

HOW THE DEPARTMENT MADE DETERMINATIONS

UNDER SECTION 616(D) OF THE
INDIVIDUALS WITH DISABILITIES EDUCATION ACT IN 2022:
FREELY ASSOCIATED STATES, OUTLYING AREAS, AND THE
BUREAU OF INDIAN EDUCATION

PART B

REVISED 06/23/2022



INTRODUCTION

In 2022, the U.S. Department of Education (Department) is continuing to use both results and compliance data in making our determination for each freely associated State, outlying area, and the Bureau of Indian Education (BIE) (Entities) under section 616(d) of the Individuals with Disabilities Education Act (*IDEA*). We considered the totality of the information we have about an Entity, including information related to the participation of children with disabilities (CWD) on regular Statewide assessments; the participation and performance of CWD on the most recently administered (school year (SY) 2018-2019) National Assessment of Educational Progress (NAEP);¹ exiting data on CWD who dropped out and CWD who graduated with a regular high school diploma;² the Entity's Federal fiscal year (FFY) 2020 State Performance Plan/Annual Performance Report (SPP/APR); information from monitoring and other public information, such as Department-imposed Specific Conditions on the Entity's grant award under Part B; the impact of COVID-19 on the Entity's ability to collect and report valid and reliable data; and other issues related to the Entity's compliance with the *IDEA*. Below is a detailed description of how the Office of Special Education Programs (OSEP) evaluated the Entities' data using the Results Driven Accountability (RDA) Matrix.

The RDA Matrix consists of:

1. a **Compliance Matrix** that includes scoring on SPP/APR Compliance Indicators and other compliance factors;
2. a **Results Matrix** that includes scoring on Results Elements;
3. a **Compliance Score** and a **Results Score**;
4. an **RDA Percentage** based on the Compliance Score and the Results Score; and
5. the Entity's **Determination**.

The scoring of each of the above evaluation criteria is further explained below in the following sections:

- A. 2022 Part B Compliance Matrix and Scoring of the Compliance Matrix
- B. 2022 Part B Results Matrix and Scoring of the Results Matrix
- C. 2022 RDA Percentage and 2022 Determination

In making the 2022 determinations based on FFY 2020 APR data, OSEP specifically considered whether and to what extent States and Entities included in the narrative for each impacted indicator: (1) a description of the impact on data completeness, validity, and/or reliability for the indicator; (2) an explanation of how COVID-19 specifically impacted that State's or Entity's ability to collect or verify the

¹ The BIE is the only Entity that administers the math and reading NAEP.

² When providing exiting data under section 618 of the *IDEA*, Entities are required to report on the number of students with disabilities who exited an educational program through receipt of a regular high school diploma. These students meet the same standards for graduation as those for students without disabilities. As explained in 34 C.F.R. § 300.102(a)(3)(iv), in effect June 30, 2017, "the term regular high school diploma means the standard high school diploma awarded to the preponderance of students in the State that is fully aligned with State standards, or a higher diploma, except that a regular high school diploma shall not be aligned to the alternate academic achievement standards described in section 1111(b)(1)(E) of the *ESEA*. A regular high school diploma does not include a recognized equivalent of a diploma, such as a general equivalency diploma, certificate of completion, certificate of attendance, or similar lesser credential."

HOW THE DEPARTMENT MADE DETERMINATIONS

data for the indicator; and (3) a description of any steps the State or Entity took to mitigate the impact of COVID-19 on the data collection and verification. OSEP appreciates States' and Entities' level of transparency regarding the impact of COVID-19 on the data reported in the FFY 2020 SPP/APR. For 2022 determinations, no State or Entity received a determination of "Needs Intervention" due solely to data impacted by COVID-19.

