

# Director's Webinar

October 13, 2020

# Agenda

- Assessment Update – Dr. Mary Nesbit-McBride, Assessment and Accountability
  - GAA 2.0
  - GKIDS for all Kindergarten Students
  - Using LCI Data in the Assessment Placement Process
  - WIDA Screener Accommodations
- Disproportionality
- District Determinations
- Dispute Resolution Summary of Findings from FY20-Part 1

# Assessment Updates

Special Education Director's Meeting

October 13, 2020

Mary Nesbit-McBride

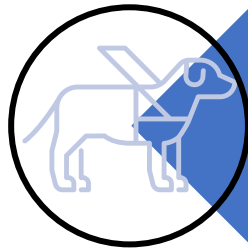
[mnesbit@doe.k12.ga.us](mailto:mnesbit@doe.k12.ga.us)



## Policy Updates



## Assessment Updates



## Resources

# SB 367

- Signed into law July 2021
- Eliminates 4 End of Course assessments (EOC)
  - Note: There will be no changes to the high school GAA for 2020-2021. We will be working with Georgia educators to review the blueprint for future administrations.
- Eliminates grade 5 social studies
  - Georgia Milestones and GAA
- Requires districts administer the End of Grade (EOG) assessments within the last 25 days of the regular school year

# SBOE Action

- At its August 2020 SBOE meeting, the SBOE passed a resolution retaining the following EOCs:
  - Algebra I/Coordinate Algebra
  - American Literature and Composition
  - Biology
  - U.S. History
- The AP/IB/DE exemption now applies to U.S. History only.
- Advanced middle school students enrolled in EOC-required courses must take both the EOG and EOC.

# Federal Waiver

- On July 13, Governor Kemp and Superintendent Woods submitted a request to the U.S. Department of Education to waive federal assessment and accountability requirements for 2020-2021.
- On September 3, Secretary of Education Betsy DeVos sent a letter to chief state school officers indicating that she would not approve such requests for 2020-2021.
- Unless something changes, we will be required to administer all statewide assessments in 2020-2021.

## GAA 2.0 High School Assessments

- 9<sup>th</sup> Grade Literature

- American History

- American Literature

- Economics

- Biology

- Algebra

- Physical Science

- Geometry

# Assessment Updates



GKIDS  
Alternate Assessments  
WIDA Screener

# GKIDS: Student Support



GKIDS 2.0 is designed to provide information for ALL students enrolled in kindergarten by allowing students of varying levels of ability to participate in all activities with the use of supports.

## Universal Allowances

- May be used, as needed, with all students for all performance tasks
- Aligned to best practices for access to instruction and assessment
- Provide for a range of actions, material presentations, procedures, and settings

## Comprehensive Supports

- Provide access to a performance task but may substantially alter what the student is expected to do.
- If utilizing comprehensive supports, care should be taken when interpreting a student's progress within the learning progression.

# GKIDS



- All Kindergarten students, including those students instructed using an alternate curriculum, will participate in the GKIDS 2.0.
- Students instructed using an alternate curriculum should have IEP documentation of GAA) 2.0 eligibility and should be reported as YES for GAA 2.0 in FTE1 and FTE3.
  - This information is used to ensure that teachers are appropriately certified to instruct students using an adapted curriculum.
  - Improper reporting may result in In-Field errors.

# Alternate Assessment Eligibility

- Participants must meet specific eligibility criteria
- Participants will be eligible for the state-defined alternate diploma (SBOE 160-4-.48)
- Alternate ACCESS participants must be Els meet the eligibility criteria
- The Learner Characteristics Inventory (LCI) has been added as a data source

## Eligibility Criteria for the Georgia Alternate Assessment 2.0 (GAA)

### Step 1: Review the Eligibility Criteria for GAA

Prior to reviewing the eligibility criteria for GAA, the Individualized Education Program (IEP) team must understand all assessment options, including the characteristics of each assessment and the potential implications of each assessment choice. The GAA 2.0 is intended for students with the most significant cognitive disabilities. Instruction for these students is based on alternate academic achievement standards, which are aligned to the Georgia Standards of Excellence at a reduced depth, breadth, and complexity. Beginning with students who enroll in ninth grade for the first time on or after the 2020-2021 school year, students who participate in the GAA 2.0 will be eligible for the state-defined alternate diploma rather than the regular high school diploma (SBOE 160-4-2-.48).

According to O.C.G.A. § 20-2-281, school districts are required to follow the procedures specified in the applicable test administration materials. As a result, the IEP team must use this form to document its assessment decisions. If GAA is being considered, the IEP team must review the four criteria below and select **Yes** or **No** if applicable to the student. To be eligible to participate in GAA, the answer to all four of the questions below must be **Yes**. If the answer to any of the questions is **No**, the student is not eligible to participate in GAA and must participate in the Georgia Milestones Assessment System. Each **Yes** answer requires a justification that contains evidence that the student meets the criteria.

Student Name	Grade	Eligibility Criteria	Sources of Evidence (check if used)	Justification	
		<b>1. Does the student require intensive, individualized instruction in a variety of instructional settings?</b> The student needs specialized academic instruction and techniques over a period of time to ensure that he or she can learn, retain information, and transfer skills to other settings.	<input type="radio"/> Yes <input type="radio"/> No	<input type="checkbox"/> Present Levels of Academic Achievement and Functional Performance <input type="checkbox"/> Anecdotal Notes and Observations <input type="checkbox"/> Benchmark Data <input type="checkbox"/> Progress Monitoring Data <input type="checkbox"/> Learning Characteristics Inventory <input type="checkbox"/> Other	
		<b>2. Does the student have a significant cognitive disability?</b> A significant cognitive disability is determined by the IEP team and must be based on evaluation information	<input type="radio"/> Yes <input type="radio"/> No	<input type="checkbox"/> Results of Individual Cognitive Ability Test <input type="checkbox"/> Results of Adaptive Behavior Skills Assessment	

Georgia Department of Education  
 Richard Woods, Georgia's School Superintendent  
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# Who should take Alternate ACCESS?

