



Brookline Public Schools

Grade: **D+**

Massachusetts Department of
Elementary and Secondary Education
Coordinated Program Review

Summary of
AREAS OF SPECIAL EDUCATION
REGULATORY NONCOMPLIANCE

September 4, 2008

Coordinated Program Review System

The Massachusetts Department of Elementary and Secondary Education (MDESE) is responsible for monitoring local school district compliance with special education law. They do this through their Coordinated Program Review (CPR) System. Each public school district and charter school in Massachusetts receives a comprehensive Coordinated Program Review every six years.

For the CPR, MDESE selects from the complete set of federal and state special education regulatory requirements those key compliance criteria that research has shown to be most essential in providing programs of high quality for students with special needs.

A team of two to eight MDESE staff, together with any necessary outside consultants, conducts the CPR over a two to ten day period. During this time the MDESE team interviews administrative, instructional, and support staff across all grade levels; as well as parents and others who ask to be interviewed. A representative sample of student records is reviewed, and classroom and facility observations are conducted.

Upon completion of the CPR, MDESE issues a report of its findings. Where criteria are not fully met, the local district or charter school must propose a Corrective Action Plan to bring those areas into compliance. School district Corrective Action Plans must be approved by MDESE.

MDESE also sends a monitoring team midway through the six-year cycle to complete an onsite special education Mid-Cycle Review (MCR). Again, the review consists of onsite interviews and observations as well as examination of documentation and records. Thus each public school district and charter school in Massachusetts is monitored once every three years for compliance with special education law.¹

Why Noncompliance Matters

Noncompliance can have serious consequences for students, especially when it involves:

1. Student Evaluation - Proper student evaluation is critical because it forms the basis for all educational decisions. Without an accurate assessment of a student's needs, it is impossible to develop an effective plan of instruction and support. The result for the student is failure, while the school district wastes scarce resources on ineffective instruction and services.
2. Progress Reporting - Progress reporting allows parents and schools to keep tabs on a student's growth and, importantly, allows educators to respond quickly when progress is not being made as expected. Without proper progress reporting a student can very easily "fall through the cracks." A student's lack of progress and the district's outlay of funds for services that are ineffective can go undetected for an entire school year, or more.

¹ *Coordinated Program Review Procedures, Mid-cycle Review, Information Package, School Year 2006-2007.* Massachusetts Department of Education. http://www.doe.mass.edu/pqa/review/cpr/midcycle_infopk.pdf

3. Timelines - Before a student can receive needed services s/he must be evaluated; a school team must convene to make decisions about eligibility, educational programming and placement; and those decisions must be put in written form for the parent's signed consent. Regulations require that these activities occur within 45 school (not calendar) days. With intervening weekends, vacation days, holidays, snow days, and professional days, a student can wait as long as two and a half months before receiving badly needed help. Exceeding timelines has an immediate and negative impact on a student's education.
4. Staff Training - It is ultimately school district administrators and instructional staff who ensure that a child's special education rights are protected. For this reason regulations require that school personnel be aware of special education regulatory requirements. If staff do not know what a child is entitled to as a matter of law, critical decisions can too easily be made based on administrative convenience or budget concerns, rather than on the child's needs.
5. IEP Development² - Proper development of the IEP is critical because it is the blueprint that all staff follow when working with a student. A student can be properly evaluated in a timely manner and still not receive an appropriate education if the IEP is not developed correctly. Regulations regarding IEP development include ensuring that instruction and services are tailored to the specific needs of the child, and that the student's goals are expressed in measurable terms so that meaningful progress reporting can occur. Services, accommodations, and modifications listed in the IEP must be provided as a matter of law. Conversely, if something does not appear in the IEP, the district is under no obligation to provide it.
6. Program Evaluation - In addition to monitoring the progress of individual students, schools are required to regularly evaluate the overall effectiveness of their special education programming and administration. This evaluation must include consideration of local and statewide assessment results, drop out rates, and graduation rates for special education students. Such an evaluation only makes good sense since the make up of a district's special education population, and its needs, will change over time. Failure to evaluate overall program effectiveness places students at risk of failure, and the district at risk of wasting scarce financial resources.
7. Team Meeting Participants - All decisions regarding a student's special education program are made by an IEP Team which includes individuals who meet to discuss the student in detail. Regulations specify who must participate on the Team. If any of the required personnel are missing from these Team discussions appropriate decisions may not be made, seriously jeopardizing the student's education.

