Quality Public Education for All Students with Disabilities: Meeting Both IDEA Requirements and Post-Pandemic Challenges

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Executive Summary

Like their peers, students with disabilities have ambitions and dreams for their futures and need quality education to develop their skills and reach their full potential. However, according to the U.S. Department of Education (ED) in its 2021 report, more than half of the 50 states and the District of Columbia did not meet the requirements or purposes of the Individuals with Disabilities Education Act (IDEA) for Part B, which ensures the free appropriate public education (FAPE) of students with disabilities, ages 3 through 21. During a similar period, as of Nov. 26, 2021, a snapshot of data about complaints filed with the ED's Office of Civil Rights (OCR) showed the annual number of OCR pending cases alleging discrimination in providing the FAPE for K-12 students under other federal anti-discrimination laws had tripled compared with 2019 or 2020.

It is an understatement to say that COVID-19 disrupted students' education. Services for students with disabilities have been especially impacted by the pandemic, but some states have adopted strategies to proactively serve students with disabilities and fulfill their legal obligations during the pandemic. For example, Pennsylvania has developed guidelines on how to provide COVID-19 "compensatory services" for students with disabilities. Wisconsin has provided thinking and processing tools for school districts to monitor the progress and outcomes of students with disabilities. Kentucky's latest version of its IDEA monitoring manual details steps for data collection and management. These state practices may be used as examples to inform how other states facing similar challenges may choose to confront them, as they work to meet the requirements for IDEA compliance, and, ultimately, the needs of students with disabilities.

To address the key challenges states are facing to meet the requirements of IDEA Part B and provide insight into solutions and best practices that states may leverage to meet the requirements, the Center for Public Education of the National School Boards Association (NSBA) prepared this white paper. It was prepared after reviewing federal special education data, agency documentation, federal laws and regulations, selected state laws and policies, state report cards, and data collected by large research organizations. The objective of this report is to help readers to understand complicated IDEA compliance issues, particularly the post-pandemic challenges that states and school districts are facing to meet the needs of all students with disabilities. It also offers suggestions on how to address these challenges.

The three takeaways of this white paper are:

- National data suggest that, in general, states that ED found to have met the IDEA compliance requirements are more likely to have more students with disabilities perform at or above basic NAEP fourth- and eighth-grade levels in reading and math. States that have been found to need assistance for two or more consecutive years are more likely to be below the required achievement level, thus the importance for states to address compliance gaps.

- While many school districts are short of funding or personnel for special education, the three challenges most relevant to IDEA compliance, as determined by ED, are (i) updates of students' individual education plans (IEPs) that address the learning loss resulting from the disruptions created by the pandemic, (ii) the technology gap – unequal access to technology tools and unequal access to educators who are proficient at using technology to teach – that challenges the goal of maximizing the education environment to provide the most appropriate learning opportunities for each student with disabilities, and (iii) early childhood services affected by school closures.

- IDEA requires states to provide FAPE, but states must determine what instruction or services are appropriate for students with disabilities. Although it is a challenging process to identify the needs of all students with disabilities, states should try to develop a holistic compliance system where data are maintained as actionable information for stakeholders to set meaningful compliance policies and monitor school practices.

Introduction

Like their peers, students with disabilities have ambitions and dreams for their futures and need quality education to develop their skills and reach their full potential. However, according to the U.S. Department of Education (ED) in its 2021 report, more than half of the 50 states and the District of Columbia did not meet the requirements or purposes of the Individuals with Disabilities Education Act (IDEA) for Part B, which ensures the free appropriate public education (FAPE) of students with disabilities, ages 3 through 21. During a similar period, as of Nov. 26, 2021, a snapshot of data about complaints filed with the ED's Office of Civil Rights (OCR) showed the annual number of OCR pending cases alleging discrimination in providing the FAPE for K-12 students under other federal anti-discrimination laws had tripled compared with 2019 or 2020.[1]

Unfortunately, the COVID-19 pandemic has exacerbated the challenges states face in meeting the requirements of IDEA Part B. As of October 2021, data from the Center for Reinventing Public Education show that half of the states have not provided pandemic-related guidelines on how to serve students with disabilities for the 2021-22 school year (CRPE, 2021). Since the fall of 2021, many school districts have scaled back their virtual offerings to encourage students to return to in-person school. Media have reported that in some situations, virtual learning programs cannot offer students with disabilities certain special education services such as modified lessons, speech therapy, and occupational therapy (Belsha, 2021).

To address the key challenges states face in meeting the requirements of IDEA Part B, especially during this time of the pandemic, and to provide insight into solutions and best practices that states may leverage to meet the requirements, the Center for Public Education of the National School Boards Association (NSBA) has produced this white paper. We reviewed federal special education data, agency documentation, federal laws and regulations, selected state laws and policies, state report cards, and data collected by large research organizations. Through our investigation, we have attempted to answer two research questions:

- What are some of the most relevant post-pandemic challenges public schools are facing to serve students with disabilities?

- How can states support school districts in overcoming these challenges using processes and tools, and apply actionable data moving forward?

The objective of this paper is to help readers to understand complicated IDEA compliance issues, particularly the post-pandemic challenges that states and school districts are facing to meet the needs of all students with disabilities. This report has three sections.

- Compliance: What it means

- Compliance and best practices: How states can get there

- Post-pandemic IDEA compliance challenges

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[1] OCR enforces Section 504 of the Rehabilitation Act of 1973 through regulations that, like IDEA, require funding recipients to provide a "free appropriate public education." See U.S. Department of Education, Frequently Asked Questions About Section 504 and the Education of Children with Disabilities, https://www2.ed.gov/about/offices/list/ocr/504faq.html.

Section 1: The IDEA Compliance Framework and Compliance Indicators

By definition, a framework is "**a particular set of rules, ideas, or beliefs used in order to deal with issues or to decide what to do**." Compliance Framework refers to the set of rules, requirements, and indicators that the ED uses to determine whether states comply with the driving principles of IDEA, namely, Free Appropriate Public Education (FAPE) in the Least Restrictive Environment (LRE) for individuals with disabilities.

As a condition to receive federal funds under IDEA, states must demonstrate to ED that they have policies and procedures in place to fully comply with the law's requirements (IDEAs That Work, n.d.). The IDEA compliance framework includes both elements of procedural compliance as well as elements or requirements of compliance related to student performance. The federal government primarily monitors three compliance areas in each state: a) FAPE in LRE; b) disproportionality in identification for special education (also called eligibility), educational placement (once identified as eligible for special education), and discipline (NCLD, 2020); and c) effective general supervision in Child Find, Early Childhood Transition, Secondary Transition, Post-School Outcomes, Resolution Sessions, and Mediation.

Every year, the federal government evaluates each state's efforts to implement the requirements and purposes of IDEA and sends determination letters describing how the state needs to improve its implementation. Before 2014, the ED only monitored whether states met IDEA's procedural requirements, such as timelines for evaluations, due process hearings, and transitioning children into preschool services. In 2014, the ED started using Results Driven Accountability (RDA) to determine whether states meet the requirements of IDEA Part B.

The RDA framework emphasizes that states not only must comply with procedural requirements but also need to produce effective educational results and outcomes for students with disabilities. In other words, through FAPE, students with disabilities are expected to truly attain the knowledge and skills necessary to accomplish the ideals of IDEA. Those ideals are equality of opportunity, full participation, independent living, and economic self-sufficiency (ED, 2019).

From Procedural Requirements to Results-Driven Accountability

Since 2014, the ED has used compliance and results data to evaluate whether states implement the law properly and provide quality education for all students with disabilities. Compliance indicators focus on procedures and issues of education equity (ED, 2021). Compliance data include rates of suspensions and expulsions for students with disabilities by racial and ethnic group and disproportionate representation of racial and ethnic groups in special education and related services -- including in specific disability categories -- because of inappropriate identification. It also includes the percentage of young children with disabilities and youths with disabilities (ages 16 and above) who are served with timely and appropriate transition services (TEA, 2021).

Results indicators emphasize the academic achievements of students with disabilities. Results data include the percentage of students with disabilities participating in regular national and state assessments in reading and math, as well as their performance. The results indicators also include dropout rates (i.e., percentage of students with disabilities who drop out of school) and graduation rates (i.e., percentage of students with disabilities who graduate with a regular high school diploma) (ED, 2021).

IDEA requires each state to report annually to the ED Secretary on its performance and its progress in meeting the measurable and rigorous targets established in its plan. In the Secretary's determination letters, the status of each state is listed under one of four categories:

- Meets the requirements and purposes of IDEA.

- Needs assistance in implementing the requirements of IDEA.

- Needs intervention in implementing the requirements of IDEA.

- Needs substantial intervention in implementing the requirements of IDEA.

Each year, the federal government uses data from two years prior to determine whether a state meets the requirements of IDEA Part B. For example, the 2021 determinations were based on data for fiscal year 2019. As Table 1 shows, the shift from focusing primarily on procedural compliance to considering both compliance and results made a significant difference in state ratings. Since 2014, the number of states that received a "meets requirements" rating has declined substantially (National Council on Disability, 2018). This trend tells us that achieving results-driven accountability is harder than simply complying with procedural requirements.

Table 1. Number of States/Entities Identified in Each Determination Category Regarding their Status in Terms of Implementing the Requirements of IDEA Part B: Year 2011-2021

Number of States by Determination Category			
Year	Meets Requirements	Needs Assistance	Needs Intervention
2011	30	26	4
2012	33	18	9
2013	40	17	3
Results Driven Accountability (RDA)			
2014	21	34	5
2015	21	36	3
2016	26	31	3
2017	25	34	1
2018	22	33	5
2019	21	36	3
2020	22	33	5
2021	23	37	0

Note: In this table, states/entities include the 50 states, the District of Columbia, the Virgin Islands, Guam, Puerto Rico, American Samoa, the Republic of the Marshall Islands, the Commonwealth of Northern Mariana Islands, the Federated States of Micronesia, Palau, and the Bureau of Indian Education.