1

Student has been qualified as an EL

2

The student has been classified as a special education student and is receiving special education services

3

The student has significant cognitive disability

4

The student is eligible for GAA 2.0, including students in grades in which GAA 2.0 is not administered

# Using the Learner Characteristics Inventory

## Learner Characteristics Inventory (LCI)

### Expressive Communication (check the best description)

- ☐ Uses symbolic language to communicate: Student uses verbal or written words, signs, Braille, or language-based augmentative systems to request, initiate, and respond to questions, describe things or events, and express refusal.
- ☐ Uses intentional communication, but not at a symbolic language level: Student uses understandable communication through such modes as gestures, pictures, objects/textures, points, etc., to clearly express a variety of intentions.
- ☐ Student communicates primarily through cries, facial expressions, change in muscle tone, etc., but no clear use of objects/textures, regularized gestures, pictures, signs, etc., to communicate.

### Receptive Language (check the best description)

- ☐ Independently follows 1–2 step directions presented through words (e.g., words may be spoken, signed, printed, or any combination) and does NOT need additional cues.
- ☐ Requires additional cues (e.g., gestures, pictures, objects, or demonstrations/models) to follow 1–2 step directions.
- ☐ Alerts to sensory input from another person (auditory, visual, touch, movement) BUT requires actual physical assistance to follow simple directions.
- ☐ Uncertain response to sensory stimuli (e.g., sound/voice; sight/gesture; touch; movement; smell).

### Reading (check the best description)

- ☐ Reads fluently with critical understanding in print or Braille (e.g., to differentiate fact/opinion, point of view, emotional response, etc.).
- ☐ Reads fluently with basic (literal) understanding from paragraphs/short passages with narrative/informational texts in print or Braille.
- ☐ Reads basic sight words, simple sentences, directions, bullets, and/or lists in print or Braille.
- ☐ Aware of text/Braille, follows directionality, makes letter distinctions, or tells a story from the pictures that is not linked to the text.
- ☐ No observable awareness of print or Braille.

### Mathematics (check the best description)

- ☐ Applies computational procedures to solve real-life or routine word problems from a variety of contexts.
- ☐ Does computational procedures with or without a calculator.
- ☐ Counts with 1:1 correspondence to at least 10, and/or makes numbered sets of items.
- ☐ Counts by rote to 5.
- ☐ No observable awareness or use of numbers.

### Augmentative Communication System

Does your student use an augmentative communication system in addition to or in place of oral speech?

- ☐ Yes
- ☐ No

### Health Issues/Attendance (check the best description)

- ☐ Attends at least 90% of school days.
- ☐ Attends approximately 75% of school days; absences primarily due to health issues.
- ☐ Attends approximately 50% or less of school days; absences primarily due to health issues.
- ☐ Receives Homebound Instruction due to health issues.
- ☐ Highly irregular attendance or homebound instruction due to issues other than health.

### Engagement (check the best description)

- ☐ Initiates and sustains social interactions.
- ☐ Responds with social interaction, but does not initiate or sustain social interactions.
- ☐ Alerts to others.
- ☐ Does not alert to others.

# Using the Learner Characteristics Inventory

When making assessment placement choices, the student data available may help in answering key questions and identifying red flags.

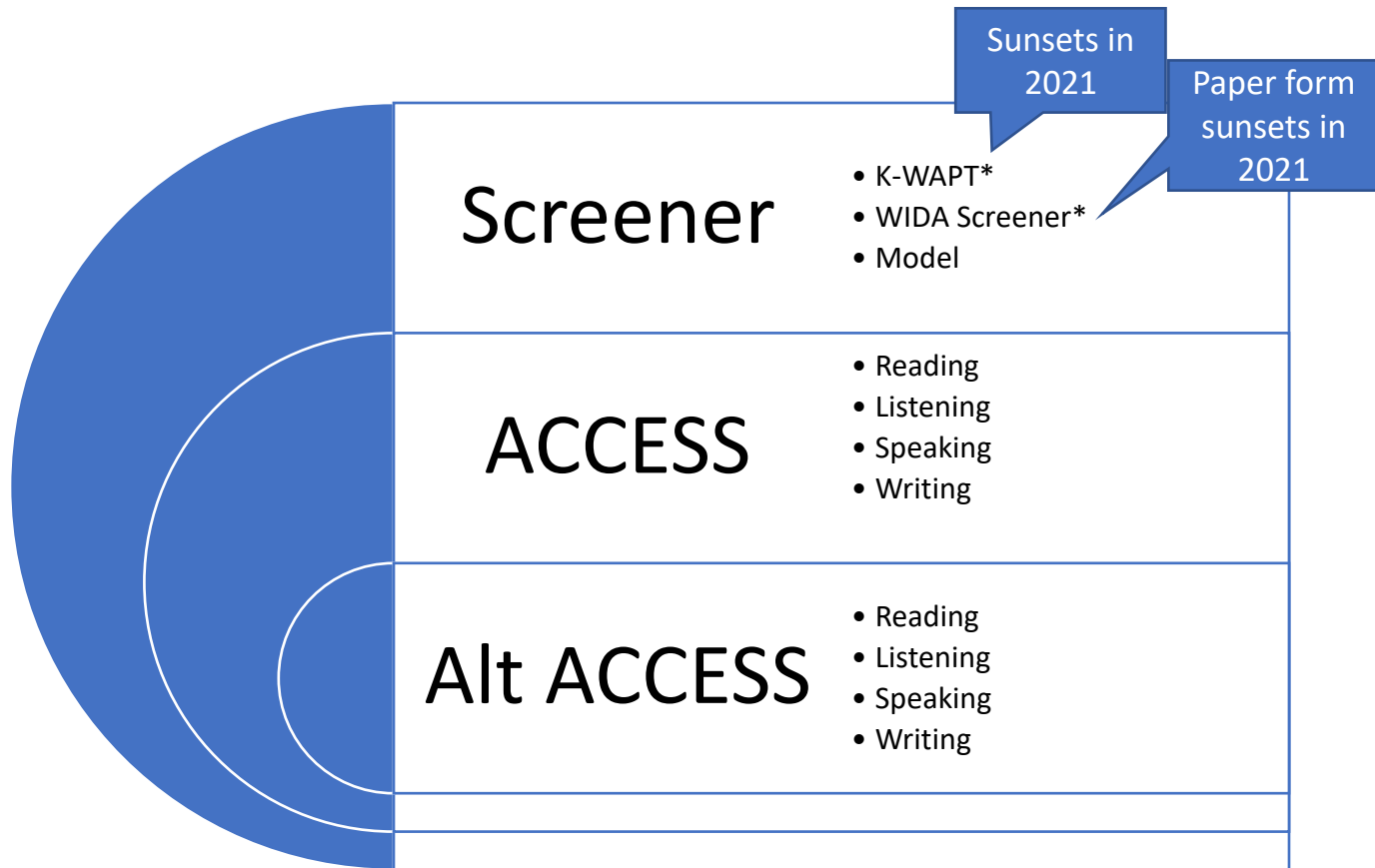
- Available Data Sources
  - LCI
  - SRC (Primary Disability)
- System Test Coordinators can access district LCI data via the MyGaDOE Portal and Nextera.

