



SPEDWatch
Special Education Activism

Essex Agricultural and Technical High School

Grade: **C -**

Massachusetts Department of
Elementary and Secondary Education
Coordinated Program Review

Summary of
AREAS OF SPECIAL EDUCATION
REGULATORY NONCOMPLIANCE

May 2, 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.

Essex Agricultural and Technical High School Grade: C-

Report Date: May 2, 2008

The MDESE reviewed Essex Agricultural's compliance with 50 different special education regulatory criteria. The district was found to be in compliance with only 36 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly) Essex Agricultural would earn a score of 72% ... 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 Essex Agricultural reported the following statistics for their special education population:

1.0 % of Essex Agricultural students with disabilities were identified as Intellectually Impaired.

2.5 % of Essex Agricultural students with disabilities were identified as Multiply Impaired.

Accordingly, at least 96.5% of Essex Agricultural students with disabilities 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 Essex Agricultural students with disabilities, and its student population as a whole, as measured by MCAS, is enormous.

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

	All Students	Spec Ed Students	Achievement Gap
Grade 10 English	71	50	21 points
Grade 10 Math	41	12	29 points

Areas of Noncompliance

The following text is taken directly from Essex Agricultural's CPR Report dated May 2, 2008.

More recent assessments are limited in scope consisting of test program generated interpretations of the data. Older assessments, done by contracted consultants, contain information that is confusing. This has resulted, in some cases, in primary diagnoses that are unclear and may have led, in turn, to inappropriate goals, or a lack of appropriate goals and modifications. Interviews indicate that some of the staff conducting assessments are not experienced or comfortable with their role.

Transfer of parental rights is not consistently provided in the student record. General education teachers do not consistently attend Team meetings. No copies of an excusal form were found.

⁵ See entire report at <http://www.doe.mass.edu/pqa/review/cpr/reports/2008/0913.pdf>

⁶ See Code of Federal Regulations at 34 CFR 300.8

⁷ MDESE <http://profiles.doe.mass.edu/mcas/subgroups2.aspx?district=913&school=&mcasyear=2007>

Confusion, stemming from inadequate assessments or inappropriate conclusions based on assessments that are limited in scope, or poorly informed assumptions about students' primary disabilities have, in many cases, impacted the services provided to students.

Progress reports are not provided at least as often as general education students receive reports. No progress report is issued in June with the final report card.

In some cases goals are repeated from year to year despite progress reports indicating that the student was making sufficient progress to meet the annual goals from the prior year's IEP.

Nonparticipation ... statements are not consistently descriptive or specific enough.

Teachers are routinely provided with a summary of the accommodations on a student's IEP, but may not be aware of the student's goals or of their responsibilities with regard to those goals.

Notices provided to parents do not consistently provide enough information to effectively inform the parent about the action being taken and the purpose of that action.

While the district makes some effort to identify the need and provide translations in Spanish, translations and provision of information in other languages is inconsistent.

Some students may not be provided with the related services required to meet their needs because of confusion related to the interpretation of assessments and the designation of the primary disability.

Clustering of special education programs in one area of one building does not maximize the inclusion of eligible students with the rest of the school.

Interviews and reviews of records and documentation do not demonstrate regular evaluation of programs or a procedure, or plan, in place to conduct such evaluation.

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.