

# Annual Determinations

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# Determinations

- Assigned Annually
  - State Level
  - Local Education Agency Level
- Meets Requirements
- Needs Assistance
- Needs Intervention
- Needs Substantial Intervention

# What Authority?

## **34 CFR §300.600 State monitoring and enforcement.**

(a) The State must—

(1) Monitor the implementation of this part;

(2) Make determinations annually about the performance of each LEA using the categories in §300.603(b)(1);

(3) Enforce this part, consistent with §300.604, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in §300.604(a)(1) (technical assistance), (a)(3) (conditions on funding of an LEA), (b)(2)(i) (a corrective action plan or improvement plan), (b)(2)(v) (withholding funds, in whole or in part, by the SEA), and (c)(2) (withholding funds, in whole or in part, by the SEA); and

# Why?

(c) As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans.

(d) The State must monitor the LEAs located in the State, using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Provision of FAPE in the least restrictive environment.

(2) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in §300.43 and in 20 U.S.C. 1437(a)(9).

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

(e) In exercising its monitoring responsibilities under paragraph (d) of this section, the State must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance.

# How?

## **34 CFR §300.604 Enforcement.**

(a) *Needs assistance.* If the Secretary determines, for two consecutive years, that a State needs assistance under §300.603(b)(1)(ii) in implementing the requirements of Part B of the Act, the Secretary takes one or more of the following actions:

(1) Advises the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and requires the State to work with appropriate entities. Such technical assistance may include—

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

- (ii) Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;
  - (iii) Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and
  - (iv) 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 Act, and private providers of scientifically based technical assistance.
- (2) Directs the use of State-level funds under section 611(e) of the Act on the area or areas in which the State needs assistance.
- (3) Identifies the State as a high-risk grantee and imposes special conditions on the State's grant under Part B of the Act.

# Needs Assistance

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graph TD; A[Needs Assistance] --- B[Advise the LEA of available sources of technical assistance]; A --- C[Direct funds on the area or areas in which the LEA needs assistance]; A --- D[Identify LEA as high-risk grantee and impose special conditions];
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Advise the LEA of available sources of technical assistance

Direct funds on the area or areas in which the LEA needs assistance

Identify LEA as high-risk grantee and impose special conditions

(b) *Needs intervention.* If the Secretary determines, for three or more consecutive years, that a State needs intervention under §300.603(b)(1)(iii) in implementing the requirements of Part B of the Act, the following shall apply:

(1) The Secretary may take any of the actions described in paragraph (a) of this section.

(2) The Secretary takes one or more of the following actions:

(i) Requires the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within one year.

(ii) Requires the State to enter into a compliance agreement under section 457 of the General Education Provisions Act, as amended, 20 U.S.C. 1221 *et seq.* (GEPA), if the Secretary has reason to believe that the State cannot correct the problem within one year.

(iii) For each year of the determination, withholds not less than 20 percent and not more than 50 percent of the State's funds under section 611(e) of the Act, until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.

(iv) Seeks to recover funds under section 452 of GEPA.

(v) Withholds, in whole or in part, any further payments to the State under Part B of the Act.

(vi) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice.



# Needs Intervention

Any of the actions from the needs assistance category above

CAP or Improvement Plan

Compliance agreement

Withhold Funds

Recover funds

Refer to appropriate enforcement action

(c) *Needs substantial intervention.* Notwithstanding paragraph (a) or (b) of this section, at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of Part B of the Act or that there is a substantial failure to comply with any condition of an SEA's or LEA's eligibility under Part B of the Act, the Secretary takes one or more of the following actions:

- (1) Recovers funds under section 452 of GEPA.
- (2) Withholds, in whole or in part, any further payments to the State under Part B of the Act.
- (3) Refers the case to the Office of the Inspector General at the Department of Education.
- (4) Refers the matter for appropriate enforcement action, which may include referral to the Department of Justice

## Needs Substantial Intervention

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graph TD; A[Needs Substantial Intervention] --- B[Provide technical assistance]; A --- C[Withholds, in whole or in part, any further payment to the LEA Under Part B of the Act]; A --- D[Conditions on Funding]; A --- E[Corrective Action Plan or Improvement Plan];
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Provide technical  
assistance

