

***Procedures for Verifying Correction  
Of Identified IDEA Part B Noncompliance  
Wisconsin Department of Public Instruction (WDPI)  
(Effective April 1, 2010)***

**Notification of Noncompliance**

WDPI notifies public agencies of any findings of noncompliance regardless of the specific level of noncompliance in writing. The notice directs the public agency to correct all noncompliance identified as soon as possible, and in no case more than one year after the date of the notice.

**Noncompliance Corrected**

Where these procedures require sampling, WDPI selects a reasonable sample of previously noncompliant records for each regulatory requirement for which noncompliance was identified. The size of the reasonable sample is dependent upon the size of the district, the number of noncompliant files and the number of errors identified for each regulatory requirement.

WDPI ensures all public agencies with identified noncompliance have corrected each individual case of noncompliance, unless the child is no longer within the jurisdiction of the public agency.

WDPI ensures all public agencies with identified noncompliance are currently in compliance with regard to the specific regulatory requirements through a review of updated data. Verification of correct implementation is accomplished by reviewing records generated by public agencies after the date of the finding.

After WDPI has verified each individual case of identified noncompliance has been corrected and the public agency has demonstrated they are currently in compliance, WDPI sends a letter to the public agency notifying the public agency that all identified noncompliance has been corrected.

**Continuing Noncompliance and Sanctions**

A public agency must correct each individual case of identified noncompliance and demonstrate the district is currently in compliance. If the public agency is not able to do so, WDPI will identify the cause(s) of continuing noncompliance and take enforcement actions against the public agency.

***Noncompliance Identified During the Special Education Procedural  
Compliance Self-Assessment (Self-Assessment)  
(Including State Performance Plan Indicators 11 & 13)***

After reviewing the results of the public agency Self-Assessment and within 30 days of concluding the public agency has noncompliance, the Wisconsin Department of Public Instruction (WDPI) sends a letter to the public agency.

The letter:

- Notifies the public agency of any findings of noncompliance regardless of the specific level of noncompliance;
- Notifies the public agency all noncompliance identified during the Self-Assessment must be corrected as soon as possible, and in no case more than one year after the date of the letter;
- Directs the public agency to begin corrective action activities and to maintain documentation of all activities;
- Informs the public agency it must establish an internal control system to detect noncompliance, determine the root causes of the noncompliance, and promptly correct the noncompliance; and
- Informs the public agency department when the verification activities will begin.
- Directs public agency to send Self-Assessment recording forms, Item N-4 data report, and PI-3202 assurance to WDPI within 60 days.

Public agencies review policies, procedures and practices that may have contributed to or resulted in noncompliance. If revisions to the agency's policies, procedures and/or practices are required, the public agency submits a copy of the revised policy, procedure and/or practice with their assurances for approval.

***Step 1: Ensuring each individual case of noncompliance has been corrected***

- a) WDPI reviews IEP records for compliance with the regulatory requirements. A reasonable sample of records in error are selected and reviewed by WDPI. The size of the reasonable sample is dependent upon the size of the district, the number of noncompliant files and the number of errors identified for each regulatory requirement.
- b) If all errors are verified corrected, WDPI has ensured each individual case of noncompliance has been corrected. WDPI then determines whether the public agency is currently in compliance with regard to the specific regulatory requirements (see below).
- c) If one or more previously identified error(s) is not corrected, WDPI reviews the regulatory requirement(s) with the public agency and directs the public agency to correct each individual case within 20 days. The public agency submits the

corrected record(s) to WDPI for verification of correction.

- d) WDPI selects a second reasonable sample from the remaining previously identified noncompliant records to ensure each individual case of noncompliance has been corrected.
- e) If one or more previously identified error(s) is not corrected, WDPI reviews all of the remaining records from the original sample. If there are any errors, WDPI reviews the regulatory requirement(s) with the public agency and directs the public agency to correct the error(s) within 20 days. The public agency submits the corrected record(s) to WDPI for verification of correction. When the WDPI verifies all errors in the sample have been corrected, this portion of the verification is completed. WDPI then determines whether the public agency is currently in compliance with regard to the specific regulatory requirements (see below).

