

**Enclosure**  
**OSEP’s Response to the Texas Education Agency’s Implementation of its Corrective Action Responses**

OSEP Finding #1: TEA failed to ensure that all children with disabilities residing in the State who are in need of special education and related services were identified, located, and evaluated, regardless of the severity of their disability, as required by IDEA section 612(a)(3) and its implementing regulation at 34 C.F.R. § 300.111

<b>Corrective Action Response (CAR) 1.a.</b>	<b>Documents Submitted by TEA</b>	<b>OSEP Analysis</b>	<b>Required Action /Next Steps</b>
<p><i>Communicating Child Find and FAPE Requirements and Obligations Under IDEA to All LEAs</i></p> <p>As set forth in OSEP’s October 19, 2020 monitoring report (hereafter, 2020 monitoring report), to satisfy this CAR item, TEA was required to identify and describe the additional activities it has completed or is currently implementing related to CAR 1.a., including the timeline for full implementation and completion of those activities. Specifically, TEA must specify the resources that it is providing to parents in addition to TEA’s FAQ on child find to ensure that parents are fully informed about the scope of IDEA’s child find, individual evaluation, and FAPE requirements. This includes information about each LEA’s</p>	<p>In response to CAR 1.a., TEA submitted the following documents:</p> <ul style="list-style-type: none"> <li>• Monitoring Reports 2019-2020</li> <li>• Assurance Statement Status Report 2020-2021</li> <li>• 2019-2020 Policy Review Accessible</li> <li>• Ascend Online Monitoring Application (Policy)</li> <li>• Ascend Policy IEP Development 2020</li> <li>• Ascend Policy State Assessment 2020</li> <li>• Ascend Policy Transition 2020</li> <li>• Ascend Policy1 2020</li> <li>• Ascend Policy 2 2020</li> <li>• Ascend Policy 3 Properly Constituted ARD 2020</li> <li>• Ascend Policy IEP Content 2020</li> <li>• Desk Review Diagnostic Analysis Protocol Policy</li> <li>• Draft Materials Under Review 1.a</li> </ul>	<p>TEA has not completed all necessary actions to satisfy CAR 1.a. The Proposed Changes to the Texas Administrative Code Memorandum to OSEP dated 10-21-20, the Required Student Handbook Statement Memorandum to OSEP dated 10-21-20, and the TEA Child Find Network TA Launch Memorandum to OSEP dated 10-21-20 represent additional resources that serve to communicate IDEA requirements to LEAs, including the child find, individual evaluation, and FAPE requirements under IDEA. However, the remaining documents that TEA has submitted in response to this CAR item do not provide the information that OSEP has requested. Although the remaining documents that TEA has provided included several draft materials under TEA’s review related to child find and a list of resources, it is not clear for whom these draft</p>	<p>To satisfy CAR 1.a., within 30 days of the date of this letter, TEA must:</p> <ul style="list-style-type: none"> <li>• Clarify whether the 20 LEAs that had not posted the SB-139 Notice on their websites as of the date of OSEP’s 2020 monitoring report, have since posted the SB-139 Notice on their websites, and if they have not yet done so, whether they have used an alternative way of providing this information to parents, such as sending it home in hard copy, until they have updated their websites.</li> <li>• Require all LEAs in Texas, not only those included in the sample, to post notice of SB-139 on their websites no later than 30 days from the date of this letter.</li> <li>• Provide an assurance to OSEP that TEA has verified that all LEAs have posted the SB-139 notice on their websites and have</li> </ul>

<p>obligation under IDEA to conduct a timely individual evaluation of a child suspected of having a disability who needs special education and related services and the timely provision of FAPE to each eligible child with a disability under IDEA. Additionally, TEA must clarify what steps it has taken and is continuing to take to ensure that each LEA's Student Handbook contains complete information for parents on how to request an initial evaluation of their child for special education and related services under IDEA, and that TEA ensures that each LEA provides the necessary information to parents.</p>	<ul style="list-style-type: none"> <li>• Monitoring FAPE Child Find and Evaluation 2</li> <li>• Network 1 Child Find Duty - Guidance Doc 10-20-20</li> <li>• Network 1 Child Find Duty - Online Module 9-16-20</li> <li>• Network 1 Guidance for the Identification of a Specific Learning Disability</li> <li>• Network 1 Informed Consent Module 9-23-20</li> <li>• Network 1 Informed Consent Quick Guide 9-2-20</li> <li>• Network 1 Referral for Initial Evaluation Quick Guide 9-25-20</li> <li>• Proposed Changes to Texas Administrative Code Memorandum to OSEP 10-21-20</li> <li>• Required Student Handbook Statement Memorandum to OSEP 10-21-20</li> <li>• TEA Child Find Network TA Launch Memorandum to OSEP 10-21-20</li> <li>• Assurance Statement Status Report 2018-2019</li> <li>• Assurance Statement Status Report 2019-2020</li> </ul>	<p>documents are intended. OSEP acknowledges that TEA has disseminated the referenced FAQ documents to its LEAs and has addressed the manner in which it has instructed LEAs to disseminate the student handbook to parents although as of May 2019, this had not been done consistently.</p> <p>In 2019, the Texas legislature passed Senate Bill 139 (SB-139). This Senate Bill requires all LEAs to distribute information containing changes made regarding LEAs’ reporting requirements related to special education enrollment (based on the elimination of the former 8.5% indicator in the state’s Performance-Based Monitoring Analysis System), the rights of a child regarding special education services, the process to initiate a special education evaluation, and where to find local policies and procedures related to initiating a referral for an evaluation under IDEA. It is our understanding that the notice under SB-139 superseded the Student Handbook.</p> <p>Following the release of OSEP’s 2020 monitoring report, TEA subsequently informed OSEP that it was using the SB-139 notice to</p>	<p>previously distributed information to parents about SB-139 in hard copy pending posting on their websites, including informing parents of how to request an initial evaluation of their child and the LEA’s obligation to conduct a full and individual evaluation under 34 C.F.R. § 300.301(a) and to make FAPE available to each eligible child under 34 C.F.R. §§ 300.101 and 300.201 in a timely manner.</p> <ul style="list-style-type: none"> <li>• If TEA is unable to complete the required actions above within the 30-day timeline, submit a plan and timeline to ensure that all LEAs post the required information for parents on their websites as soon as possible, but no later than 30 days after the expiration of the 30-day timeline. This information must include notice to parents on how to request an initial evaluation of their child under 34 C.F.R. § 300.301, an LEA’s obligation to provide a parent prior written notice consistent with 34 C.F.R. § 300.503 once the LEA grants or denies the parent’s request to evaluate their child, information</li> </ul>
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		<p>ensure that LEAs provided the required student handbook statement to parents and was requiring that LEAs post information regarding IDEA evaluations and services requirements on each LEA's website for parents to access. Based on the 43 LEAs that TEA reported had provided the SB-139 notice to parents on their websites, as of April 2021, OSEP was only able to locate the SB-139 notice to parents on the websites of 23 of those LEAs. Therefore, OSEP believes that 53.5% of the 43 LEAs' websites that TEA provided for OSEP's review did not post the SB-139 notice on their websites. TEA has 1,207 LEAs and because it appears to OSEP that only 53.5% of the LEAs in the sample provided by TEA have posted the required information for parents on their websites, OSEP concludes that TEA has not provided documentation that is sufficient to demonstrate TEA's compliance with CAR 1.a.</p>	<p>about the scope of IDEA's individual evaluation requirements in 34 C.F.R. §§ 300.300-300.311, and if the child is found eligible, how a parent can request additional services if the child was previously denied a timely initial evaluation or appropriate services.</p>
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CAR 1.b.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p><i>Ensuring All LEAs Have Policies, Procedures, and Programs that Meet IDEA’s Child Find and FAPE Requirements</i></p> <p>As set forth in OSEP’s 2020 monitoring report, to satisfy CAR 1.b., TEA must provide documentation that 100 percent of LEAs have submitted assurances in their IDEA Part B subgrant applications that are consistent with applicable IDEA requirements governing child find, individual evaluations, and the provision of FAPE. TEA must also demonstrate that each LEA has policies, procedures, and programs in effect that are consistent with IDEA's child find, individual evaluation, and FAPE requirements. TEA also must provide verification that such policies, procedures, and programs are being properly implemented. If TEA is unable to provide such documentation, TEA must provide a plan and timeline for providing the necessary documentation, including</p>	<p>In response to CAR 1.b., TEA submitted the following documents:</p> <ul style="list-style-type: none"> <li>• 2018-2019 Certified Applications Received by Date (RP56) 10-21-20</li> <li>• 2019-2020 Certified Applications Received by Date (RP56) 10-21-20</li> <li>• 2020-2021 Sample App 5-28-20</li> <li>• Corrective Action Plan (CAP) Flow Chart</li> <li>• CAP Talking Points Initial 8-18-20</li> <li>• CAP Verification Process updated 8-18-20</li> <li>• Certified Applications Received by Date 10-19-20</li> <li>• Department of Review and Support Noncompliance Data Accessible</li> <li>• LEA Steps Required to Correct Noncompliance 8-18-20</li> <li>• NC-SPP Verification 8-18-20</li> <li>• Program Guidelines 2020-2021 Special Education Consolidated Grant Application (Federal)</li> <li>• Texas Education Agency - Department of Review and Support Corrective Action Plan Form</li> </ul>	<p>The documents that TEA has submitted are insufficient to verify correction of this noncompliance. The certified applications that TEA has provided only contain general assurances of compliance with the relevant requirements and do not specifically address requirements related to child find, individual evaluations, and the provision of FAPE, in order to establish their eligibility for IDEA Part B funds from TEA and fully address CAR 1.b.</p> <p>TEA’s LEA applications contain the following statement:</p> <p style="padding-left: 40px;">“I further certify that any ensuing program and activity will be conducted in accordance with all applicable Federal and State laws and regulations; application guidelines and instructions; the general provisions and assurances; debarment and suspension certification, lobbying certification requirements, special provisions and</p>	<p>To satisfy CAR 1.b., within 30 days of the date of this letter, TEA must:</p> <ul style="list-style-type: none"> <li>• Revise its Federal Fiscal Year 2022 LEA application for IDEA Part B funds to require each LEA to include assurances to demonstrate to TEA that it will satisfy all Part B requirements, including those related to child find, individual evaluations, and FAPE, as required by 34 C.F.R. §§ 300.200-300.201, specifically, 34 C.F.R. §§ 300.111 (child find), 300.122 (evaluation), and 300.101 (free appropriate public education).</li> <li>• Provide copies of the revised FFY 2022 LEA applications demonstrating that TEA requires each LEA to submit appropriate assurances of compliance with all applicable IDEA requirements, including the child find, individual evaluation and FAPE requirements cited above.</li> <li>• As soon as possible following receipt of revised LEA applications from LEAs in Texas for FFY 2022, TEA must provide OSEP with copies of the LEA applications for FFY 2022 that</li> </ul>

