

***NDE SPECIAL EDUCATION  
PART B FOCUSED MONITORING  
PROCESS***

*A Guide for Implementing Monitoring Activities in Support of Program Improvement*

January 2021

*School District Monitoring Protocol*

## Introduction

Improving educational results for children with disabilities requires a continued focus on the full implementation of IDEA to ensure that each child's educational placement and services are determined on an individual basis, according to the unique needs of each child, and are provided in the least restrictive environment. Focused monitoring provides an opportunity for the district to link the findings from the monitoring activities to support the implementation of a targeted improvement plan.

## Overview

The federal regulations require states to monitor the implementation of IDEA. The primary focus of the state's monitoring must be on:

**Ensuring that school districts in the state meet the requirements of the Individuals with Disabilities Education Act (IDEA), with particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.**

The Office of Special Education monitors districts annually based on a weighted risk analysis of all Special Education data submitted. Through the analysis, districts then receive a focused or differentiated monitoring in four priority areas.

### The Monitoring Priority Areas<sup>1</sup> are:

1. Provision of a free appropriate public education (FAPE) in the in the Least Restrictive Environment (LRE) including compliance with the requirements of the Individualized Education Plan (IEP);
2. Procedural Safeguards;
3. General Supervision including:
  - a) Child Find (evaluation and identification of children and youth with disabilities)
  - b) Transition
4. Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

## Principles of Monitoring and Outcomes

1. Ensure compliance with the IDEA and 92 NAC 51 through individualized district response and implementation.
2. Support the linkages between compliance and improvement (RDA) by collecting data to support improvement activities leading to improved outcomes for students with disabilities.

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<sup>1</sup> 34 CFR 300.600

## NE Counts – Annual Weighted, Risk Analysis

The Office of Special Education (OSE) monitors districts on an annual basis using a weighted, risk analysis called NE Counts. The goal of NE Counts is to create a comprehensive process that looks at all districts across a variety of factors/indicators that affect outcomes for students with disabilities. This process uses a risk analysis to identify districts whose data may indicate a district is at high, medium, or low risk for improving outcomes for students with disabilities. From this process, 20% of districts in the high-risk category will then engage in the focused (differentiated) monitoring process for that calendar year. The focused (differentiated) monitoring process will include the development of a data profile in which districts will have the opportunity to provide the story behind the data in order to drive support needed to ensure students with disabilities are successful. From here, the process will engage districts in a more meaningful dialogue regarding the data that districts currently report, enhancing a communication system between NDE and the district to develop improvements in moving Nebraska forward.

## Focused Monitoring

The NDE- OSE focused monitoring process is a differentiated process that allows for individualization at the District level. The framework for Focused Monitoring is composed of three (3) components:

1. A District **Data Collection** which is an opportunity for the District to provide current data and information in the build out of their profiles.
2. The **Desk Review** completed by the NDE Special Education Monitoring Team.
3. The **Monitoring Summary Meeting** which is completed with the School District, and participants include the NDE Special Education Monitoring Team Members, District staff, and ESU Support Personnel (if desired).

### District Data Collection

(See Protocol Step 2)

Districts will be asked to participate in several data collection methods.

### Priority Areas: FAPE, Identification, Procedural Safeguards, and General Supervision

FAPE			Identification/ Procedural Safeguards	General Supervision/ Individualized Education Program	
Least Restrictive Environment	Discipline	Transition Program			
Indicator 5 Indicator 6	Indicator 4 Indicator 9 Indicator 10	Indicator 1 Indicator 2 Indicator 12 Indicator 13 Indicator 14	Indicator 8 Indicator 9 Indicator 10 Indicator 11	Indicator 3 Indicator 12 Indicator 13 File Review (IEP, PWN, etc) Policies and Procedures	Indicator 15 Indicator 16

### Desk Review

(See Protocol Step 3)

The NDE Monitoring Team will utilize information gathered within the District Data Collection and will review student files to analyze the results and the impact on the priority areas to determine the elements for completing the Monitoring Summary Meeting.

### Monitoring Summary Meeting

(See Protocol Step 4)

Following the completion of the Desk Review, the NDE Monitoring Team will conduct a summary meeting with district representatives to collect additional information and/or data that will assist in the outlining of any improvement activities.

