

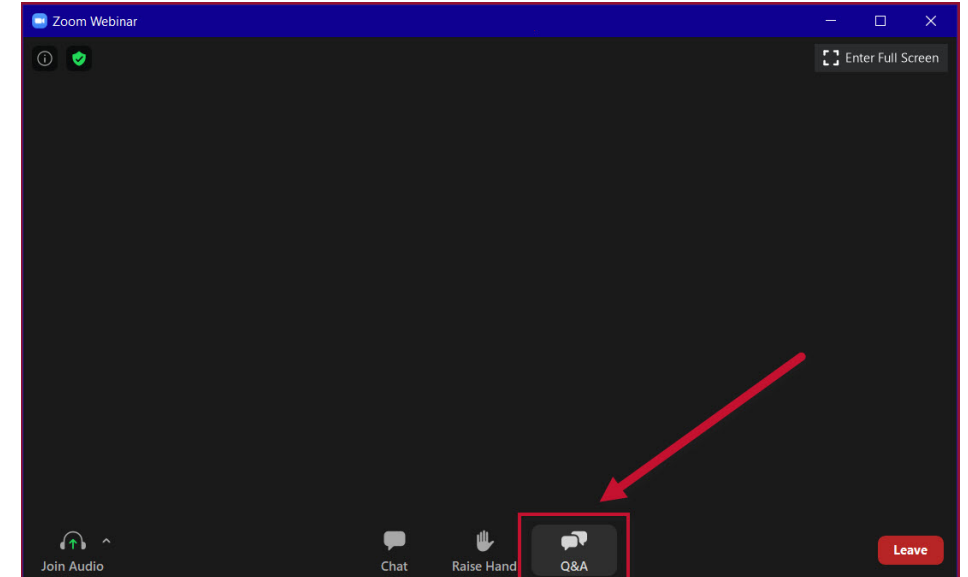
# OSEP MONTHLY TECHNICAL ASSISTANCE CALL

**DMS 2.0 PROCESS AND REVIEW**

NOVEMBER 18, 2021

# Logistics

- ▶ All attendees will be muted for the majority of this webinar.
  - At times, you may be prompted to “raise your hand” if you would like to ask a question. You will be unmuted and re-muted by an organizer.
- ▶ To submit questions for speakers, enter your question in the “Q&A” tab in your control panel.



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# Agenda

- ▶ Welcome
- ▶ OSEP Funded TA Centers and DMS
- ▶ General Supervision
  - Expectations for General Supervision (generally and during the Pandemic)
  - Timely Identification and Correction of Noncompliance
  - Reminders on 09-02
- ▶ Equity Considerations
- ▶ APR Reporting on Compliance and Correction

# OSEP Funded TA Centers

## Our TA Centers as your partners:

- ▶ DaSY, ECTA, NCSI and IDC have all provided on going support on DMS
- ▶ OSEP encourages States to make full use of their assistance throughout the DMS process:
  - Utilize their tools | Participate in Cohort Meetings | Seek help in understanding the DMS process
  - Look at OSEP's protocols together | Address gaps in your systems
  - Engage as thought partners on your systems of general supervision and program improvement | Address corrective actions
- ▶ Consider support from other TA Centers as appropriate, such as CADRE, CIFR, NTACTION, NCEO and ECPC

# OSEP Monitoring Responsibilities

- ▶ Our mission is to lead the nation's efforts to improve outcomes for infants, toddlers, and children with disabilities, birth through 21, and their families by ensuring access to fair, equitable, and high-quality education and services.
- ▶ In addition to providing technical assistance, OSEP's core role is to monitor States to ensure they are administering IDEA in a manner consistent with the requirements under the IDEA.
- ▶ OSEP has continued to hold States accountable for implementing the IDEA throughout the COVID-19 pandemic through its monitoring and oversight of State systems.

# OSEP Accountability

- ▶ In general, the Department uses two mechanisms for holding States accountable for meeting the requirements of IDEA:
  1. Review of SPP/APR resulting in the issuing of determinations; and
  2. Monitoring through DMS.
- ▶ During the pandemic, as in all other times, when the Department identified a State's noncompliance with IDEA requirements, regardless of the mechanism, it has continued to issue written findings and require the State to implement appropriate corrective action.

# Expectations for General Supervision (General)

- ▶ **Part B** – State Education Agencies (SEAs) (a) carry out their general supervisory responsibilities under 34 C.F.R. § 300.149 to ensure the requirements of Part B are carried out and each educational program for children with disabilities meets the educational standards of the SEA.
- ▶ **Part C** – Lead Agencies (LAs) (a) carry out their general supervisory responsibilities under 34 C.F.R. § 303.120: (b) monitor implementation of IDEA Part C requirements with primary focus of the State’s monitoring efforts on improving early intervention results and functional outcomes for all infants and toddlers with disabilities and ensuring EIS programs meet Part C requirements.