A. 2022 PART B COMPLIANCE MATRIX

In making each Entity's 2022 determination, the Department used a Compliance Matrix, reflecting the following data:

1. The Entity's FFY 2020 data for applicable Part B Compliance Indicators³ 4B, 9, 10, 11, 12, and 13 (including whether the Entity reported valid and reliable data for each indicator); and whether the Entity demonstrated correction of all findings of noncompliance it had identified in FFY 2019 under such indicators;
2. The timeliness and accuracy of data reported by the Entity under sections 616 and 618 of the *IDEA*;
3. The Entity's FFY 2020 data, reported under section 618 of the *IDEA*, for the timeliness of State complaint and due process hearing decisions;
4. Longstanding Noncompliance:

The Department considered:

- a. Whether the Department imposed Specific Conditions on the Entity's FFY 2021 *IDEA* Part B grant award and those Specific Conditions are in effect at the time of the 2022 determination, and the number of years for which the Entity's Part B grant award has been subject to Specific Conditions; and
- b. Whether there are any findings of noncompliance identified in FFY 2018 or earlier by either the Department or the Entity that the Entity has not yet corrected.

Scoring of the Compliance Matrix

The Compliance Matrix indicates a score of 0, 1, or 2, for each of the compliance indicators in item one above and for each of the additional factors listed in items two through four above. Using the cumulative possible number of points as the denominator, and using as the numerator the actual points the Entity received in its scoring under these factors, the Compliance Matrix reflects a Compliance Score, which is combined with the Results Score to calculate the Entity's RDA Percentage and Determination.

³ The U.S. Virgin Islands report data for Indicators 4B, 9, 10, 11, 12, and 13. Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands report data for Indicators 11, 12, and 13. The Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the BIE report data on Indicators 11 and 13.

Scoring of the Matrix for Compliance Indicators 4B, 9, 10, 11, 12, and 13

In the attached Entity-specific 2022 Part B Compliance Matrix, an Entity received points as follows for each of the Compliance Indicators 4B, 9, 10, 11, 12, and 13:⁴

- Two points, if either:
 - The Entity’s FFY 2020 data for the indicator were valid and reliable, and reflect at least 95%⁵ compliance (or, for Indicators 4B, 9, and 10, reflect no greater than 5% compliance);⁶ or
 - The Entity’s FFY 2020 data for the indicator were valid and reliable, and reflect at least 90% compliance (or, for Indicators 4B, 9, and 10, reflect no greater than 10% compliance); and the Entity identified one or more findings of noncompliance in FFY 2019 for the indicator, and has demonstrated correction of all findings of noncompliance identified in FFY 2019 for the indicator. Such full correction is indicated in the matrix with a “Yes”) in the “Full Correction of Findings of Noncompliance Identified in FFY 2019” column.⁷
- One point, if the Entity’s FFY 2020 data for the indicator were valid and reliable, and reflect at least 75% compliance (or, for Indicators 4B, 9, and 10, reflect no greater than 25% compliance), and the Entity did not meet either of the criteria above for two points.
- Zero points, under any of the following circumstances:
 - The Entity’s FFY 2020 data for the indicator reflect less than 75% compliance (or, for Indicators 4B, 9, and 10, reflect greater than 25% compliance); or
 - The Entity’s FFY 2020 data for the indicator were not valid and reliable;⁸ or
 - The Entity did not report FFY 2020 data for the indicator.⁹

⁴ A notation of “N/A” (for “not applicable”) in the “Performance” column for an indicator denotes that the indicator is not applicable to that particular Entity. The points for that indicator are not included in the denominator for the matrix.

⁵ In determining whether an Entity has met the 95% compliance criterion for Indicators 11, 12, and 13, the Department will round up from 94.5% (but no lower) to 95%. In determining whether an Entity has met the 90% compliance criterion for these indicators, the Department will round up from 89.5% (but no lower) to 90%. In addition, in determining whether an Entity has met the 75% compliance criterion for these indicators, the Department will round up from 74.5% (but no lower) to 75%. Similarly, in determining whether an Entity has met the 5% compliance criterion for Indicators 4B, 9, and 10, the Department will round down from 5.49% (but no higher) to 5%. In determining whether an Entity has met the 10% compliance criterion for these indicators, the Department will round down from 10.49% (but no higher) to 10%. In addition, in determining whether an Entity has met the 25% compliance criterion for these indicators, the Department will round down from 25.49% (but no higher) to 25%. The Department will also apply the rounding rules to the compliance criteria for 95% and 75% for: (1.) the timeliness and accuracy of data reported by the Entity under sections 616 and 618 of the IDEA; and (2.) the Entity’s FFY 2020 data, reported under section 618 of the IDEA, for the timeliness of State complaint and due process hearing decisions.