² The Individualized Educational Program, or IEP, is a written document specific to an individual student that details the content of the student's educational plan, including the services to be provided.

8. Service Locations - Recognizing the harm done by the many years of segregation experienced by students with disabilities prior to enactment of federal special education law, Congress requires that these students be educated alongside their non-disabled peers to the maximum extent appropriate.³ This is referred to as the Least Restrictive Environment (LRE) mandate. The law also requires that the facilities and classrooms used by students with disabilities be at least equal in all physical respects to the average standards of general education facilities and classrooms. Anything less represents disparate, discriminatory treatment.
9. Behavior/Discipline - Congress realizes that in school, the behavioral manifestations of disability are often inappropriately treated as discipline problems. For that reason, the law specifically requires that schools treat behavioral difficulties as educational issues (if the behavior is a result of the student's disability) by responding with appropriate services and supports. The law prohibits schools from punishing children for disability-related behavior.⁴

The Price Students Pay

We include in this report the percentage of students in the district whose disability type entails significant cognitive (intellectual) impairment, along with the most recent MCAS results for students with disabilities and the student population as a whole. This gives us one way to assess whether or not students with special needs are learning at a rate commensurate with their ability.

Students with significant cognitive impairments usually represent a small minority of a district's special education population (approximately 5-15 %.) In most districts 85-95% of students with disabilities do not have significant cognitive impairments and are as intellectually capable as their non-disabled peers. The academic achievement of students with disabilities should therefore be substantially similar the student population as a whole. However, there is typically an extremely wide achievement gap between the two groups. SPEDWatch believes the chief cause of this achievement disparity is school district noncompliance with special education law which denies students the services they need to learn at a rate commensurate with their innate ability.

Important Note

This document summarizes only areas of regulatory noncompliance cited by MDESE. Please use the link provided in the footnotes if you wish to view the district's Coordinated Program Review Report in its entirety.

³ Note that regulations require students to be included in regular education programming to the maximum extent 'appropriate,' not to the maximum extent 'physically possible.' This is an important distinction, intended to safeguard the rights of *all* students to a quality education.

⁴ This does not mean school officials are powerless to intervene. The law gives school officials the right to consider any unique circumstances on a case-by-case basis when contemplating the removal of a student with a disability from school. In addition, school authorities have the right to remove a student from school, even over parental objections, if the student possesses a weapon, possess or uses illegal drugs, or has inflicted serious bodily injury.

Brookline Public Schools Grade: D+

Report Date: September 4, 2008

The MDESE reviewed Brookline's compliance with 58 different special education regulatory criteria. The district was found to be in compliance with only 40 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly) Brookline would earn a score of 69% ... a D+.⁵

Of the thirteen disability categories recognized by special education law, only Developmental Delay, Intellectual Impairment, and Multiple Impairment allow for significant cognitive impairment.⁶ These are disabilities which *may* put academic proficiency out of reach for students. For the 2006-2007 school-year Brookline reported the following statistics for their special education population:

- 6% of Brookline students with disabilities were identified as Developmentally Delayed (ages 3-9 only)
- 4 % of Brookline students with disabilities were identified as Intellectually Impaired.
- 3 % of Brookline students with disabilities were identified as Multiply Impaired.

The vast majority of Brookline students with special needs do not have significant cognitive impairments. These students are as intellectually capable as their non-disabled peers of reaching academic proficiency given appropriate educational services. Despite this the academic achievement gap between Brookline students with disabilities, and its student population as a whole (as measured by MCAS) remains enormous.

MCAS Spring 2008 - Brookline

Percent of Students Scoring Proficient or Better ⁷

	All Students	Spec Ed Students	Achievement Gap
Grade 3 Reading	74	41	33 points
Grade 3 Math	80	44	36 points
Grade 4 English	66	32	34 points
Grade 4 Math	63	25	38 points
Grade 5 English	82	46	36 points
Grade 5 Math	73	39	34 points
Grade 5 Science	63	32	31 points
Grade 6 English	86	52	34 points
Grade 6 Math	78	37	41 points
Grade 7 English	90	64	26 points
Grade 7 Math	72	29	43 points
Grade 8 English	90	72	18 points
Grade 8 Math	76	39	37 points
Grade 8 Science	63	34	29 points
Grade 10 English	87	50	37 points
Grade 10 Math	63	45	18 points

⁵ See entire report at <http://www.doe.mass.edu/pqa/review/cpr/reports/2008/0046.pdf>

⁶ See Code of Federal Regulations at 34 CFR 300.8

⁷ MDESE <http://profiles.doe.mass.edu/mcas/subgroups2.aspx?linkid=25&orgcode=00460000&fycode=2008&orgtypecode=5&>

Areas of Noncompliance

The following text is taken directly from Brookline Public School's CPR Report dated September 4, 2008.