Source: Individuals with Disabilities Education Act (IDEA)

Compliance in Practice

To comply with IDEA's FAPE requirement, school districts must collaborate with parents of students with disabilities, assess the students' unique needs, and develop and implement an Individualized Education Plan (IEP) for each student with disabilities (ED, 2010). At the same time, students with disabilities should receive their education alongside their peers without disabilities to the maximum extent appropriate. Least restrictive environment, LRE, is a guiding principle of IDEA that requires that schools not remove students with disabilities from the general education classroom unless learning cannot be achieved even with the use of supplementary aids and services (IRIS, 2019). The LRE principle plays a critical role in determining not only where a student will spend his or her time in school but also how special education services will be provided.

The second compliance area that the federal government monitors is disproportionality. The indicators used to assess disproportionality are (a) percentage of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification, and (b) percentage of districts with disproportionate representation[2] of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. In practice, disproportionality is also monitored in other indicators. States are required to report data disaggregated by race and ethnicity to determine whether significant discrepancies are occurring in the rates of long-term suspensions and expulsions of students with IEPs.

The third area monitored by the federal government is effective general supervision of IDEA Part B. This includes (a) child find or the percentage of children with disabilities who were evaluated within 60 days of receiving parental consent for initial evaluation or within the state-established timeframe for evaluation, (b) early childhood transition services, (c) secondary transition services, (d) post-school outcomes, and (e) resolution and mediation used to solve IDEA-related disputes.

Under IDEA, each state must have a specific compliance plan, namely a state performance plan or annual performance report (SPP/APR), for the federal government to evaluate the state's efforts to implement the requirements and purposes of IDEA, as reflected in the areas above, and provide feedback on how the state should improve its implementation (ED, 2021).

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[2] According to IDEA Data Center (2020), most states use a risk ratio threshold to define disproportionate representation, that is, the state considered a district to have disproportionate representation only if the risk ratio for one or more racial/ethnic groups was greater than the state's threshold.

Box 1. What Is the Meaning of Being "on the List"?

The Meaning of Not Meeting the Requirements of IDEA Part B

In 2021, the U.S. Department of Education (ED) continued using both results and compliance data in making its determination for each state under IDEA section 616(d) (ED, 2021). The ED considered the totality of the information[3] it had about a state. The ED's Office of Special Education Programs (OSEP) evaluated states' data using the Results Driven Accountability (RDA) Matrix, which consists of a Compliance Matrix and a Results Matrix.

In the Compliance Matrix, each indicator/factor has a specified measure, which is converted to a score of 0, 1, or 2 points. The method of calculating a total Compliance Score is to use the cumulative possible number of points as the denominator, and the actual points a state received in its scoring under compliance indicators/factors as the numerator. The same method is used for the Result Score in the Result Matrix, but different from the Compliance Matrix, all the Results indicators use percentage for specified measures, such as the percentage of fourth-grade students with disabilities scoring at basic or above on the NAEP. The state's RDA Percentage was calculated by adding 50% of the state's Results Score and 50% of the state's Compliance Score.

Using the RDA percentage, we can describe the "cutoff scores" that put a state in one category vs. the other. If the RDA Percentage of a state is 80% or above, the state is in the category "Meets Requirement," except for the states that have Specific Conditions for receiving IDEA Part B grants the ED has imposed in the previous three years (e.g., FFYs 2018, 2019, and 2020) and are still in effect at the time when the ED makes the determinations (FFY 2021) (ED, 2021). If the RDA Percentage of a state is between 60% and 80%, the state is in the category "Needs Assistance." Another scenario for a state to be in the category "Needs Assistance" is that the RDA percentage of the state is 80% or above, but the ED has imposed Specific Conditions on the state's last three IDEA Part B grant awards, and those Specific Conditions are in effect at the time of, say, the 2021 determination. A state's RDA Determination is "Needs Intervention" if the RDA Percentage is less than 60%.

It should be noted that due to the circumstances created by the COVID-19 pandemic and resulting school closures, each state received a waiver of the assessment requirements and, as a result, did not have any FFY 2019 data for this RDA element. Therefore, the participation and performance of students with disabilities in the most recently administered (school year [SY] 2018–19) National Assessment of Educational Progress (NAEP) play a significant role in evaluating each state's student achievement.

Generally speaking, being on the "Needs Assistance" or "Needs Intervention" lists may mean a state (a) is not meeting the requirements of IDEA procedural compliance indicators (e.g., not evaluating children with disabilities within the required timeline), (b) shows a substantial achievement gap between students with disabilities and students without disabilities, (c) demonstrates serious issues of education equity, such as a high rate of suspension and expulsion of students with disabilities, disproportionality of certain racial/ethnic groups in special education (NASP, n.d.), or (d) suffers from data quality issues.

Three federal laws — Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA), and IDEA — protect students with disabilities. Only IDEA provides federal funds to assist state educational agencies (SEAs) and local educational agencies (LEAs) with the additional costs of providing special education and related services (National Council on Disability, 2018). Therefore, IDEA is both a grants statute and a civil rights statute.

As a federal law, IDEA requires states to provide FAPE for all children with disabilities eligible for services under that statute as a condition of receiving federal funds for that purpose. If a state fails to meet the statute's requirements for two or more years in a row, the federal government may step in and take enforcement actions. Those actions include directing how the state uses funds, withdrawing funding, requiring a corrective action plan, or involving the ED's inspector general or the Department of Justice (Diament, 2019).

Section 2: Student Performance Compliance and Best Practices: How Can States Get There?

In education practice, compliance with the IDEA statute means to help students with disabilities to reach their full potential in learning.[4] Compliance is reflective of practice, which impacts the achievement gap between students with disabilities and their peers without disabilities. In this section, we look at the performance of students with disabilities on the National Assessment of Educational Progress (NAEP) from three dimensions: the gap, the trend, and the difference in performance between the states that have and have not met IDEA requirements. Then, we discuss some common issues that states face in meeting requirements associated with student performance, which is a key element of the Results Driven Accountability criteria. We also discuss some effective policies taken by different states toward meeting compliance requirements.

Performance of Students with Disabilities on the NAEP and State Compliance

Closing the achievement gap between students with disabilities and students without has challenged public education leaders and educators for decades. In announcing the 2014 Results Driven Accountability criteria (RDA), then-Secretary of Education Arne Duncan said: *"For too long, we've been a compliance-driven bureaucracy when it comes to educating students with disabilities. We have to expect the very best from our students—and tell the truth about student performance—so that we can give all students the supports and services they need. The best way to do that is by focusing on results."*

The truth is that on the 2019 NAEP[5], most students with disabilities (i.e., student classified by school as having a disability (SD, IEP, or 504 Plan) performed under the basic level in reading and math. In fact, while the number of students with disabilities who participated in public schools increased from 12.9 percent in 2011 to 14.1 percent in 2019, their NAEP scores, on average, decreased slightly during the same period (Ladner, 2021). The

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[3] According to ED (2021), the totality of the information about a state includes information related to the participation of students with disabilities (SWD) on regular statewide assessments; the participation and performance of SWD on the most recently-administered (school year [SY] 2018–19) National Assessment of Educational Progress (NAEP); exiting data on SWD who dropped out and SWD who graduated with a regular high school diploma; the state's federal fiscal year (FFY) 2019 State Performance Plan/Annual Performance Report (SPP/APR); information from monitoring and other public information, such as ED-imposed Specific Conditions on the state's grant award under Part B; the impact of COVID-19 on the state's ability to collect and report valid and reliable data; and other issues related to state compliance with IDEA.

achievement gap between students with and without disabilities has been persistent (Figure 1).

The disturbing trend, as shown in Figure 1, reflects that over a decade, on average, the performance of students with disabilities in reading and math did not improve. In 2011, more than half of fourth-grade students with disabilities (55%) reached the basic NAEP math level, but in 2019, the percentage dropped to 49. For eighth-grade reading in 2011, 32 percent of students with disabilities reached the basic NAEP reading level, and in 2019, this percentage went down to 30.

