



Norfolk County Agricultural High School

Grade: **D**

Massachusetts Department of
Elementary and Secondary Education
Coordinated Program Review

Summary of
AREAS OF SPECIAL EDUCATION
REGULATORY NONCOMPLIANCE

January 15, 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.

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MDESE reviewed Norfolk County's compliance with 52 different special education regulatory criteria. The district was found to be in compliance with only 34 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly) Norfolk County would earn a score of 65% ... an 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 Norfolk County reported the following statistics for their special education population:

- 0 % of Norfolk County students with disabilities were identified as Developmentally Delayed
- 0 % of Norfolk County students with disabilities were identified as Intellectually Impaired.
- 0 % of Norfolk County students with disabilities were identified as Multiply Impaired.

None of Norfolk County's students with special needs have significant cognitive impairments. All 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 Norfolk County students with disabilities, and their student populations as a whole (as measured by MCAS) is enormous.

MCAS Spring 2007-Norfolk County Agricultural High School Percent of Students Scoring Proficient or Better⁷

	All <u>Students</u>	Spec Ed <u>Students</u>
Grade 10 English	85	54
Grade 10 Math	78	20

Areas of Noncompliance

The following text is taken directly from Norfolk County Agricultural High School's CPR Report dated January 15, 2008

Assessment batteries were identical and not tailored to assess specific areas of educational need. The district does not assess in areas of related services, such as speech and language, occupational therapy, and physical therapy. Students who received related services prior to entering Norfolk Aggie were not assessed for continued services or eligibility. If students have areas of suspected disabilities in related services, they were not assessed as the district does not have qualified staff to evaluate or provide these services.

Assessments do not consistently define students' needs in detail and in educationally relevant terms. In addition, assessment reports consistently omit recommendations.

⁵ See entire report at <http://www.doe.mass.edu/pqa/review/cpr/reports/2007/0915.pdf>

⁶ See 34 CFR 300.8

⁷ MASSDE <http://profiles.doe.mass.edu/mcas/subgroups2.aspx?district=915&school=&mcasyear=2007>

An individual qualified to interpret the instructional implications of evaluation results is not in attendance at either initial or re-evaluation Team meetings.

Students are dismissed from special education and related services without evaluations or assessments having been conducted to determine whether the student is no longer eligible for special education.

The district's computer generated progress report checklist denotes that students are making progress towards specific goals, however, these checklists frequently contradict progress report narratives written by the teachers that state that the student is not making progress towards specific goals. Teams do not routinely reconvene if teachers report that students are not making progress toward reaching the goals set forth in the IEPs.

IEPs do not include specially designed instruction. Present Levels of Educational Performance B and Age Specific Considerations were not consistently addressed in the IEPs.

The district does not propose related services when developing IEPs, in particular speech and language services and counseling services. In addition, goals and benchmarks are not consistently measurable.

Placement decisions do not reflect the least restrictive environment consistent with the needs of the student. The district currently offers substantially separate English Language Arts instruction. All records reviewed indicate that incoming ninth grade students were receiving English in inclusive settings in the eighth grade, but upon entering the district they were automatically placed in substantially separate English Language Arts classes. While there are opportunities for English Language Arts inclusion, these decisions are made at random by the special education and general education teachers. As a result, placement decisions are changed intermittently throughout the year without Team recommendations, IEP Amendments, and parental consent.

The district has identified many general education core curriculum classes that are primarily comprised

of special education students; however, these classes are identified as full inclusion placements on IEP service delivery grids.

IEPs omit required components of the Nonparticipation Justification statements. IEPs do not state why the removal is considered critical to the student's program and the basis for its conclusion that education of the student in a less restrictive environment, with the use of supplementary aids and services, could not be achieved satisfactorily.

The district has made efforts in previous years to support a special education parent advisory council (PAC) and hold PAC meetings, however, attendance was minimal. Parent surveys indicate that parents are unfamiliar with the PAC and have not been invited to PAC meetings.

While the district has assistive technology within the school, assistive technology is not being utilized by staff. In addition, assistive technology needs are not routinely discussed in Team meetings and the district does not conduct evaluations for assistive technology.

The district does not conduct functional behavioral assessments (FBAs), and staff is not familiar with the FBA process. Students with behavioral and emotional disabilities do not have social, emotional or behavioral goals or positive behavioral interventions included in their IEPs. In addition, the Present Levels of Educational Performance (PLEP B) section of IEPs was routinely left blank, as the district did not document areas of behavior, social, or emotional needs.

The district does not provide related services within the district for students who were previously receiving services in the eighth grade. Counseling services were reduced and dropped due to a lack of staff and unavailability of service providers.

The district houses a substantially separate special education classroom in the basement. This classroom is isolated from all other classes, which prohibits inclusion of students into the life of the school.