

LOCAL PROGRAM DETERMINATION PROCESS

KANSAS INFANT-TODDLER SERVICES

OVERVIEW

Under the Individuals with Disabilities Education Act of 2004 (IDEA) sections 616 and 642, each state has a State Performance Plan (SPP) that evaluates the state's efforts to implement the requirements and purposes of Part C of the IDEA; and describes how the state will improve its implementation of Part C services. Each state is also required to submit an Annual Performance Report (APR) that describes the state's 1) progress or slippage in meeting the measurable and rigorous targets established in the SPP; and 2) any revisions to the state's targets, improvement activities, timelines, or resources in the SPP and justifications for the revisions. As part of the Federal Office of Special Education Programs' (OSEP's) performance evaluation process, states are required to make **determinations** of each Part C Early Intervention Services (EIS) program within the state.

WHAT ARE DETERMINATIONS?

According to 616(a)(1)(C)(i) and 300.600(a) of the Individuals with Disabilities Education Act of 2004 (IDEA 2004), States are required to make "determinations" under 616(d) on the performance of Local Education Agencies and Early Intervention Service programs. Essentially, determinations are a way of designating the status of each EIS program in relation to one of four categories: (1) *Meets Requirements*, (2) *Needs Assistance*, (3) *Needs Intervention*, and (4) *Needs Substantial Intervention*. As implied, these categories represent various intensities of technical assistance and/or intervention. Each State is required to make such a determination using these categories for each and every EIS program within the state on an annual basis. The U.S. Department of Education—through the Office of Special Education Programs (OSEP) — is also required to make a determination for every state and U.S. territory.

CONSIDERATIONS FOR MAKING DETERMINATIONS

In making the determinations, states are required to consider the following: (1) EIS program performance on compliance indicators, (2) whether the data submitted are valid, reliable, and timely, (3) uncorrected noncompliance from other sources, and (4) any audit findings. In addition to these requirements, states may also consider EIS performance on results indicators. Other than the required and discretionary considerations indicated above, there are no specific requirements regarding the *process* a state must follow in making determinations. As such, each state is left to decide the general approach that will be used, who will be involved, and what criteria will be used to identify the status of each EIS program within the four required categories. The state's lead agency must inform each EIS program of the state's determination regarding that EIS program. Beginning in 2012, determinations will only be made based upon compliance indicators (1, 7, 8, 9, 10, 11, and 14).

INFORMATION IN THIS PACKET

This packet of materials includes the framework that the state lead agency will use in making a program determination.

- 1) An information sheet that specifies:
 - a. Definitions for determination categories
 - b. Local program scoring rubric
 - c. General corrective action processes
 - d. A definition of special circumstances that may result in special action
 - e. An appeal process
- 2) The current year's determination worksheet
- 3) State of Kansas targets, as reported to OSEP.

DEFINITION FOR DETERMINATION CATEGORIES (BY INDICATOR):

Meets Requirements: Local performance is at or above the required percentage for the given indicator. (0 points)

Needs Assistance: Local performance on a given indicator is below the required percentage for *one or two consecutive years*. (1 point)

Needs Intervention: Local performance on a given indicator is below the required percentage for *three consecutive years*. (2 points)

Needs Substantial Intervention: Local performance on a given indicator is below the required percentage for *four consecutive years*. (3 points)

LOCAL NETWORK DETERMINATION COMPOSITE SCORING

Meets Requirements	0 points
Needs Assistance	1 – 2 points
Needs Intervention	3 – 4 points
Needs Substantial Intervention	≥ 5 points

Individual EIS program determination categories will be determined by taking a total of the points accumulated on the following indicator worksheet based on the point system outlined above. (For example, if an EIS program *needs assistance* in two compliance indicators and *needs intervention* in one compliance indicator, based on the scoring system outlined above, the EIS program has accumulated four points. This correlates to a composite EIS program determination of *Needs Intervention*). Points are accumulated by indicator, as outlined on the subsequent worksheet. The total sum of points serves as the measure of determination categories.

CORRECTIVE ACTION:

Corrective action for programs that do not meet requirements, as identified by the state lead agency, will include but not be limited to:

Meets Requirements: None

Needs Assistance:

- 1) Advise programs of available sources of technical assistance to address areas on which the program needs assistance and issue a pre-finding notice, or
- 2) Require programs to prepare or implement a corrective action plan to correct the identified areas, or
- 3) Identification as a high-risk grantee and imposition of conditions on use of funds.

Needs Intervention: Any or all of the above, and:

- 1) Require programs to prepare or implement a corrective action plan to correct the identified areas, or
- 2) Withhold in whole or in part, further payments.

Needs Substantial Intervention: Any or all of the above, and/or withhold, in whole or in part, any Part C funds.

SPECIAL CIRCUMSTANCES:

On occasion, an event may occur in a local program that requires special consideration for corrective action. Such events include but are not limited to: audit findings, criminal action, blatant disregard for Federal or state statutes, and gross negligence. In the event of a special circumstance, a review committee will be established to evaluate the concern and offer a recommendation to KDHE on a course of corrective action. A special circumstance may result in a change in an EIS program's level of determination, depending on the nature or severity of the circumstance.

APPEAL PROCESS:

- 1) An appeal must be in writing and received by KDHE within 60 days of the release of the determination.
- 2) **Only data inaccuracies can be appealed.** An appeal must include supporting data that identifies an inaccuracy in state determination data.
- 3) A determination is derived from data collected during a specific reporting period, and only data collected for the period in question will be considered.
- 4) A local program's determination is derived from relevant empirical data, and cannot be adjusted to consider anecdotal evidence or data collected from other sources. The state lead agency will only consider an appeal of empirical data from sources required by the state.
- 5) An appeal should be directed to the Director of Children's Developmental Services, Kansas Department of Health and Environment, Curtis State Office Building, 1000 SW Jackson, Suite 220, Topeka, KS 66612-1274.