



# Spencer-East Brookfield Regional School District

Grade: **F**

Massachusetts Department of  
Elementary and Secondary Education  
Coordinated Program Review

Summary of  
AREAS OF SPECIAL EDUCATION  
REGULATORY NONCOMPLIANCE

October 3, 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.

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MASSDE reviewed this district's compliance with 58 different special education regulatory criteria. The district was found to be in compliance with 26 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly,) Spencer-East Brookfield Regional School District would earn a score of 45% ... 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 Spencer-East Brookfield reported the following statistics for their special education population:

9 % of SEBRSD students with disabilities were identified as Developmentally Delayed (ages 3-9 only.)

9 % of SEBRSD students with disabilities were identified as Intellectually Impaired.

4 % of SEBRSD students with disabilities were identified as Multiply Impaired.

The vast majority of Spencer-East Brookfield 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 Spencer-East Brookfield students with disabilities, and the student populations as a whole (as measured by MCAS) is enormous.

## MCAS Spring 2007

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

	<u>All Students</u>	<u>Spec Ed Students</u>
Grade 3 Reading	66	48
Grade 3 Math	60	34
Grade 4 English	61	23
Grade 4 Math	43	13
Grade 5 English	63	28
Grade 5 Math	40	10
Grade 5 Science	53	15
Grade 6 English	70	31
Grade 6 Math	58	21
Grade 7 English	64	21
Grade 7 Math	30	7
Grade 8 English	73	17
Grade 8 Math	38	3
Grade 8 Science	16	3
Grade 10 English	68	12
Grade 10 Math	57	12

<sup>5</sup> Massachusetts Department of Education <http://www.doe.mass.edu/pqa/review/cpr/reports/2007/0767.pdf>

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

<sup>7</sup> MASSDE: <http://profiles.doe.mass.edu/mcas/subgroups2.aspx?district=767&school=&mcasyear=2007>

## Areas of Noncompliance

*The following text is taken directly from Spencer-East Brookfield Regional School District's CPR Report dated October 3, 2007.*

In many instances, one assessment is the sole criterion used to determine an appropriate educational program. The district does not always use relevant and developmental information from a variety of sources to make eligibility decision. Students are not always assessed in all areas of suspected disability, and general education teachers do not always complete educational assessments for students.

Not all student records contain transition-related goals and those student records that address transition services do not take into account the student's preferences and interests.

Not all required Team members, particularly parents and students, are consistently present at IEP meetings. There was no documentation relative to district procedures that excused the necessary team members from the meeting and arranged for alternative means of providing input into the development of the IEP.

The district does not always meet the timelines for eligibility determination.

Students who are found not eligible [for special education] but may be eligible for accommodation(s) due to a disability are not routinely referred for consideration under Section 504.

Re-evaluation procedures are not always implemented, or implemented in full, in all cases where it is suspected that a student is no longer eligible for special education.

Progress reports do not sufficiently address the student's progress toward individual IEP goals and objectives and do not always address and document the steps taken when a student is failing to make progress towards the annual IEP goals. IEP goals, accommodations and modifications are not always

revised to reflect the student's progress or lack of progress.

When determining placement, IEP Teams are guided by the services and programs that are available in the district, such as the high school's course offerings, rather than by the student's need for the provision of a specific type of specialized instruction in a specific type of setting.

The district does not provide sufficient detail in the IEP Non-Participation Justification Statement to justify the placement of students in a more restrictive educational setting. Students are not always provided with the least restrictive environment, particularly at the high school where full inclusion is not provided as a component of the district's continuum of service.

There are some IEPs that were not signed by both the parent and the school district, including the IEPs of out-of-district students.

The district does not always send a copy of the notice to the Bureau of Special Education Appeals indicating the parent's full or partial rejection of the IEP.

In some instances, evaluations were completed without the parent signing the consent to evaluate form. When the participation or consent of the parent was required and the parent failed or refused to participate, the attempts to secure the consent of the parent were not documented by the districts.

Some IEP Team meetings are held without parents in attendance.

The [Special Education Parent Advisory Council] does advise the district on matters that pertain to the education of students with disabilities. The PAC, however, does not regularly participate in the planning, development, and evaluation of the school district's special education programs. Not all parents are aware of the existence and role of the PAC.

The district has not developed formal procedures regarding the documentation and provision of language assistance for parents/guardians whose language is other than English and who require oral and/or written communications in their native language.

Monitoring plans and evidence of actual monitoring of the out-of-district placements are not documented in the student files. Also, not all out-of-district student records contain written contracts. There is a lack of ongoing administrative oversight and monitoring regarding the full implementation of out-of-district students' IEPs.

Not all students are provided with a continuum of services. At the Lake Street School, not all students who require pull-out services are provided those services because of space issues. At the high school, not all students who require full inclusion classes are provided with them.

The ages of the youngest and oldest child in two instructional groupings at the David Prouty High School differ by more than forty-eight months. The district has not applied for nor been granted an age span waiver.

There is not consistent implementation system-wide regarding the provision of appropriate and necessary behavioral interventions for students whose behavior is impacting their learning. IEP Teams do not always identify and consider the student's need for social-emotional and/or behavioral interventions and, if recommended, do not always include goals and services into the student's IEP to address the above needs.

Parent and student handbooks do not contain [disciplinary] procedural requirements for students not yet determined eligible for special education.

Adaptive physical education is provided by a staff person not appropriately licensed to teach adaptive physical education.

There are two members of the staff providing speech and language services who do not hold appropriate licensure and two members of the staff providing

adjustment counseling services who do not hold appropriate licensure.

Paraprofessionals and assistants are not afforded regular training opportunities, and they are not always appropriately trained to assist in providing special education or related services.

The district has provided a variety of professional development opportunities; however, the district could not demonstrate that all general and special education staff received training on 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

Onsite observation and interviews indicate that, at the Lake Street School, physical therapy is provided to students in the hallway and the Title I office is located in a resource classroom.

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.