⁶ For Indicators 4B, 9, and 10, a very high level of compliance is generally at or below 5%.

⁷ A “No” in that column denotes that the Entity has one or more remaining findings of noncompliance identified in FFY 2019 for which the Entity has not yet demonstrated correction. An “N/A” (for “not applicable”) in that column denotes that the Entity did not identify any findings of noncompliance in FFY 2019 for the indicator.

⁸ If an Entity’s FFY 2020 data for any compliance indicator are not valid and reliable, the matrix so indicates in the “Performance” column, with a corresponding score of 0. The explanation of why the Entity’s data are not valid and reliable is contained in the OSEP Response to the Entity’s FFY 2020 SPP/APR in the EMAPS SPP/APR reporting tool.

⁹ If an Entity reported no FFY 2020 data for any compliance indicator (unless the indicator is not applicable to the Entity), the matrix so indicates in the “Performance” column, with a corresponding score of 0.

Scoring of the Matrix for Timely and Accurate Entity-Reported Data

In the attached Entity-specific 2022 Part B Compliance Matrix, an Entity received points as follows for Timely and Accurate Entity-Reported Data¹⁰:

- Two points, if the OSEP-calculated percentage reflects at least 95% compliance.
- One point, if the OSEP-calculated percentage reflects at least 75% and less than 95% compliance.
- Zero points, if the OSEP-calculated percentage reflects less than 75% compliance.

Scoring of the Matrix for Timely State Complaint Decisions and Timely Due Process Hearing Decisions

In the attached Entity-specific 2022 Part B Compliance Matrix, an Entity received points as follows for timely State complaint decisions and for timely due process hearing decisions, as reported by the Entity under section 618 of the *IDEA*:

- Two points, if the Entity's FFY 2020 data were valid and reliable, and reflect at least 95% compliance.
- One point, if the Entity's FFY 2020 data reflect at least 75% and less than 95% compliance.
- Zero points, if the Entity's FFY 2020 data reflect less than 75% compliance.
- Not Applicable (N/A), if the Entity's data reflect less than 100% compliance, and there were fewer than ten State complaint decisions or ten due process hearing decisions.

Scoring of the Matrix for Longstanding Noncompliance (Includes Both Uncorrected Identified Noncompliance and Specific Conditions)

In the attached Entity-specific 2022 Part B Compliance Matrix, an Entity received points as follows for the Long-Standing Noncompliance component:

- Two points, if the Entity has:
 - No remaining findings of noncompliance identified, by OSEP or the Entity, in FFY 2018 or earlier; and
 - No Specific Conditions on its FFY 2021 grant award that are in effect at the time of the 2022 determination.

¹⁰ OSEP used the Part B Timely and Accurate State-Reported Data Rubric to award points to Entities based on the timeliness and accuracy of their sections 616 and 618 data. A copy of the rubric is contained in the OSEP Response to the Entity's FFY 2020 SPP/APR in the EMAPS SPP/APR reporting tool. On page one of the rubric, entitled "Part B Timely and Accurate Data," Entities are given one point for each indicator with valid and reliable data and five points for SPP/APRs that were submitted timely. The total points for valid and reliable SPP/APR data and timely SPP/APR submission are added together to form the APR Grand Total. The Entity's section 618 data is scored based on information provided to OSEP on section 618 data timeliness, completeness, and edit checks from EDFacts. The percentage of Timely and Accurate State-Reported Data is calculated by adding the 618 Data Grand Total to the APR Grand Total and dividing this sum by the total number of points available for the entire rubric. This percentage is inserted into the Compliance Matrix.