Figure 1. Performance of Students with Disabilities on National Assessment of Educational Progress (NAEP): 2011-19
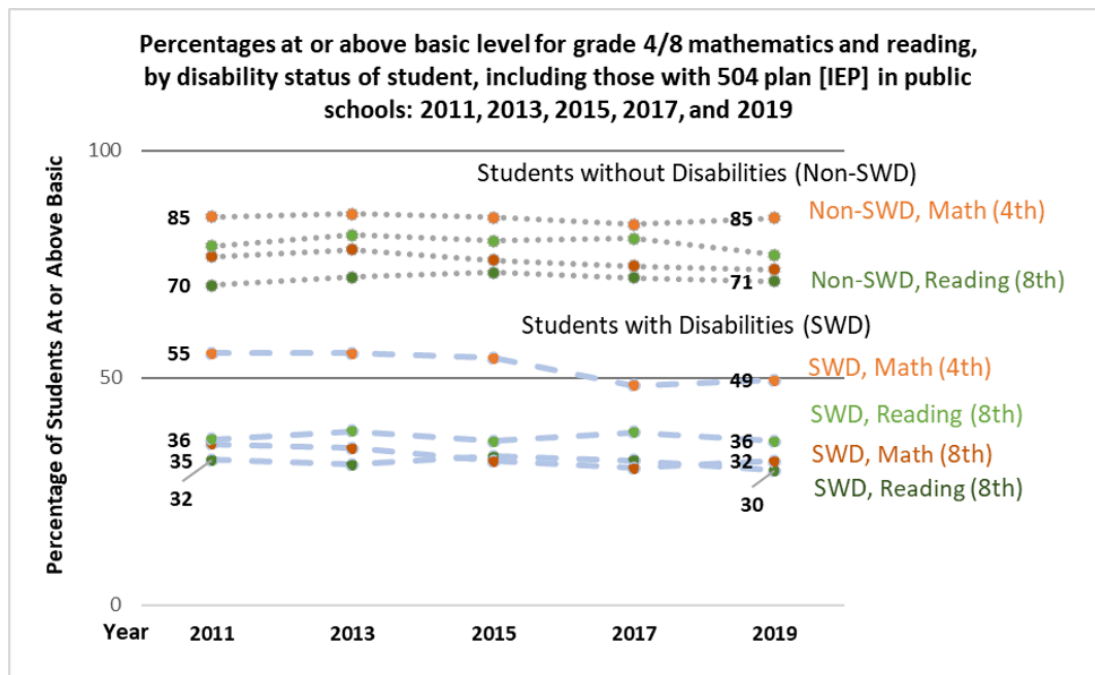
Source: U.S. Department of Education, Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress (NAEP), 2011, 2013, 2015, 2017, and 2019 Reading and Math Assessments.

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[4] One purpose of the IDEA cited by Congress is "to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. §1400(d)(1)(A).

[5] According to the National Assessment Governing Board (NAGB, 2014), "NAEP should report separately on students with Individualized Education Programs (IEPs) and those with Section 504 plans, but (except to maintain trend) should only count the students with IEPs as students with disabilities. All 504 students should participate in NAEP." Although the NAEP Data Explore describes the variable students with disabilities as "Student classified by school as having a disability (SD, IEP, or 504 Plan) (results from this sample cannot be generalized to the total population of such students)", the National Center for Education Statistics (NCES) retrieves the same data from the NAEP Data Explorer and publishes the table officially. According to the document "How the Department Made Determinations (ED, 2021), in making each state's 2021 determination, the Department used a Results Matrix reflecting the eight types of data, including (a) the percentage of fourth-grade CWD scoring at basic or above on the NAEP; (b) the percentage of fourth-grade CWD included in NAEP testing; (c) the percentage of eighth-grade CWD scoring at basic or above on the NAEP; and (d) the percentage of eighth-grade CWD included in NAEP testing.

According to ED (2021), RDA scores are determined as follows: if a state has less than 23 percent of fourth-grade students with disabilities who scored at Basic or above on NAEP reading, the state's RDA score is zero. If the percentage is between 23 and 27, the state receives one RDA point. If the percentage is 28 or greater, the state receives two RDA points. See Table 2.

Table 2. Results-Driven Accountability Scores, by Results Elements in the Results Matrix: 2021

Results Elements	RDA Score= 0	RDA Score= 1	RDA Score= 2
Participation Rate of 4th and 8th Grade CWD (Children with Disabilities) on Regular Statewide Assessments (reading and math, separately)	N/A	N/A	N/A
Percentage of 4th grade CWD scoring Basic or above on reading NAEP	<23	23-27	>=28
Percentage of 8th grade CWD scoring Basic or above on reading NAEP	<27	27-31	>=32
Percentage of 4th grade CWD scoring Basic or above on math NAEP	<40	40-46	>=47
Percentage of 8th grade CWD scoring Basic or above on math NAEP	<20	20-27	>=28
Percentage of CWD Exiting School by Graduating with a Regular High School Diploma	<70	70-77	>=78
Percentage of CWD Exiting School by Dropping Out	>19	19-14	<=13
Percentage of 4th and 8th Grade CWD included in NAEP testing (reading or math): 1 point if state's inclusion rate was higher than or not significantly different from the NAGB goal of 85%. 0 points if less than 85%.			

Source: How the Department Made Determinations under Section 616(d) of the Individuals with Disabilities Education Act in 2021: Part B (PDF)

NAEP results are important since the ED uses the data as a key element in determining whether a state has met the IDEA requirements. In making each state's 2021 determination, the ED used six result elements for the performance indicators in the Results Matrix; four of them were the scores that states received on the NAEP. As part of the formula to determine designations, low NAEP scores seem to contribute substantially to poor compliance designations using the RDA criteria. See Table 3.

Table 3. Percentage of Students with Disabilities (Not Including Students with A Section 504 Plan) at or Above NAEP Basic Level for Reading and Math at 4th and 8th grades, by State: NAEP, 2019

Meet IDEA Requirements — Percentage of Students with Disabilities At or Above Basic

2021 ED Determination	State	Reading Grade 4	Reading Grade 8	Math Grade 4	Math Grade 8
RDA Score=0 (<%)		23	27	40	20
Meets the Requirements of IDEA Part B	Connecticut	20	38	45	31
	Florida	36	40	66	35
	Illinois	23	31	35	20
	Indiana	28	37	58	39
	Kansas	22	28	43	24
	Kentucky	32	30	46	18
	Maine	26	35	46	27
	Massachusetts	43	48	57	42
	Minnesota	32	32	53	38
	Missouri	23	32	43	24
	Nebraska	30	28	53	29
	New Hampshire	28	41	50	36
	New Jersey	34	39	54	38
	North Dakota	26	23	50	30
	Oklahoma	30	28	51	24
	Pennsylvania	30	37	54	32
	South Dakota	35	27	52	33
	Tennessee	28	28	50	20
	Utah	32	35	47	23
	Virginia	28	31	58	38
	Wisconsin	26	28	43	28
	Wyoming	31	31	55	30

Not Meet IDEA Requirements — Percentage of Students with Disabilities At or Above Basic

2021 ED Determination	State	Reading Grade 4	Reading Grade 8	Math Grade 4	Math Grade 8
RDA Score=0 (<%)		23	27	40	20
Needs Assistance (One Year)	Arkansas	19	21	30	14
	Georgia	23	36	46	28
	North Carolina	22	30	42	28
	New York	26	40	37	23
	Vermont	17	32	40	28
	West Virginia	23	20	38	16
Needs Assistance (Two or More Consecutive Years)	Alabama	15	18	32	17
	Alaska	15	24	41	25
	Arizona	27	27	38	25
	California	25	27	40	23
	Colorado	24	32	39	23
	Delaware	17	22	38	16
	District of Columbia	18	18	29	20
	Hawaii	14	21	29	15
	Idaho	19	23	44	18
	Iowa	18	19	30	20
	Louisiana	23	27	45	18
	Maryland	28	31	32	17
	Michigan	26	29	40	25
	Mississippi	34	26	56	21
	Montana	27	34	47	23
	Nevada	28	24	40	18
	New Mexico	15	20	31	19
	Ohio	25	36	43	25
	Oregon	29	32	44	26
	Rhode Island	17	35	34	17
	South Carolina	20	22	37	16
	Texas	21	19	45	27
	Washington	27	30	46	20

Note: In the table, we used the cut score of RDA zero (i.e., the equivalent percentage of students with disabilities who performed at or above the NAEP basic level) as a benchmark and compared it with the scores of the 50 states and the District of Columbia. The left part of Table 3 (light green color) shows the states that ED has found to have met the requirements of IDEA Part B. The right part of the table (light blue color) lists the states that ED has found to need assistance for one year/ two or more consecutive years. The colored bar in each cell (green for fourth grade; yellow for eighth grade) represents the percentage of students with disabilities in that state with an RDA score greater than the cut score for zero in the item.
Source: NDE Core Web (nationsreportcard.gov)

Box 2. How Can States Use RDA Data to Improve Student Performance Compliance?

How to Use Academic Results Data in the RDA Results Matrix

States may use the RDA results data in three ways. First, states may use national data to develop long-term strategic goals or even mid-term goals. The Results Matrix in the RDA system can be applied as a benchmark to quantify the targeted percentages of students with disabilities who perform at or above basic levels in all NAEP assessed subjects and grades. Second, states may use assessment participation rates to examine issues related to educational equity, such as whether students with disabilities are provided with appropriate accommodations to be able to participate in the NAEP as well as the state assessment in the selected subject. Third, states can use the RDA Matrix to identify school districts that have performed below the state-targeted achievement levels and set policies to monitor their progress.

After setting the achievement goals for students with disabilities, states need tools to get there. As a part of the State Performance Plan (SPP)/Annual Performance Report (APR), a State Systemic Improvement Plan (SSIP) is a tool designed to help states to improve outcomes in targeted areas (the Center for IDEA Early Childhood Data Systems, 2014). SSIP is a comprehensive multiyear plan for improving results for students with disabilities. It often includes information regarding data analysis, state infrastructure to support improvement and build capacity, the state-identified measurable results, coherent improvement strategies, and a theory of action (Pennsylvania Training and Technical Assistance Network, 2018).

The expected overall goal for the SSIP is to increase the capacity of district programs to implement, scale up, and sustain evidence-based practices that will result in improved outcomes for students with disabilities (Nebraska Department of Education, 2016).

According to the 2020 Illinois SSIP report, the Illinois State Board of Education (ISBE), together with an external stakeholder group, conducted an in-depth data analysis. They determined that a substantial gap existed between the state's reading goals/targets and the performance of students with disabilities on the statewide ELA assessment. The ISBE used results data to identify the need for improving early literacy among students with disabilities. It took actions such as implementing a Multi-Tiered System of Support (MTSS) framework focusing on the reading performance of students with disabilities in pre-K through third grade and monitoring the progress by adding a State-Identified Measurable Result (SIMR) to its SSIP (ISBE, 2020).

