



**SPEDWatch**  
Special Education Activism

## Duxbury Public Schools

Grade: **D**

Massachusetts Department of  
Elementary and Secondary Education  
Coordinated Program Review

Summary of  
AREAS OF SPECIAL EDUCATION  
REGULATORY NONCOMPLIANCE

April 19, 2007

## 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.<sup>1</sup>

## 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.

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<sup>1</sup> *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](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 Development<sup>2</sup> - 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.

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<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup>

## 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.

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<sup>3</sup> 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.

<sup>4</sup> 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.

# Duxbury Public Schools

April 19, 2007 Grade: D

MASSDE reviewed this district's compliance with 59 different special education regulatory criteria. The district was found to be in compliance with 39 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly,) Duxbury Public Schools would earn a score of 66% ... a D.<sup>5</sup>

Of the thirteen disability categories recognized by special education law, only Developmental Delay, Intellectual Impairment, and Multiple Impairment allow for significant cognitive impairment.<sup>6</sup> These are disabilities which *may* put academic proficiency out of reach for students. For the 2005-2006 school year Duxbury reported the following statistics for their special education population:

- 7 % of Duxbury students with disabilities were identified as Developmentally Delayed (ages 3-9 only.)
- 2 % of Duxbury students with disabilities were identified as Intellectually Impaired.
- 5 % of Duxbury students with disabilities were identified as Multiply Impaired.

The vast majority of Duxbury 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 special education services. Despite this, the academic achievement gap between Duxbury students with disabilities, and the student populations as a whole (as measured by MCAS) is enormous.

## MCAS Spring 2006

### Percent of Duxbury Students Proficient or Above <sup>7</sup>

	<u>All Students</u>	<u>Spec Ed Students</u>
Grade 3 Reading	71	22
Grade 3 Math	61	24
Grade 4 English	70	31
Grade 4 Math	52	25
Grade 5 English	89	57
Grade 5 Math	71	28
Grade 5 Science	70	30
Grade 6 English	88	60
Grade 6 Math	68	16
Grade 7 English	85	27
Grade 7 Math	48	0
Grade 8 English	91	48
Grade 8 Math	54	7
Grade 8 Science	61	24
Grade 10 English	89	52
Grade 10 Math	81	39

<sup>5</sup> Find entire report at <http://www.doe.mass.edu/pqa/review/cpr/reports/2007/0082.doc>

<sup>6</sup> See 34 CFR 300.8

<sup>7</sup> MASSDE website <http://profiles.doe.mass.edu/mcas/subgroups2.aspx?district=082&school=&mcasyear=2006>

## Areas of Noncompliance

*The following text is taken directly from Duxbury Public Schools' CPR Report dated April 19, 2007.*

Assessments for the area of suspected disability are limited and the district needs to expand the testing instruments used to assess achievement in specific content areas and to assess emotional needs.

Transition planning does not always include relevant goals for the student and ... the information available to the Team regarding courses of study needed to reach those goals, or student preferences and interests is limited. Students are not always invited to the Team meeting, vocational education is not discussed at the Team meeting, and the student's preferences and interests are not always considered by the Team in preparing a transition plan. The district does have two students over age 18 enrolled in a POST program to provide employment experience and preparation for independent living.

Regular education teachers were not always present at the Team meeting at the high school, middle school and Chandler Elementary school. Team meetings did not always have a member with the ability to commit district resources at annual review meetings at all schools.

Evaluations are not always completed within 30 school working days, which occasionally delays the district from meeting the 45 school working day timeline for holding the Team meeting, determining eligibility and issuing either a proposed IEP or written explanation of a finding of no eligibility.

Timelines for 3-year re-evaluations were not always met. Re-evaluation dates on the administrative data sheet change from year to year. At the end of January 2007, the district is providing SEMSNET training for staff to learn how to monitor timelines of the students for whom they are responsible.

Annual review meetings are not always held on or before the anniversary date of the implementation of the IEP. The district has used IEP amendments to extend IEP timelines at all schools. Amendments are used correctly when minor changes are made to the

IEP, such as adding services or updating goals and benchmarks that were met.

Teachers receive the classroom summary from SEMSNET and not the complete IEP. Not all staff were aware of their specific responsibilities for each eligible student.

The letter to notify parents of a staff shortage did not include alternative methods to meet the student's goals on the accepted IEP. Parents reported that the notice was delayed.

The specially designed instruction in IEPs includes standardized language that is not individualized to meet student-specific needs. The description regarding how the disability affects the student's participation in the general education curriculum often restates the disability. Since the affects of the disability are not clear, the list of accommodations is extensive, frequently as many as 25 accommodations are listed. Information on content and performance criteria for specially designed instruction is not individualized. Some parents believe that services in the IEP are not all provided, and that the IEP is sometimes changed at a higher administrative level within the district.

The required notice to propose an IEP or an evaluation was not always placed in the student record at the high school and for out-of-district records. Also, the second page of the notice did not consistently answer all the questions for students at all schools.

The district has not yet collaborated to conduct the workshop on parent and student rights. The PAC representative indicated that a combined workshop with another district would be planned. The district and the PAC have not finalized how the PAC will advise the district on matters that pertain to the education and safety of students with disabilities or how to meet regularly with school officials to participate in the planning, development, and

evaluation of the school district's special education programs.

Vocational offerings within the district are extremely limited. The district does not have an agreement with any vocational schools. Some staff at the middle school indicated that applications to vocational schools occurred after the student went to the high school, while staff at the high school thought applications for vocational programs were made at the middle school.

The high school was very limited in the assistive technology considered for students.

The district did not monitor the provision of services to the student and the programs of individual students placed in public and private out-of-district programs. Site visits were not documented and placed in the students' files for review. The composition of the Team meeting for out-of-district students did not always include a person with the authority to commit district resources.

Eligible students in the custody of the Department of Youth Services did not have current IEPs. When the IEP was due to be reviewed, a Team was not convened to develop and revise the IEP.

One special education teacher at the Alden Elementary School who moved from another state is not certified in Massachusetts, has not completed any of the required teacher tests and the district has not applied for a waiver.

The district has not provided training for general educators and special educators on methods of collaboration among teachers, paraprofessionals and teacher assistants to accommodate diverse learning styles of all students in the regular classroom.

The district does not have a system that provides in-service training for all locally hired and contracted transportation providers, before they begin transporting any special education student receiving special transportation, on his or her needs and

appropriate methods of meeting those needs; for any such student it also must provide written information on the nature of any needs or problems that may cause difficulties, along with information on appropriate emergency measures.

The district had an independent evaluator conduct an evaluation of special education services. However, the evaluation did not determine the effectiveness of programs and services to achieve goals on the IEPs in the least restrictive environment.

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.