



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES  
OFFICE OF SPECIAL EDUCATION PROGRAMS

DIRECTOR

**July 18, 2024**

By Email

Honorable Lisa Coons  
State Superintendent of Public Instruction  
Virginia Department of Education  
P.O. Box 2120  
Richmond, Virginia 23218

Email: [lisa.coons@doe.virginia.gov](mailto:lisa.coons@doe.virginia.gov)

Dear Superintendent Coons:

The purpose of this letter is to provide an update on the status of the required actions identified by the U.S. Department of Education's (the Department's) Office of Special Education Programs (OSEP) reported in the Differentiated Monitoring and Support (DMS) monitoring report issued to the Virginia Department of Education (VDOE) on March 13, 2024.

This letter is in response to the VDOE May 22, 2024, documents submitted to OSEP to address the corrective actions required in the March 13, 2024, monitoring report. These findings and corrective actions were identified as result of the targeted DMS activities conducted by OSEP during its On-site/Virtual Visit to VDOE which occurred in September of 2023.

The summary of monitoring priorities and outcomes chart below includes the monitoring component, finding, required actions, OSEP analysis, and status of correction based on the evidence received by OSEP to date.

OSEP appreciates the State's continued efforts to improve the implementation of IDEA Part B and the development and implementation of a reasonably designed general supervision system which ensures compliance and improving results for students with disabilities. OSEP notes that having a consistent and transparent system for identifying and correcting noncompliance, particularly noncompliance that impacts the delivery of special education and related services in accordance with individualized education programs, and dispute resolutions systems that protect the rights of parents, are essential elements to ensuring improved results for children and youth with disabilities. If you have questions, please contact your OSEP State lead.

Sincerely,

A handwritten signature in cursive script that reads "Valerie C. Williams".