HOW THE DEPARTMENT MADE DETERMINATIONS

- One point, if either or both of the following occurred:
 - The Entity has remaining findings of noncompliance identified, by OSEP or the Entity, in FFY 2018, FFY 2017, and/or FFY 2016, for which the Entity has not yet demonstrated correction (see the OSEP Response to the Entity's FFY 2020 SPP/APR in the EMAPS SPP/APR reporting tool; for specific information regarding these remaining findings of noncompliance); and/or
 - The Department has imposed Specific Conditions on the Entity's FFY 2021 Part B grant award and those Specific Conditions are in effect at the time of the 2022 determination.
- Zero points, if either or both of the following occurred:
 - The Entity has remaining findings of noncompliance identified, by OSEP or the Entity, in FFY 2015 or earlier, for which the Entity has not yet demonstrated correction (see the OSEP Response to the Entity's FFY 2020 SPP/APR in the EMAPS SPP/APR reporting tool for specific information regarding these remaining findings of noncompliance); and/or
 - The Department has imposed Specific Conditions on the Entity's last three (FFYs 2019, 2020, and 2021) *IDEA* Part B grant awards, and those Specific Conditions are in effect at the time of the 2022 determination.

B. 2022 PART B RESULTS MATRIX

In making each Entity's 2022 determination, the Department used a Results Matrix reflecting the following data:

1. The percentage of CWD participating in regular Statewide assessments across all available grade levels (3 through 8);
2. The percentage of fourth-grade CWD scoring at basic or above on the NAEP¹¹;
3. The percentage of fourth-grade CWD included in NAEP testing;
4. The percentage of eighth-grade CWD scoring at basic or above on the NAEP;
5. The percentage of eighth-grade CWD included in NAEP testing;
6. The percentage of CWD exiting school by dropping out; and
7. The percentage of CWD exiting school by graduating with a regular high school diploma.

The Results Elements for participation in regular Statewide assessments and participation and performance on the NAEP are scored separately for reading and math. When combined with the exiting data, there are a total of twelve Results Elements for the BIE and four Results Elements for the Entities. The Results Elements are defined as follows:

Percentage of CWD Participating in Regular Statewide Assessments

Due to the significant impact of the COVID-19 pandemic on the quality of the SY 2020-2021 Statewide assessment data, OSEP has determined that these data will not be scored on the Results Matrix to ensure that Entities' determinations are not negatively impacted by their use of COVID-19 flexibilities available with respect to assessments.¹²

Percentage of CWD Scoring at Basic or Above on the NAEP

This is the percentage of CWD, not including students with a Section 504 plan, by grade (4 and 8) and subject (math and reading), who scored at or above basic on the NAEP in SY 2018–2019. (Data Source: Main NAEP Data Explorer; data extracted 5/20/20) Percentage of CWD Included in NAEP Testing

This is the reported percentage of identified CWD, by grade (4 and 8) and subject (math and reading), who were included in the NAEP testing in SY 2018–2019. (Data Source: Nation's Report Card: National Indian Education Study, 2019):

¹¹ The BIE is the only Entity for which NAEP data are applicable as a results element. While the goal is to ensure that all CWD demonstrate proficient or advanced mastery of challenging subject matter, we recognize that States and the BIE may need to take intermediate steps to reach this benchmark. Therefore, we assessed the performance of CWD using the Basic achievement level on the NAEP, which also provided OSEP with the broader range of data needed to identify variations in student performance across States and the BIE. Generally, the Basic achievement level on the NAEP means that students have demonstrated partial mastery of prerequisite knowledge and skills that are fundamental for proficient work at each grade.

¹² The February 22, 2021, letter from the Office of Elementary and Secondary Education to Chief State School Officers offered flexibility with respect to accountability, reporting systems, and assessments for SY 2020-2021.