<p>the actions it has taken or will take, to address and ensure timely correction of the noncompliance by those LEAs that have either failed to provide, or failed to implement the assurances in their IDEA Part B subgrant applications with respect to IDEA's child find, individual evaluation and FAPE requirements.</p>		<p>assurances, and the schedules submitted.”</p> <p>The IDEA regulation in 34 C.F.R. § 300.200 provides that each LEA is eligible for assistance under IDEA Part B if it submits a plan that provides assurances to the SEA that the LEA meets each of the conditions in §§300.201 through 300.213. Under 34 C.F.R. § 300.201, each LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under §§300.101 through 300.163, and §§300.165 through 300.174.</p> <p>Because the quoted statement from TEA’s LEA application is general and encompasses all Federal laws, it is not sufficient to demonstrate that LEAs in Texas provide assurances of compliance with specific IDEA requirements, including that each LEA has policies, procedures, and programs in effect that are consistent with IDEA’s child find requirements in 34 C.F.R. § 300.111, evaluation requirements in 34 C.F.R. § 300.122, and FAPE requirements in 34 C.F.R.</p>	<p>include the specific assurances described above regarding child find, individual evaluations, and the provision of FAPE.</p>
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		<p>§ 300.101. These provisions are integral to TEA’s implementation of CAR 1.b. Therefore, OSEP concludes that TEA has not satisfied CAR 1.b. and must revise its LEA application in accordance with the required actions set forth below.</p>	
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<b>CAR 1.c.</b>	<b>Documents Submitted by TEA</b>	<b>OSEP Analysis</b>	<b>Required Action /Next Steps</b>
<p><i>Revising Monitoring and Document Review Requirements to Ensure Appropriate General Supervision of LEAs’ Implementation of Child Find and FAPE</i></p> <p>As set forth in OSEP’s 2020 monitoring report, to satisfy CAR 1.c., TEA must provide OSEP with:</p> <ul style="list-style-type: none"> <li>• A sample of completed monitoring reports from the 2020-2021 academic year.</li> <li>• A narrative on the discrepancy between notification of findings and completion of the CAR.</li> <li>• Documentation on TEA’s verification of identified</li> </ul>	<p>In response to CAR 1.c., TEA provided the following documents:</p> <ul style="list-style-type: none"> <li>• 2018-2019 Certified Applications Received by Date (RP56) 10-21-20</li> <li>• 2019-2020 Certified Applications Received by Date (RP56) 10-21-20</li> <li>• 2020-2021 Sample App 5-28-20</li> <li>• CAP Flow Chart</li> <li>• CAP Talking Points Initial 8-18-20</li> <li>• CAP Verification Process updated 8-18-20</li> <li>• Certified Applications Received by Date 10-19-20</li> <li>• Department of Review and Support Noncompliance Data</li> <li>• LEA steps required to correct Noncompliance 8-18-20</li> <li>• NC-SPP Verification 8-18-20</li> </ul>	<p>Although TEA has submitted extensive documentation to address this CAR item, TEA has still not completed the actions necessary to satisfy CAR 1.c. OSEP is concerned that TEA has failed to identify which documents constitute its monitoring protocols or to specify if and how those documents are used. Specifically, OSEP could not identify information from TEA’s monitoring protocols to specify how TEA conducted monitoring of procedures and practices for identifying and evaluating children with dyslexia who are suspected of having a disability and needing special education and related services under IDEA. Those concerns will be discussed in greater detail in section 3.a of this report. Further, the sample monitoring</p>	<p>To satisfy CAR 1.c., within 30 days of the date of this letter, TEA must:</p> <ul style="list-style-type: none"> <li>• Specify which documents from TEA’s submissions constitute TEA’s monitoring protocols, including its monitoring protocols for identifying children with dyslexia who are suspected of having a disability under IDEA, and indicate whether TEA has informed TEA staff, LEAs, and the public that these documents constitute its monitoring protocols.</li> <li>• Provide a detailed description of the process TEA uses to identify LEA noncompliance, and documentation of the specific actions TEA agreed upon or required noncompliant LEAs to take to timely correct findings of noncompliance regarding child</li> </ul>

