2018 Determinations of Need for Special Education Technical Assistance or Intervention

Under the federal Individuals with Disabilities Education Act (IDEA) [[1]](#footnote-1) Massachusetts must make annual determinations regarding districts’ specific needs for technical assistance or intervention in the area of special education.[[2]](#footnote-2) Massachusetts does so based on four categories:

* **Meets Requirements (MR)**
* **Needs Assistance (NA)**
* **Needs Intervention (NI)**
* **Needs Substantial Intervention (NSI)**

The Department of Elementary and Secondary Education’s (DESE) annual determinations of need for special education technical assistance or intervention are based on alignment with districts’ accountability classifications as well as consideration of the districts’ demonstration of compliance with state and federal legal requirements regarding special education.[[3]](#footnote-3)

Special education determinations were made using a two-step process of analysis of performance and compliance data. First, DESE assessed performance by aligning preliminary determinations with accountability classifications as follows:

* Accountability category = “chronically underperforming” then special education determination = NSI
* Accountability category = “in need of targeted/focused support” and reason = “low graduation rate” then special education determination = NI
* Accountability category = “in need of targeted/focused support” and reason = “low participation rate” and group = “All students” or “students with disabilities” then special education determination = NI
* Overall classification = “not requiring assistance or intervention” and criterion-referenced target percentage is less than 50 then special education determination = NA
* Overall classification = “not requiring assistance or intervention” and criterion-referenced target percentage is greater than 49 then special education determination = MR
* Overall classification = “insufficient data” then special education determination = MR

Next, DESE analyzed special education compliance data for each district. DESE adjusted preliminary determinations aligned with the accountability classification only as needed based analysis of compliance data inclusive of data from special education State Performance Plan/Annual Performance Report indicators, state complaints filed with the Problem Resolution System, and the most recent special education compliance monitoring findings. Final 2018 special education determinations reflect a decision by DESE to require that certain districts receive support and intervention from the DESE’s Statewide System of Support or as part of Tiered Focused Monitoring (TFM)[[4]](#footnote-4) activities in school year 2018-2019. These districts may have had (1) five or more recent special education noncompliance findings; (2) difficulty correcting noncompliance; or (3) inability to sustain correction of noncompliance.

As described in the table below, final special education determinations reflect both performance and compliance in the area of special education.

| **2018 Special Education Determinations** | |
| --- | --- |
| **Meets Requirements (MR)** | * Overall classification = “not requiring assistance or intervention” and criterion-referenced target percentage is greater than 49; or * Overall classification = “insufficient data”; and * No outstanding concerns about compliance with state and federal obligations for special education |
| **Needs Assistance (NA)**  DESE will provide assistance and support | * Overall classification = “not requiring assistance or intervention”, and criterion-referenced target percentage is less than 50; and/or * The district had five or more recent special education noncompliance findings, failure to correct noncompliance, or inability to sustain compliance requiring support through TFM of the Statewide System of Support |

| **2018 Special Education Determinations** | |
| --- | --- |
| **Needs Intervention (NI)**  DESE will provide intervention and support | * Accountability category = “in need of targeted/focused support” and reason = “low participation rate” and group = “All students” or “students with disabilities”; or * Accountability category = “in need of targeted/focused support” and reason = “low graduation rate”; and/or * The district had five or more recent special education noncompliance findings , failure to correct noncompliance, or inability to sustain compliance requiring support through TFM of the Statewide System of Support |
| **Needs Substantial Intervention** **(NSI)**  DESE will provide substantial intervention and support | * Accountability category = “chronically underperforming” |

# Targeted Assistance and Intervention Activities

Activities in response to the 2018 special education determinations will take place throughout school year 2018-2019. The Department will provide assistance and interventions consistent with each special education determination level. As described below, districts may be engaging in activities through the Statewide System of Support or with the Office of Public School Monitoring (PSM) to address outstanding noncompliance through the TFM activities. In each instance, DESE will determine the required assistance and interventions to address both improved outcomes for students with IEPs and compliance with state and federal requirements for special education. The Department will contact districts directly with information about the specific assistance and interventions if they are ordered.

