



**SPEDWatch**  
Special Education Activism

## Salem Public Schools

Grade: F

Massachusetts Department of  
Elementary and Secondary Education  
Coordinated Program Review

Summary of  
AREAS OF SPECIAL EDUCATION  
REGULATORY NONCOMPLIANCE

August 22, 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.<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.

# Salem Public Schools

August 22, 2008

MDESE reviewed this district's compliance with 58 different special education regulatory criteria. The district was found to be in compliance with 33 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly,) Salem would earn a score of 57% ... an F.<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 2006-2007 school year Salem reported the following statistics for their special education population:

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

The vast majority of Salem 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 Salem students with disabilities, and the student population as a whole (as measured by MCAS) is enormous.

## MCAS Spring 2008

### Percent of Salem Students Scoring Proficient or Better <sup>7</sup>

	All <u>Students</u>	Spec Ed <u>Students</u>	Achievement <u>Gap</u>
Grade 3 Reading	45	22	23 points
Grade 3 Math	51	26	25
Grade 4 English	35	11	24
Grade 4 Math	35	10	25
Grade 5 English	58	18	40
Grade 5 Math	48	18	30
Grade 5 Science	42	16	26
Grade 6 English	52	21	31
Grade 6 Math	40	10	30
Grade 7 English	53	16	37
Grade 7 Math	27	8	19
Grade 8 English	59	30	29
Grade 8 Math	34	3	31
Grade 8 Science	25	4	21
Grade 10 English	61	15	46
Grade 10 Math	58	21	37
Grade 10 Science	42	8	34

<sup>5</sup> Massachusetts Department of Education <http://www.doe.mass.edu/pqa/review/cpr/reports/2007/0258.pdf>

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

<sup>7</sup> MDESE:

<http://profiles.doe.mass.edu/mcas/subgroups2.aspx?linkid=25&orgcode=02580000&fycode=2008&orgtypecode=5&>

## Areas of Noncompliance

*The following text is taken directly from Salem Public Schools' CPR Report dated August 22, 2008.*

The district, at all school levels, was not always using current student data and information to appropriately select assessments for initial identification of students.

The district is not assessing in all areas of the student's suspected disability leading to the inappropriate use of extended evaluations.

The district does not always develop a written determination related to identified specific learning disabilities. When written determinations did appear in the file, the documents lacked Team member signed certification.

The district is not annually discussing a student's transition needs at age fifteen. IEP Teams do not annually update the Transition Planning form and there is no indication that school personnel discuss or plan for the student beyond the basics of meeting high school graduation requirements.

At all school levels . . . school staff are unclear about who has the authority to commit school district resources. Additionally, . . . those on the district's list of who could commit resources did not always attend IEP Team Meetings.

The district does not always determine whether the student is eligible for special education within the 45-day timeframe.

Staff at the Carlton Elementary School indicated that in the 2006-2007 school year staff had been directed not to consider, write or implement 504 Plans for students who may not be eligible for special education services, but have a disability and may need

accommodations. Staff interviews indicated this practice continued at the Carlton Elementary for the 2007-2008 school year

Staff interviews at the Bowditch Elementary school indicated that school staff members are not conducting reevaluations for the 2007-2008 school year because of a lack of staff. Across all school levels, staff interviews indicated that the record of the student's IEP timelines are altered, resulting in students going from three years to in some instances, in excess of five years between re-evaluations. At Salem High school, it was noted that the district is not re-testing students prior to determining that those students are no longer eligible for special education services.

The district, at all school levels, is not always holding annual IEP Team Meetings on or before the anniversary date of the IEP. Additionally, the district is inappropriately using IEP Amendments to extend the IEP past the anniversary date and amending IEPs from other districts when students transfer in from other districts.

The district's representative is not signing the proposed IEPs before the district issues the IEP to parents.

The district, at all school levels, was not immediately providing the proposed IEP and placement [to parents]. The extent of this delay varied in the records reviewed by the Department from two week to two months.

Many staff members do not understand the extended evaluation process or procedures. Extended evaluations were used to complete initial evaluations and reevaluations that were not completed within 30 school-working days.

Special education high school students were placed in remedial language arts, math and

reading classrooms instead of receiving special education support in a pull out model as specified in student IEPs.

One-to-one paraprofessional aides are not always available as specified on student IEPs. General education staff at the Horace Mann, Bentley, and Witchcraft Heights elementary schools indicated that there is no process to inform them of their specific responsibilities related to the implementation of student IEPs. The Witchcraft Heights Elementary school was without an assigned speech language pathologist therefore students were without services, and there was no plan to address this issue or inform parent.

Across school levels, evaluations begin before receiving parental consent and in some instances, services are provided before a parent accepts the proposed IEP.

High school students are asked to act as verbal translators in IEP meetings. Additionally, at all school levels, parents whose native language is not English are not routinely provided with a translator and they are asked to sign English version IEPs at the Team meeting.

The Salem Prep Study Skills class has 14 special education students with one teacher and no classroom aide. The Life Skills class at Salem High School has student age spans that exceed 48 months. Students enrolled in this program range from 14 years old to 21 years old and the district failed to request an age span waiver from the Department.

Students attending the Salem Prep Alternative Program, located at the YMCA of Salem did not have access to Physical Education classes, extracurricular activities or specials such as music, art and languages which are offered at the high school.

At the Bowditch and Bentley elementary schools, paraprofessional staff members were responsible for designing instruction and have

no consultation time with special education teachers.

Interviews with general educators indicated that they do not have a clear understanding of the expectations related to working with special education students. Staff indicated that they would benefit from training related to inclusion, curriculum modification, and how to work with students who have a specific learning disability.

At Witchcraft Heights Elementary, two of the PDD/Autism classrooms are in an isolated corridor. Staff interviews indicated that PDD/Autism students had limited access to inclusion with typical peers during the school day and were not fully included in the life of school.

The district provided no evidence that the special education programs and services are regularly evaluated.

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.