Valerie C. Williams

cc: Part B Director

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## SUMMARY OF MONITORING PRIORITIES AND OUTCOMES

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p><b>1.1 State Complaints</b></p> <p><b>a. Parties to a State Complaint</b></p> <p>OSEP finds that the State’s regulations and State complaint procedures contain provisions that are inconsistent with 34 C.F.R. §§ 300.33 and 300.153(b).</p> <p>Specifically, the State’s regulations at 8VAC20-81-10 and 8VAC20-81-200.B.3 and its complaint procedures apply to “LEAs” or “school divisions” rather than to all of the entities listed under IDEA’s definition of “public agency” as required by 34 C.F.R. §§ 300.33 and 300.153(b).</p>	<p><b>Policies and Procedures</b>—within 90 days of the date of this monitoring report, but not later than when the State submits its FFY 2024 IDEA Part B grant application, the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of VDOE’s State complaint procedures, revised to be consistent with the requirements in 34 C.F.R. §§ 300.33 and 300.153(b).</li> <li>2. A specific written assurance from the State that shows—               <ol style="list-style-type: none"> <li>(1) The State will revise its regulations at 8VAC20-81-10 and 8VAC20-81-200.B.3, as soon as possible but in no case later than one year from the date of OSEP’s 2024 DMS report, to ensure the regulations are consistent with the requirements in 34 C.F.R. §§ 300.33 and 300.153(b);</li> <li>(2) The State will issue a memorandum or other directive, to all LEAs,</li> </ol> </li> </ol>	<p>On May 22, 2024, the State submitted to OSEP revised <a href="#">Complaint Resolution Procedures</a> (May 2024), as well as the required specific grant assurance.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the specific grant assurance is consistent with the required action. However, OSEP continues to have concerns with the revised Complaint Resolution Procedures.</p> <p>Specifically, although VDOE indicates in the introduction that complaints may be filed against LEAs and other public agencies, there are instances in the document that the term LEA is used instead of LEAs and other public agencies. OSEP is concerned that this inconsistency may not clearly indicate that a State complaint may be filed against an LEA, SEA, or any other political subdivisions of the State that is responsible for providing education to children with disabilities. The State must submit revisions to the guidance that addresses this inconsistency as soon as possible.</p>	<p><b>OPEN</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
	<p>parent advocacy groups, and other interested parties advising them of the changes proposed to the State regulations and State complaint procedures to ensure they are consistent with the IDEA requirements as described above and provide a copy to OSEP; and</p> <p>(3) The State will comply with 34 C.F.R. §§ 300.33 and 300.153(b) throughout the FFYs 2023 and 2024 grant periods.</p>		
	<p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<p><b>OPEN</b></p>
<p><b>1.1 State Complaints</b>  <b>c. Required Content for a State Complaint</b></p> <p>OSEP finds that the State’s regulation and State complaint procedures contain provisions that are inconsistent with 34 C.F.R. § 300.153(b).</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of VDOE’s State complaint procedures, revised to be consistent with</li> </ol>	<p>On May 22, the State submitted to OSEP, revised <a href="#">Complaint Resolution Procedures</a> (May 2024), as well as the required specific grant assurance.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective</p>	<p><b>CLOSED</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p>Specifically, the State’s regulation at 8VAC20.81-200.B.7 requires that a complaint “contain all relevant documents,” and Section I.A.6 of VDOE’s State complaint procedures requires the complaint to “contain all relevant information and supporting documentation,” both of which are not required under 34 C.F.R. § 300.153(b).</p>	<p>the requirements in 34 C.F.R. § 300.153(b).</p> <p>2. A specific written assurance from the State that shows—</p> <p>(1) The State will revise its regulation at 8VAC20-81-200.B.7, as soon as possible but in no case later than one year from the date of OSEP’s 2024 DMS report, to ensure it is consistent with the requirements in 34 C.F.R. § 300.153(b);</p> <p>(2) The State will issue a memorandum or other directive to all LEAs, parent advocacy groups, and other interested parties advising them of the changes proposed to the State regulation and State complaint procedures to ensure they are consistent with the IDEA requirements as described above and provide a copy to OSEP; and</p> <p>(3) The State will comply with 34 C.F.R. § 300.153(b)</p>	<p>actions outlined in OSEP's March 13, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
	<p>throughout the FFYs 2023 and 2024 grant periods.</p>		
	<p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the finalized changes to the State’s regulation and documentation of the revisions.</li> </ol>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<p><b>OPEN</b></p>
<p><b>1.1 State Complaints</b></p> <p><b>c. Complaints Filed by Non-Parent Complainants</b></p> <p>OSEP finds that the State’s regulations and State complaint procedures contain provisions that are inconsistent with 34 C.F.R. § 300.152(a)(5) and OSEP’s IDEA Part B Dispute Resolution Procedures guidance.</p> <p>Specifically, the State’s regulation at 8VAC20-81-200.D.1.c and the State complaint procedures at II.A.5 do not allow for a case-by-case determination as to</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p>	<p>On May 22, the State submitted to OSEP, revised <a href="#">Complaint Resolution Procedures</a> (May 2024), as well as the required specific grant assurance.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s March 13, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	<p><b>CLOSED</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p>whether non-PII in the SEA’s final decision on a State complaint can be shared with a non-parent complainant, which is inconsistent with 34 C.F.R. § 300.152(a)(5) and OSEP’s IDEA Part B Dispute Resolution Procedures guidance.</p>			
	<p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the finalized changes to the State’s regulation and documentation of the revisions.</li> </ol>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<p><b>OPEN</b></p>
<p><b>1.1 State Complaints</b></p> <p><b>d. Calculating the 60-Day Time Limit for State Complaint Resolution:</b></p> <p>OSEP finds that the State’s regulations and State complaint procedures contain provisions that are inconsistent with 34 C.F.R. §§ 300.11(a) and (b) and 300.152(a). Specifically, the State’s definition of “calendar day,”</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of VDOE’s State complaint procedures, revised to be consistent with the requirements in 34 C.F.R. §§ 300.11(a) and (b) and 300.152(a).</li> <li>2. A specific written assurance from the State that shows—</li> </ol>	<p>On May 22, the State submitted to OSEP, revised <a href="#">Complaint Resolution Procedures</a> (May 2024), as well as the required specific grant assurance.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s March 13, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	<p><b>CLOSED</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p>as referenced in its regulation in 8VAC20-81-10 and State complaint procedures includes components of the IDEA definition of both “day” and “business day,” which is inconsistent with 34 C.F.R. §§ 300.11(a) and (b) and the requirements in 300.152(a).</p>	<ol style="list-style-type: none"> <li>(1) The State will revise its regulation at 8VAC20-81-10, as soon as possible but in no case later than one year from the date of OSEP’s 2024 DMS report, to be consistent with the requirements in 34 C.F.R. §§ 300.11(a) and (b) and the requirements in 300.152(a);</li> <li>(2) The State will issue a memorandum or other directive to all LEAs, parent advocacy groups, and other interested parties advising them of the changes proposed to the State regulations and State complaint procedures to ensure they are consistent with the IDEA requirements as described above and provide a copy to OSEP; and</li> <li>(3) The State will comply with 34 C.F.R. §§ 300.11(a) and (b) and 300.152(a) throughout the FFYs</li> </ol>		