Withholds, in whole or  
in part, any further  
payment to the LEA  
Under Part B of the Act

Conditions on Funding

Corrective Action Plan  
or Improvement Plan

# How does the state make annual determinations?

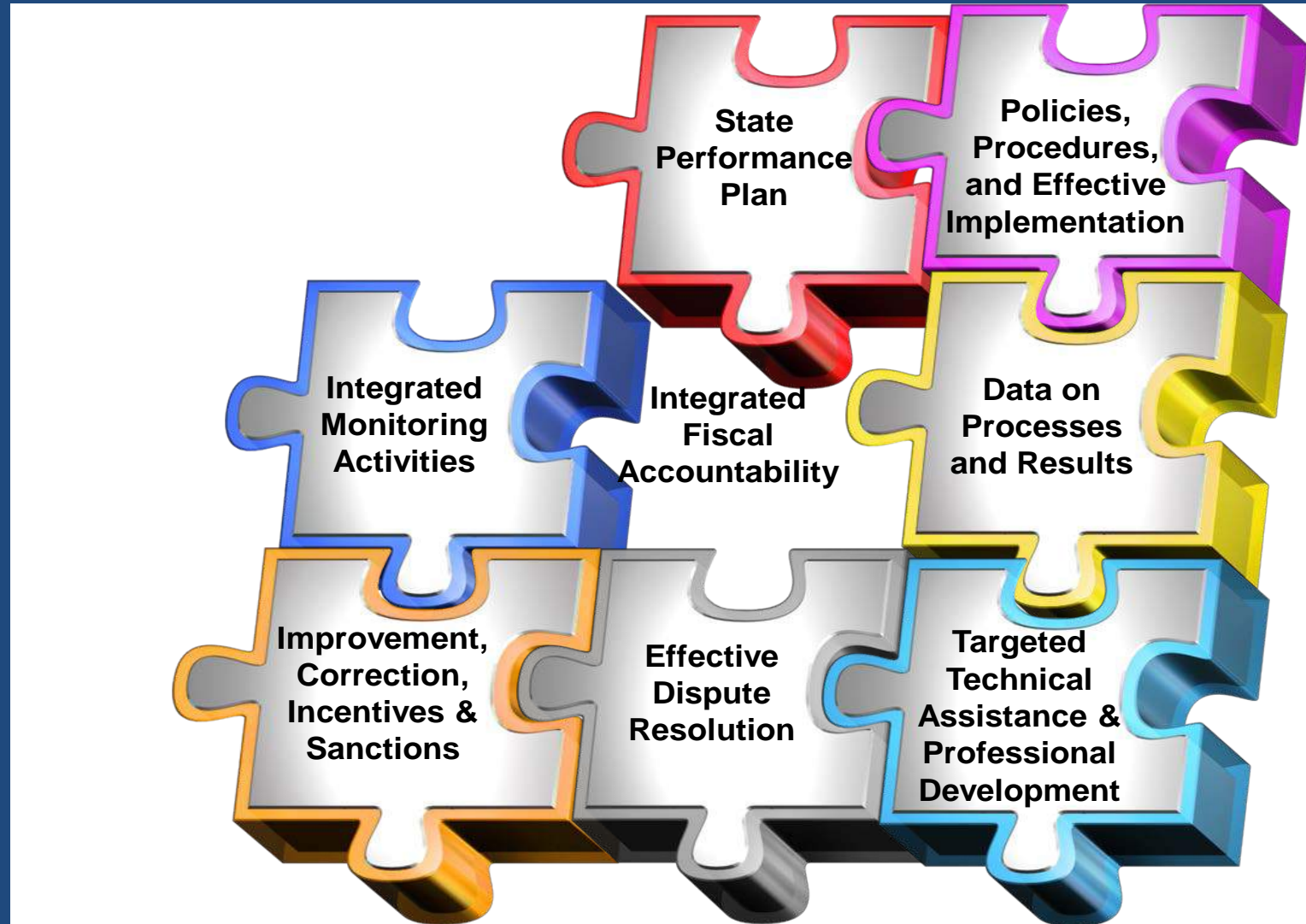
- Indicators:
  - 4 a and 4 b (long-term suspensions and expulsions)
  - 9 and 10 (disproportionate representation due to inappropriate identification)
  - 11 (60 day timeline for initial evaluation)
  - 12 (Part C to Part B transition prior to child turning 3 years old)
  - 13 (Secondary transition)