**Step 2: Determining whether the public agency is currently in compliance**

- a) For each requirement in error, the public agency provides a list of students whose IEPs were developed or revised during a three month period after the date of the finding. WDPI selects a reasonable sample from each list provided for verification. The size of the reasonable sample is dependent upon the size of the district, the number of noncompliant files and the number of errors identified for each regulatory requirement.
- b) WDPI reviews the selected records for compliance with each of the specific regulatory requirements previously identified in error during the Self-Assessment. If the specific regulatory requirements in all of the selected records have been met, WDPI determines the public agency is currently in compliance.
- c) If one or more of the regulatory requirements is not met, WDPI reviews the regulatory requirement(s) with the public agency and directs correction of the error(s) within 20 days. The public agency submits the corrected record(s) to WDPI for verification of correction.
- d) The public agency submits to WDPI the next new IEPs developed by the public agency. Once a reasonable number of IEPs are submitted, the WDPI reviews the records for compliance with the regulatory requirements. The number of records to be submitted is dependent upon the lists of students whose IEPs were developed or revised during the three month period after the date of the finding (see paragraph a.) If all requirements are met, verification is complete. If not, WDPI directs the public agency to correct the individual cases of noncompliance and submit documentation of correction within 20 days. Additional enforcement actions are taken against the public agency (see *Continuing Noncompliance and Sanctions* above).

## ***Procedures for Verifying Correction of Noncompliance Identified for State Performance Plan Indicator 11***

Public agencies submit Indicator 11 data in the Self-Assessment report. Each public agency subsequently submits a list of students for whom consent to conduct an initial evaluation was received during a specified one-year period. The list identifies the date consent to conduct the evaluation was received, and the date the evaluation was completed.

### ***Step 1: Ensuring each individual case of Indicator 11 noncompliance has been corrected***

- a. WDPI examines the list and selects a reasonable sample of students whose evaluations were not completed within 60 days. The size of the reasonable sample is dependent upon the size of the district, the number of noncompliant files and the number of errors identified for each regulatory requirement.
- b. WDPI requests the records of the students in the sample. Each record is reviewed to verify the evaluation was completed and compensatory services were considered.
- c. If the record review shows all records meet the requirements, WDPI determines each individual case of noncompliance reported by the public agency has been corrected.
- d. If the record review shows one or more records do not meet the requirements, WDPI reviews the regulatory requirements with the public agency and directs the public agency to correct each individual case within 20 days. The public agency submits the corrected record(s) to WDPI for verification of correction.
- e. WDPI selects a second reasonable sample from the remaining previously identified noncompliant records to ensure each individual case of noncompliance has been corrected.
- f. If one or more previously identified error(s) is not corrected, WDPI reviews all of the remaining records from the original sample. If there are any errors, WDPI reviews the regulatory requirement(s) with the public agency and directs the public agency to correct the error(s) within 20 days. The public agency submits the corrected record(s) to WDPI for verification of correction. When the WDPI verifies all errors in the sample have been corrected, this portion of the verification is completed.

### ***Step 2: Determining whether the public agency is currently in compliance with Indicator 11 requirements.***

- a. The public agency provides WDPI a list of students for whom consent to conduct an initial evaluation was received during a three month period

- following the date of the finding. The list indicates the date consent was received and the date the evaluation was completed.
- b. WDPI reviews the list to determine whether the evaluations were completed within 60 days of receiving consent.
  - c. If all the evaluations were completed within the required timeline, WDPI determines the public agency is currently in compliance.
  - d. If one or more of the evaluations was not completed within 60 days. WDPI reviews the regulatory requirements with the public agency and directs correction of the error(s) within 20 days. The public agency submits the corrected record(s) to WDPI for verification of correction.
  - e. The public agency submits to WDPI the next new initial evaluations developed by the public agency. Once a reasonable number of initial evaluations are received, the WDPI reviews the records for compliance with the requirement. The number of records to be submitted for each list is dependent upon the number of students reported during the three month period following the finding. If all requirements are met, verification is complete.
  - f. If one or more errors is not correct, WDPI directs the public agency to correct the individual cases of noncompliance and submit documentation of correction within 20 days. Additional enforcement actions are taken against the public agency (see *Continuing Noncompliance and Sanctions* above).

### ***Procedures for Verifying Correction of Noncompliance Identified for State Performance Plan Indicator 13***

Public agencies submit Indicator 13 data through the Self-Assessment. Each public agency subsequently submits the list of names of students whose IEPs did not meet the Indicator 13 regulatory requirements.

#### ***Step 1: Ensuring each individual case of Indicator 13 noncompliance has been corrected***

- a. WDPI selects a reasonable sample of students from the list provided by the public agency. The size of the reasonable sample is dependent upon the size of the district, the number of noncompliant files and the number of errors identified for each regulatory requirement.
- b. WDPI requests the records of the students in the sample. Each record is reviewed to verify the student's IEP currently meets the Indicator 13 regulatory requirements.
- c. If all of the selected records meet the regulatory requirements, WDPI determines all individual cases of noncompliance have been corrected.
- d. If one or more of the selected records does not meet the regulatory requirements. WDPI reviews the regulatory requirements with the public agency and directs the public agency to correct the record(s) within 20 days. The public agency submits the corrected record(s) to WDPI for verification of

- correction.
- e. WDPI selects a second reasonable sample from the remaining previously identified noncompliant records to ensure each individual case of noncompliance has been corrected.
  - f. If one or more previously identified error(s) is not corrected, WDPI reviews all of the remaining records from the original sample. If there are any errors, WDPI reviews the regulatory requirement(s) with the public agency and directs the public agency to correct the error(s) within 20 days. The public agency submits the corrected record(s) to WDPI for verification of correction. When the WDPI verifies all errors in the sample have been corrected, this portion of the verification is completed.