# Using the LCI

## Key Questions

- Does the primary disability profile align to the eligibility requirements for the alternate assessment for students with the most severe cognitive disabilities?
- Does the learner characteristic inventory information offer further information on eligibility?
- What follow-up steps may be taken regarding the development of communication system?
- Does assessment on the GAA 2.0 reflect the student's instructional program on the alternate academic content standards and path to an alternate diploma?

# ACCESS Assessments



# WIDA Screener Accommodations

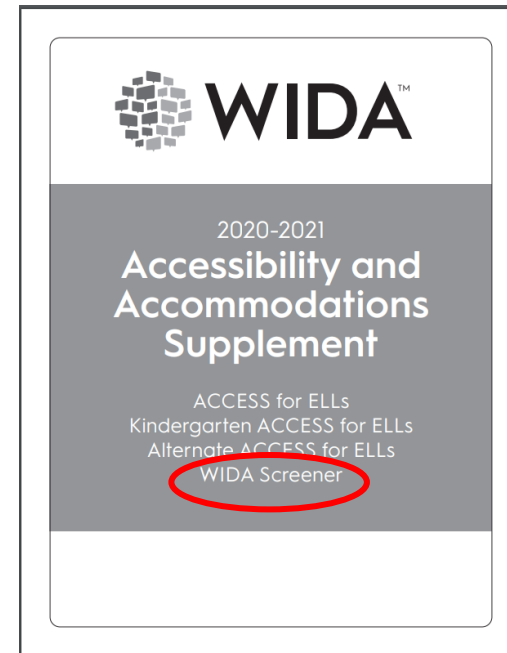
## WIDA ACCESS for ELLs, Kindergarten ACCESS for ELLs, Alternate ACCESS for ELLs (ALT), and WIDA Screener Allowable Accommodations

Specific guidance is found in the *WIDA Accessibility & Accommodations Supplement* and Test Administration Manuals. Georgia-Specific policy is found in the *Student Assessment Handbook* and *Accessibility & Accommodations Manual*.

Accommodation – (Accommodations appropriate for Alternate Access marked with ALT)	Type	Coding in WIDA AMS	Must be ordered separately	Kindergarten Access for ELLs Standard Administration Procedure (Coding Not Required)	Alt Access Standard Administration Procedure (Coding Not Required)
1. Braille with Tactile Graphics. May not be used for Speaking domain.	S	BR	✓		
2. Extended time of a test domain over multiple days. Requires GaDOE approval.	S	EM		✓	✓
3. Extended speaking test response time (twice the allowable time to respond). Allowable for Speaking Domain only.	S	ES		✓	✓

# WIDA Screener Accommodations

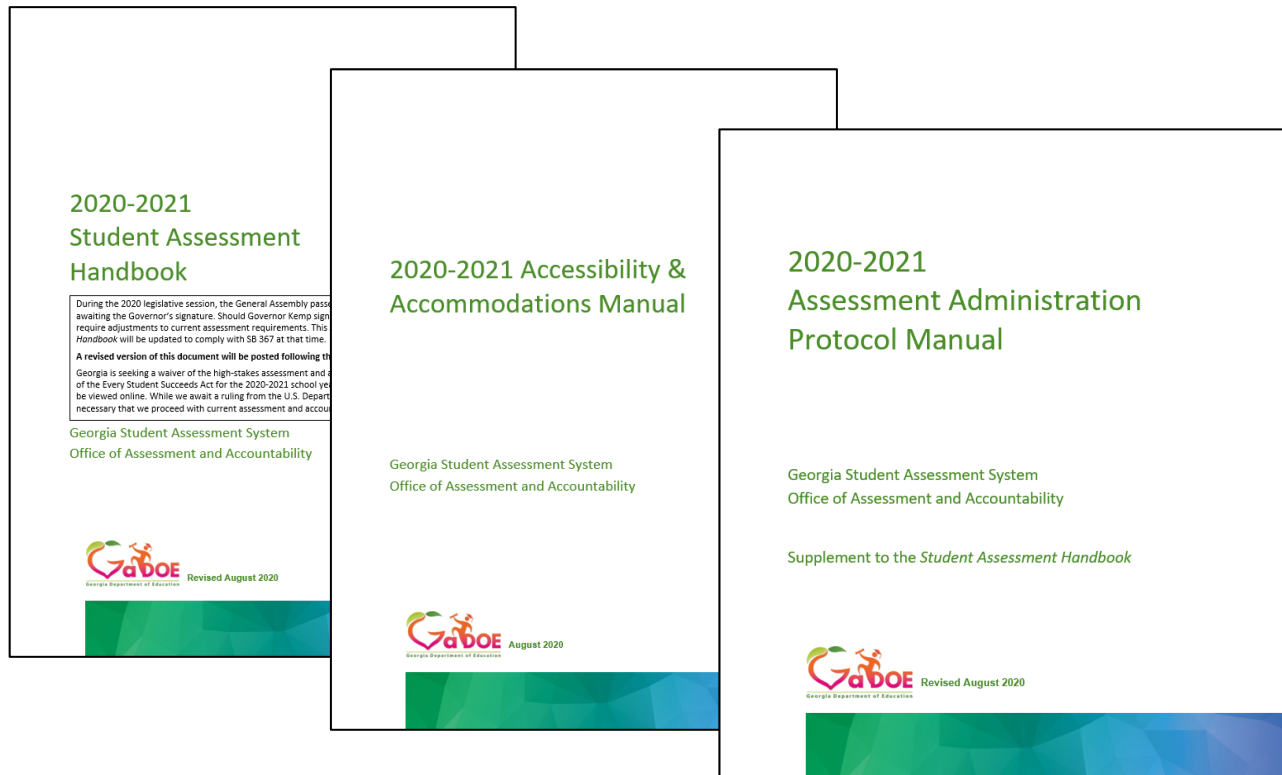
- Collection of existing accommodation information
- Communication of accessibility supports and accommodations
- Documentation of needed accommodation