### Identification of Areas of Improvement/Findings

(See Protocol Step 5)

Following the Desk Review and the Monitoring Summary Meeting, the NDE Monitoring Team will recap the findings from the Desk Review and recommendations for areas of improvement.

# Protocol Steps for Part B Focused Monitoring Year 1

## **Step 1 - Notification of Special Education Monitoring**

Districts selected in the 20% pull of weighted, risk analysis are notified that they will participate in the Part B Focused Monitoring Process for that calendar year.

The District Superintendent and Director of Special Education will receive notification in February of the calendar year. A copy of the letter will be posted on the ILCD portal, under the Accountability tab for future reference.

## **Step 2 - District Notification and Review of Existing Data**

Districts will receive notification from the Office of Special Education containing the following:

- Monitoring Team and Lead Contact;
- Instructions on completion of Policies and Procedures on ILCD 3.0;
- Monitoring Protocol; and
- NE Counts Data Snapshot

Districts are asked to upload -Policies and Procedures into ILCD by March 15.

## **Step 3 – Desk Review**

Districts will be assigned an NDE Monitoring Team who will utilize the most recent child count information. The districts will be notified of the student files to be reviewed as part of the NDE Desk Review. The District may:

1. Provide access to their electronic student system (SRS, Infinite Campus, etc.), or
2. Provide the paper version of the student files sent via secure email.

**The following items are part of the Desk Review:**

- Forms Review  
To determine whether the district has practices in place which are likely to result in full implementation of the special education regulations; NDE will review the school district forms for documenting and implementing IDEA and Rule 51 regulations.
- Policies, Procedures and Practices

School Districts are required to have policies, procedures, and practices which are consistent with the requirements of the IDEA and Rule 51.

- **Complaint Investigations and Due Process Cases**  
Complaints and due process hearings filed within the previous year, with instances of noncompliance identified and corrected through either of these processes must be included in the student file review to ensure that corrections continue to be in place.
- **Correction of Previously Identified Noncompliance**  
As part of the Desk Review, the NDE Special Education Monitoring Team will review any previous letter of findings of non-compliance. The NDE Monitoring Team will note any corrective actions taken by the district to ensure correction.
- **Previous fiscal reviews or sub-recipient fiscal reviews**  
Fiscal reviews or sub-recipient fiscal reviews conducted during the previous year will be reviewed to determine whether it is necessary to review specific standards during the Focused Summary Meeting. If a fiscal review or sub-recipient review resulted in a finding of noncompliance, the standard which was the basis for that finding must be reviewed during the on-site visit.
- **Data: Performance Report, Nebraska Education Profile, Trend Data**  
Data from the Performance Report, Nebraska Education Profile, and related trend data is reviewed. Significant elements or results will be discussed and an analysis of the impact on the priority areas of monitoring.
- **Review of District Files**  
The NDE Monitoring Leads, in collaboration with the Data Team, will select the student files to be reviewed during the desk review. The number of students within the district will have an impact on the number of files reviewed during the desk review. During the desk review a targeted review of the student files (including pre-school and transition age) will be completed which may include all priority areas (see page 1). This will be determined from a review of the district's data portfolio. Pursuant to 92 NAC 004.01; 34 CFR 300.600, The NDE, Office of Special Education, maintains authority to access all student files for the purpose of monitoring for compliance.

#### **Step 4 - Monitoring Summary Meeting**

The District's NDE Monitoring Team will contact the District to confirm the date of the onsite or Zoom meeting. A report will be sent to the district outlining all information to be discussed within the Monitoring Summary Meeting and confirming the date, time, and format. The NDE Monitoring Team will lead the Monitoring Summary Meeting. Those participating in the meeting will be determined by the NDE Monitoring Team and district staff (this could include Early Childhood, Transition and/or Disciplinary Staff). Districts will have an opportunity to

discuss the results as well as an opportunity to provide additional information of improvement activities and possible Corrective Action Plan needs.

All areas of noncompliance will be indicated on the Monitoring Summary Report.

Districts will have one year to complete the Corrective Action Plan developed in coordination with the NDE monitoring team.

In the second year of the three-year cycle of Monitoring, NDE Monitoring teams will pull additional files of the Year 1 - noncompliance to ensure correction and completion of Corrective Action Plans.