Inclusion rate for 4th and 8th grade reading and math:

https://nces.ed.gov/nationsreportcard/subject/nies/2019_bie_sdel_rates.pdf

Percentage of CWD Exiting School by Dropping Out

This is a calculation of the percentage of CWD, ages 14 through 21, who exited school by dropping out. The percentage was calculated by dividing the number of students ages 14 through 21 served under *IDEA* Part B, reported in the exit reason category *dropped out* for SYs 2019-2020, 2018-2019, and 2017-2018, by the total number of students ages 14 through 21 served under *IDEA* Part B, reported in the six exit-from-both-special education-and-school categories (*graduated with a regular high school diploma, graduated with an alternate diploma, received a certificate, dropped out, reached maximum age for services, and died*) for SYs 2019-2020, 2018-2019, and 2017-2018, then multiplying the result by 100.¹³ (Data source: EDFacts SYs 2019-2020, 2018-2019, and 2017-2018;; data extracted 5/26/21, 5/27/20, 5/29/19)

Percentage of CWD Exiting School by Graduating with a Regular High School Diploma

This is a calculation of the percentage of CWD, ages 14 through 21, who exited school by graduating with a regular high school diploma. The percentage was calculated by dividing the number of students ages 14 through 21 served under *IDEA* Part B, reported in the exit reason category *graduated with a regular high school diploma* for SYs 2019-2020, 2018-2019, and 2017-2018, by the total number of students ages 14 through 21 served under *IDEA* Part B, reported in the six exit-from-both-special education-and-school categories (*graduated with a regular high school diploma, graduated with an alternate diploma, received a certificate, dropped out, reached maximum age for services, and died*), exiting school in SYs 2019-2020, 2018-2019, and 2017-2018, then multiplying the result by 100. (Data source: EDFacts SYs 2019-2020, 2018-2019, and 2017-2018; data extracted 5/26/21, 5/27/20, 5/29/19)

Scoring of the Results Matrix

In the attached Entity-specific 2022 Part B Results Matrix, an Entity received points as follows for the Results Elements:

- Each Entity's participation rates on the regular Statewide assessments reflects "N/A" on the Results Matrix.
- NAEP scores (Basic and above) for each State and the BIE¹⁴ were rank-ordered, and the top, middle, and bottom thirds were determined using tertiles.¹⁵ The scores that fell in the top tertile of States and the BIE (*i.e.*, those with the highest scores) received a '2', the scores that fell in the middle tertile of States and the BIE received a '1', and the scores that fell in the bottom tertile of States and the BIE (*i.e.*, those with the lowest scores) received a '0'.

¹³ The Department will make these calculations using unsuppressed data. However, due to privacy concerns, the Department has chosen to suppress calculations made with small cell counts in the public document.

¹⁴ Because the BIE is the only Entity that administers the reading and math NAEP, the NAEP-related Results Elements reflect "N/A" for all other Entities on the Results Matrix.

¹⁵ The tertiles of a data set divide it into three equal parts.

HOW THE DEPARTMENT MADE DETERMINATIONS

- The BIE’s NAEP inclusion rate was assigned a score of either ‘0’ or ‘1’ based on whether its NAEP inclusion rate for CWD was “higher than or not significantly different from the National Assessment Governing Board [NAGB] goal of 85 percent.”¹⁶
- Each State’s data on the percentage of CWD who exited school by dropping out were rank-ordered, and the top, middle, and bottom thirds were determined using tertiles. The exiting percentages for the Entities were calculated using the percentage of CWD exiting school by dropping out in SYs 2019-2020, 2018-2019, and 2017-2018, and points were assigned. The percentages that fell in the top tertile of States (*i.e.*, those with the lowest percentage) received a score of ‘2’, percentages that fell in the middle tertile of States received a ‘1’, and percentages that fell in the bottom tertile of States (*i.e.*, those with the highest percentage) received a ‘0’.
- Each State’s data on the percentage of CWD who exited school by graduating with a regular high school diploma were rank-ordered and the top, middle, and bottom thirds determined using tertiles. The exiting percentages for the Entities were calculated using the percentage of CWD exiting school by graduating with a regular high school diploma in SYs 2019-2020, 2018-2019, and 2017-2018, and points were assigned. The percentages that fell in the top tertile of States (*i.e.*, those with the highest percentage) received a score of ‘2’, percentages that fell in the middle tertile of States received a ‘1’, and percentages that fell in the bottom tertile of States (*i.e.*, those with the lowest percentage) received a ‘0’.