# Resources



# Test Administration Resources



# ACCESS for ELLs, Alternate ACCESS, WIDA Screener

## WIDA Resources



- Family Engagement
- Accessibility Guidance
- Score Interpretation

## Test Demo



- WIDA Screener
- ACCESS
- Sample Items

## WIDA AMS



- User Management
- Material Management
- Reporting
- Screener Scoring

## WIDA Secure Portal



- Test Administration Manuals
- Webinar Recordings
- Technology Resources
- [Accessibility Accommodations Supplement](#)

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# FY21 Disproportionality Determinations

## Tentative Dates

# Tentative Dates for FY21 Disproportionality Determinations Data

- The following FY21 Disproportionality Determinations Data will be available for LEAs to review in the Disproportionality Portal Application on the Dashboard:
  - Significant Discrepancy 4a & 4B- November 2020
  - Significant Disproportionality-Discipline- November 2020
  - Significant Disproportionality-Identification- November 2020
  - Significant Disproportionality-Placement- November 2020
  - FY21 Disproportionality Determinations official notification sent to LEAs- Week of December 14, 2020

# FY21 LEA Determinations

- Tentative Date for LEAs to receive official notification for FY21 LEA Determinations:
  - Week of December 14, 2020

\*Compliance Matrix Only

# Dispute Resolution Summary of Findings from FY20 -Part 1

Jamila Pollard, J.D.  
Program Manager Senior and Legal Officer

# Family Engagement and Dispute Resolution Unit

Providing a continuum of resources for Georgia families and school districts

## Family Engagement

- Georgia Parent Mentor Partnership
- State Advisory Panel (SAP)
- Collaboration with Parent2Parent of Georgia
- Collaboration with Title I Family-School Partnership Program

## Dispute Prevention

- Procedural Safeguards (Parents' Rights)
- Special Education Help Desk
- IEP Facilitation

## Dispute Resolution

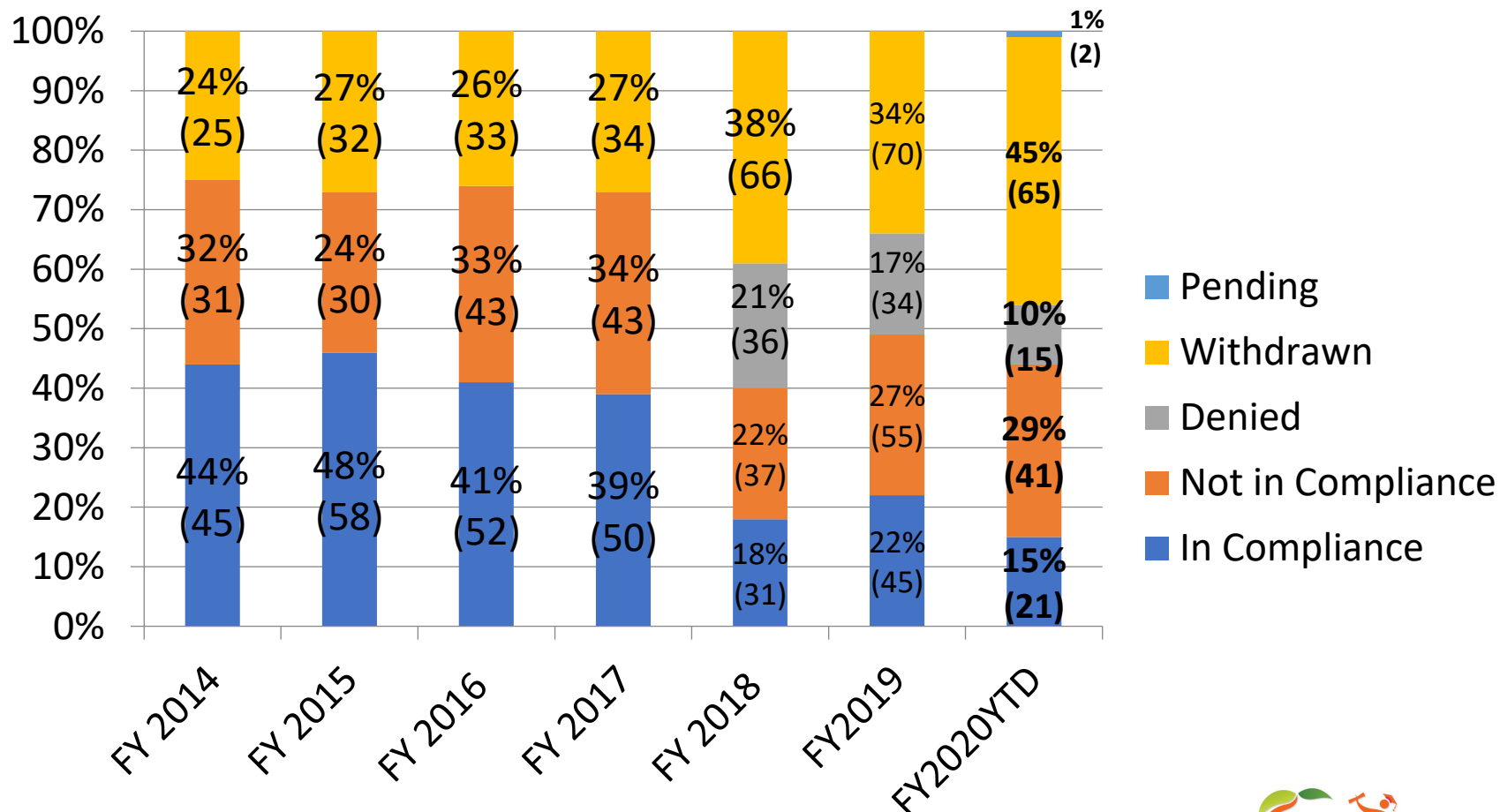
- Mediation
- Formal Written Complaints
- Due Process Hearings/Resolution Session Meetings