Note: these indicators apply to students with disabilities under IDEA and State Rules (excludes gifted only students)

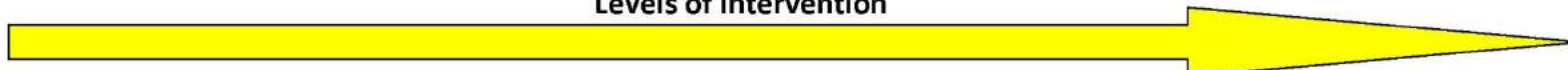
# How does the state make annual determinations?

- Valid and Reliable data
- Timely and accurate data
- Magnitude of problem/concern
- Length of time problem/concern consisted
- Single Audit
- Unresolved noncompliance including due process hearings and formal complaints

*New Mexico's Integrated Special Education Accountability System – A Comprehensive Monitoring Approach to Improving Outcomes for Students with Disabilities.*



## Levels of Intervention



	Desk Top Monitoring	Monitoring through Improvement Plan	Invite LEA to SEB trainings and webinars	*Sub-grant to LEA to meet Targets	Technical Assistance on Missed Targets at LEA Level	Professional Development at LEA Level on Missed Targets	Collaborative Profess. Dev. T.A., and on-site (SEB and TAESE)	Mandatory Webinar Training	On site visits/ support SEB and contractor	LEA staffing review	Prescribed profess. Dev. and T.A.	Optional Corrective Action Plan (CAP) (collaborative)	**CAP prescribed	** SETAT	***Direct Funds
Meets Requirements															
Needs Assistance Year One															
Needs Assistance Year Two															
Needs Assistance Year Three plus															
Needs Intervention Year One															
Needs Intervention Year Two												Some prescription			
Needs Intervention Year Three plus															

\* Requires annual submission to SEB in June

\*\* TAESE (Utah State University – Technical Assistance for Excellence in Special Education)