Common Issues that States Face When Working to Improve Results-Driven Accountability

When it comes to IDEA compliance, closing the achievement gap and improving the performance of students with disabilities should be considered as the main goal for all states (CORE, 2018; UTPB, n.d.). To reach this goal, states need to develop a holistic compliance system to handle some common compliance issues. However, there is a shortage of literature in this area. The few empirical studies we found are collected in the "2020 Part B FFY 2018 SPP/APR Indicator Analysis Booklet" (ED, 2020). Based on this booklet and studies on transition services for youth with disabilities, we have summarized some issues that states have been facing on IDEA compliance.

A shortage of highly qualified special education teachers has been cited as one of the reasons why (some)

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states have experienced a decrease in the academic performance of students with disabilities in the statewide assessments. According to the Council for Exceptional Children (Monnie et al., 2021), 49 states and the District of Columbia currently report shortages of special educators, and about 98% of the nation's school districts have reported a shortage (ED, 2020). Unfortunately, COVID-19 exacerbating the teacher shortage as experienced teachers retire early and others leave the profession altogether (García & Weiss, 2020).

In some states, **other factors that directly impact the performance of students with disabilities** include "recent implementation of new state assessments that were deemed more rigorous, change to a scoring scale with a different number of proficiency levels, and declining participation in alternate assessment, which shifted students to taking general assessments" (ED, 2018).

Additionally, the **lack of actionable data** (data that would help states to make specific policies) has a direct impact on state-level decision-making. An illustrative example of this challenge is the IDEA requirement that states report the education environment of students with disabilities, or where students with disabilities receive their education services (e.g., the percentages of students served under IDEA who spend 80% of the time in a regular classroom). When states were setting goals/ targets regarding the indicator "Education Environments (children 6-21)," the lack of data linking where students with disabilities are educated with how they perform made it difficult for states to make said goals/targets (ED, 2018).

Box 3. What Are the Common Gaps that States Face in Compliance?

Three Gaps in Compliance

IDEA compliance has to do with both procedure and performance, that is, results. As we mentioned above, the NAEP data show that in general, states that ED found to be meeting the IDEA compliance requirements are more likely to have more students with disabilities perform at or above basic in reading and math. States that have needed assistance for two or more consecutive years are more likely to be below the required result level. Therefore, to increase the performance results for students with disabilities, states must improve several aspects of their procedural compliance practices.

Gap #1 — Eligibility and Equity

When determining whether a state has met the IDEA Part B requirements, ED uses a Results Matrix based on percentages of students with disabilities in eight items (e.g., participating in regular statewide reading/math assessments, scoring at basic or above on the NAEP, exiting school by dropping out). An accurate count of every student with disabilities becomes essential. Beyond accurately counting the number of students with disabilities served under IDEA, states need to work with school districts to make sure all students who may have disabilities are identified and evaluated.

Differences in states' eligibility criteria and the difficulty of identifying and evaluating some children suspected of having disabilities may contribute to differences in the percentages of children receiving special education services across states (United States Government Accountability Office, 2019). In practice, some school districts may over- or under-identify students in special education. According to the National Bureau of Economic Research (Elder et al., 2019), in special education, "Black and Hispanic students are over-identified in schools with relatively small shares of minorities and

substantially under-identified in schools with large minority shares." To avoid school segregation and racial gaps in special education identification, states need to provide more specific guidance on this process and monitor the practices of each school district.

Gap #2 — Needs for Actionable Information

Link data and make it work for K-12 leaders. This should be not merely a vision but an action for states. In December 2021, the Data Quality Campaign (DQC) — a national nonprofit policy and advocacy organization dedicated to ensuring that education data work for individuals, families, educators, communities, and policymakers — published a report. It was based on interviews with state education agency (SEA) and local education agency (LEA) leaders from nine states with different statewide data infrastructure, political context, and economic landscape. DQC determined that education leaders at state and district levels urgently need student pathways data, namely individual-level, de-identified data that describes student journeys over time, from K-12 to career, and can be disaggregated by high school.

While the report addresses a gap in data infrastructure for all K-12 education, this issue is also observed in special education. For example, although it is always important to emphasize inclusive education, states need to develop a holistic compliance data system in which the data about where students with disabilities are served are linked to how students perform and make progress. By doing so, education leaders can assess whether states are adequately setting goals or whether states need to adjust policies/practices. This should be done not only to comply with the IDEA's requirement for the least restrictive environment for students with disabilities, but also for the best student achievement results.

Simply put, data should be able to offer corresponding action steps SEA leaders can take to address the students' needs in their state and consider strategies to improve.

Gap #3 — Juggling Between Reporting Tools

IDEA requires states to measure and report parent involvement. However, the federal law does not specify which reporting tool states should use. States use a variety of methodologies and measures to determine their performance on this indicator.

In FFY2018, 68% of states used state-developed survey instruments; 20% of states used the survey tool developed by the National Center for Special Education Accountability Monitoring (NCSEAM). An additional 10% used a survey reported as a modification of the NCSEAM tool. At the same time, some states changed data collection instruments from FFY2017. Two states (RI and SC) went from NCSEAM to State Developed surveys, and one state (CT) went from State Developed to Modified NCSEAM.

In addition to the differences in states' selection of survey instruments, there is a range of decisions that states have made related to survey distribution methods, the determination of annual targets and any year-to-year increase in targets, and the criteria used for defining the positive response(s) reported under some indicators. In collecting and reporting data for parent involvement, states have the flexibility to decide how they will handle the process for surveying and collecting data from parents of children and youth in preschool (ages 3-5) and school-aged special education in their states. In FFY

2018, of the 60 states/entities, 52 reported preschool and school-aged data together. The remaining eight states reported their data separately.

In brief, it is a best practice for states to collaborate with all stakeholders and construct a complete and comprehensive system to specify what data to collect, what methods to use for data collection, and how to monitor and manage data in an efficient way. Most important is to create actionable data: linking procedural or process data to student achievement so that stakeholders can make decisions and adjust policies.

Effective Compliance Policies that States Have Adopted to Improve Results-Driven Accountability

Using the data of the indicators in the past six years, researchers from the IDEA Data Center, the National Center for Systemic Improvement, and other national organizations identified some characteristics of states that have done better in special education in terms of procedural compliance and student achievement results (ED, 2021). The following policies and practices seem effective:

- **Reporting graduation rates using an extended-year cohort rate that spans more than four years (e.g., five-year cohort, five-year plus a six-year cohort).** By adopting this approach, states can capture and report students who have graduated in five years or more who, otherwise, would have gone unreported. Students with disabilities who have limited English proficiency face additional obstacles to complete their coursework and examinations within the standard four-year timeframe. The use of extended cohort rates can help ensure that these students are ultimately counted as graduates. It is likely that this provision to use extended cohorts will become more important, as many states have increased their academic credit and course requirements for all students to graduate.

- **Adopt a wide range of strategies to improve parent participation in surveys**. School districts must survey parents with children who receive special education services and ask them how schools facilitate their involvement in the education of their children. The federal government requires states to report whether their data are from a response group that is representative of the demographics of children receiving special education services. States reporting that they did not achieve representative responses often improved their performance through (a) increasing collaboration with local education agencies to identify local contacts or liaisons for the survey, (b) providing easily accessible online resources and training to support local dissemination efforts, (c) sharing real-time data on response rates and demographics of responses, and (d) providing outreach materials for multiple messages and reminders for families to complete surveys.

- **Develop a data collection process for collecting and analyzing post-school outcomes for former students with disabilities.** As more states strive to use their post-school outcomes data to drive decisions at state and local levels, these data must represent the youth who had an IEP in effect at the time they left school. Unfortunately, many states do not report response rate about post-school outcomes (PSO) for former students with disabilities, nor do they provide enough information to calculate response rate and representation[6]. If states collect complete data that can be disaggregated at a local level, the data will be transformed as actionable information. By doing so, policymakers can use the data to change programs, improve student academic performance, and better support students' transitions into postsecondary education or careers.

In summary, closing the achievement gap and improving the performance of students with disabilities is the overarching goal of school systems and the IDEA statute itself. IDEA requires states to provide FAPE, but states must figure out what instruction or services are appropriate for students with disabilities. Although it is a challenging process to identify the needs of all students with disabilities, states should try to develop a holistic compliance system where data provide actionable information for states to set meaningful compliance policies and monitor school practices.

Section 3: Challenges for Post-Pandemic IDEA Compliance

It is an understatement to say that COVID-19 disrupted students' education. When schools physically shut down in the spring of 2020, many students with disabilities had limited or no access to their special education services (e.g., one-on-one aids in the classroom, occupational and speech therapy, specialized instruction for all or part of the day) for three to nine months (GAO, 2020; NPR, 2021). In this section, we first discuss how COVID-19 has impacted the academic achievement of students with disabilities and state IDEA compliance. Then, we identify three main challenges for post-pandemic IDEA compliance. We examine how some states are striving to overcome these challenges using processes and tools and apply actionable data moving forward.

Decline in Student Achievement During 2021 Statewide Assessments

Many states have published the 2021 results of their respective statewide assessments. The loss of learning time and in-person instruction caused by the pandemic translated into lower achievement of all students in math and reading or English Language Arts (ELA). The performance of disadvantaged students, including students with disabilities, shows a strong declining trend, especially in math. For example,

- In *Florida*, less than half of students with disabilities at grades 3-5 failed to meet the basic reading level and needed substantial support for the next grade or course in 2019, but in 2021, more than half of the students did not meet the basic levels of reading and math (FLDOE, 2021).