CAR 1.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>noncompliance in an LEA and describe the specific actions TEA required noncompliant LEAs to complete to correct the identified noncompliance as soon as possible, but in no case later than one year from the State’s identification of the noncompliance, as required by 20 U.S.C. §§ 1232d(b)(3)(E), 1412(a)(11) and 1416(a) and 34 C.F.R. § 300.600(e) and OSEP Memorandum 09-02 dated October 15, 2008.</p>	<ul style="list-style-type: none"> <li>• Program Guidelines 2020-2021 Education Consolidated Grant Application (Federal)</li> <li>• Texas Education Agency - Department of Review and Support Corrective Action Plan Form</li> <li>• Method: Cyclical Review Schedule</li> <li>• Department of Review and Support 2019-2020 Monitoring</li> <li>• Cyclical Report Public Release Template</li> <li>• Cyclical Report TEMPLATE C1G1</li> <li>• Targeted Review Summary Final - No Noncompliance</li> <li>• Targeted Review Summary Final - With Noncompliance</li> <li>• Parent Engagement for Monitoring</li> <li>• Monitoring Family Fact Sheet</li> <li>• Monitoring Family Fact Sheet Spanish</li> <li>• Monitoring Family Fact Sheet Vietnamese</li> <li>• Monitoring Family Fact Sheet English</li> <li>• Desk Review Crosswalks</li> <li>• Crosswalk Behavior Checklist Accessible</li> </ul>	<p>reports that TEA has provided for OSEP’s review do not contain detailed information explaining the basis for TEA’s findings of noncompliance related to child find, individual evaluations, and FAPE. Additionally, those reports do not specify the corrective actions that TEA agreed upon or required LEAs to take in order to correct the identified noncompliance and whether verification of timely correction occurred consistent with 34 C.F.R. § 300.600(e). For example, several monitoring reports that TEA submitted to OSEP only required the LEA to create a corrective action plan within three months from the issuance of the findings. TEA provided no further information about the corrective action plan or explanation of whether and how it verified timely correction of the findings. Therefore, for the reasons stated above, and as explained further in the explanation of CAR 3.a., OSEP concludes that TEA has not provided OSEP with sufficient information to satisfy CAR 1.c.</p>	<p>find, individual evaluations, and the provision of FAPE consistent with 20 U.S.C. §§ 1232d(b)(3)(E), 1412(a)(11) and 1416(a), 34 C.F.R. § 300.600(e), and OSEP Memorandum 09-02 dated October 15, 2008. Describe and document the actions TEA has taken, or will take, to verify that such timely correction of findings of noncompliance has occurred.</p> <ul style="list-style-type: none"> <li>• Make any needed revisions to its LEA monitoring procedures to ensure identification and timely and appropriate correction of any identified noncompliance related to IDEA requirements governing child find, individual evaluation, and the provision of FAPE.</li> <li>• Revise its monitoring protocols under either the IDEA monitoring referenced above and in CAR 4.a., or under the State’s specific monitoring of the Dyslexia Program, as discussed in CAR 3.c., to ensure that the implementation of the State’s Dyslexia Program does not deny or delay IDEA evaluations and</li> </ul>

CAR 1.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
	<ul style="list-style-type: none"> <li>• Crosswalk Evaluation Checklist Accessible</li> <li>• Crosswalk IEP Content Checklist Accessible</li> <li>• Crosswalk IEP Development Checklist</li> <li>• Crosswalk Implementation Checklist Accessible.docx</li> <li>• Crosswalk Properly Constituted ARDs Checklist</li> <li>• Crosswalk State Assessment checklist</li> <li>• Crosswalk Transition Checklist</li> <li>• 20200107 Sample Table Method (Revised)</li> <li>• Desk Review Rubric.pdf</li> <li>• Desk Review Step by Step 2</li> <li>• Review and Support Desk Review Protocol 2019-2020</li> <li>• Stakeholder Survey</li> <li>• Monitoring Training</li> <li>• Compliance Team Revised</li> <li>• Desk Review Fidelity Training</li> <li>• Desk Review Fidelity Training Agenda</li> <li>• Monitoring Training and Resources 2020-2021</li> <li>• On-site Review</li> <li>• Virtual Onsite (COVID Accommodation)</li> </ul>		<p>the provision of FAPE to eligible children with disabilities.</p>



CAR 1.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
	<ul style="list-style-type: none"> <li>• Virtual Onsite 2020 2021 Internal Guidance</li> <li>• Onsite Monitoring Process</li> <li>• On-Site Activities Agenda</li> <li>• On-site Monitoring Internal Agenda</li> <li>• On-Site Student Observation Protocol</li> <li>• On-Site Wireframes DRAFT 8-04-2020</li> <li>• Send application onsite wireframe</li> <li>• Promising Practices Spring 2020 pilot Fall 2021 Rollout</li> <li>• Promising Practices Outline 06-11-2020</li> <li>• Promising Practices Process Flow Revised 06-15-2020</li> <li>• R&amp;S Internal Timeline 9-11-20 Accessible</li> <li>• RDA and DMS Monitoring Process Manuals</li> <li>• Dyslexia Program Eval - one-pager - 7-22-20 draft</li> <li>• Intensive Supports One-Pager 9-30-20 DRAFT (1)</li> <li>• Results Driven Accountability Manual 2020 Final</li> <li>• Review and Support Selection Methodology for Monitoring Activities</li> </ul>		

CAR 1.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
	<ul style="list-style-type: none"> <li>• SPED Monitoring Stakeholder FAQ2019</li> <li>• TEA Special Education Monitoring One-Pager (1)</li> <li>• TEA-Monitoring Manual Updated Final</li> <li>• Special Education Self-Assessment</li> <li>• Self-Assessment 9-8-2020 AnLAR Final</li> <li>• Special Education Stakeholder Surveys. Interviews-Monitoring</li> <li>• Campus Level Desk Review Interview Questions</li> <li>• Evaluation Staff Desk Review Interview Questions</li> <li>• GE and SE Teacher Desk Review Interview Questions</li> <li>• Parent interview questions.docx</li> <li>• Stakeholder survey cover letter 2020</li> <li>• Stakeholder Feedback</li> <li>• Stakeholder Feedback Survey</li> <li>• Strategic Support Plan</li> <li>• 2020-21 RDA Intervention Requirements</li> <li>• Ascend Texas Access Guidance</li> <li>• SSP - Internal Resource - Question Bank</li> <li>• 183 KB, Modified: 10-21-20 3:23AM</li> </ul>		

CAR 1.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
	<ul style="list-style-type: none"> <li>• SSP Rubric</li> <li>• Strategic Support Plan Communication Protocol INTERNAL</li> <li>• strategic-support-plan-quick</li> <li>• Updated TEA-SSP-Form2020</li> <li>• Targeted Monitoring Method</li> <li>• Trending Topics Supporting Monitoring Findings</li> <li>• Trending Topics in Monitoring Issue 1</li> <li>• Trending Topics in Monitoring Issue 2</li> </ul>		