***Step 2: Determining whether the public agency is currently in compliance with Indicator 13 requirements***

- a. The public agency provides WDPI a list of students age 16 and older whose IEPs were reviewed or revised during a three month period following the date of the finding.
- b. WDPI selects a reasonable sample of students from the list and reviews the records for compliance with Indicator 13 regulatory requirements.
- c. If all records are in compliance with the requirements, WDPI determines the public agency is currently in compliance.
- d. If one or more of the records is not in compliance with the Indicator 13 requirements, WDPI reviews the regulatory requirements with the public agency and directs correction of the error within 20 days. The public agency submits the corrected record to WDPI for verification of correction.
- e. The public agency submits to WDPI the next IEPs of students 16 and older reviewed or revised by the public agency. Once a reasonable number of IEPs are received, the WDPI reviews the records for compliance with the requirement. The number of records to be submitted for each list is dependent upon the number of students reported during the three month period following the finding. If all requirements are met, verification is complete.
- f. If one or more errors is not correct,, WDPI directs the public agency to correct the individual cases of noncompliance and submit documentation of correction within 20 days. Additional enforcement actions are taken against the public agency (see *Continuing Noncompliance and Sanctions* above).

***Procedures for Verifying Correction of Noncompliance Identified for State Performance Plan Indicators 9 & 10***

Public agencies are identified through data submitted annually as having disproportionate representation of racial and ethnic groups in special education, and in specific disability categories. Each public agency identified with disproportionate representation conducts a WDPI supervised evaluation of policies, procedures and

practices related to child find, eligibility requirements, and the identification and evaluation of students with disabilities. WDPI makes a finding of noncompliance when inappropriate identification of students in a racial or ethnic group results from a noncompliant policy, procedure, or practice.

***Step 1: Ensuring each individual case of Indicator 9 & 10 noncompliance has been corrected***

- a. WDPI directs the public agency to correct the policy, procedure, or practice resulting in inappropriate identification of students in a racial or ethnic group.
- b. WDPI reviews the corrected policy, procedure, or practice.
- c. In the case of overrepresentation:
  - The public agency is directed to reevaluate students possibly inappropriately identified using the new policy, procedure, or practice.
  - WDPI selects a reasonable sample of reevaluated students to determine correction of each individual case of noncompliance.
- d. In the case of underrepresentation:
  - The public agency is directed to review data on children in the underrepresented racial category and who are at risk for failure to verify practices do not exclude children for special education referral and identification based on the child's race or ethnicity.
  - WDPI selects a reasonable sample of these students to determine correction of each individual case of noncompliance.

***Step 2: Determining whether the public agency is currently in compliance with Indicator 9 & 10 requirements***

- a. In the case of overrepresentation:
  - WDPI reviews identification and referral data, and selects a reasonable sample of students referred for evaluation during a three month period following the finding.
  - If the data and evaluations demonstrate the new policies, procedures, or practices are no longer leading to inappropriate identification, WDPI determines the public agency is currently in compliance with Indicator 9 & 10 requirements.
- b. In the case of underrepresentation:
  - WDPI reviews pre-referral data and selects a reasonable sample of students not referred for evaluation during a three month period following the finding.
  - If the data demonstrate the new policies, procedures, or practices are no longer leading to inappropriate non-identification, WDPI determines the public agency is currently in compliance with the indicator requirements.

## ***Procedures for Verifying Correction of Noncompliance Identified for State Performance Plan Indicator 12***

Indicator 12 data is collected through an online database, the Program Participation System (PPS) on an ongoing basis. WDPI identifies a point in time during the SPP/APR reporting period when it reviews compliance data from the database and identifies noncompliance. In making compliance decisions, WDPI reviews all data that it has received since the last time the State examined data from the database and made compliance decisions. WDPI makes a finding of noncompliance when the data indicates an eligible child did not have an IEP developed and implemented by the third birthday.

### ***Step 1: Ensuring each individual case of Indicator 12 noncompliance has been corrected***

- a. WDPI reviews PPS data to verify the child's IEP has been developed and implemented, though late.
- b. WDPI directs public agencies to submit IEPs to verify the child has an IEP and to verify the correct data was entered into the PPS.

### ***Step 2: Determining whether the public agency is currently in compliance with Indicator 12 requirements***

- a. Using PPS data, WDPI verifies current compliance with Indicator 12 requirements for each public agency using post-finding data.