- In *Kansas,* in 2021, six percent more students scored at the lowest level in math compared with 2019 (KASB, 2021). For students with disabilities, fourth-graders who scored at the lowest level in math reached nearly half of this group's population.

- In *Mississippi*, only 12.5% of students with disabilities performed at the math-proficient level in 2021 (vs. 18% in 2019).

- In *Virginia*, more than half of students with disabilities passed math in 2019, but only 31% passed math in the 2020-21 school year.

Because states used different standards and methods to assess their students, it is difficult to compare how students with disabilities performed by state in 2020. So far, the NAEP has published the national results of the 2020 long-term trend assessment in mathematics and reading for students ages 9 and 13, but the results for individual states are not available. Due to the pandemic, the NAEP 2021 student data collection was postponed until 2022 (NAEP, 2021). In June 2022, the federal government should send states the determination letters again. However, it is unclear which NAEP data will be used to determine to what extent the states meet the requirements of IDEA Part B.

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[6] Note: The response rate for PSO data collection is calculated by dividing the number of youth contacted and who completed the survey by the total number of youth served under the IDEA who left school in the year, less any youth ineligible for the survey. Ineligible youth are those who returned to school or are deceased. States are required to input the number of respondents into the reporting system, but they are not required to enter the total number of leavers eligible for the PSO data collection. Absent this information, the response rate cannot be calculated or confirmed.

Substantial Increase in Complaints Alleging Discrimination

Records from ED's Office of Civil Rights (OCR) show a substantial increase in the number of pending cases under investigation after complaints that school districts failed to meet the needs of students with disabilities as required by federal antidiscrimination statutes (Section 504 and the Americans with Disabilities Act). According to the Center for Appropriate Dispute Resolution in Special Education (CADRE, 2021), the data about Due Process Complaint (DPC) Activity per 10K Child Count (U.S and Outlying Areas) show that the rate of pending DPCs increased from 8.4 in 2017-18 and 11.9 in 2018-19, to 13.2 in 2019-20.

The Impact of COVID-19 on the 2021 State Determinations

In 2021, ED determined that most states had failed to meet the requirements of IDEA Part B (Figure 2)[7]. Given the COVID-19 disruption to the entire K-12 system and the many challenges in delivering and documenting services and outcomes for special education students, the federal government additionally considered the impact of the COVID-19 pandemic on data collection and data quality in making the 2021 determinations. Taking into account "the totality of information (they) have about a State" to assess both the data they had and the data that couldn't be delivered, no state or entity received a determination of "Needs Intervention" for 2021 (ED, 2021).

Figure 2. ED's Determination of States' Performance in Meeting the Requirements of IDEA Part B (Serving Students with Disabilities, Ages 3 Through 21), by Determination Categories: 2021
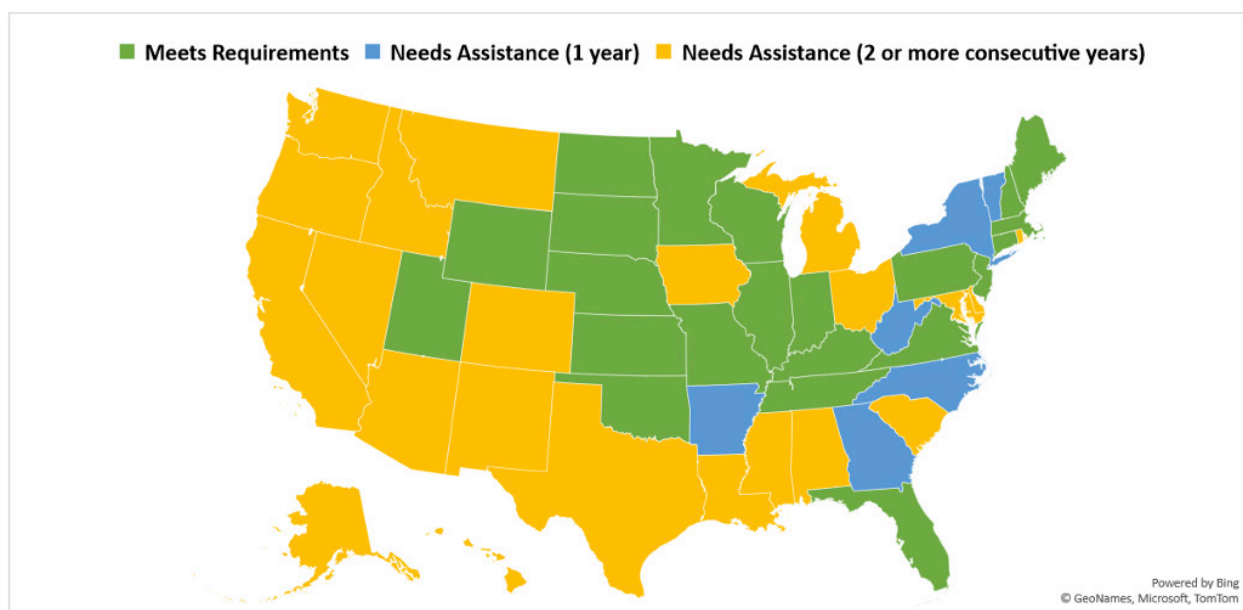
Source: 2021 DETERMINATION LETTERS ON STATE IMPLEMENTATION OF IDEA - Individuals with Disabilities Education Act

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[7] Note: There were 10 states and entities on the list of "Needs Assistance (One Year)" (i.e., Arkansas, Georgia, North Carolina, New York, Vermont, West Virginia, Virgin Islands, Palau, and Bureau of Indian Education). Twenty-two states, the District of Columbia, and 14 entities are listed under the category "Needs Assistance (Two or More Consecutive Years);" the states are Alabama, Alaska, Arizona, California, Colorado, Delaware, Hawaii, Iowa, Idaho, Louisiana, Maryland, Michigan, Mississippi, Montana, New Mexico, Nevada, Ohio, Oregon, Rhode Island, South Carolina, Texas, and Washington (ED, 2021).

The data collection challenges arising during the pandemic proved insurmountable to make 2021 determinations. In recognition of these circumstances, ED asked states to document whether and to what extent the pandemic affected their data collection, specifically:

- A description of the impact on data completeness, validity, and/or reliability for the indicator.
- An explanation of how COVID-19 specifically impacted the state's ability to collect or verify the data for the specific indicator.
- A description of any steps the state took to mitigate the impact of COVID-19 on the data collection and verification.

This helped ED understand the special context of the pandemic for states' collection and reporting of data and will inform the department's future path in the case of other health- or climate-related events.

Nearly All States Required to Take Actions to Increases in Specific Areas of Non-Compliance

ED publishes each state's annual performance report to provide feedback about how well the state has complied with IDEA. In the report, required actions for either the previous or the current fiscal year or both are described specifically for each indicator if a state has not met every requirement of that indicator. To understand how COVID-19 has impacted states' IDEA compliance, we extracted the required actions by indicator and state from the 2020 and 2021 state annual performance reports (Figure 3).

Figure 3. Number of States Required to Take Actions in ED's State Determination on IDEA Compliance, by Indicator: 2021 vs. 2020
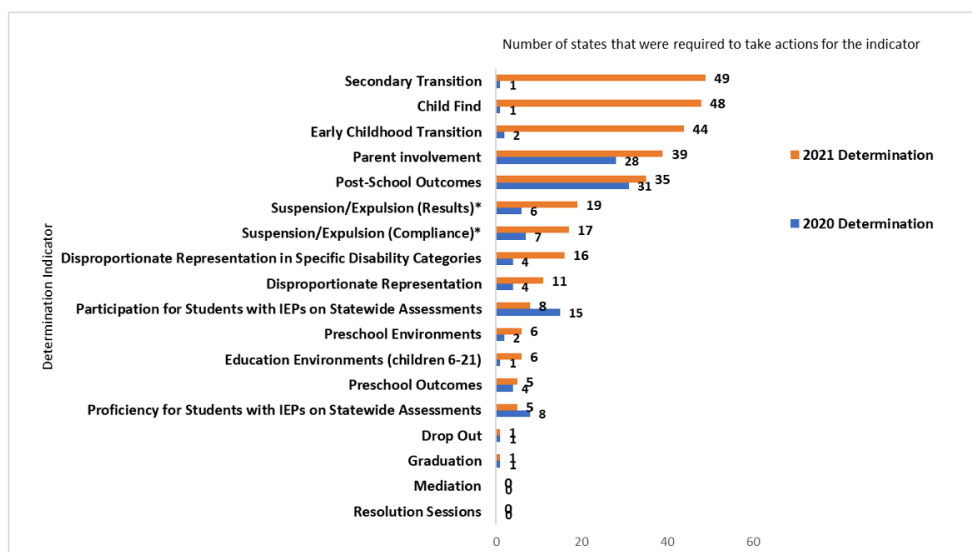
Note: (1) *Rate of Suspension/Expulsion (Results) = Percent of districts identified by the state as having a significant discrepancy in the rates of suspensions and expulsions of children with disabilities for greater than 10 days in a school year; Rate of Suspension/Expulsion (Compliance) = Percent of districts identified by the state as having a significant discrepancy in the rates of suspensions and expulsions of greater than 10 days in a school year of children with disabilities by race and ethnicity. (2) This chart reports on 50 states, the District of Columbia, and U.S. Virgin Island, because the National School Boards Association (NSBA) is a federation of state associations and the U.S. territory of the Virgin Islands. Data source: State Performance Plans (SPP) Letters and Annual Performance Report (APR) Letters – Individuals with Disabilities Education Act

In the 2021 determinations, more states were required to take action to improve in certain compliance indicators, particularly for child find (48 states), early childhood transition (44 states), and secondary transition (49 states). Most states have been required to improve parent involvement and post-school outcomes in both 2020 and 2021 determinations. By contrast, in the 2021 determinations, fewer states were required to act on the two academic achievement indicators (participation in regular statewide assessments and proficiency rates on the assessments) compared with 2020. Disproportionality in suspension/expulsion of students with disabilities by racial/ethnic groups and other demographic characteristics was still an equity issue for one-third of the country.