CAR 1.d.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>Making Dispute Resolution Information Available, Easily Accessible, and Understandable to the Public</p> <p>As set forth in OSEP’s 2020 monitoring report, to satisfy CAR 1.d., TEA must provide verification of revisions to TEA’s Notice of Procedural Safeguards revised July 2020, TEA’s Dispute Resolution Handbook (March 2017), and A Parent’s Guide to the Admissions,</p>	<p>In response to CAR 1.d., TEA submitted the following documents:</p> <ul style="list-style-type: none"> <li>• 2019-2020 Monitoring Reports</li> <li>• CAP Flow Chart Accessible</li> <li>• CAP Verification Process updated 8-18-20</li> <li>• Compliance Team Revised</li> <li>• Cycle 1 and Cycle 2 Monitoring Schedule</li> <li>• Department of Review and Support Monitoring 2019-2020</li> <li>• Department of Review and Support Noncompliance Data</li> </ul>	<p>OSEP notes that the numerous documents that TEA has submitted in response to CAR 1.d. -- including monitoring reports, CAP procedural documents, and procedural monitoring documentation, as well as monitoring schedules and sample corrective action requirements -- are not directly responsive to this CAR item, even though some of the information provided was relevant to monitoring of procedural safeguards requirements. Consistent with CAR 1.d., OSEP has reviewed TEA’s</p>	<p>No further actions are required.</p>

CAR 1.d.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>Review, and Dismissal Process (July 2020). On October 27, 2020, OSEP outlined needed revisions to the referenced documents in an Appendix to its 2020 monitoring report. OSEP’s 2020 monitoring report also requested that TEA provide a plan to distribute these revised documents to LEAs, parents, and other stakeholders, as well as a plan to make these revised documents available to parents who are limited English proficient.</p>	<ul style="list-style-type: none"> <li>• LEA steps required to correct Noncompliance 8-18-20</li> <li>• SPED Corrective Action Plan 19</li> <li>• Updated Ascend TEA-CAP-Form 2020</li> <li>• Notice of Procedural Safeguards, 2021</li> <li>• TEA’s Dispute Resolution Handbook, 2021</li> <li>• TEA’s Parent’s Guide to the Admission, Review, and Dismissal Process 2021</li> </ul>	<p>Notice of Procedural Safeguards, Dispute Resolution Handbook, and A Parent’s Guide to the ARD Process, has informed TEA of the specific edits that were needed to comply with IDEA requirements and has also made several suggestions to improve the clarity of the documents. Upon further review of the revised documents that TEA submitted on February 24 and April 14, 2021, OSEP has determined that TEA made the required edits and addressed OSEP’s suggestions transmitted to TEA in the Appendix to the 2020 monitoring report dated October 27, 2020, and the additional edits and suggestions transmitted to TEA on January 5, 2021, and April 14, 2021. As of April 14, 2021, OSEP has verified that TEA has made all OSEP’s requested edits to the Dispute Resolution Handbook, Notice of Procedural Safeguards, and A Parent’s Guide to the ARD Process. Currently, these documents are posted on TEA’s website and are available in English and Spanish. TEA also has informed OSEP that it intends to translate the documents into Vietnamese and Arabic and</p>	

CAR 1.d.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
		<p>make them available to parents. OSEP appreciates TEA’s efforts to ensure that the required information provided to parents about IDEA’s dispute resolution procedures is both accurate and consistent with applicable IDEA requirements and that dispute resolution information is made available to parents, is easily accessible, and is provided in a format that is understandable to the public. Accordingly, OSEP concludes that TEA has satisfied CAR 1.d.</p>	

CAR 1.e.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>Ongoing Training of Hearing Officers, Mediators, and Complaint Investigators</p> <p>As set forth in OSEP’s 2020 monitoring report, to satisfy CAR 1.e., TEA was required to provide evidence of ongoing trainings conducted for the State’s hearing officers, mediators, and complaint investigators since February 2019 on IDEA’s FAPE, child find, and individual evaluation requirements,</p>	<p>In response to CAR 1.e., TEA submitted the following documents:</p> <ul style="list-style-type: none"> <li>• April 2019 Agenda and Training Material</li> <li>• April 2020 Agenda and Training Material</li> <li>• Hearing Officer Training April 2019</li> <li>• May 2018 Agenda and Training Material</li> <li>• November 2018 Agenda and Training Material</li> </ul>	<p>The above documents demonstrate that TEA has completed the necessary actions to satisfy CAR 1.e. OSEP appreciates TEA’s efforts to ensure that Training on applicable IDEA requirements relevant to child find, individual evaluations and FAPE has occurred for Hearing Officers, Mediators, and Complaint Investigators.</p>	<p>No further actions are required.</p>

CAR 1.e.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
including dates of trainings previously held and any trainings that occurred during Federal Fiscal Year (FFY) 2020 and that have been scheduled in FFY 2021.	<ul style="list-style-type: none"> <li>• November 2019 Agenda and Training Material</li> <li>• November 2020 Training Agenda</li> <li>• Training Sign-In Sheets - 2018-2020</li> </ul>		

OSEP Finding #2: TEA failed to ensure that FAPE was made available to all children with disabilities residing in the State in Texas's mandated age ranges (ages 3 through 21), as required by IDEA section 612(a)(1) and its implementing regulation at 34 C.F.R. § 300.101.

CAR 2.a.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>Requiring All LEAs to Distribute Information to Each Student's Family</p> <p>As set forth in OSEP’s 2020 monitoring report, to satisfy CAR 2.a., TEA was required to provide evidence that all LEAs have posted accurate and complete information related to IDEA’s child find, individual evaluation, and FAPE requirements on their websites for parents.</p>	<p>In response to CAR 2.a., TEA submitted the following documents:</p> <ul style="list-style-type: none"> <li>• 2018-19 - COMPLETED - Right to Information Status Report</li> <li>• 2019-20 - COMPLETED - Right to Information Status Report</li> <li>• 2020-21 - COMPLETED - Right to Information Status Report</li> <li>• Required Student Handbook Statement Memorandum to OSEP 10-21-20</li> </ul>	<p>While OSEP appreciates TEA’s submission of the documents listed above, TEA has not provided evidence demonstrating that TEA has distributed them to parents. TEA informed OSEP that TEA would use SB-139 to satisfy the requirement that all LEAs post accurate information related to IDEA’s child find, individual evaluation, and FAPE requirements on their websites for parents. As noted in OSEP’s analysis of CAR 1.a., of the 43</p>	<p>To satisfy CAR 2.a., within 30 days of the date of this letter, the State must demonstrate to OSEP that it has completed the required actions referenced above in CAR 1.a., i.e., provide evidence that the documents listed above have been provided or made available to parents in all LEAs in the State.</p>

CAR 2.a.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
		<p>LEA websites that OSEP reviewed, 28 selected by TEA and 15 selected by OSEP for on-site monitoring, only 23 of those websites contained the information about IDEA’s child find, individual evaluation, and FAPE requirements reflected in SB-139. This constituted only 53.5% of the LEAs that OSEP reviewed. TEA has 1,207 LEAs and it is crucial that all 1,207 of the State’s LEAs provide parents with accurate information related to IDEA’s child find, individual evaluation and FAPE requirements. Therefore, OSEP concludes that TEA has not satisfied CAR 2.a.</p>	