## **Step 5: Identification of Areas of Improvement/Findings**

During the Monitoring Summary Meeting, The NDE Monitoring team will recap the findings from the Desk Review and review of existing data to make recommendations for areas of improvement as well as possible corrective action. The findings will elicit one of the following actions:

1. If there is missing documentation of the regulations, procedures or practices identified during the desk review, the district will be given 10 working days to provide the documentation of implementation. This would be for individual student findings only, not for anything systemic (80% or more in a specific regulation). After missing documentation is received, the Monitoring Team will review for compliance. If the district has made corrections, they will receive a closeout letter indicating files were brought into compliance.
2. If there is noncompliance identified during the review of the regulations, procedures, and practices, a Letter of Findings will be issued and a Corrective Action Plan (CAP) must be developed, approved, and completed within one (1) year of the notification of noncompliance.
3. If noncompliance is not identified during the review of the regulations, procedures and practices, or recommendations for improvement, the Monitoring Summary Meeting will be finalized. A Monitoring Closeout Letter will be issued to the school district, closing the monitoring activities for that year.

## **Step 6: Approval of CAP**

The District has 45 calendar days from the letter of findings December 3, 2021 to submit the CAP and any subsequent training materials for approval. Each monitoring team is responsible for the approval of the assigned district's CAP.

If a school district's CAP is not approved upon initial submission, the review team sends it back and the district has 10 days to submit the corrected CAP.

Districts have 1 year from the time they receive their letter of findings to complete CAP regardless of when the CAP is "approved."

Approval Process for CAPs -

1. District develops their own training/PD - Submit PowerPoint, policy/procedure/practice change (this could be the corrected form the district will begin using), and/or training materials to the assigned Monitoring Team for approval.
2. District chooses to complete an NDE "approved" training/webinar/PD/guidance submitted to the assigned Monitoring Team for approval.

## **Protocol Steps for Part B Focused Monitoring Year 2**

### Step 1 - Completion of Corrective Action Plan

Pursuant to 92 NAC 51-004.14D, all noncompliance must be corrected as soon as possible, and in no case no later than one year from the date on which the district is notified of a finding of noncompliance. All activities associated with the correction and verification of correction of noncompliance will be completed by the District. A Letter of Findings will be sent to the District, when the Monitoring Summary Meeting is finalized.

### Corrective Action Plan (CAP)

The NDE Monitoring Team notifies the school district to discuss the corrective action plan, review the noncompliance identified during the file review, and assist the school district in developing the corrective action plan. **The submission, approval and completion of the Corrective Action Plan must be completed within 9 months (NDE requirement), but no longer than one year from the date of receipt of the Letter of Findings.**

Throughout the corrective action process, interaction between the school district and the NDE Monitoring Team will be documented to ensure that the corrective action process is completed within the timeline. Documentation will be maintained regarding each step of the corrective action process (i.e. when the plan is submitted for approval; when the plan is approved by NDE; when the plan is completed).

The CAP must include each of the regulations found to be out of compliance in individual files. For each regulation found to be in noncompliance, the Corrective Action Plan must contain the actions which will be taken by the district to ensure full implementation of the regulation in the

future, the timelines and persons responsible for taking the actions, and the way the corrective actions will be evaluated.

### **NDE Review and Approval of the Corrective Action Plan**

When the district has developed the CAP, it will be submitted to the District's NDE Monitoring Team for review and approval. The NDE review will either "Approve" or "Disapprove" the Corrective Action Plan. If the Corrective Action Plan is approved, the district is notified and may proceed with the implementation of the CAP. If the Corrective Action Plan is disapproved, the district will need to revise the CAP, and resubmit.

### **Implementation of the Corrective Action Plan**

The intention of the NE Counts Analysis is to develop a synthesis of training and technical assistance needs in each region based on the data provided by each District. Corrective Action Plan implementation may be completed through regional training/technical assistance.

The NDE Monitoring Team is prepared to assist the district with the implementation of the corrective action planning. Assistance may include:

- Targeted Technical Assistance, as needed at the state, district, or ESU level;
- Providing additional training to the district staff;
- Providing materials for trainings;
- Contacting a possible consultant/presenter;
- Reviewing proposed revisions to policy, procedures, and practices;
- Assisting the district in developing or revising their forms.