# Formal Complaints



# Formal Complaints- FY 2014 – 2020 YTD

Formal Complaints increased from **101** in FY 2014 to **120** in FY 2015 to **128** in FY 2016 to **127** in FY 2017 to **170** in FY 2018 and **204** in FY 2019. In FY 2020, **144** formal complaints were filed.



# FY 2018 Findings of Non-Compliance in Formal Complaints (77 Findings against 17 districts)

- **Implementation of IEP (16)**
- **Development, review, and revision of the IEP (14)**
- **Free, Appropriate Public Education (10)**
- **Parent Participation (6)**
- Personnel Qualifications (5)
- IEP Team (5)
- **Evaluations and Reevaluations (5)**
- When IEPs must be in effect (4)
- Discipline Procedures (3)
- Confidentiality (2)
- Child Find (2)
- Opportunity to examine records (1)
- Resolution Process (1)
- Independent Educational Evaluation (IEE) (1)
- Nonacademic settings (1)
- State monitoring and enforcement (1)

# FY19 Findings of Non-Compliance in Formal Complaints (122 Findings against 33 districts)

- **Development, review, and revision of IEP (30)**
- **Implementation of IEP (23)**
- **Free, Appropriate Public Education (19)**
- **Evaluations and Reevaluations (13)**
- **Least Restrictive Environment (8)**
- Discipline Procedures (7)
- Independent Educational Evaluation (4)
- Related Services (3)
- Prior Written Notice (3)
- Parent Participation (2)
- Personnel Qualifications (2)
- IEP Team (2)
- When IEPs must be in effect (1)
- Child Find (1)
- Extended School Year (1)
- Assistive Technology Services (1)
- Mediation agreement (1)
- Complaint Process (1)

# FY20 YTD Findings of Non-Compliance in Formal Complaints (105 Findings against 21 districts)

- **Implementation of IEP (21)**
- **Development, review, and revision of IEP (17)**
- **Free, Appropriate Public Education (16)**
- **Evaluations and Reevaluations (8)**
- **Parent Participation (6)**
- Personnel Qualifications (4)
- IEP Team (4)
- Access Rights (4)
- Least Restrictive Environment (3)
- Discipline Procedures (3)
- Child Find (3)
- Prior Written Notice (3)
- Mediation agreement (3)
- Special Education (2)
- When IEPs must be in effect (2)
- Extended School Year (2)
- Assistive Technology Services (1)
- Transition Services (1)
- State Monitoring (1)
- Class Size (1)

# Implementation of IEP (34 C.F.R. § 300.320)

- This regulation defines an IEP and details the required components of an IEP.
- “Each public agency must ensure that, **as soon as possible** following development of the IEP, special education and related services are made available to the child **in accordance with the child’s IEP.**” 34 C.F.R. § 300.323(c)(2)
- Overarching issue: Students not receiving the special education and related services required in the IEP

# Implementation of IEP (34 C.F.R. § 300.320)

- **Incorrect service model**
  - Student's IEP required separate class instruction for ELA and separate class instruction to address social skills and study skills; For the first month of school, the district provided co-taught ELA and separate class instruction to address reading and ELA annual goals
  - Student's IEP required small group instruction in addition to co-taught instruction to address deficits in math and reading; For nearly a month, the student did not receive small group instruction in a special education setting

# Implementation of IEP (34 C.F.R. § 300.320)

- **Incorrect service model**
  - For first 42 days of school, 7 students placed in co-taught math instead of small group as required in their IEPs
  - Four students did not receive supportive instruction from a paraprofessional for nearly a month and instead were reassigned to another class and received co-teaching instruction

# Implementation of IEP (34 C.F.R. § 300.320)

- Lack of documentation that student received special education and related services required in IEP
  - District failed to provide any data or work samples to support progress on goals and objectives
  - Student did not receive testing accommodation of small group for first day of MAP testing
  - No speech services were provided for 7 months during the 2018-2019 school year
  - No speech services were provided for first 3 months of 2019-2020 school year

# Implementation of IEP (34 C.F.R. § 300.320)

- Lack of documentation that student received special education and related services required in IEP
  - No documentation that visual modifications and written instruction were provided during first nine weeks of school; District only had three work samples and assigned teachers left the district after first nine weeks
  - Student was not provided access to speech-to-text AT from April – October 2019; Student was not trained on speech-to-text program until November 2019 when the student was provided a laptop

# Implementation of IEP (34 C.F.R. § 300.320)

- Absence of certified personnel (e.g., teacher vacancies and teacher absences)
  - No occupational therapist on staff for first semester; for one parent, district agreed to reimburse parent for private OT
  - No science co-teacher for first 29 days of school; student did not receive accommodations on two tests during this time
  - Student did not receive OT and speech services during time period when occupational therapist and SLP resigned