CAR 2.b.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>Providing Guidance and Information Regarding LEAs’ Legal Responsibilities under State and Federal Law</p> <p>As set forth in OSEP’s 2020 monitoring report, to satisfy CAR 2.b., TEA must provide for OSEP’s review, its guidelines for providing</p>	<p>In response to CAR 2.b., TEA submitted its Additional Services Provision Memorandum to OSEP dated October 21, 2020.</p>	<p>TEA submitted to OSEP the above-referenced memorandum which included a reference to a web linked letter to administrators, dated July 18, 2018, stating that ARD committees (i.e., IEP teams) are responsible for determining what if any additional services were necessary. However, the</p>	<p>To satisfy CAR 2.b., within 30 days of the date of this letter, the State must submit to OSEP:</p> <ul style="list-style-type: none"> <li>• The State’s guidelines to LEAs for providing additional services and supports for students who were not previously evaluated, but who</li> </ul>

<p>additional services and supports for students who were not previously evaluated, but who were later evaluated and found eligible and who were denied appropriate services, and who require additional services and supports in order to receive FAPE, in light of services and supports previously provided.</p>		<p>information contained in the letter to administrators and in TEA’s memorandum only addressed the definition of additional services. It did not include the State’s guidelines for providing additional services and supports to students who were not previously evaluated, but who were later evaluated and found eligible and who require additional services and supports in order to remedy the delay in the provision of FAPE to the student. Therefore, OSEP concludes that the documentation that TEA has provided is incomplete, does not satisfy CAR 2.b. and constitutes longstanding noncompliance.</p>	<p>were later evaluated and found eligible for special education and related services and who require additional services and supports to remedy the delay in the provision of FAPE to the student.</p>
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<b>CAR 2.c.</b>	<b>Documents Submitted by TEA</b>	<b>OSEP Analysis</b>	<b>Required Action /Next Steps</b>
<p>Requiring LEAs to Collect and Retain Data on Requests for Evaluations and Outcomes of Those Requests</p> <p>As set forth in OSEP’s 2020 monitoring report, to satisfy CAR 2.c., TEA must provide OSEP with a report on the data collected from</p>	<p>In response to CAR 2.c., TEA submitted:</p> <ul style="list-style-type: none"> <li>• SPP/APR IDEA Part B Indicator 11 data</li> <li>• SPP data memorandum dated 10-27-2020</li> </ul>	<p>In response to CAR 2.c., TEA submitted State Performance Plan/Annual Performance Report (SPP/APR) IDEA Part B Indicator 11 data and an SPP data memorandum dated 10-27-2020. The SPP/APR Data submitted included eligibility rates for School Years (Sys) 2018-2019 and 2019-</p>	<p>To satisfy CAR 2.c., within 30 days of the date of this letter, the State must:</p> <ul style="list-style-type: none"> <li>• Provide to OSEP a report specifying what data, if any, were actually collected from its LEAs during the 2018-2019 and 2019-2020 school years</li> </ul>



CAR 2.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>its LEAs during the 2018-2019 and 2019-2020 school years that must include:</p> <ul style="list-style-type: none"> <li>• The number of children referred for IDEA evaluations;</li> <li>• The number of IDEA evaluations conducted;</li> <li>• The number of children determined eligible for special education and related services;</li> <li>• The number of children for whom additional services and supports were provided to ensure the provision of FAPE; and</li> <li>• The number of children for whom additional services were determined to be unnecessary for the provision of FAPE and the reasons for that determination.</li> </ul>		<p>2020. The single page document included information such as children receiving a full evaluation who should have been evaluated in a prior school year; the number of children ages 3-21 for whom parents provided written consent for the evaluation; and the number of children that were found not eligible. In its SPP/APR data memorandum, with regard to the data described in CAR 2.c., TEA stated the following, “While TEA does not currently have [the requested] data nor a system by which to collect it, TEA has developed a plan to collect the requested data at a statewide level beginning in the [2020-2021] school year. The first preliminary data would be available from this new collection near the end of calendar year 2021.”</p> <p>The data that TEA has submitted thus far are not responsive to this CAR item and are therefore insufficient to document correction of the longstanding noncompliance resulting from TEA’s failure to timely evaluate all children suspected of having a disability under IDEA</p>	<p>and explain why the data required to address the noncompliance identified in OSEP’s 2018 monitoring report were not reported by LEAs or collected by TEA. Specifically, TEA must provide the following data:</p> <ul style="list-style-type: none"> <li>○ The number of children referred for IDEA evaluations;</li> <li>○ The number of children for whom IDEA evaluations were conducted.</li> <li>○ The number of children for whom evaluations were conducted and were found eligible for special education and related services.</li> <li>○ The number of children for whom additional services and supports were provided that were determined necessary to ensure the provision of FAPE in light of services previously provided.</li> <li>○ The number of children for whom additional services were determined to be</li> </ul>

CAR 2.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
		<p>and to provide FAPE to all eligible children in a timely manner. SPP/APR IDEA Part B Indicator 11 data are not responsive to this CAR item, and the memorandum admits that the requested data will not be available until some point in the future. In its CAR submission, TEA admitted that it did not collect data from its LEAs for the 2018-2019 and the 2019-2020 school years as required. Thus, OSEP concludes that TEA has not provided evidence that it has addressed the required actions relating to finding number 2 in OSEP’s January 11, 2018 monitoring report regarding TEA’s failure to provide FAPE to all eligible children with disabilities in Texas and this constitutes longstanding noncompliance.</p>	<p>unnecessary for the provision of FAPE in light of services previously provided and the reasons for those determinations.</p> <ul style="list-style-type: none"> <li>• Provide a copy of the reporting template and/or instructions it has provided to its LEAs to collect the data required under CAR 2.c for the 2020-2021 school year, including a preliminary report of data collected from LEAs for the 2020-2021 school year that provides the data referenced in the required action immediately above.</li> <li>• If TEA has not required its LEAs to report the data described above for the 2020-2021 school year or has not collected the required data from its LEAs, TEA must provide evidence demonstrating that it has revised its data collection system consistent with CAR 2.c and must describe the specific actions it has taken to revise its data collection system to ensure that the required data can be</li> </ul>

CAR 2.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
			provided for the 2020-2021 school year as soon as possible, but no later than 30 days after the expiration of the 30-day timeline.

OSEP Finding #3: TEA failed to fulfill its general supervisory and monitoring responsibilities as required by IDEA sections 612(a)(11) and 616(a)(1)(C), and their implementing regulations at 34 C.F.R. §§ 300.149 and 300.600, along with 20 U.S.C. 1232d(b)(3)(A), to ensure that LEAs throughout the State properly implemented the IDEA child find and FAPE requirements.