Three Post-Pandemic Challenges

COVID-19 created obstacles for schools to teach and serve students with disabilities. However, under IDEA, it is the state's responsibility to ensure that all students with disabilities have access to FAPE and are educated to the maximum extent appropriate alongside their general education peers (CCSSO, 2019). States need to meet the following challenges to provide timely guidance for school districts to comply with FAPE. They also need to effectively monitor the compliance of school districts by collecting all relevant information and managing data efficiently. The cases that illustrate each challenge below provide examples of how states may approach similar issues within their own contexts.

Challenge #1 — Learning Loss and IEP System Updates

As a primary mechanism to ensure that students with disabilities receive appropriate educational programs and services that support their learning, a student's Individualized Education Program (IEP) may need to be updated when schools address the learning loss caused by the pandemic. However, some school districts have reduced or delayed the educational services for students with disabilities when faced with the significant challenges presented by virtual learning. A big challenge for local school districts is that many states have not come up with effective guidance, an efficient monitoring system, or multi-layer supportive policies.

Data collected by the Center on Reinventing Public Education (CRPE) show that as of September 2021, only 26 states had provided guidelines on how to serve students with disabilities for the 2021-22 school year (CRPE, 2021). In some states, parents and educators have been frustrated about the slow and lengthy process that school districts must go through to solve the issues related to the pandemic-related delayed services. By contrast, some states have started prioritizing services needed by students with disabilities. The services aim to remedy students' skill loss and/or lack of academic progress caused by school districts' inability to provide certain services through alternative instructional models (e.g., remote learning, virtual and in-person blended learning) due to the pandemic.

Box 4. How to Meet IDEA Compliance and Post-Pandemic Challenges #1

COVID-19 Compensatory Services in Pennsylvania

"Compensatory" education or services take on significant meaning in legal disputes in which a hearing officer or court is asked to provide a remedy for alleged failure to provide FAPE. However, some states are using the terms to describe additional services needed to help students served under IDEA get back on track after pandemic-related delays. The Pennsylvania Department of Education

(PDOE) has issued guidance for school districts to provide COVID-19 compensatory services (CCS) for students with disabilities. IEP teams can follow the guidance to collect data and information for the consideration of whether or what CCS a student should receive (Pennsylvania Department of Education, 2021).

In the context of COVID-19, Pennsylvania defines compensatory services to be "services as determined by an IEP team needed to remedy a student's skill and/or behavior loss and/or lack of progress that resulted from an LEA's inability to provide Free Appropriate Public Education (FAPE) while using alternative instructional models due to the COVID-19 pandemic." The state education leaders also specify what data and information an IEP team should use to determine whether a student needs compensatory services.

The state suggests that school districts gather baseline data on each student's current educational levels. According to the state guidance, IEP teams should compare the gathered baseline data with the data of the 2019-20 school year and determine whether there is a regression in skills and/or behavior patterns and/or a lack of progress. IEP teams also are advised to use a wide range of data and information to make decisions, such as information and observations from teachers, related services providers, parents, caregivers, and other family members. Other information includes the student's ability to access remote learning opportunities and special education services as well as the student's engagement in the learning process while the district was using alternative learning models due to the pandemic.

Challenge #2 — Technology Gap and LRE Compliance

Before the pandemic, among all students ages 6–21 served under IDEA, 95 percent were enrolled in regular schools in the fall of 2019. The percentage who spent most of the school day (i.e., 80 percent or more of their time) in general classes in regular schools increased from 59 percent to 65 percent between 2009 and 2019 (NCES, 2021). During the pandemic, placing students with disabilities in a virtual learning environment has become a challenge. The technology gap – unequal access to technology tools and unequal access to educators who are proficient at using technology to teach – challenges the goal of maximizing the education environment to provide the most appropriate learning opportunities for each student with disabilities (CPE, 2020).

The pandemic highlighted the digital divide in education, commonly known as the homework gap (NSBA, 2020). In a COVID-19 global survey conducted by the World Bank's Inclusive Education Initiative (IEI), two areas were identified as obstacles to implementing effective remote learning. Those obstacles were inadequate infrastructure and the absence of teachers who could quickly transition to online models of teaching (World Bank Group, 2021). Inadequate infrastructure refers to the following challenges for students with disabilities to access equal learning opportunities:

- Lack of access to technology devices.
- Not enough devices for learners with disabilities.
- Devices that are inaccessible or do not fit the needs of learners with disabilities.
- Lack of internet connection or high costs of data packages.
- Unstable internet connection.

More research is needed to examine to what extent teachers' technology proficiency is associated with the academic achievement of students with disabilities. However, the 2019 NAEP data show that many states that met the IDEA requirements had a higher percentage of students who performed at or above the basic achievement level, and also had more students who reported that their teachers were proficient in technology (Table 4). In Table 4, the top part with light green color shows the states that met the IDEA requirements and received RDA scores for all the NAEP assessments. The bottom part with light blue color shows the states that neither met the IDEA requirements nor earned any RDA score for student NAEP performance. In general, the former states seem to have more "tech-savvy" teachers — those who are proficient at software applications and integration of technology into classroom instruction — to serve students with disabilities, compared with the latter.

Table 4. Percentages of Students with Disabilities Whose Teachers Were Proficient at Using Computer, Internet, Software, or Integrating Technology into Instruction, by Selected States: NAEP, 2019

2021 Determinations / State	Percentage of 4th-Grade Students with Disabilities (Excluding Those with 504 Plan) Who Reported on Their Teachers Who Were Proficient				Percentage of 8th-Grade Students with Disabilities (Excluding Those with 504 Plan) Who Reported on Their Teachers Who Were Proficient			
State	Use of the Internet	Computer	Software Applications	Integration of Computers and Other Technology into Classroom Instruction	Use of the Internet	Computer	Software Applications	Integration of Computers and Other Technology into Classroom Instruction
Florida	72	76	32	15	64	69	33	14
Indiana	71	65	27	14	68	75	29	16
Maine	68	73	28	18	68	70	29	18
Minnesota	73	72	32	17	77	75	33	20
Nebraska	70	71	39	20	75	74	31	19
New Hampshire	66	74	37	16	71	77	38	31
New Jersey	72	78	31	17	69	75	32	20
Pennsylvania	63	63	28	16	71	76	30	15
South Dakota	62	65	24	25	70	70	37	22
Utah	60	66	25	13	73	75	32	13
Virginia	72	72	26	16	73	79	35	11
Wisconsin	69	73	33	29	74	80	42	28
Wyoming	68	70	37	24	69	77	44	26
National public	**67**	**70**	**30**	**18**	**68**	**72**	**33**	**17**
Alabama	59	62	26	14	69	73	39	21
Arkansas	63	66	28	23	60	68	26	12
Delaware	66	72	37	17	70	74	41	25
District of Columbia	65	63	34	22	83!	73	52!	37!
Hawaii	66	67	27	14	68	69	32	22
Iowa	64	65	36	15	73	72	38	18
New Mexico	62	62	29	19	63	65	32	21
South Carolina	70	71	34	13	63	67	28	16
West Virginia	61	69	28	22	51	48	22	11

Left vertical labels: Met the Requirements of IDEA Part B & Earned Scores for All RDA Evaluated NAEPs (green section); Needed Assistance and Scored Zero in All RDA Evaluated NAEPs (blue section).

Note: A colored bar means the percentage is greater than the national level in the item. Source: NDE Core Web (nationsreportcard.gov)

To close the technology gap, states often take actions such as funding quality broadband and technology devices to meet the needs of disadvantaged students. However, the 2019 NAEP data show that nationwide, only around 18 percent of students with disabilities had teachers who could proficiently integrate computers and other technologies into their classroom teaching. In the long run, states should provide school districts with guidance on how to serve students with disabilities during remote learning. They also should strategically develop programs that train teachers who serve students with disabilities to integrate computers and inclusive technologies into classroom instruction.

Box 5. How to Meet IDEA Compliance and Post-Pandemic Challenges #2

Questions, Process Tools, and Progress Monitoring Procedures in Wisconsin

In Wisconsin, the state government created a live document about special education during COVID-19, which has been constantly revised. The state made it clear that when thinking through decisions about placements, students with disabilities must be considered equally for opportunities for in-person, physically distanced, and virtual learning environments. They may not be treated differently based on their membership in a protected class (The Wisconsin Department of Public Instruction, 2021).

During the pandemic, the state created a guide for implementing IEPs and monitoring progress of IEP goals when moving between in-person, hybrid, or virtual learning environments. The guide provides parents and educators with tools for thinking, processing, and monitoring. Basically, IEP teams must make two key decisions when determining whether and how students with disabilities move to virtual learning. First, the IEP team must determine whether the IEP can be implemented as written in the current learning environment (e.g., a virtual or hybrid environment if the student is moving from an in-person learning environment). Second, the IEP team must determine whether the IEP goals can be monitored in a virtual learning environment.