\*\*\*Depends on magnitude, length of time, and LEA Response

Fiscal Monitoring will be randomly selected each year

### **Tier Three**

SETAT

Direction of Funds to address noncompliance

Unannounced on-site visits

Prescribed Technical Assistance

Prescribed Professional Development

Prescriptive Corrective Action Plan

### **Tier Two**

Announced on-site visit

REC Intervention

Letter from State Director or Data Supervisor

Targeted Technical Assistance and/or Professional Development

Communication with Superintendent

Subgrant for LEA to address noncompliance

Intervention by Division Director or Deputy Secretary

### **Tier One**

Video or phone conferencing with LEA

Letter or email from SEB Staff

Face-to-Face with LEA

Invite LEA to General Supervision meetings

FYI to REC

Technical assistance and support by SEB staff

Special Education Directors' Academies

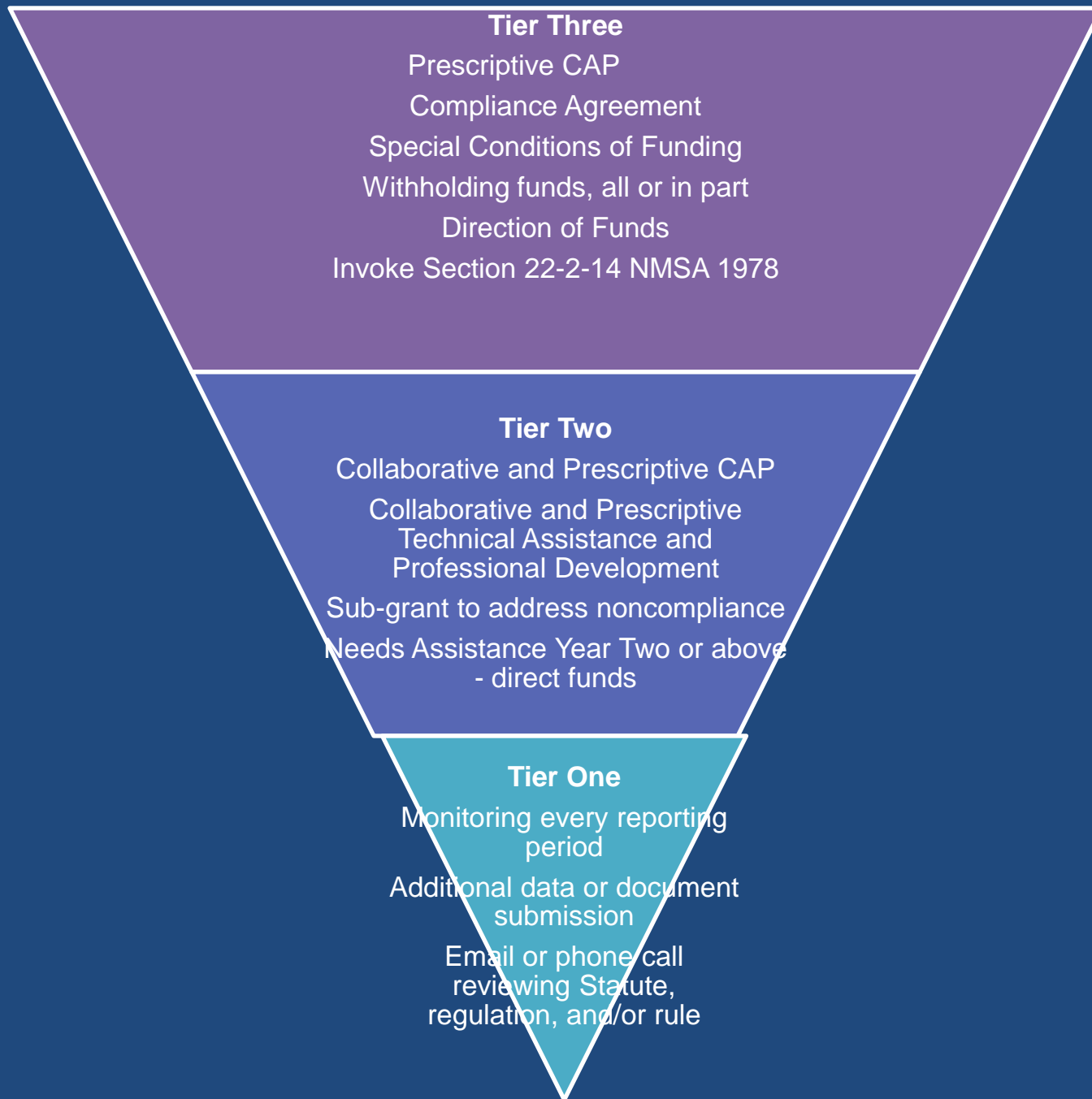
List of Available Resources

STARS monitoring reports and tools

On-line trainings

Regional trainings





# Other Information

- Public Reporting on Performance of Indicators
  - 34 CFR § 300.602
  - SEB Website
- Maintenance of Effort
  - 34 CFR § 300.205

# State's Determination

- Needs Assistance
  - Year three



# New Mexico

## 2016 Part B Results-Driven Accountability Matrix

### Results-Driven Accountability Percentage and Determination<sup>1</sup>

Percentage (%)	Determination
70.42	Needs Assistance

### Results and Compliance Overall Scoring

	Total Points Available	Points Earned	Score (%)
Results	24	11	45.83
Compliance	20	19	95.00

### 2016 Part B Results Matrix

#### Reading Assessment Elements

Reading Assessment Elements	Performance (%)	Score
Percentage of 4th Grade Children with Disabilities Participating in Regular Statewide Assessments	91.07	2
Percentage of 8th Grade Children with Disabilities Participating in Regular Statewide Assessments	89.28	1
Percentage of 4th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	15	0
Percentage of 4th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	93	1
Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	21	0
Percentage of 8th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	89	1