CAR 3.a.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>Facilitating a Process to Revise the State's Dyslexia Handbook</p> <p>As set forth in OSEP’s 2020 monitoring report, TEA must submit a detailed report of the specific steps TEA has taken since the issuance of the 2020 report to provide clarification, training, and monitoring of LEAs necessary to ensure that LEA personnel and school staff are implementing the guidance in Texas’s Dyslexia Handbook</p>	<p>In response to CAR 3.a., TEA submitted:</p> <ul style="list-style-type: none"> <li>• Draft Materials Under Review 3.a</li> <li>• DRAFT Dyslexia Program Evaluation</li> <li>• Draft Materials Under Review 3.a</li> <li>• Draft Dyslexia Module 1.pdf</li> <li>• Draft Dyslexia Module 2.pdf</li> <li>• Draft Dyslexia Module 3.pdf</li> <li>• Draft Dyslexia Module 4.pdf</li> </ul>	<p>See below for OSEP analysis</p>	<p>To satisfy CAR 3.a., within 30 days of the date of this letter, the State must submit to OSEP the specific steps TEA has taken since OSEP’s 2020 monitoring report related to the State’s Dyslexia Program by providing:</p> <ul style="list-style-type: none"> <li>• A clear explanation to LEAs and parents of all applicable IDEA requirements, including those described above.</li> <li>• Training of LEA personnel and school staff on applicable IDEA requirements.</li> </ul>

CAR 3.a.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>consistent with IDEA, including the additional actions that TEA has taken to ensure timely identification and correction of noncompliance through on-site monitoring and dispute resolution procedures.</p>	<ul style="list-style-type: none"> <li>• Dyslexia Activities Memorandum to OSEP 10-21-20</li> <li>• Dyslexia in the IEP 6.3 accessible 8.1 (4)</li> <li>• Dyslexia Program Eval. - one-pager - 7-22-20 draft</li> <li>• Dyslexia Monitoring Sample #1</li> <li>• Dyslexia Monitoring Sample #2</li> <li>• Dyslexia Monitoring Sample #3</li> <li>• Dyslexia Monitoring Sample #4</li> <li>• Dyslexia Monitoring Sample #5</li> </ul>		<ul style="list-style-type: none"> <li>• Revision of TEA’s monitoring protocols under either the IDEA monitoring referenced in CAR 1.c and 4.a. or under the State’s specific monitoring of the Dyslexia Program to ensure that the implementation of the State’s Dyslexia Program does not deny or delay IDEA evaluations and the provision of FAPE to eligible children with disabilities.</li> <li>• Any additional actions that TEA has taken in the implementation of its Dyslexia Program to ensure timely identification and correction of noncompliance related to child find and individual evaluations for children with dyslexia who are suspected of having a disability and need special education and related services under IDEA.</li> </ul>

### CAR 3.a. OSEP Analysis

As previously stated under finding #3 and consistent with CAR 3.a., there are specific applicable legal requirements for identification and evaluation of children with dyslexia under IDEA.

IDEA defines “specific learning disability” (SLD), in part, as “a disorder in one or more of the basic psychological process involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations.” IDEA specifically mentions dyslexia as one of the conditions that could qualify as specific learning disability. 34 C.F.R. § 300.8(c)(10); see also 20 U.S.C. § 1401(30). Thus, a determination can be made that a child with dyslexia has a specific learning disability if the child does not achieve adequately for the child's age or does not meet State-approved grade-level standards in specific areas, including basic reading skills, reading fluency skills, or reading comprehension. 34 C.F.R. § 300.309(a)(1)(iv)-(vi). A determination that a child has a learning disability can also be made if the child does not make sufficient progress when provided with scientific, research-based interventions, and exhibits a pattern of strengths and weaknesses in achievement, performance, or both relevant to age, State standards, and intellectual development that is relevant to the identification of a specific learning disability. 34 C.F.R. § 300.309(a)(2).

Under the IDEA, a child's underachievement may not be due to lack of appropriate instruction in reading. 34 C.F.R. § 300.309(a)(3)(b). Accordingly, the group conducting the IDEA evaluation and making the IDEA eligibility determination under 34 C.F.R. §§ 300.304-300.306 for a child with dyslexia must consider: (1) data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and (2) data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents. 34 C.F.R. § 300.309(b).

IDEA places specific obligations on an LEA if the child has not made sufficient progress. Specifically, under 34 C.F.R. § 300.309(c), a public agency is required to promptly request parental consent to evaluate the child to determine if the child needs special education and related services and must adhere to the evaluation timeframe in 34 C.F.R. § 300.301, if, prior to a referral, (1) a child has not made adequate progress after an appropriate period of time when provided instruction, as described in § 300.309(b)(1) and (b)(2). This is also required whenever a child is referred for an evaluation. *Id.* Accordingly, IDEA recognizes that dyslexia is a condition that could qualify a child as having a specific learning disability, as defined in 34 C.F.R. § 300.8(c)(10) and sets out the specific actions that LEAs must take to evaluate such children, including the IDEA general supervision and monitoring and child find and initial evaluation requirements discussed below.

The documents that TEA has submitted are insufficient to verify correction of the longstanding noncompliance related to CAR 3.a. because those documents appear to be primarily draft materials that have not been finalized and disseminated. The draft materials also do not provide clarification to LEA personnel and school staff about how to implement the Texas Dyslexia Handbook consistent with IDEA requirements governing child find and individual evaluations of students with dyslexia who need special education and related services under IDEA, as noted above.

Furthermore, although TEA reported and provided documentation to OSEP indicating that TEA is monitoring LEAs' implementation of the Dyslexia Handbook, that documentation is insufficient to demonstrate that TEA's monitoring addresses LEA compliance with IDEA requirements, including those cited above. Specifically, TEA provided five monitoring reports to OSEP that contained insufficient information about how a child suspected of having

### CAR 3.a. OSEP Analysis

dyslexia is evaluated under IDEA.<sup>1</sup>

Although these reports focus on the procedures for identifying and serving students with dyslexia, they do not focus on whether and how LEAs ensure that children with dyslexia who need special education and related services are promptly referred for an evaluation under IDEA, as required by 34 C.F.R. § 300.309(c).<sup>2</sup>

It is also significant that there is no indication from these TEA monitoring reports that LEA personnel are meeting their responsibility to promptly refer a child for a full and individual initial evaluation under IDEA. This is particularly important whenever data-based documentation of repeated assessments of achievement at reasonable intervals conducted in the Dyslexia Program indicate that the child is not making sufficient progress when provided appropriate instruction in a regular education setting<sup>3</sup> or whenever the child is referred for an evaluation because LEA personnel or the parent believe that the child needs special education and related services under IDEA. OSEP continues to have significant concerns about TEA's lack of monitoring and supervision in the context of Texas's Dyslexia Handbook and whether LEA personnel are implementing policies and procedures that are consistent with IDEA's child find and individualized evaluation requirements in 34 C.F.R. §§ 300.111, 300.122, and 300.300-300.311. See also 34 C.F.R. § 300.201. This was specifically addressed under TEA's CAR.

OSEP continues to receive a steady stream of communications from stakeholders, including advocates, professional organizations, and parents, which raise questions about TEA's and LEAs' compliance with IDEA's child find, individual evaluation, and FAPE requirements for children with dyslexia who are

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<sup>1</sup> IDEA is the primary vehicle for determining whether a child with a disability, including dyslexia, should be evaluated to determine whether the child has a specific learning disability as defined in 34 C.F.R. § 300.8(c)(10) and needs special education and related services. The IDEA lists dyslexia as a specific learning disability. An IDEA evaluation of a student suspected of having a specific learning disability under IDEA would generally occur before a student's evaluation under Section 504 of the Rehabilitation Act of 1973 (Section 504). This is because a child with dyslexia may still be eligible for FAPE under Section 504 after being determined not eligible under IDEA.

<sup>2</sup> OSEP specifically notes the following questions regarding TEA's Dyslexia monitoring:

- Does the LEA have a local procedure for notifying all parents of services and options available to eligible students with dyslexia under IDEA or Section 504?
- Are there local procedures that demonstrate evidence that parents have been provided a copy or link to the Texas Dyslexia Handbook?
- Do local procedures include reporting the number of students identified as having dyslexia in the Public Education Information Management System (PEIMS)?
- Does local policy require that a student determined to have dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student?

<sup>3</sup> It is OSEP's understanding that TEA considers the Dyslexia Program as a part of the regular education setting.