To determine whether IEP goal progress can be monitored in a virtual learning environment, an IEP team needs to describe procedures for measuring the student's progress from baseline to level of attainment for each annual goal. Some relevant questions are: What barriers may exist in traditional progress monitoring tools previously used in face-to-face settings that may prevent the student from accessing and demonstrating what they know and can do in a virtual learning environment? If IEP teams are using a published tool to monitor progress, is there guidance for the use of the tool in a virtual setting? What educational technologies, applications, and platforms have been considered that may assist with monitoring the progress of IEP goals?

The state also recommends some common methods that school districts can use to collect progress monitoring data. Examples of the methods are (i) structured observation (e.g., tally, duration recording, interval recording, and time on task), (ii) structured work samples (e.g., task or behavior analysis using checklists, rating rubrics, running records), and (iii) curriculum-based evaluation methods in reading and math (e.g., curriculum-based measures that assess a student's academic growth or attainment over short or long periods and the degree to which instruction or an instructional intervention is producing learning).

Additionally, Wisconsin requires school districts to follow a set of principles when implementing all

procedures, methods, and tools used to monitor progress toward IEP goal attainment, including those used in virtual or in-person learning environments. The principles are:

- Accurate (Valid + Reliable): consistently measures target outlined in the goal.

- Sensitive: Tools used are sensitive to growth and small changes in performance.

- Frequent: Regular and frequent data collection.

- Simple: Easy to implement, quick to administer, easy to "score."

- Brief: Takes only a short time or is embedded in instruction.

Challenge #3 — School Closures and Child Find

IDEA requires that school districts identify students with disabilities and evaluate them for eligibility. This process is commonly referred to as "child find." As child find procedures rely mainly on informal teacher observations and referrals, states encountered more difficulties in identifying/evaluating children suspected of having disabilities and collecting relevant data during the school closures caused by the pandemic. During pandemic-related closures, many children had to learn virtually and did not have the same degree of face-to-face interactions and in-person contacts with a teacher or other school staff as children who attend brick-and-mortar schools on a full-time basis. Teachers of these students had limited opportunities during this time for casual observation of a child's learning abilities and early recognition of issues that may impact their learning (Gillispie, 2021).

Research suggests that far fewer children than usual were accessing early intervention services during the pandemic. According to the IDEA Infant and Toddler Coordinators Association (ITCA, 2020), in the first three months of the pandemic, the rates of referral to early intervention services decreased in 45 states. In 24 of those states, referral rates dropped by 25% or more. In another survey of coordinators of early intervention services in 29 states in the fall 2020, researchers found that overall early intervention service rates have decreased in 15 states since the pandemic began. In five states, early intervention service rates have dropped for Black children and children from families with limited English proficiency (Gillispie, 2021).

The 2021 state annual performance reports (APRs) from ED show that 48 states have been required to take action to comply with the child find requirements in IDEA Part B. Only three states — Montana, Nevada, and North Carolina — reported 100 percent of children with parental consent to evaluate, who were evaluated within 60 days (or the state-established timeline). We examined how the three states collect child find data and monitor the procedures used to collect the data. These states reported that they have well-developed systems in place. These systems included policies and procedures to ensure that all children with disabilities who need special education and related services were identified, located, and evaluated, regardless of the severity of the disability.

Montana has a statewide monitoring system. The process starts with entering LEA data into the system, reviewing each file (e.g., the dates of an initial evaluation, the Consent to Evaluate, the Evaluation Report Meeting, and the last Assessment). If a school district failed to meet the deadline, and no reason was given, the district was required to provide additional documentation for the next several initial evaluations showing

that they were able to complete the process within the required timeline.

North Carolina has developed a new accountability system for collecting data for students with IEPs. In the APR, the state provided valuable experiences about how the state took steps to mitigate the impact of COVID-19 on data collection. For example, the state took the following steps:

- Collected data regarding the number of children who could not be produced for evaluation due to COVID-19. Conducted follow-ups to ensure that those children received evaluations and had IEPs developed, if determined eligible, as soon as it was safe to do so and in compliance with the Governor's Executive Orders.

- Held weekly WebEx Meetings to respond to content and technical questions about data and data submission.

- Conducted COVID-19 Impact Focus Groups virtually to seek input about the impact of COVID-19 and strategies for mitigation. Stakeholder focus groups were conducted for rural/small LEAs, urban/large LEAs, charter schools, and parents (three times, including once in Spanish).

Box 6. How to Meet IDEA Compliance and Post-Pandemic Challenges #3

Strategies to Meet the IDEA Child Find Requirement

Both states and local school districts are responsible for identifying children with disabilities and serving them as early as possible. Evidence shows that early intervention or preschool treatment for children with disabilities has positive effects on their intellectual development and academic achievement through age 12 (Campbell & Ramey, 1994; Movahedazarhouligh, 2019). To meet the challenges caused by the pandemic and continue serving children with disabilities, some states strategically developed family engagement programs. Some states focused on child find data collection. Some states built comprehensive child find systems.

Wisconsin: Birth to 3 Program and First 1,000 Days Outreach Campaign

In spring 2021, the Wisconsin Department of Health Services (DHS) launched the First 1,000 Days Wisconsin Child Find Campaign. The aim of the campaign was to inform every parent or caregiver of a child with a delay or disability of the Birth to 3 Program. It helps parents to understand the benefits of early intervention and to learn how to access the program. The DHS provided a media toolkit for counties, providers, partners, and other stakeholders to spread the word and disseminate the information.

South Carolina: Child Find Task Force

During the COVID-19 pandemic, the Child Find Task Force — a group of professionals across sectors set up to determine needs and successes in preschool child find activities — focused on distance child find best practices. The Child Find Task Force consists of four committees to respond to different early childhood child find activities. Committees developed a landscape overview of the infrastructure and need in each priority area as well as an initiative to meet this need: (1) Transition committee that collects data and provides concise information for school districts to ensure efficient transition from preschool to school; (2) Outreach committee that plans and provides information about screening, referral,

and eligibility process for childcare providers and districts; (3) Referral committee that reviews LEA processes when it receives referrals; (4) Special populations committee that creates guides to better serve young highly mobile, dual language learners.

Oregon: Child Find Data Collection

The Oregon Department of Education (ODOE) developed the 2021-22 Special Education Child Find Manual for parents and educators. The purpose of the manual is to provide an easy reference tool for submissions of the Special Education Child Find report. In the manual, the ODOE specifies what data school districts need to collect for the state child find report and how districts should collect the data.

New York: Comprehensive Child Find System

In October 2020, the New York State School Boards Association (NYSSBA) held an online seminar to discuss lessons learned about the special education conundrum during the pandemic. The NYSSBA believes that child find is a continuous process of public awareness activities, screening, and evaluation designed to locate, identify, and refer as early as possible all children with disabilities who need special education. It also believes that each district must develop a comprehensive child find system. The system should include (1) Definition of a target population, namely children who may have health or developmental issues, as early as possible; (2) Public awareness of information about services and how to access them, which should be disseminated through the mass media and other communication mechanisms, and throughout the district, regularly to parents, physicians, and others who may make referrals; and (3) Referral and intake, which refers to a mechanism for a broad range of referral sources to be informed about eligibility, identification of children who may be eligible, and how to make appropriate referrals to public agencies.

California: New Child Find Activities in Light of the Educational Disruption Caused by COVID-19

In a policy guide sheet of the California School Boards Association (CSBA) dated September 2021, CSBA reinforced the ED's *Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act*. It recommended that districts undertake new child find activities considering the educational disruptions caused by the pandemic. The CSBA emphasizes that students who are experiencing long-term COVID effects be referred for special education evaluation if their symptoms are adversely impacting their ability to participate and learn in the general curriculum.

According to the CSBA, the child find process should include the collection and screening of data to determine whether students are making adequate progress. To ensure quality evaluations of children suspected of having a disability, school districts may clarify the qualifications of personnel who administer evaluations and reevaluations. New child find activities may include adding home language services for parents and caregivers. However, school districts must provide parents with their child's response to instruction (RTI) data when seeking informed consent for an initial evaluation.

In summary, a variety of factors complicated the delivery of special education services during pandemic-related school closures and distance learning. The factors included a wide range of needs of students with disabilities, the individualized services specified in their IEPs, and the different capacity levels of parents or caregivers to assist teachers and service providers in delivering general education, specialized instruction, and related services to their children (GAO, 2020). The pandemic made it more difficult for states to meet all the IDEA requirements.

Conclusions

In this white paper, we reviewed the State Determination Letters from the U.S. Secretary of Education and the State Performance Plans/Annual Performance Reports and analyzed data from the Nation's Report Card (NAEP). In 2021, most states failed to meet some compliance indicators, as historically understood, because of the pandemic. The three challenges most relevant to IDEA compliance are lack of IEP updates (e.g., documentation of missed academic goals and methods in IEPs) because of the COVID-19 disruption that created difficulties to collect data or call IEP meetings, LRE compliance complicated by the need to determine and distribute technology appropriate to individual disabilities , and early childhood services affected by pandemic caused school closures.

As discussed earlier in Table 3 and related narrative, the data reflect that, in general, states that meet compliance requirements are more likely to have more students with disabilities perform at or above basic in reading and math. It is crucial that states address certain pivotal procedural compliance gaps. The cases we studied focused on strategies states adopted to proactively serve students with disabilities and fulfill their legal obligations, particularly during the pandemic. However, we intentionally present some practices in IDEA compliance that are driven by closing the achievement gap as well as improving the performance of students with disabilities. These state practices may be used as examples to inform how other states facing similar challenges may choose to confront them, as they work to meet the requirements for compliance in its broader interpretation.

