## Noncompliance Identification

**Purpose:** Using established methods (e.g., database reviews, cyclical monitoring, self-assessments, data quality reports, and fiscal monitoring) the EI Division reviews programs for compliance with federal and state indicators and other priority areas identified to improve child and family outcomes and results.

**Scope:** The intended audience of this process is EI division staff, EIS vendor and program staff, SSP program director and staff and other key representatives.

**Prerequisites:** Data from monitoring methods, previously identified noncompliance for vendor or program, reason for delay guidance document.

**Procedure:**

Data Verification and Correction—prior to issuing a finding or decision making:

1. Verification follow up with program must be done within 30 days of identification of noncompliance to verify accuracy of data, add missing data, and submit documented reasons for delay.
2. For any data corrections: EIS programs must submit an EICS help desk ticket with correct data using the indicator template provided.
3. If necessary, obtain clarification on reasons for delay.
4. Request clarification to assist in root cause analysis if necessary.

**Determination:**

Following clarification and data verification, determine if Non-Compliance occurred and at what level:

1. Verify for each child specific noncompliance whether it has been corrected:
	1. Received services although late
	2. Out of jurisdiction
2. If corrected: Review a sample of updated program data demonstrating 100% compliance with statutory or regulatory requirement (**follow verification of correction process**).
3. If both the child level noncompliance and updated program data are corrected, maintain written documentation of the verification of correction and document prefinding correction (noncompliance data base and noncompliance prefinding correction letter).
4. If there is child level noncompliance and it is not corrected OR any of the updated sample for the applicatory requirement are not compliant a finding of noncompliance must be made.

**For identified Non-Compliance that is not corrected:**

 1. Determine the level of noncompliance:

1. Includes determining both where and how much the noncompliance is occurring and determining whether the noncompliance is part of a systemic problem
2. In reviewing the data determine for each EIS program if the noncompliance is occurring in one or more staff member
3. Determine if the noncompliance is occurring with only one or with several children and families.
4. Look for patterns of noncompliance across service coordinators, geographic regions, or specific populations of families

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| **Extent of** **Non-compliance** | **Possible Evidence** | **Possible Corrective Actions** |
| **Isolated:** | An isolated incident is specific and due to an individual isolated factor           | Correction of child specific noncompliance Submission of documentation that correction occurred (corrective verification process)  |
| Is identified in a data review to be across only one or a small number of children and only one staff member |
| It has been corrected within 3 months since the date of non-compliance, through processes developed and implemented at the program or agency.  Training has been provided on these processes to all staff.  | TA/Training and supervision from COS Specialist OR Quality Improvement Plan  |
| **Systemic:** | Noncompliance is inherent in overall systems, rather than due to a specific, individual, isolated factor.    | Correction of child-specific noncompliance      AND Formal written Corrective Action Plan (CAP) Root Cause Analysis to identify underlying issues at program contributing to noncompliance |
| Is identified in a data review to be across many children across multiple quarters of review, or multiple staff in the program |

**Notify the EIS program in writing of the noncompliance**

1. Notify the EIS program as soon as possible but no later than 90 days after the state concludes that the EIS program is noncompliant

a. Written notification must include:

* A description of the identified noncompliance
* The statutory or regulatory IDEA requirement(s) with which the LEA or EIS program or provider is in noncompliance
* A description of the quantitative and/or qualitative data (i.e., information, supporting the State’s conclusion that there is noncompliance)
* A statement that the noncompliance must be corrected as soon as possible, and in no case later than one year from the date of the State’s written notification of noncompliance
* Any required corrective action(s);
* A timeline for submission of a corrective action plan or evidence of correction.