# Expectations for General Supervision (General)

- ▶ States must Ensure full implementation of IDEA (i.e., Part B grants under section 611 and section 619 and Part C).
- ▶ Primary focus of monitoring is:
  - 1) Improving educational results and functional outcomes for infants and toddlers with disabilities and their families and children with disabilities; and
  - 2) Ensuring that public agencies and early intervention services (EIS) providers meet the program requirements under IDEA



# General Supervision and the Pandemic

- ▶ States must issue findings for noncompliance attributed to the pandemic as appropriate.
- ▶ For those areas directly impacted by the pandemic, States can consider local implementation efforts, mitigation, and remediation in determining whether the specific steps that an LEA/EIS provider has taken or is taking to correct the noncompliance.
- ▶ As discussed in [OSEP Memo 09-02](#), regardless of the specific level of noncompliance, if a State finds noncompliance in an LEA/EIS provider, the State must notify the LEA/EIS provider in writing of the noncompliance.

# Identification and Correction of Noncompliance

- ▶ For both Part B and Part C, in exercising monitoring responsibilities, the State must ensure that when it identifies noncompliance with the requirements, the noncompliance is corrected as soon as possible and in no case later than one year after the State's identification of noncompliance. 34 C.F.R. §§ 300.600(c) and 303.700(e).
- ▶ Each State must have a general supervision system that is reasonably designed to identify noncompliance in a timely manner and to ensure any identified noncompliance is corrected within the one-year timeline.

# Correction of Noncompliance

- ▶ [OSEP Memo 09-02](#) provides the standards for demonstrating correction
- ▶ These standards apply both to:
  - Monitoring findings and,
  - Reporting on correction in the APR

# Past OSEP General Supervision Findings

- ▶ Monitoring on SPP/APR Indicators is not sufficient
- ▶ States must have mechanisms to address credible allegations of noncompliance
- ▶ States must have mechanisms to monitor all local programs in reasonable amount of time
- ▶ States must ensure correction of noncompliance within one year
  - This includes corrective actions required by State complaint investigations and due process hearings
  - States should consider all available enforcement actions to ensure compliance

# Additional Past General Supervision Findings

- ▶ States did not issue findings in a reasonable amount of time after discovery of noncompliance
- ▶ States use of a percentage threshold, of any amount less than 100%, for identifying noncompliance
- ▶ States did not have components within their systems of general supervision that were reasonably designed to ensure correction of identified noncompliance in a timely manner.
- ▶ In addition, some States although verifying the correction of individual noncompliance were not, as required, reviewing updated data or otherwise monitoring to ensure that an LEA/EIS provider was currently implementing the specific regulatory requirements that formed the basis of the finding of noncompliance.

# Integrated Monitoring

## PART B/C INTEGRATED MONITORING

A. What components of the State's general supervision system are used to identify noncompliance and improved results and functional outcomes?

[34 C.F.R. §§ 300.149\(a\) & \(b\)](#) and [300.600\(b\)](#); [34 C.F.R. §§ 303.120\(a\) & \(b\)](#) and [303.700\(b\)](#)

### General Information

The State must be able to describe –

- The components of its general supervision and monitoring system.
- How it uses its data system(s) to identify noncompliance and improved results and functional outcomes, if applicable.
- How it is using its dispute resolution system (complaints, due process) to track and determine whether noncompliance was identified and whether further follow-up and correction are required (See also separate Dispute Resolution Protocol); and whether it has procedures in place to track and conduct appropriate follow up when there are informal allegations of noncompliance from credible sources that are not yet the subject of a formal State complaint or due process complaint.
- Any other components—such as self-assessments, desk audits, State Performance Plan/Annual Performance Report (SPP/APR) data, and other relevant data sources—it uses to identify noncompliance, results and functional outcomes.

# Equity Considerations

- ▶ DMS monitoring addresses equity for both Part B and Part C through examinations of topics including, but not limited to; significant disproportionality, disproportionate representation, discipline, child find, and evaluations.
- ▶ In their oversight of local programs, States should ensure equitable treatment of all eligible students with disabilities with a particular focus on those who are:
  - From low-income backgrounds
  - Racial or ethnic minorities
  - English learners
  - Experiencing homelessness

# APR Reporting on Correction

- ▶ To demonstrate correction, States must describe how each LEA/EIS program with noncompliance is:
  1. Correctly implementing the regulatory requirement (e.g., achieved 100% compliance based on the State's review of updated data)
  2. Has corrected each individual instance of child-specific noncompliance unless the child is no longer in the jurisdiction of the LEA/EIS program



# APR Reporting During the Pandemic

- ▶ OSEP expects States and Entities to report on compliance and correction of findings in the FFY 2020 SPP/APR. However, if COVID-19 impacted the ability to correct findings, OSEP will specifically consider whether and to what extent States and Entities have included in the narrative for each impacted indicator:
  - A description of the impact on data completeness.
  - An explanation of how COVID-19 specifically impacted that State's or Entity's ability to collect or verify the data for the indicator.
  - A description of any steps the State or Entity took to mitigate the impact of COVID-19 on the data collection and verification.



# OSEP

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