The following table identifies how each of the Results Elements was scored:

Results Elements	RDA Score= 0	RDA Score= 1	RDA Score= 2
Participation Rate of CWD on Regular Statewide Assessments (reading and math, separately) based on an average of participation rates across all available grade levels (3 through 8) in which the assessment was administered.	N/A	N/A	N/A
Percentage of 4th grade CWD scoring Basic or above on reading NAEP	<22	22-27	>=28
Percentage of 8th grade CWD scoring Basic or above on reading NAEP	<27	27-31	>=32
Percentage of 4th grade CWD scoring Basic or above on math NAEP	<40	40-45	>=46
Percentage of 8th grade CWD scoring Basic or above on math NAEP	<20	20-26	>=27

¹⁶ [National Assessment Governing Board-NAGB. (2010, 2014). *NAEP Testing and Reporting on Students with Disabilities and English Language Learners - Policy Statement*. Retrieved from https://www.nagb.gov/content/dam/nagb/en/documents/policies/naep_testandreport_studentswithdisabilities.pdf.

HOW THE DEPARTMENT MADE DETERMINATIONS

Results Elements	RDA Score= 0	RDA Score= 1	RDA Score= 2
Percentage of CWD Exiting School by Graduating with a Regular High School Diploma based on the percentage of CWD exiting school by graduating with a regular high school diploma in SYs 2017-2018, 2018-2019, and 2019-2020.	<75	75-82	>=83
Percentage of CWD Exiting School by Dropping Out based on the percentage of CWD exiting school by dropping out in SYs 2017-2018, 2018-2019, and 2019-2020.	>16	16-11	<=10
Percentage of 4th and 8th Grade CWD included in NAEP testing (reading or math): 1 point if Entity’s inclusion rate was higher than or not significantly different from the NAGB goal of 85%. 0 points if less than 85%.			

Using the cumulative possible number of points as the denominator, and using as the numerator the actual points the Entity received in its scoring under the Results Elements, the Results Matrix reflects a Results Score, which is combined with the Compliance Score to calculate the Entity’s RDA Percentage and Determination.

C. 2022 RDA Percentage and 2022 Determination

The Entity’s RDA Percentage was calculated by adding 40% of the Entity’s Results Score and 60% of the Entity’s Compliance Score. The Entity’s RDA Determination is defined as follows:

Meets Requirements

An Entity’s 2022 RDA Determination is Meets Requirements if the RDA Percentage is at least 80%,¹⁷ unless the Department has imposed Specific Conditions on the Entity’s last three (FFYs 2019, 2020, and 2021) *IDEA* Part B grant awards, and those Specific Conditions are in effect at the time of the 2022 determination.

¹⁷ In determining whether an Entity has met this 80% matrix criterion for a Meets Requirements determination, the Department will round up from 79.5% (but no lower) to 80%. Similarly, in determining whether an Entity has met the 60% matrix criterion for a Needs Assistance determination discussed below, the Department will round up from 59.5% (but no lower) to 60%.

HOW THE DEPARTMENT MADE DETERMINATIONS

Needs Assistance

An Entity's 2022 RDA Determination is Needs Assistance if the RDA Percentage is at least 60% but less than 80%. An Entity's determination would also be Needs Assistance if its RDA Determination percentage is 80% or above, but the Department has imposed Specific Conditions on the Entity's last three (FFYs 2019, 2020, and 2021) *IDEA* Part B grant awards, and those Specific Conditions are in effect at the time of the 2022 determination.

Needs Intervention

An Entity's 2022 RDA Determination is Needs Intervention if the RDA Percentage is less than 60%. However, if an Entity's RDA Percentage is less than 60% based on data that were impacted by the COVID-19 pandemic, the Entity's 2022 RDA Determination is Needs Assistance instead of Needs Intervention. The Department did not make a determination of Needs Intervention for any State or Entity in 2022.

Needs Substantial Intervention

The Department did not make a determination of Needs Substantial Intervention for any State or Entity in 2022.