The district does not consistently conduct evaluations in all areas consented to by the parent. As a result, students are not always assessed in all areas related to the suspected disability.

The district is aware of the state and federal requirements for transition services and is beginning to implement the Transition Planning Form; however, transition planning needs are not consistently discussed annually beginning no later than when the student is 15 years old and documented on the Transition Planning Form.

The school district is notifying students one year prior to reaching age 18 of the right at age 18 to make all decisions in relation to special education programs and services. However, there were IEPs signed by parents of students who had reached the age of 18, and whose records did not indicate that the student chose to delegate decision-making authority to the parent. The school district does not implement procedures to obtain consent from the student to continue the student's special education program upon reaching age 18.

A school representative with the authority to commit resources was not always present at the Team meeting. The district does not follow appropriate procedures for excusing necessary Team members from the meeting or arranging for alternative means of providing input into the development of the IEP.

The district does not always meet the timelines for completing assessments within thirty days and for proposing an IEP, or providing a written explanation of the finding of no eligibility, within forty-five days.

[There were] some instances of parental consent [to evaluate] received between 30 and 45 school working days before the end of the school year, but the school district did not schedule a Team meeting so as to allow for the provision of a proposed IEP or written notice of the finding that the student is not eligible no later than 14 days after the end of the school year.

Re-evaluations were not always conducted every three years or sooner if determined necessary. The high school is not implementing re-evaluation procedures in all cases where it is suspected that a student is no longer eligible for special education.

Parents receive progress reports on students' progress toward reaching the goals set forth in the IEPs at least as often as parents are informed of the progress of non-disabled students; however, this practice is inconsistent, as many progress reports were missing from student files.

Student records did not include [academic achievement and functional performance] information for students whose eligibility has terminated because the student has graduated or exceeded the age of eligibility.

Annual review Team meetings are not always held prior to the expiration of IEPs.

IEPs do not consistently address all [required] elements. IEPs do not always contain a written response to indicate how it would be known that the student has reached the goal. On occasion, the Present Levels of Educational Performance (PLEP A and B) sections were omitted, as were age specific considerations.

IEPs are not always sent to parents immediately following development at the Team meeting.

The information required in the narrative description of the school district proposals often lacked specificity and did not consistently contain sufficient detail of the school district's actions. In some student records, the forms were not dated.

The district does not always translate special education documentation for parents whose primary language is other than English. The district must create a system for determining whether parents require translations.

The district has purchased assistive technology materials and equipment for students; however ... IEP Teams are not always discussing the need for assistive technology for each student.

There are a few instructional groupings in the high school where the ages of the youngest and oldest child differ by more than 48 months and a written request for an approval to serve a wider age range has not been submitted to the Department.

Paraprofessionals do not consistently have access to training opportunities and do not regularly participate in trainings or in-services offered through the district. As a result, they are not always appropriately trained to assist in providing special education or related services.

While the district provides both in-district and out-of-district professional development opportunities, documentation submitted only included the district's Master Plan for Professional Development issued in August 2004, and did not include any specific professional development recently offered and attended by staff. The district does not conduct professional development on state and federal special education requirements and related local special education policies and procedures or on analyzing and accommodating diverse learning styles of all students in order to achieve an objective of inclusion in the regular classroom of students with diverse learning style.

While the district does periodically evaluate its special education programs, the documentation submitted indicated that no formal evaluation has been conducted since June 2003.

SPEDWatch, Inc. is a grassroots, non-profit, civil rights movement fighting to secure the educational rights of all Massachusetts schoolchildren with disabilities (ages 3-21.) We are an activist organization. We provide these Coordinated Program Review Summary Reports as a way to familiarize the public with the high rate of noncompliance with special education law in our public schools, and its human consequences.