## **Step 2 - Documentation and NDE Verification of Correction of Noncompliance**

NDE will take the following steps to determine that the noncompliance has been corrected. These are not exclusive steps, other steps may be added as needed to document that the correction of noncompliance has been completed successfully.

The NDE Monitoring Team will select the student files for review which contain noncompliance issues, and additional student files to document that there are no further issues of noncompliance, and to verify that the CAP was effective in correcting the issues of noncompliance.

- Review the documentation submitted by the district that the Corrective Action Plan has been implemented (i.e. revised policies/procedures etc.).
- NDE will review the individual student files found to have noncompliance issues, unless the child is no longer within the jurisdiction of the school district or approved cooperative and additional student files.

- NDE will review whether the required action was completed, although late, unless the child is no longer within the jurisdiction of the school district or approved cooperative.
- Based on a review of updated data from subsequent review or data collection, NDE will determine whether the school district is now correctly implementing the specific regulatory requirement.

The Completion Date for the correction of all noncompliance is within one year of the date of the issuance of the Letter of Findings.

### Step 3 - Closing the Corrective Action

The Closeout of the Corrective Action will be completed by the NDE Monitoring Team following the completion of all corrective action in year 2 notifying the District that they have completed the CAP successfully and the district has corrected the areas of noncompliance utilizing IDEA Regulations and 92 NAC 51 (Nebraska Rule 51). A CAP Closeout letter must be issued no later than one year from the date of the Letter of Findings.

## **Protocol Steps for Part B Focused Monitoring Year 3**

Year 3 will include collection of trend data related to the File Review, Corrective Action, and Close Out Process that will focus on improvement efforts being made by the district. Completion of Year 3 will allow districts to be entered back into the focus monitoring opportunity based upon risk analysis.

## Focused Monitoring Process Timetable

Monitoring Year Planning Steps PART B	NDE Persons Responsible	Timeline
<p><b>Step 1 - Notification of Special Education Monitoring Notification of Special Education Monitoring Activities Letter</b></p> <p>A letter of notification will be sent to the districts regarding monitoring activities to be completed during the current calendar year. The letter will be sent to the district Superintendent and Director of Special Education.</p>	Office of Special Education	January/February
<p><b>Step 2 – District Notification and Review of Data</b></p> <p>The above letter of Notification sent to the district will include the following:</p> <ul style="list-style-type: none"> <li>● <a href="#">Monitoring Protocol</a>;</li> <li>● Monitoring Team Lead and Contact</li> <li>● Instructions on Policies and Procedures</li> </ul>	Office of Special Education	January/February
<p><b>Step 3 – Desk Review</b></p> <p>The Office of Special Education will ask the District to provide access to student files for review as part of the NDE Desk Review. The District may also provide access to its electronic system (SRS, Infinite Campus, etc.) so that files can be reviewed during the completion of the Desk Review, without a paper format. This will be decided between NDE and the individual District.</p> <p>The NDE Monitoring Team will conduct the Desk Review.</p>	Data Team/Monitoring Team	April - August
<p><b>Step 4 - Monitoring Summary Meeting</b></p> <p>Meet with district representatives to review results of the NDE desk review and discuss the next steps for areas of noncompliance and/or improvement activities.</p> <p>The NDE Monitoring Team leads a discussion of possible linkages to the District’s Targeted Improvement Plan (TIP).</p>	Assigned Monitoring Team	August - November
<p><b>Step 5 – Notification to districts of Letter of Findings or Closeout Letter</b></p>	Monitoring Leads	December
Monitoring Year Planning Steps PART B	NDE Persons Responsible	Timeline
<p><b>Step 6 - Correction of Noncompliance (CAP) and Verification of Correction of Noncompliance</b></p> <p>Follow the process as outlined in the Protocol and shared with the district through ILCD, including the verification of correction of noncompliance.</p>	Assigned Monitoring Team	Timelines as outlined in the Protocol and documented on the ILCD website.
<p><b>Step 7 - Closeout Letter</b></p> <p>This letter could be sent as early as the day of the onsite visit, if the district is in compliance, but no later than 14 working days after the onsite visit, or as late as 1 year following the onsite visit, if a CAP is required. Letter will be shared through ILCD.</p>	Assigned Monitoring Team	Sent to district when the CAP is completed or following the Onsite visit if there is no CAP.