**CAR 3.a. OSEP Analysis**

suspected of needing special education and related services under IDEA. This is especially significant because the TEA and the Texas School Boards Association appear to endorse the Texas Dyslexia Handbook as the key resource and guide for LEAs, schools, and parents to rely upon in considering if, when, and how a student with dyslexia is referred for an evaluation under IDEA.

Stakeholders have explained to OSEP that some children participating in the State’s Dyslexia Program were only provided related aids and services under Section 504 even though they continued to encounter educational difficulties. These children were not referred for an IDEA evaluation by school staff. There also appears to be a common misunderstanding that a child must have a condition or disability, in addition to dyslexia, to be considered for an evaluation under IDEA. As noted above, under IDEA, dyslexia alone may be sufficient to determine IDEA eligibility.

These issues illustrate the continued potential for noncompliance generated by improper implementation of the Texas Dyslexia Program and highlights the importance of specific monitoring protocols to address this issue. It is apparent to OSEP that school staff, families, and advocates still do not have a clear understanding of all the requirements and rules outlined in the Texas Dyslexia Handbook. Because TEA has not provided OSEP with the information regarding this CAR item as set forth in the 2020 monitoring report, OSEP concludes that TEA has not satisfied CAR 3.a.

<b>CAR 3.b.</b>	<b>Documents Submitted by TEA</b>	<b>OSEP Analysis</b>	<b>Required Action /Next Steps</b>
<p>Evaluate Existing Resources and Whether They Meet Legal Requirements Under the IDEA</p> <p>As set forth in OSEP’s 2020 monitoring report, TEA must revise the Parent’s Guide to the ARD, Procedural Safeguards and Dispute Resolution Handbook to be consistent with IDEA.</p>	<p>In response to CAR 3.b., TEA submitted the following documents:</p> <ul style="list-style-type: none"> <li>• Parent’s Guide to the ARD Process, 2021</li> <li>• Notice of Procedural Safeguards 2021</li> <li>• Dispute Resolution Handbook 2021</li> </ul>	<p>OSEP’s response to the documents necessary to satisfy CAR 3.b has been addressed under CAR 1.d, and it is not necessary for TEA to provide any additional information in response to CAR 3.b.</p>	<p>No further actions are required.</p>

CAR 3.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>Creating a Suite of Information to Share with Parents of Children Suspected of Having a Disability under IDEA</p> <p>As set forth in OSEP’s 2020 monitoring report, to satisfy CAR 3.c. TEA must provide for OSEP’s review, a representative sample of the documents the State has produced to inform parents of the differences between Section 504, RTI, and services under the State’s Dyslexia Program.</p>	<p>In response to CAR 3.c., TEA submitted the following documents:</p> <ul style="list-style-type: none"> <li>• Parent Documents Memorandum to OSEP 10-21-20</li> <li>• Notice of Education Rights Status Report</li> <li>• Monitoring Response to Correction Action 12-11-20</li> <li>• TEA Documentation of Implementation for Monitoring Activities</li> <li>• Required Dyslexia Monitoring Memorandum to OSEP Monitoring Reports</li> </ul>	<p>To satisfy CAR 3.c., OSEP’s 2020 monitoring report required TEA to provide a representative sample of the documents the State has produced to inform parents of the differences between evaluations and services under Section 504, RTI policies and procedures, and services under the State’s Dyslexia Program OSEP also required that TEA specify how it has ensured LEAs’ broader dissemination of these materials, to the extent that not all families in Texas may have access to websites<sup>4</sup>. OSEP’s analysis found that TEA produced documents to inform parents of the differences between RTI, Section 504, and the Dyslexia Program (<a href="https://tea.texas.gov/academics/special-student-populations/special-education/resources">https://tea.texas.gov/academics/special-student-populations/special-education/resources</a>). On October 21, 2020, TEA also provided OSEP a memorandum that stated that TEA required all districts to inform parents of TEA’s corrective actions in response to Senate Bill 139 of the 86<sup>th</sup> Texas Legislature. TEA’s required communication to parents from LEAs</p>	<p>To satisfy CAR 3.c., within 30 days of the date of this letter, TEA must provide evidence to OSEP that TEA has made the documents TEA has developed regarding Section 504, the Dyslexia Program and RTI available to parents. Dissemination of these documents may include posting on all LEA websites, posting on TEA’s website, posting in LEA’s Student Handbooks, or sending hard copies home to parents.</p>

<sup>4</sup> OSEP reminds TEA of its obligations to ensure effective communication under the requirements in Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act.



CAR 3.c.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
		<p>concerning Senate Bill 139 contained a link to a TEA website providing additional information regarding IDEA, Section 504, the Dyslexia Program, and Multi-Tiered Systems of Support. However, OSEP concludes that TEA has not satisfied this CAR item because the documents are only referenced in a link on TEA’s website without instructions on how to view the information, and TEA has not addressed how these materials would be distributed to families that may not have web access. OSEP is concerned that parents will not be aware of this link or the information that is being provided.</p>	

CAR 4.a.1.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>TEA Restructuring of Agency Oversight with Increased Capacity and Monitoring Expertise</p> <p>As set forth in OSEP’s 2020 monitoring report, TEA must provide OSEP with an update on the specific actions it has taken to</p>	<p>In response to CAR 4.a., TEA submitted the following documents:</p> <ul style="list-style-type: none"> <li>• Desk Review Fidelity Training Accessible</li> <li>• Monitoring Interview Questions</li> <li>• Campus Level Desk Review Interview Questions (3)</li> <li>• District Level Administration Desk Review Interview Questions (3)</li> </ul>	<p>The documents that TEA has submitted are not sufficient to address this longstanding noncompliance. TEA has provided evidence demonstrating that it has restructured LEA agency oversight by increasing its capacity for monitoring. The state has reorganized its Special Population Department and restructured Agency Oversight with Increased Capacity and Monitoring</p>	<p>As noted in the Required Actions for CARs 1.c. and 3.a., TEA must revise its monitoring protocols under either the IDEA monitoring referenced in CAR 1.c. or under the State’s specific monitoring of the Dyslexia Program, under CAR 3.a. to ensure that the implementation of the State’s Dyslexia Program does not deny or</p>

CAR 4.a.1.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>restructure its general supervision and monitoring systems, including its updated general supervision policies and procedures and revised monitoring protocols, the number of staff that conduct monitoring visits, the criteria it uses in selecting LEAs for on-site monitoring, and how TEA considers stakeholder input.</p>	<ul style="list-style-type: none"> <li>• Evaluation Staff Desk Review Interview Questions (3)</li> <li>• GE and SE Teacher Desk Review Interview Questions (3)</li> <li>• Parent interview questions</li> <li>• Monitoring Methodology</li> <li>• Cyclical Monitoring Method Accessible</li> <li>• Review and Support Selection Methodology for Monitoring Activities</li> <li>• Targeted Monitoring Method Accessible</li> <li>• Monitoring Protocols</li> <li>• 2019-2020 Policy Review Accessible</li> <li>• Desk Review Diagnostic Analysis Protocol Policy Final Best Practice Interview Questions updated 1-17-19</li> <li>• Pilot Audit Papers Email Template</li> <li>• Pilot Batches-updated-12-6-18</li> <li>• Post Pilot survey email-Final-2-24-19</li> <li>• Post-Pilot Survey Results</li> <li>• Pre-Pilot Survey Write Up</li> <li>• Request for Applications for Review and Support Pilot</li> <li>• SPED Monitoring Pilot 1-319</li> <li>• Cyclical Monitoring Survey</li> </ul>	<p>Expertise. The State has also transitioned the Special Education monitoring duties from School Improvement to Special Populations (in the Office of Academics) as part of a new Review &amp; Support Team. Based on documentation TEA submitted under CARs 1.c. and 3.a. above, TEA failed to adequately monitor LEAs to ensure that their implementation of the Dyslexia Program is consistent with the requirements of the IDEA found at 34 C.F.R. §§ 300.300-300.311.</p>	<p>delay IDEA evaluations and the provision of FAPE to eligible children with disabilities.</p>