Steps to Creating and Implementing a State Plan of Action

States should provide timely guidance on how to accelerate students learning and transition services, and meet the IEP goals of all students with disabilities. Some states have already taken action to meet both the IDEA requirements and the post-pandemic challenges. For example, Pennsylvania has developed guidelines on how to provide COVID-19 "compensatory services" for students with disabilities. Wisconsin has provided thinking and processing tools for school districts to monitor the progress and outcomes of students with disabilities. Kentucky's latest version of IDEA monitoring manual details steps for data collection and management.

Box 7. Steps to Meeting Both the IDEA Requirements and Post-Pandemic Challenges

IDEA Monitoring Manual in Kentucky

Kentucky's IDEA Monitoring Manual (Version 2.2) was published in October 2020. The manual details why, what, and how the state monitors all public agencies involved in the provision of special education and related services. The state uses data analysis, self-reporting, and desk audits to determine whether districts meet the requirements of the compliance indicators on the State Performance Plan (SPP).

To meet the requirements of the federal government, the state has added a monitoring system focusing on the indicators with the greatest effect on student outcomes. In this system, special monitoring areas are determined through analyzing district data and linking the district's compliance to student performance.

For example,

- If a district has a high percentage of students with IEPs receiving a novice rating on the statewide assessment, the state will look for the reason why students are not being successful in school. Often, the reasons are related to IDEA compliance, e.g., IEP goals are not measurable, evaluations are inappropriate, and progress monitoring data are inconsistent with IEP goals.

- If a district's data show a significant discrepancy in the number of students with IEPs being suspended for more than 10 days or expelled or a large percentage of the district's students with IEPs being restrained or secluded, the state will look at IDEA compliance requirements. It will seek to determine the reasons why the district is having issues with student discipline. The state may examine relevant evaluations based upon the students' suspected disabilities and check whether IEPs are developed appropriately through the evaluation process and students' areas of educational concerns. It also may investigate whether school districts have appropriate supports or Behavior Intervention Plans (BIP) based on high-quality Functional Behavioral Assessments (FBAs).

IDEA compliance is a demanding task. As a condition of receiving federal funds under IDEA, states must demonstrate to the ED that they have policies and procedures in place to fully comply with the law's requirements. States must have structures in place that support full understanding of the law. It also must construct a comprehensive data system to support their policies and practices.

In the ED's determination letters, states are directed to use some tools created by the federal government to act and improve their performance on IDEA compliance. States can use the portal (i.e., the EMAPS SPP/APR reporting tool) to check the results of the department's review of their annual reports and other relevant data. ED provides all states with responses to the data they submitted under each indicator. If states need to take any actions on Indicators 1 through 16, there are specific instructions to do so. For all states, the first and most important required action is to report timely and accurate data.

The federal government provides free and valuable resources for states to develop action plans and improve data quality, such as the ED-funded technical assistance centers and the ED-recommended resources from the Comprehensive Centers. Based on the ED-suggested resources and other IDEA research centers, we recommend some critical steps for states to create and implement an action plan. The key steps, together with data management in all stages, are shown in Figure 4.

- Engaging stakeholders, including parents of children with disabilities, general education partners, state advisory panels, parent training and information centers, and others, is a critical component of the efforts to improve results for children with disabilities. Consequently, states should always engage stakeholders and record their involvement when developing and implementing a state action plan (ED, 2020).

- The beginning step in creating an action plan is to develop specific, measurable, actionable, reasonable, and time-bound goals. To accomplish this, states may consider elements and frameworks to create thoughtful, concise, and trackable goals (O'Hara et al., 2021).

- With goals identified, states will determine the specific steps and timelines needed to accomplish the goals. This process may require states to divide each main goal into small objectives, which focus on an organized step-by-step action plan (O'Hara et al., 2021). At the same time, states should develop

comprehensive guidance with clear terminology, definitions, and examples of high-quality, standards-based IEPs. For example, an IEP should address the child's potential for growth from a strength-based perspective. States should establish standards for specially designed instruction and related services that are driven by helping students with disabilities to make substantive progress. IEP teams should be guided to use a variety of data sources to determine students' progress and ensure that every student with a disability receives the FAPE they are entitled to under IDEA (CCSSO, 2019).

- Tracking the plan's implementation is equally as important as developing an action plan. An evaluation plan can help states draw conclusions about what is and is not working.

Figure 4. Key Steps to Creating and Implementing a State Action Plan
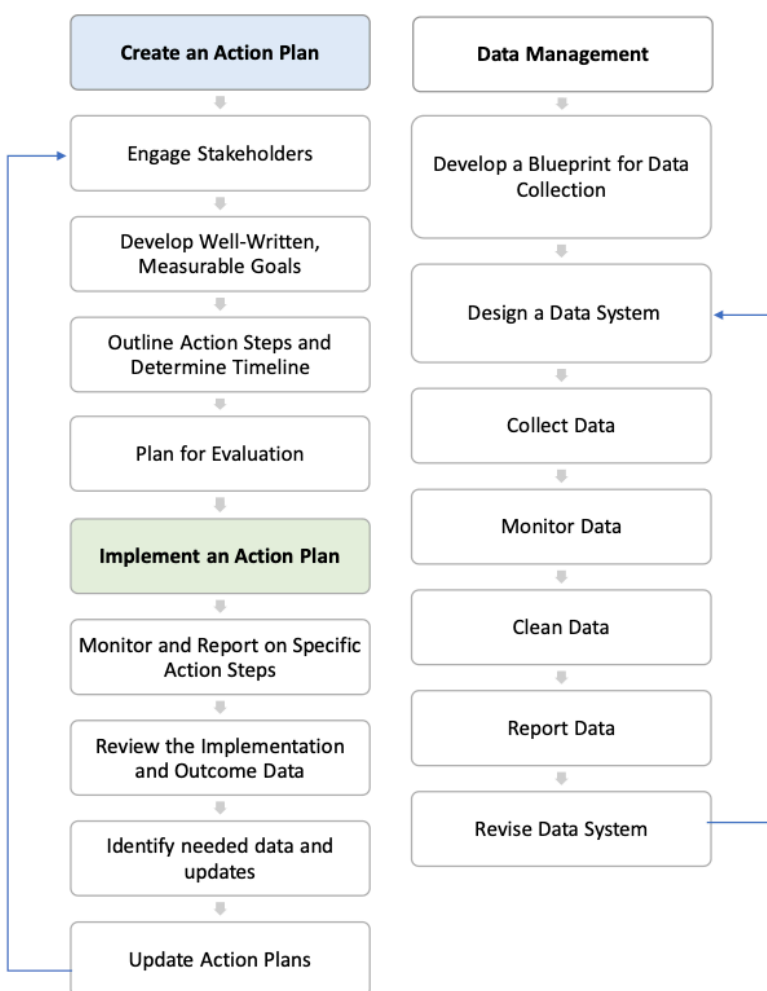
Once states have a plan of action to address where to go and what to do, states need to implement the action plan and monitor its progress. Monitoring plan implementation and progress will help states to be informed and accountable. Monitoring action plans is an ongoing process and requires data. Therefore, states should build comprehensive data systems, including dynamic data dashboards, and provide stakeholders with accurate and timely statewide information (CCSSO, 2019).

In the stage of creating an action plan, states must identify what data need to be collected throughout the implementation process. Data serves as evidence so the plan can be carried out with fidelity. During implementation, states need to analyze data and determine whether the supports they put in place are sufficient. If the data show areas that are not meeting the goals, states may consider providing additional opportunities for technical assistance or coaching.

Under IDEA, states are required to collect both process (implementation) and outcome data (data about how students are doing). We specifically added data management in the above chart, as it should start as early as possible and cover both creating and implementing an action plan. Data management is an active circle. It includes designing a data system, collecting data, monitoring data quality, cleaning data, reporting data, and revising to improve its functions. Action plans are the roadmaps for states to meet both IDEA compliance and post-pandemic challenges. Managing and monitoring data are indispensable.

Future Research

In this study, we found that in the states that have been found by ED to have met the requirements of IDEA Part B, students with disabilities were more likely to perform at or above the required basic achievement level compared with the states that did not meet the IDEA requirements. We also found that in many states that have met the IDEA requirements (e.g., New Hampshire, Wisconsin, and Wyoming), students with disabilities were more likely to report that their teachers were proficient with software applications and at integrating technology into classroom instruction, compared with students from states that did not meet the IDEA requirements.

To some extent, the COVID-19 disruption has created an opportunity for states to rethink an inclusive learning environment, e.g., using the Universal Design for Learning (UDL) framework to solve issues surrounding FAPE in online instruction and digital inequity, and ensure that all students with disabilities have equal access to technology-based curriculum and instruction (Basham et al., 2020, Bateman & McKittrick, 2021). More research is needed to examine to what extent teachers' technology proficiency is associated with the academic achievement of students with disabilities. In the long run, however, educators need to be proficient at using inclusive technologies to serve students with disabilities.

Research Limitations

The data we analyzed present limitations, which prevent us from reaching any direct cause-effect conclusion. We cannot say, for instance, that some states perform better than others on IDEA compliance just because they have implemented certain policies. One important factor is that states often use different methods to report on the same indicator. For example, states use different methods to calculate graduation rates and dropout rates and adopt different methods to survey parents.

In conclusion, COVID-19 complicated IDEA compliance, and states must expand their efforts to meet the requirements for compliance in its broader interpretation. "We can liken monitoring for compliance only versus student outcomes to building a house representing student results. Compliance is the basic floor or foundation necessary to lead to better results for students" (Kentucky Department of Education, p. 12, 2020).

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