



Lynn Public Schools

Grade: D+

Massachusetts Department of
Elementary and Secondary Education
Coordinated Program Review

Summary of
AREAS OF SPECIAL EDUCATION
REGULATORY NONCOMPLIANCE

November 21, 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.

Lynn Public Schools

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MDESE reviewed this district's compliance with 58 different special education regulatory criteria. The district was found to be in compliance with 40 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly,) Lynn 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 Lynn reported the following statistics for their special education population:

- 12 % of Lynn students with disabilities were identified as Developmentally Delayed (ages 3-9 only.)
- 16 % of Lynn students with disabilities were identified as Intellectually Impaired.
- 3 % of Lynn students with disabilities were identified as Multiply Impaired.

The majority of Lynn students with special needs (80% of those in grades 5-12) 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 Lynn students with disabilities and their student population as a whole (as measured by MCAS) is enormous.

MCAS Spring 2008

Percent of Lynn Students Scoring Proficient or Better ⁷

	All <u>Students</u>	Spec Ed <u>Students</u>	Achievement <u>Gap</u>
Grade 3 Reading	39	15	24 points
Grade 3 Math	51	17	34
Grade 4 English	29	5	24
Grade 4 Math	34	8	26
Grade 5 English	46	13	33
Grade 5 Math	38	12	26
Grade 5 Science	28	13	15
Grade 6 English	53	15	38
Grade 6 Math	44	7	37
Grade 7 English	46	7	39
Grade 7 Math	25	3	22
Grade 8 English	60	24	36
Grade 8 Math	29	1	28
Grade 8 Science	11	2	9
Grade 10 English	57	12	45
Grade 10 Math	57	16	41
Grade 10 Science	29	3	26

⁵ Lynn Daily Item <http://itemlive.com/pdfs/techreport.pdf>

⁶ See 34 CFR 300.8

⁷ MDESE:

<http://profiles.doe.mass.edu/mcas/subgroups2.aspx?linkid=25&orgcode=01630000&fycode=2008&orgtypecode=5&>

Areas of Noncompliance

The following text is taken directly from Lynn Public Schools' CPR Report dated November 21, 2008.

Some assessments are completed the day of or the day before the Team meeting, as a result these reports are not available to the parent two days in advance of the Team meeting, if requested.

The information on the Administrative Data Sheet of the IEP regarding the age of majority decision was not always consistent with the signature on the IEP. It was indicated on some IEPs that the student would be acting in his own behalf; but the IEP was then signed by the parent or signed by the parent and the student. The district uses a form to record the age of majority decision, but the form does not require the signature of the representative of the school district and another witness when decision making is delegated.

Team chairs have the authority to commit the resources of the district; but interviews indicate that they do not always feel that they can make decisions without checking with a higher authority. Although the district provided data that indicates progress in this area, not all Team meetings had a regular education teacher in attendance when the student was in a regular education program or may be considered for a regular education program.

When an annual review was late, the date of the reevaluation was changed to coincide with the date of the annual review so that the reevaluation would not then occur within three years.

Progress reports were not always written for all IEP goals. IEP progress reports have not been issued for IEP goals this school year for some students at Lynn English High School and Lynn Vocational Technical School.

IEPs are not always reviewed before the [annual] anniversary date.

Students are not always educated in the least restrictive educational setting. Based on the procedures in place to consider students for Welcoming Elementary School, students with behavioral or social disabilities when identified as eligible for special education would be recommended for this day school program without first considering special education supports in a less restrictive educational setting. Non-participation justification statements in IEPs often are taken directly from the language of the regulation and are not specific to needs of the child. The statement does not articulate why modifications and accommodations can not be made in the classroom.

Teachers identified a need for training on inclusive teaching practices and interviews indicated that there are many students in substantially separate classes, who have little opportunity to participate in activities with their non disabled peers. When inclusive opportunities are provided for students in substantially separate classes it is often the result of a special education teacher reaching out to regular education teachers to make arrangements.

N1 forms are not always issued when proposing an IEP. All of the questions, which are required by federal regulation for written notice (Page 2 of N1 form), are not always addressed.

Although interpreters are often present at Team meetings when the parent's primary language is other than English, the record review indicated that translated copies of the IEP were not always evident in the record. In some records, the only translated special education document in the record was the consent for an evaluation.

The district has a parent advisory council for special education, but the PAC has not been involved in advising the district on matters that pertain to the education and safety of students with disabilities and the planning and development of special education programs.

Interviews indicate that there is an over reliance on substantially separate and pull out services and there are not sufficient programs and supports in place to support children in full inclusion and partial inclusion classes.

Classes at Lynn English High School, referred to as CP3, have a majority of students on IEPs and are taught by a special education licensed teacher, but the number of students assigned to the classes are not always consistent with the class size requirements for a substantially separate class.

Although the district has procedures in place that are consistent with the requirements, documentation indicates that neither the Lynn Public Schools' Student Discipline Code nor the discipline codes contained in student handbooks contain information regarding appropriate procedures for the discipline of students with disabilities [or] for students not yet determined to be eligible for special education.

Not all students with disabilities receive information regarding the admission to Lynn Vocational Technical School. Students in the substantially separate classrooms at Lynn Vocational Technical School do not have access to the Chapter 74 Perkins programs in the school.

Staff members are offered a wide range of topics to choose from for professional development that are related to special education. However, regular education staff and special educators have not all been trained in the following: state and federal special education requirements and related local special education policies and procedures; 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 styles; and methods of collaboration among teachers, paraprofessionals and teacher assistants to accommodate diverse learning styles of all students in the regular classroom. Many staff members indicated that they would benefit from additional training in inclusive teaching methods.

Many substantially separate classes are located in basements, which would be stigmatizing to students with disabilities unless regular education classes are

also located in the same area. Some special education services are provided in places such as the end of hallways, kitchen area, projection room, and closet. Some of these locations are very small for the number of students, do not provide for confidentiality and may compromise the quality of the services. The team identified the following spaces as being inadequate:

- Connery School: the space located in back of the gymnasium used for pull-out services.
- Lynn Woods: the closet used by the school adjustment counselor.
- Curwin Circle School: the kitchen area used for ancillary services.
- Drewicz School: the spaces located in the basement used as resource rooms.
- Fallon School: the stage, end of hallway and closet space used for ancillary services.
- Callahan School: the office behind the gym used by the school adjustment counselor and the resource rooms in the basement.
- Ford School: the projection room used for speech and language services.
- Pickering Middle School: the self contained class located in the basement.
- Ingalls School: the self contained class located in the basement away from other classes.
- Marshall Middle School: special education classes are clustered and located in the basement and located only with classes serving LEP students.
- Lynn Vocational Technical Institute: substantially separate special education classes are small for the number of students and are not located with regular education classes.

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.