## Meets Requirements

The Department will not be providing targeted technical assistance or intervention to these districts on the basis of the special education determination.

## Needs Assistance (NA)

The Department will provide targeted technical assistance or intervention to these districts on the basis of this annual special education determination. Targeted assistance related to identified areas of need *may* include:

* Directing the use of Fund Code 240 on the area or areas in which the [district](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=5610bc66d367e8bcdc16da4706fdf626&term_occur=8&term_src=Title:34:Subtitle:B:Chapter:III:Part:300:Subpart:F:Subjgrp:61:300.604) needs assistance; and/or
* Requiring engagement with the Statewide System of Support; and/or
* Requiring engagement with the Office of Public School Monitoring to address identified noncompliance or as part of Tiered Focused Monitoring activities; and/or
* Requiring participation in specified technical assistance activities.

In addition, all districts with a special education determination of NA are prohibited from using the flexibility available under the Maintenance of Effort[[5]](#footnote-5) provisions of IDEA and are required to budget for special education in 2018-2019 at least as much state and/or local funds in the aggregate or per pupil as it budgeted in 2017-2018.

## Needs Intervention (NI)

The Department will provide targeted intervention to these districts on the basis of this annual special education determination. Targeted interventions related to identified areas of need *may* include those interventions for districts with a Needs Assistance determination as well as:

* Withholding a percentage of the district’s special education grant funds until the district has fully addressed the areas in which the district needs intervention; and/or
* Conducting an unscheduled monitoring visit; and/or,
* Requiring specific policies, procedures, or curriculum improvement activities.

In addition, all districts with a special education determination of NI are prohibited from using the flexibility available under the Maintenance of Effort provisions of IDEA and will be required to budget for special education in 2018-2019 at least as much state and/or local funds in the aggregate or per pupil as it budgeted in 2017-2018.

## Needs Substantial Intervention (NSI)

The three districts currently designated as Chronically Underperforming are assigned a special education determination of NSI. The Department *may* take any other enforcement activity determined to be required, including all activities identified for other determination levels as well as:

* Recovering state or federal special education funds, as appropriate; and/or
* Conducting a review of the district’s fiscal effort according to the maintenance of effort requirements of the law; and/or
* Denying the district's participation in discretionary grant programs until improvements are completed; and/or
* Requiring specific personnel assignment under DESE’s direction.

In addition, all districts identified with a special education determination of NSI are prohibited from using the flexibility available under the Maintenance of Effort provisions of IDEA and will be required to budget for special education in 2018-2019 at least as much state and/or local funds in the aggregate or per pupil as it budgeted in 2017-2018.

A list of districts by 2018 accountability and assistance level is available on DESE’s [website](http://www.doe.mass.edu/accountability/). To view a district’s accountability report, which includes special education determination information, visit DESE’s [School and District Profiles](http://profiles.doe.mass.edu/statereport/accountability.aspx) website.

1. As required by the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1416(a). [↑](#footnote-ref-1)
2. The term “district” includes districts composed of a single school such as charter or regional vocational schools. [↑](#footnote-ref-2)
3. All districts must meet state and federal special education requirements and, if any specific areas of non-compliance with special education requirements are identified, the district must engage in corrective action(s), regardless of the accountability or special education determination levels. The Department can adjust a district’s level of determination based upon previous compliance issues. [↑](#footnote-ref-3)
4. The TFM tiers and activities are described [here](http://www.doe.mass.edu/pqa/review/cpr/tiered-focused-monitoring-standards.docx): [tiered-focused-monitoring-standards.docx](http://www.doe.mass.edu/pqa/review/cpr/tiered-focused-monitoring-standards.docx). [↑](#footnote-ref-4)
5. 34 CFR §§ 300.203-300.208 and Appendix E; see also [Administrative Advisory SPED 2016-2](http://www.doe.mass.edu/sped/advisories/2016-2.html) [↑](#footnote-ref-5)