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
	<p>2023 and 2024 grant periods.</p> <p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the finalized changes to the State’s regulation and documentation of the revisions.</li> </ol>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<p><b>OPEN</b></p>
<p><b>1.2 State Complaint Procedures and Remedies for Denial of Appropriate Services: Addressing Noncompliance Found Through State Complaint Resolution</b></p> <p>OSEP finds that the State, in resolving State complaints, does not consistently identify and require correction of all noncompliance with IDEA requirements identified through complaint resolution when the noncompliance was not specifically alleged in the complaint. This practice is inconsistent with 34 C.F.R. §§ 300.149,</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the revised procedure describing how the State will both review for and ensure the timely identification of all noncompliance with IDEA requirements found through its complaint resolution that was not included in the complainant’s allegations consistent with 34 C.F.R. §§ 300.149, 300.151, 300.153, 300.600 through 300.602 and OSEP guidance.</li> </ol>	<p>On May 22, 2024, the State submitted to OSEP revised <a href="#">Complaint Resolution Procedures</a> (May 2024). However, the revised procedures do not describe how the State will both review for and ensure the timely identification of all noncompliance with IDEA requirements found through its complaint resolution that was not included in the complainant’s allegations consistent with 34 C.F.R. §§ 300.149, 300.151, 300.153, 300.600 through 300.602 and OSEP guidance. The State must submit revised procedures that address this concern as soon as possible.</p>	<p><b>OPEN</b></p>



MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
300.151, 300.153, 300.600 through 300.602, and OSEP guidance.	<p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. Examples of actual complaint decisions (redacted) that demonstrate how the State both conducted its review for, and addressed, noncompliance with an IDEA requirement that was not included in the complainant’s allegation if such situations occur within one year of this monitoring report or if there are no such complaint decisions with these remedies, an explanation of how the State implemented its revised procedures.</li> </ol>	OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.	<b>OPEN</b>
<p><b>1.3 State Model Forms</b> OSEP finds that the State’s model form for State complaints is inconsistent with 34 C.F.R. § 300.509(a) in that it requires information beyond what is required by</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the State’s revised model State complaint form that clearly identifies any</li> </ol>	<p>On May 22, 2024, the State submitted to OSEP a revised State complaint form and a link for the <a href="#">webpage</a> where the model form is posted.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of</p>	<b>CLOSED</b>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p>the IDEA regulation at 34 C.F.R. § 300.153(b) without designating the additional information requested as optional.</p>	<p>information requested that is not required by 34 C.F.R. § 300.153(b).</p> <p>2. Notice that the State has posted the revised model form on the SEA’s web site and other appropriate methods to ensure wide dissemination to all LEAs, parent advocacy groups, and other interested parties.</p>	<p>noncompliance and the required corrective actions outlined in OSEP’s March 13, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	
<p><b>Mediation</b></p> <p><b>2.1 Confidentiality of Mediation Discussions</b></p> <p>OSEP finds that the State’s procedure requiring parties to sign a confidentiality pledge prior to the commencement of mediation as permitted in 8VAC20-81-190.E.3, is inconsistent with 34 C.F.R. § 300.506(b)(8) and OSEP guidance.</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <p>1. A specific written assurance from the State that shows—</p> <p>(1) The State will revise the regulation in 8VAC20-81-190.E.3, as soon as possible but in no case later than one year from the date of OSEP’s 2024 DMS report to be consistent with the requirements in 34 C.F.R. § 300.506(b)(8) and OSEP’s guidance;</p> <p>(2) The State will issue a memorandum or other directive to all LEAs, parent advocacy groups,</p>	<p>On May 22, 2024, the State submitted to OSEP, the required specific written assurance.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s May 22, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	<p><b>CLOSED</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
	<p>and other interested parties advising that the State will be revising 8VAC20-81-190.E.3 so that parties can no longer be required to sign a confidentiality pledge prior to the commencement of mediation and provide a copy to OSEP; and</p> <p>(3) The State will comply with 34 C.F.R. § 300.506(b)(8) throughout the FFYs 2023 and 2024 grant periods.</p>		
	<p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <p>1. A copy of the finalized changes to the State’s regulation and documentation of the revisions.</p>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<b>OPEN</b>
<p><b>Due Process</b></p> <p><b>3.1 Filing a Due Process Complaint</b></p> <p>OSEP finds that the State’s regulation at 8VAC20-81-</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p>	<p>On May 22, 2024, the State submitted to OSEP, the required written specific assurance.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to</p>	<b>CLOSED</b>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p>210.A and due process complaint procedures apply only to “LEAs” or “school divisions” rather than all of the entities listed under IDEA’s “public agency” definition as required by 34 C.F.R. §§ 300.33 and 300.507.</p>	<ol style="list-style-type: none"> <li>1. A specific written assurance from the State that shows—               <ol style="list-style-type: none"> <li>(1) The State will revise its regulation at 8VAC20-81-210.A, as soon as possible but in no case later than one year from the date of OSEP’s 2024 DMS report to be consistent with the requirements in 34 C.F.R. §§ 300.33 and 300.507;</li> <li>(2) The State will issue a memorandum or other directive to all LEAs, parent advocacy groups, and other interested parties advising them of the changes proposed to the State regulations and due process procedures and guidance to ensure they are consistent with the IDEA requirements as described above and provide a copy to OSEP; and</li> <li>(3) The State will comply with 34 C.F.R. §§ 300.33 and 300.507 throughout</li> </ol> </li> </ol>	<p>address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP's May 22, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
	<p>the FFYs 2023 and 2024 grant periods.</p> <p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the finalized changes to the State’s regulation and documentation of the revisions.</li> </ol>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<p><b>OPEN</b></p>
<p><b>Due Process</b></p> <p><b>3.2 Due Process Timelines and Convenience of Hearings and Reviews</b></p> <p>OSEP finds that the State’s regulation at 8VAC20-81-210.P.9.b. permits the SEA to provide approval for an extension of the due process hearing timeline when neither party requests an extension of time, which is inconsistent with the requirements in 34 C.F.R. § 300.515(a) and (c)</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A specific written assurance from the State that shows— <ol style="list-style-type: none"> <li>(1) The State will revise its regulation at 8VAC20-81-210.P.9.b., as soon as possible but in no case later than one year from the date of OSEP’s 2024 DMS report to be consistent with the requirements in 34 C.F.R. §§ 300.515(a) and (c);</li> <li>(2) The State will issue a memorandum or other directive to all LEAs,</li> </ol> </li> </ol>	<p>On May 22, 2024, the State submitted to OSEP, the required specific written assurance.</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s May 22, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	<p><b>CLOSED</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
	<p>parent advocacy groups, and other interested parties advising them of the changes proposed to the State regulations and due process procedures and guidance to ensure they are consistent with the IDEA requirements as described above and provide a copy to OSEP; and</p> <p>(3) The State will comply with 34 C.F.R. §§ 300.515(a) and (c) throughout the FFYs 2023 and 2024 grant periods.</p>		
	<p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <p>1. A copy of the finalized changes to the State’s regulation and documentation of the revisions.</p>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<p><b>OPEN</b></p>
<p><b>Procedural Safeguards</b>  <b>4.1 Prior Written Notice</b>  OSEP finds that the State’s guidance indicating that prior</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p>	<p>On May 22, 2024, the State submitted to OSEP a revised <a href="#">Guidance of Prior Written Notice In the Special Education Process</a> (May 2024).</p>	<p><b>OPEN</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p>written notice is not required after an individualized education program (IEP) team meeting if the child’s IEP has not been finalized is inconsistent with the requirements in 34 C.F.R. § 300.503(a).</p>	<p>1. A copy of the State’s revised policy that demonstrates that the State requires its LEAs to issue prior written notice consistent with the requirements in 34 C.F.R. § 300.503(a).</p>	<p>However, as currently written, the guidance is still inconsistent with the requirements in 34 C.F.R. § 300.503(a).</p> <p>Specifically, in a list of times that PWN is not required the State includes, “[A]fter each IEP meeting in a series of meetings.” (p. 6) This is inconsistent with our finding that “the State’s guidance indicating that prior written notice is not required after an IEP team meeting if the child’s IEP has not been finalized is inconsistent with the requirements in 34 C.F.R. § 300.503(a).”</p> <p>In addition, OSEP notes that on the same page, VDOE states:</p> <p>LEAs often find themselves having to convene more than one, and often several, IEP meetings in order to fully develop, review, and/or revise the IEP of a child with a disability. A PWN should be provided within a reasonable time after each meeting to reflect discussions at the meeting.</p> <p>Because the statement indicates that a PWN should be provided within a reasonable time, rather than it must be provided within a reasonable time, the guidance remains inconsistent with IDEA. The State must submit revised procedures that address this inconsistency as soon as possible.</p>	
<p><b>Confidentiality</b> <b>5.1 Education Record Definition</b></p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this</p>	<p>On May 22, 2024, the State submitted to OSEP revised <a href="#">Regulations Governing Special Education Programs for Children with Disabilities in Virginia - Frequently Asked</a></p>	<p><b>CLOSED</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p>OSEP finds that the State’s Frequently Asked Questions (FAQ) guidance is inconsistent with the State’s regulatory definition of education record. Further, the State’s FAQ guidance is inconsistent with IDEA’s definition of education record in 34 C.F.R. § 300.611(b) and in Family Education Rights and Privacy Act of 1974 (FERPA) definition at 34 C.F.R § 99.3.</p>	<p>monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. An updated copy of the State’s FAQ guidance document which removes language that is inconsistent with the State’s regulation and with the requirements in 34 C.F.R. § 300.611(b) and in FERPA at 34 C.F.R § 99.3.</li> </ol>	<p><a href="#">Questions About 001-10. Education Records</a> (Revised May 2024).</p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s March 13, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	
	<p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of a memorandum or other directive that the State has issued to all LEAs, parent advocacy groups, and other interested parties advising them of the change to the State confidentiality procedures and FAQ guidance.</li> </ol>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<b>OPEN</b>
<p><b>Confidentiality</b> <b>5.2 Notice to Parents</b></p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this</p>	<p>On May 22, 2024, the State submitted to OSEP, a revised procedural safeguards notice, <a href="#">Your Family’s Special Education Rights Virginia Procedural Safeguards Notice: Special Education</a></p>	<b>OPEN</b>



MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
<p>OSEP finds that the State has not provided the required content in its notice to parents in a manner that is adequate to fully inform parents under 34 C.F.R. § 300.612.</p> <p>Specifically, OSEP found that the inclusion of multiple website locations for just part of one (of the four) content requirements (e.g., record retention) is not reasonably designed or adequate to fully inform parents under 34 C.F.R. § 300.612(a)(3).</p>	<p>monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the State’s revised notice that includes all of the content in 34 C.F.R. § 300.612.</li> </ol>	<p><a href="#">Procedural Safeguards Requirements</a> (Revised May 2024).</p> <p>Based on OSEP’s review of the document submitted by the State, OSEP has determined that the State has not taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s March 13, 2024, monitoring report. The State’s notice does not provide the required content under 34 C.F.R. § 300.612.</p> <p>Specifically, the State includes the following language on pg. 11 of its procedural safeguards notice:</p> <p>The Virginia Department of Education (VDOE) must give adequate notice to fully inform parents about the confidentiality of personally identifiable information, including:</p> <ol style="list-style-type: none"> <li>1. A description of the extent to which the notice is given in the native languages of the various population groups in Virginia;</li> <li>2. A description of the children on whom personally identifiable information [PII] is maintained, the types of information sought, the methods Virginia intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;</li> </ol>	