# Implementation of IEP (34 C.F.R. § 300.320)

- Lack of fidelity and/or consistency in provision of IEP/BIP/student supports
  - Parent did not receive bi-weekly work samples and IEP progress reports every 4.5 weeks as required in the IEP
  - In systemic case, three students only had one progress report for the entire 2019-2020 school year
  - District failed to provide progress reports at 9-week intervals with quantifiable percentages as required in the IEP

# What do you need to think about....

- Procedures for checking IEP service pages before start of school year (especially the transition years from elementary to middle and middle to high)
- Procedures when special education teachers and related service providers are absent and when there is a vacancy
- How to document services and accommodations
- Ensuring all teachers are aware of students' IEPs
- Collecting sufficient progress monitoring data
- Providing timely progress reports
- Procedures for transfer students with IEPs

# Development, Review, Revision of IEP (34 C.F.R. § 300.324)

- This regulation details, among other things, the factors that must be considered when developing an IEP, when an IEP can be amended without an IEP Team meeting, the annual review requirement, and when an IEP must be revised.
- 34 C.F.R. § 300.324(b)(1)(ii) says that “Each **public agency must ensure** that. . . the IEP Team revises the IEP, as appropriate, to address any lack of expected progress toward the annual goals. . . .”

# Development, Review, Revision of IEP (34 C.F.R. § 300.324)

- Systemic complaint revealed annual review IEP Team meetings and initial IEP Team meetings were not held timely
- Another systemic complaint revealed annual reviews were untimely and present levels did not contain any current data
- District conducted OT evaluation in September 2018 and FBA in October 2018; Parent provided private behavioral analyst report to district in October 2018 and requested an IEP Team meeting; No IEP Team meeting held to discuss data until May 2019.

# Development, Review, Revision of IEP (34 C.F.R. § 300.324)

- Parent provided private evaluation with Autism diagnosis to district in October 2018 and requested an IEP Team meeting; no IEP Team meeting was held until March 2019; Based on the recommendations in the private evaluation, at the March 2019 meeting, the Team determined the student required a speech and OT evaluation; Reevaluation process was not completed until May 2019

# Development, Review, Revision of IEP (34 C.F.R. § 300.324)

- Student had BIP, based on an FBA, in the IEP; after 3 months in a new school, he had behavior incidents that resulted in multiple days of ISS and OSS and a disciplinary hearing; Behavior determined to be a manifestation and IEP Team made recommendations including revising the BIP, but never followed through the recommendations; Next school year, student has another behavior incident resulting in disciplinary hearing and MDR

# Development, Review, Revision of IEP (34 C.F.R. § 300.324)

- Special education director and principal met with parent and high school student to address concerns; agreement made to change student from small group to co-taught for math and provide one-to-one instruction one hour/week from a special education teacher for additional support in math; The student's schedule was changed, but the changes were not reflected in the IEP
- After annual review IEP, parent's attorney requested changes to IEP either within or outside an IEP Team meeting; school personnel said the IEP was finalized and insisted that a meeting was required to make changes; district failed to schedule a meeting

# Amending IEPs outside of a meeting (34 C.F.R. § 300.324(a)(4), (6))

- (4) *Agreement.*
  - (i) In making changes to a child's IEP **after the annual IEP Team meeting for a school year**, the parent of a child with a disability **and** the public agency may **agree not to convene** an IEP Team meeting for the purposes of making those changes, and instead may **develop a written document** to amend or modify the child's current IEP.
  - (ii) If changes are made to the child's IEP in accordance with paragraph (a)(4)(i) of this section, the public agency must ensure that the child's IEP Team is informed of those changes.
- (6) *Amendments.*
  - Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in paragraph (a)(4) of this section, by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

# What do you need to think about. .

- The procedures for amending an IEP outside of an IEP Team meeting
- Making sure that the review and revisions of IEPs are based on data-driven decisions
- Not waiting for the parent to ask for an IEP Team meeting (the burden is on the public agency)
- Honoring parent's right to request an IEP Team meeting
- Ensuring timely annual review IEP Team meetings (start scheduling early!!!)

# Free Appropriate Public Education (FAPE) (34 C.F.R. § 300.101)

- High school student was taunted and teased in the lunchroom and began to cry; another student recorded it and posted on social media; Nearly a month later, an IEP Team meeting was held (at parent request) to discuss, among other things, the student's emotional and social challenges; No evidence that the Team met to determine "whether, as a result of the effects of the bullying, the student's needs had changed such that the IEP is no longer designed to provide meaningful educational benefit."

# Dear Colleague Letter on Bullying (August 20, 2013)

- The letter states that “bullying of a student with a disability that results in the student not receiving meaningful educational benefit constitutes a denial of a [FAPE] under the IDEA that must be remedied.” The OSERS letter also states that “[w]hether or not the bullying is related to the student’s disability, any bullying of a student with a disability that results in the student not receiving meaningful educational benefit constitutes a denial of FAPE under the IDEA that must be remedied.”
- “The school should, as part of its appropriate response to the bullying, convene the IEP Team to determine whether, as a result of the effects of the bullying, the student’s needs have changed such that the IEP is no longer designed to provide meaningful educational benefit. If the IEP is no longer designed to provide a meaningful educational benefit to the student, the IEP Team must then determine to what extent additional or different special education or related services are needed to address the student’s individual needs; and revise the IEP accordingly.
- Additionally, parents have the right to request an IEP Team meeting at any time, and public agencies generally must grant a parental request for an IEP Team meeting where a student’s needs may have changed as a result of bullying.”