#### Math Assessment Elements

Math Assessment Elements	Performance (%)	Score
Percentage of 4th Grade Children with Disabilities Participating in Regular Statewide Assessments	91.18	2
Percentage of 8th Grade Children with Disabilities Participating in Regular Statewide Assessments	90.69	2
Percentage of 4th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	38	0
Percentage of 4th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	88	1
Percentage of 8th Grade Children with Disabilities Scoring at Basic or Above on the National Assessment of Educational Progress	19	0
Percentage of 8th Grade Children with Disabilities Included in Testing on the National Assessment of Educational Progress	90	1

#### Exiting Data Elements

Exiting Data Elements	Performance (%)	Score
Percentage of Children with Disabilities who Dropped Out	24	0
Percentage of Children with Disabilities who Graduated with a Regular High School Diploma <sup>1</sup>	32	0

<sup>1</sup> For a detailed explanation of how the Compliance Score, Results Score, and the Results-Driven Accountability Percentage and Determination were calculated, review "How the Department Made Determinations under Section 616(d) of the *Individuals with Disabilities Education Act* in 2016: Part B."

2016 Part B Compliance Matrix

Part B Compliance Indicator <sup>2</sup>	Performance (%)	Full Correction of Findings of Noncompliance Identified in FFY 2013	Score
Indicator 4B: Significant discrepancy, by race and ethnicity, in the rate of suspension and expulsion, and policies, procedures or practices that contribute to the significant discrepancy and do not comply with specified requirements.	1.37	N/A	2
Indicator 9: Disproportionate representation of racial and ethnic groups in special education and related services due to inappropriate identification.	0	N/A	2
Indicator 10: Disproportionate representation of racial and ethnic groups in specific disability categories due to inappropriate identification.	0	N/A	2
Indicator 11: Timely initial evaluation	99.34	No	2
Indicator 12: IEP developed and implemented by third birthday	97.9	Yes	2
Indicator 13: Secondary transition	96.36	No	2
Timely and Accurate State-Reported Data	97.62		2
Timely State Complaint Decisions	94.74		2
Timely Due Process Hearing Decisions	100		2
Longstanding Noncompliance			1
Special Conditions	None		
Uncorrected identified noncompliance	Yes, 2 to 4 years		

<sup>1</sup> Graduated with a regular high school diploma as defined under the *IDEA* Section 618 State-reported data: These students exited an educational program through receipt of a high school diploma identical to that for which students without disabilities are eligible. These students met the same standards for graduation as those for students without disabilities. As defined in 34 CFR §300.102(a)(3)(iv), "the term regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or general educational development credential (GED)."

<sup>2</sup> The complete language for each indicator is located in the Part B SPP/APR Indicator Measurement Table at: <https://osep.grads360.org/#communities/pdc/documents/4603>

Results			
Designation	Factors	Existing/Current Engagement	New Engagement
Intensive	<ul style="list-style-type: none"> <li>25% Dropout Rate</li> <li>42% Graduation Rate</li> </ul> <hr/> <p>Performance of CWD on the National Assessment of Educational Progress (NAEP):</p> <ul style="list-style-type: none"> <li>4<sup>th</sup> grade Reading - 14% scoring at basic or above</li> <li>8<sup>th</sup> grade Reading - 26% scoring at basic or above</li> <li>4<sup>th</sup> grade Math - 40% scoring at basic or above</li> <li>8<sup>th</sup> grade Math - 20% scoring at basic or above</li> </ul>	OSEP continues to make information and TA resources available, and provide universal support.	<p>OSEP will provide intensive monitoring and support in the following areas:</p> <ul style="list-style-type: none"> <li>improving dropout and graduation rates for CWD;</li> <li>improving reading and math proficiency</li> </ul>

# Next Steps

- On-site OSEP visit
- Differentiated Monitoring Plan
  - Drop Out Rates
  - Graduation Rates
  - Correctional Education
- Technical Assistance