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
		<p>3. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and;</p> <p>4. A description of all of the rights of parents and children regarding this information, including the rights under the <i>Family Educational Rights and Privacy Act</i> (FERPA) and its implementing regulations in 34 CFR Part 99.</p> <p>Despite the inclusion of this language in the procedural safeguard notice and the link provided to the State’s website, neither the notice nor the State’s website includes any specific descriptions or summaries required to explain the above-mentioned items and their specific processes.</p> <p>The State must include in either its notice or website, more details in how they are specifically addressing the items above, such as:</p> <ol style="list-style-type: none"> <li>1. How does the State provide and give notice in the native languages of the various population groups in the State;</li> <li>2. Who are the children on whom PII is maintained in the State, what are the types of information sought, what are the methods the State intends to use in gathering the information (including the</li> </ol>	

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
		<p>sources from whom information is gathered), and how will the State use the information;</p> <ol style="list-style-type: none"> <li>3. What are the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and</li> <li>4. How is the State providing to parents information about all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in <a href="#">34 CFR part 99</a>.</li> </ol> <p>The State must provide a revised submission that addresses these issues as soon as possible</p>	
	<p><b>Evidence of Implementation</b>—as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. Evidence that the State has issued (and provided to OSEP a copy) a memorandum or other directive that the State has issued to all LEAs, parent advocacy groups, and other interested parties advising them of the changes made to the State’s notice and any guidance to ensure they are</li> </ol>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<p><b>OPEN</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
	<p>consistent with the IDEA requirements as described above.</p>		
<p><b>6.1 Independent Educational Evaluations (IEE)</b></p> <p>OSEP finds that the State has not ensured that its LEAs are implementing the IEE requirements in the State’s revised regulation at 8VAC20-81.170.B.2.a and c, and IDEA’s requirements in 34 C.F.R. § 300.502.</p>	<p><b>Policies and Procedures</b>— within 90 days of the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A copy of the finalized monitoring protocols the State will use in its cyclical monitoring to evaluate its LEAs’ compliance with 34 C.F.R. § 300.502 and the State’s revised regulation at 8VAC20-81.170.B.2.a and c.</li> </ol>	<p>On May 22, 2024, the State submitted to OSEP, policies and procedures <a href="#">CSEA Narrative IEE Question</a></p> <p>Based on OSEP’s review of the documents submitted by the State, OSEP has determined that the State has taken the necessary steps to address and resolve the findings of noncompliance and the required corrective actions outlined in OSEP’s March 13, 2024, monitoring report.</p> <p>No further action needed at this time.</p>	<p><b>CLOSED</b></p>
	<p><b>Evidence of Implementation</b>— as soon as possible, but no later than one year from the date of this monitoring report the State must submit to OSEP:</p> <ol style="list-style-type: none"> <li>1. A summary of the results of the State’s review of the five LEAs’ procedures, including copies of correspondence issued to any LEA with identified noncompliance with the requirements in 34 C.F.R. § 300.502.</li> <li>2. Documentation that demonstrates the State has evaluated LEAs’ compliance</li> </ol>	<p>OSEP reminds the State that, as detailed in OSEP’s March 13, 2024, monitoring report, the State must submit evidence of implementation as soon as possible, but no later than one year from the date of the DMS monitoring report.</p>	<p><b>OPEN</b></p>

MONITORING COMPONENT AND ORIGINAL FINDING	ORIGINAL REQUIRED ACTIONS	OSEP ANALYSIS, COMMENTS, AND REQUIRED NEXT STEPS	STATUS
	with the requirements in 34 C.F.R. § 300.502 as a component of its most recent cyclical monitoring.		