# Free Appropriate Public Education (FAPE) (34 C.F.R. § 300.101)

- One special education teacher with 2 paraprofessionals assigned to a special education class of 16 middle and high school students ranging from moderate to severe cognitive disabilities, some with autism, and two who are visually impaired; schedules of students included 34 different subjects, levels, and courses; teacher and paraprofessional rotated the students among three groups
- At any given time, students were not receiving instruction by special education teacher as required in their IEPs; Little to no data to show progress and even special education director stated in an email to the teacher that the students were regressing

# Evaluations and Reevaluations (34 C.F.R. §§ 300.301-300.306)

- These regulations address initial evaluations (request, timelines, procedures), reevaluations, and eligibility.
- For additional information on timelines, refer to State Board of Education Rule 160-4-7-.04(1), which provides exceptions for holiday periods, summer vacations, and when consent is received with less than 30 days remaining in the school year.

# Evaluations and Reevaluations (34 C.F.R. §§ 300.301-300.306)

- Parent requested IEP in November 2019; Two days later, school psychologist emailed parent by explaining the process for evaluation and referral for special education; District sought to schedule an SST meeting in December and ultimately held in January 2020; At January meeting, district provided consent for evaluation
- Parent requested an OT evaluation and district waited four months before providing consent to evaluate; parent requested ABA therapy and district did not provide PWN of its denial

# Evaluations and Reevaluations (34 C.F.R. §§ 300.301-300.306)

- Parent signed consent for reevaluation, inclusive of an FBA, in March 2019; at an MDR in April 2019, the minutes state that an FBA had been initiated; however, at December 2019 reevaluation data review meeting, no FBA had been completed
- Student eligible under SLD and SI; IEP Team recommended comprehensive reevaluation for continued eligibility purposes and parent signed consent in March 2018; psychological evaluation completed in January 2019 and speech evaluation in November 2019; In November 2019, student no longer eligible

# What are the timelines for completing the reevaluation process?

- The 60-day timeline only applies to the initial evaluation. Once a child is in special education, all further evaluations are considered reevaluations, regardless of whether there is any change in the disability(ies). The reevaluation must be completed within a reasonable timeframe, no later than the three-year reevaluation date. **However, many factors should be considered in determining a reasonable timeframe for the completion of a reevaluation, such as the needs of the child, the date of the last comprehensive evaluation, parent input, and changes in the child's behavior, attendance, and rate of progress.**

(From Evaluation/Reevaluation chapter of Implementation Manual)

# Parent Participation (34 C.F.R. § 300.322)

- District failed to inform the parent of everyone who attended two IEP Team meetings; meeting notice only listed required members
- In systemic case, four students had IEP Team meetings without a parent in attendance and no documentation the district followed IDEA's procedures for conducting an IEP Team meeting without a parent in attendance

# Conducting an IEP Team meeting without a parent in attendance (34 C.F.R. § 300.322(d))

- Meetings can be held without a parent if the LEA is “unable to convince the parent that they should attend.”
- In this case, the LEA must keep a record of its attempts to arrange a mutually agreed on time and place, such as –
  - Detailed records of telephone calls made or attempted and the results of those calls;
  - Copies of correspondence sent to the parents and any responses received; and
  - Detailed records of visits made to the parent’s home or place of employment and the results of those visits.

# IEP Team (34 C.F.R. § 300.321)

- In systemic complaint, district failed to have proper IEP Team members at IEP Team meetings; compliance specialists were serving as general and/or special education teacher of the child

# IEP Team Members

**If a teacher is dually certified both in special education and regular education, can he or she serve dual roles in the IEP Team meeting?**

- No. Under the IDEA, the IEP Team must include not less than one regular education teacher of the child and not less than one special education teacher of the child.
- The determination of who can serve as the regular education teacher and the special education teacher in the IEP Team meeting is not based on that individual's certification alone, but their relation to the child.

# IEP Team (34 C.F.R. § 300.321)

- District's meeting notice listed special education coordinator as a required IEP Team member, but the coordinator did not attend, and no written excusal executed
- In two IEP Team meetings, the general education teacher was excused early from meeting without a written excusal; parent participated via telephone in one of the meetings

# IEP Team Member Excusals (34 C.F.R. § 300.321(e))

- Two circumstances may allow a required member of the IEP Team to be excused:
  - When an IEP Team member's area of curriculum or related services is **not** being changed or discussed at that IEP Team meeting, the parent and the LEA may agree to excuse an IEP Team member from all or part of a meeting if the **parent consents, in writing**, to this excusal.
  - When the IEP Team member's area of curriculum or related services **is** being discussed at the meeting, the parent and the LEA may excuse an IEP Team member from all or part of a meeting if the **parent consents, in writing**, to the excusal **and the excused person submits relevant, written input into the development of the IEP prior to the meeting.**

# Nonacademic Settings (34 C.F.R. § 300.117)

- Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the student's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities **an equal opportunity for participation** in those services and activities. 34 C.F.R. § 300.107(a).
- District required parent to accompany student on field trips; Parent made to pay for trip and drive herself while student allowed to ride the bus

# Discipline Procedures

- Student received 7 days of OSS in March and April; bought knife to school and subject to 45-day interim alternative educational setting; however, once the student was removed for more than 10 school days, he was required to receive educational services; student did not receive services until nearly a month later

# Disciplinary Actions Resulting in Removals Beyond 10 Days

- When frequent removals add up to **more than 10 school days** in a school year or when frequent removals result in **a change in placement**, the IEP Team must determine appropriate services that allow the child to continue to participate in the general education curriculum **and** progress toward meeting the goals outlined in the child's IEP, although in another setting. See 34 C.F.R. § 300.530(d)(5)

# Child Find (34 C.F.R. § 300.111)

- **Affirmative requirement** that local educational agencies (LEAs) **locate, identify, and evaluate** all children with disabilities who are in need of special education and related services residing in their jurisdiction, including homeless children, children who are wards of the State, and children in private schools.
- This includes a child who is **suspected** of being a child with a disability and in need of special education. 34 C.F.R. § 300.111.

