



SPEDWatch
Special Education Activism

Dedham Public Schools

Grade: C

Massachusetts Department of
Elementary and Secondary Education
Coordinated Program Review

Summary of
AREAS OF SPECIAL EDUCATION
REGULATORY NONCOMPLIANCE

May 28, 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.

Dedham Public Schools Grade: C

Report Date: May 28, 2008

The MDESE reviewed Dedham's compliance with 58 different special education regulatory criteria. The district was found to be in compliance with only 43 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly) Dedham would earn a score of 74% ... a C.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 Dedham reported the following statistics for their special education population:

- 12% of Dedham students with disabilities were identified as Developmentally Delayed (ages 3-9 only).
- 2 % of Dedham students with disabilities were identified as Intellectually Impaired.
- 5 % of Dedham students with disabilities were identified as Multiply Impaired.

The vast majority of Dedham 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 Dedham students with disabilities, and its student population as a whole, as measured by MCAS remains enormous.

MCAS Spring 2007- Dedham Percent of Students Scoring Proficient or Better ⁷

	All Students	Spec Ed Students	Achievement Gap
Grade 3 Reading	61	36	25 points
Grade 3 Math	65	36	29 points
Grade 4 English	57	14	43 points
Grade 4 Math	51	9	42 points
Grade 5 English	71	47	24 points
Grade 5 Math	53	14	39 points
Grade 5 Science	52	18	34 points
Grade 6 English	71	24	47 points
Grade 6 Math	57	9	48 points
Grade 7 English	65	19	46 points
Grade 7 Math	45	6	39 points
Grade 8 English	79	47	32 points
Grade 8 Math	25	4	21 points
Grade 8 Science	21	4	17 points
Grade 10 English	75	33	42 points
Grade 10 Math	81	50	31 points

⁵ See entire report at <http://www.doe.mass.edu/pqa/review/cpr/reports/2008/followup/0073.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=00730000&fycode=2007&orgtypecode=5&>

Areas of Noncompliance

The following text is taken directly from Dedham Public School's CPR Report dated May 28, 2008.

Required educational assessments (educational history and teacher assessments) are not always completed. Middle school students are not always assessed in all areas of the suspected disability.

Summaries of assessment reports did not consistently include results and diagnostic impressions, or define in detail or in educationally relevant and common terms, the student's needs, offering explicit means of meeting them.

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. There was no indication that IEP Teams are consistently reviewing the Transition Planning Form annually and updating information on the form and the IEP, as appropriate.

A representative of the school district who has the authority to commit the resources of the district is not always in attendance at IEP Team meetings at the middle school and high school levels.

If a Team determines that a student is not eligible for special education, but may be eligible for accommodations under Section 504, the student is not routinely referred for consideration by the district for eligibility under that regular education program.

Annual reviews are not always held before the anniversary date of the implementation of the IEP, and IEPs have expired before the Team meeting was held to develop a new IEP.

A Team meeting and the proposal of an IEP and placement do not always occur in sufficient time to ensure the implementation of the proposed services and program upon the eligible child's third birthday. The district is not providing the evaluation consent form within five days of receipt of the referral for evaluation; students may be 2 years and ten months before the referral process is initiated.

Teachers are not always informed and aware of their specific responsibilities related to the implementation of students' IEPs.

Students who have counseling on their IEPs in the middle school are not consistently receiving services.

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.

There is no consistent mechanism in place for staff to know the process for requesting translation or

translation services for families who are speakers of languages other than English. While translators have been at Team meetings, these translators may be siblings or relatives who may not be familiar with special education procedures, programs and services.

Not all accommodations listed on students' IEPs at the middle school and high school are consistently provided in the general education classrooms.

Behavioral supports are not consistently provided at the middle school level and Teams are not routinely considering students' behaviors, including positive behavioral interventions and the possible need for a functional behavioral assessment for students whose behavior impedes their learning or the learning of others.

There are teachers in the alternative high school program, which is comprised of all special education students, who do not have special education licensure or waivers from the Department of Elementary and Secondary Education.

Avery Elementary provides speech and reading services in the basement in an area with dividers that is not confidential, as there are different services taking place in the small space at the same time.

Oakdale Elementary has a special education resource room located in the basement and separated from all other classrooms in the building. In order to access this classroom, students must walk in the basement through corridors with no other classes. This classroom was not given the same priority as general education programs in the allocation of instructional space.

The high school has a wing of the building that is used for counseling services; this wing does not lend itself to confidentiality. The walls of each of the offices do not reach the ceiling and the areas that face the hallway into the wing are all windows creating visual and auditory distractions.

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.