intervention if its substantial failure to comply significantly affected the core requirements of the program, such as the delivery of services to children with disabilities or the program's/program's exercise of general supervision, or if the program informed the ODE it was unwilling to comply.

ODE First Year Enforcement: Needs Substantial Intervention

Notwithstanding 34 CFR 300.604 (a) or 34 CFR 303.704(a)(Needs Assistance) or 34 CFR 300.604(b) or 34 CFR 303.704(b) (Needs intervention), at any time that the ODE determines that a PROGRAM needs substantial intervention in implementing the requirements of Part B and C of the Act or that there is a substantial failure to comply with any condition of program eligibility under Part B and C of the Act, the ODE may take one or more of the following actions:

Withhold, in whole or in part, any further payments to the program under Part B and C of the Act.

Recover funds under section 452 of GEPA.

Refer the case to the Office of the Inspector General at the Department of Education.

Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice. [34 CFR 300.604(c), or 34 CFR 303.704(c)] [20 U.S.C. 1416(e)(3)]

ODE long-term Enforcement: Needs Substantial Intervention

The same enforcement actions listed under First Year Enforcement apply to programs that are identified in Need if Substantial Intervention for more than one consecutive year.

Data Collections: Timely and Accurate:

- Special Education Child Count (SECC)
- Special Education Exit Collection
- Child Find

Timely: Submitted within the designated window for reporting for the specific collection

Accurate: No edits and/or error reports were generated for the program for the specific collection after the designated windows for correction.

It is a policy of the State Board of Education and a priority of the Oregon Department of Education that there will be no discrimination or harassment on the grounds of race, color, sex, marital status, religion, national origin, age, sexual orientation, or disability in any educational programs, activities or employment. Persons having questions about equal opportunity and nondiscrimination should contact the State Superintendent of Public Instruction at the Oregon Department of Education, 255 Capitol Street NE, Salem, Oregon 97310; phone 503-947-5740; or fax 503-378-4772.