# Child Find (34 C.F.R. § 300.111)

- 8<sup>th</sup> grade student was previously retained in 5<sup>th</sup> and 6<sup>th</sup> grade; guardian provided private psychological evaluation showing student on 4<sup>th</sup> grade level in reading comprehension and 5<sup>th</sup> grade level for math computation; Team discussed RTI process in January 2019 but did not begin interventions until April 2019; student had 3 days ISS and 19 days OSS throughout the school year; student failing all classes; district did not refer student for evaluation until April 2019

# Child Find (34 C.F.R. § 300.111)

- Student was administratively placed in 4<sup>th</sup> grade; received interventions for nearly five months and not progressing in reading comprehension; consistently failed three or more classes; parent informed school of family history of dyslexia; district did not refer for evaluation and parent eventually sought a private evaluation

# Child Find Analysis

- Does the LEA have **reasonable suspicion** that the child might be eligible under the IDEA?
  - “Red flags”
- If so, then did the LEA initiate the evaluation of the child within a **reasonable period of time**?
  - LEA initiation starts with providing parental consent for evaluation

# Prior Written Notice (34 C.F.R. § 300.503)

- Parent requested PWN regarding the district's provision of an appropriate reading program that supports students with dyslexia and request for district to pay for school that specializes in dyslexia; Parent made requests in September 2018, February 2019, and March 2019 and no PWN provided until August 2019
- District's PWN refusing parent's request for small group placement did not address why the request was denied and the IEP and minutes could not serve as PWN

# Contents of Prior Written Notice

- (b) *Content of notice.* The notice required under paragraph (a) of this section must include—
  - (1) A description of the action proposed or refused by the agency;
  - (2) An explanation of why the agency proposes or refuses to take the action;
  - (3) A description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;
  - (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;
  - (5) Sources for parents to contact to obtain assistance in understanding the provisions of this part;
  - (6) A description of other options that the IEP Team considered and the reasons why those options were rejected; and
  - (7) A description of other factors that are relevant to the agency's proposal or refusal.

# Special Education (34 C.F.R. § 300.9)

- Parent repeatedly asked for information regarding the specially designed instruction that was provided to the student; District's response of "co-taught setting" described the LRE placement of the student but not the SDI provide to the student in that placement
- District provided parent with email of exhaustive list of SDI provided to the student and the teachers' narrative on how the instruction is provided; Most of the items on this list was not included in the student's IEP.

# Specially Designed Instruction (SDI)

- The IDEA requires a student's IEP to include a “statement of the special education” to be provided to the student and special education includes “specially designed instruction” or SDI. See 34 C.F.R. §§ 300.320(a)(4), 300.39.
- Therefore, **a student's IEP must include SDI**, which is defined as “**adapting**, as appropriate to the needs of an eligible child [ ] **the content, methodology, or delivery of instruction** to address the **unique needs** of the child that result from the child's disability and to **ensure access** of the child to the general education curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.” See 34 C.F.R. § 300.39(a)(3).

# Specially Designed Instruction (SDI)

- **Methodology** refers to utilizing different instructional strategies and approaches to teach content to a student with a disability, which may not be utilized with general education students
- **Content** refers to knowledge and skills being taught to the student with a disability which is different from what is being taught to general education students;
- **Delivery** refers to the way instruction is delivered to a student with a disability which is different from how delivered to general education students.

# Other IDEA violations

- When IEPs must be in effect (34 C.F.R. § 300.323)
  - District failed to enroll the student after the parent unilaterally placed him in a private residential facility located within the boundaries of the district
- Extended School Year (ESY) services (34 C.F.R. § 300.106)
  - In August 2019, IEP Team determined that ESY services were not needed based in part on “actual and expected progress related to critical skills”; however, from December 2018 through May 2019, there was little to no data reported in student’s IEP progress reports (goals not addressed or no data available)

# Other IDEA violations

- Amendment of records at parent's request (34 C.F.R. § 300.618)
  - Parent requested the audio recording of the IEP Team meeting serve as the record of the meeting because the minutes were not an accurate reflection of the meeting; District did not respond to request

# Amendment of records at parent's request (34 C.F.R. § 300.618)

- A parent who believes that information in the education records collected, maintained, or used under this part is **inaccurate** or **misleading** or **violates the privacy** or other rights of the child may request the participating agency that maintains the information to amend the information.
- (b) The agency must decide whether to amend the information in accordance with the request **within a reasonable period of time** of receipt of the request.
- (c) **If the agency decides to refuse** to amend the information in accordance with the request, it **must inform the parent of the refusal and advise the parent of the right to a hearing under §300.619.**

# Other IDEA violations

- Opportunity to examine records; parent participation in meetings (34 C.F.R. § 300.501)
  - Despite district's assertion otherwise, emails showed the parent requested educational records before and after IEP Team meetings, but no records were provided.
- Compliance with Mediation/Settlement Agreements
  - District failed to complete all compensatory services due to a delay in providing transportation for one day; failed to discuss speech-language services in agreed-upon IEP Team meeting

# Other IDEA violations

- Compliance with Mediation/Settlement Agreements continued
  - District failed to complete full comprehensive evaluation, including PT evaluation and hold an IEP Team meeting to review the evaluations according to the timeline in the mediation agreement
  - Compensatory services in mediation agreement not provided due to district and parent not finding “mutually agreeable” personnel; After parent expressed concerns with district’s personnel, district waited nearly nine months before responding

# Other IDEA violations

- State Monitoring and Enforcement (34 C.F.R. § 300.600)
  - After a previous resolution letter ordered the district to reconvene the IEP Team to “ensure the student’s testing accommodations are discussed and clearly written into the IEP,” the testing accommodations in the IEP still lacked specificity

The word "QUESTIONS" is written in a large, white, bold, sans-serif font. It is centered horizontally and has a slight 3D effect with a drop shadow. The text is surrounded by a cluster of overlapping squares in various shades of blue and green. Some squares are solid, while others are semi-transparent, creating a layered, abstract background. The overall composition is modern and clean.

# QUESTIONS

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