CAR 4.a.1.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
	<ul style="list-style-type: none"> <li>• Parent Survey Group 1 and 2 Monitoring</li> <li>• Stakeholder survey cover letter 2020</li> <li>• Stakeholder Survey FAQ.pdf</li> <li>• Stakeholder Feedback Survey</li> <li>• Total Participants in Group 1 and Group 2 desk review surveys</li> <li>• Self-Assessment feedback survey</li> <li>• SPED Monitoring Stakeholder FAQ 2019</li> <li>• Stakeholder Engagement and Marketing and Communications Plan</li> <li>• MRS E2 Plan 2.0</li> <li>• Texas Education Agency Self-Assessment Pilot LEA Roster and</li> <li>• TEA-Monitoring Manual</li> <li>• Desk Review Step by Step 2</li> <li>• DMT Program Evaluation Protocol 10-19-2020 DRAFT</li> <li>• On-Site Activities Agenda</li> <li>• On-Site Student Observation Protocol</li> <li>• Review and Support Desk Review Protocol 2019-2020</li> <li>• Self-Assessment 9-8-2020 AnLAR Final with Domains</li> </ul>		

CAR 4.a.1.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
	<ul style="list-style-type: none"> <li>• Monitoring Response to 4a and 4b Memorandum to OSEP 10-22-20-DESKTOP</li> <li>• R&amp;S Internal Timeline 9-11-20</li> <li>• Stakeholder Activities and Feedback</li> <li>• Regional Service Center Regional Stakeholder Engagements</li> <li>• ESC Preferred Dates with Teams Assigned FINAL</li> <li>• ESC stakeholder event survey Accessible.docx</li> <li>• Monitoring Stakeholder Interview Questions</li> <li>• District Level Administration Desk Review Interview Questions</li> <li>• Evaluation Staff Desk Review Interview Questions</li> <li>• GE and SE Teacher Desk Review Interview Questions</li> <li>• Parent interview questions.docx</li> <li>• Monitoring Pilot</li> </ul>		

CAR 4.a.2.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
<p>As set forth in OSEP’s 2020 monitoring report, TEA must provide evidence demonstrating that consistent with its general supervisory and monitoring responsibilities, TEA has the capacity and has a system in place to identify and correct noncompliance by all LEAs throughout the State with all IDEA requirements in a timely manner, particularly those requirements related to child find, individual evaluations, and the provision of FAPE in accordance with 20 U.S.C. §§ 1412(a)(11) and 1416(a) and 34 C.F.R. §§ 300.149 and 300.600, 20 U.S.C. § 1232d(b)(3)(E) and 34 C.F.R. § 300.600(e), and OSEP Memorandum 09-02 dated October 15, 2008.</p>	<p>In response to CAR 4.a.2., TEA submitted sample monitoring reports and CAP information including both internal and external timelines.</p> <ul style="list-style-type: none"> <li>• CAP Flow Chart Internal Facing Accessible</li> <li>• Corrective Action Plan: Noncompliance Talking Points</li> <li>• CAP Verification Process updated 8-18-20 Accessible (1)</li> <li>• Compliance Team Revised Accessible (1)</li> <li>• Department of Review and Support Organizational Chart Accessible</li> <li>• Desk Review Fidelity Training Accessible (1)</li> <li>• LEA steps required to correct Noncompliance 8-18-20 Accessible</li> <li>• LEA steps required to correct Noncompliance 8-18-20 Accessible</li> </ul>	<p>The documents TEA has submitted are insufficient to document correction of this longstanding noncompliance because the sample CAP monitoring reports provided did not demonstrate 100% correction of noncompliance with IDEA requirements by the LEAs monitored by TEA. OSEP notes that TEA has revised its monitoring system, hired staff to conduct monitoring, trained staff on monitoring, and conducted monitoring. However, the CAP monitoring reports that TEA has submitted for OSEP’s review thus far demonstrate inconsistencies, such as:<sup>5</sup></p> <p>(1) CAPs developed from noncompliance notifications on 11/8/2019 and 6/30/2019 were written and closed prior to TEA issuing a letter with findings of noncompliance;</p> <p>(2) CAP developed from a noncompliance notification on 6/1/2020 did not address the findings of noncompliance and only identified</p>	<p>To satisfy this CAR item, within 30 days of the date of this letter the State must submit to OSEP:</p> <ul style="list-style-type: none"> <li>• Sample monitoring reports using TEA’s new monitoring process to identify and correct noncompliance by all LEAs throughout the State with all IDEA requirements in a timely manner, particularly those requirements related to child find, individual evaluations, and the provision of FAPE in accordance with 20 U.S.C. §§ 1412(a)(11) and 1416(a) and 34 C.F.R. §§ 300.149 and 300.600, 20 U.S.C. § 1232d(b)(3)(E) and 34 C.F.R. § 300.600(e), and OSEP Memorandum 09-02.</li> <li>• Monitoring reports containing findings that account for all instances of noncompliance, including noncompliance</li> </ul>

<sup>5</sup> TEA submitted six CAPS:

- 3 CAPs from Cycle 1, Group 1 October 2019 -December 2019
- 2 CAPs from Cycle 1, Group 2 January 2020 – March 2020
- 1 CAP from 2018 -2019
- 1 Notification of Noncompliance 2019 - 2020

CAR 4.a.2.	Documents Submitted by TEA	OSEP Analysis	Required Action /Next Steps
	<ul style="list-style-type: none"> <li>• NC-SPP Verification 8-18-20 Accessible except for Rubric Tab</li> <li>• R&amp;S Internal Timeline 9-11-20 Accessible (1)</li> <li>• TEA-CAP-Form FINAL 508</li> </ul>	<p>training;</p> <p>(3) CAPs developed from all notifications of noncompliance did not address verification that correction of noncompliance has occurred as documented on the CAP.</p> <p>Therefore, OSEP concludes that TEA has not satisfied this CAR item.</p>	<p>identified: (a) through the State’s on-site monitoring system or other monitoring procedures such as self-assessment; (b) through the review of data collected by the State, including compliance data collected through the State’s data system(s); and (c) by the Department.</p> <ul style="list-style-type: none"> <li>• Identify in which LEAs’ noncompliance occurred, the percentage level of noncompliance in each of those sites, and the root cause(s) of the noncompliance.</li> <li>• If needed, change, or require each LEA to change policies, procedures and/or practices that contributed to or resulted in noncompliance.</li> </ul> <p>Determine, for each LEA with identified noncompliance, that the LEA is correctly implementing the specific regulatory requirement(s). This must be based on the State’s review of updated data such as data from subsequent on-site monitoring or data collected</p>

<b>CAR 4.a.2.</b>	<b>Documents Submitted by TEA</b>	<b>OSEP Analysis</b>	<b>Required Action /Next Steps</b>
			through the State's data system(s).