



# Whittier Regional Technical School

Grade: D+

Massachusetts Department of  
Elementary and Secondary Education  
Coordinated Program Review

Summary of  
AREAS OF SPECIAL EDUCATION  
REGULATORY NONCOMPLIANCE

September 10, 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.

# Whittier Regional Technical School Grade: D+

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MDESE reviewed this district's compliance with 50 different special education regulatory criteria. The district was found to be in compliance with 34 of these. If we were to grade the district as we typically grade students (percent of questions answered correctly) Whittier would earn a score of 68% ... a D+.<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 Whittier reported the following statistics for their special education population:

- 0 % of Whittier students with disabilities were identified as Developmentally Delayed.
- 8 % of Whittier students with disabilities were identified as Intellectually Impaired.
- .5 % of Whittier students with disabilities were identified as Multiply Impaired.

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

## MCAS Spring 2008

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

	All Students	Spec Ed Students	Achievement Gap
Grade 10 English	76	36	40 points
Grade 10 Math	83	55	28 points
Grade 10 Science	57	29	28 points

## Areas of Noncompliance

*The following text is taken directly from Whittier Regional Technical School's CPR Report dated September 10, 2008.*

The selection of assessments to evaluate skills regarding academic achievement for initial and re-evaluations did not always address the specific areas of a student's presenting educational concerns and suspected disability. Evaluators tended to use a standard battery of assessments for initial evaluations rather than considering a range of assessments that related to the suspected area(s) of disability, including consideration of a vocational assessment. In the area of re-evaluations, interviews indicated that the student's progress is reviewed but this information is not always used to guide the selection of appropriate assessment instruments for the re-evaluation. There are a variety of assessments available in the district to be utilized for purposes of academic achievement. However, it is not evident that all special education personnel responsible for conducting the above assessments are aware of how to access and administer the assessment, when necessary and appropriate.

<sup>5</sup> Massachusetts Department of Education <http://www.doe.mass.edu/pqa/review/cpr/reports/2008/0885.pdf>

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

<sup>7</sup> MASSDE: <http://profiles.doe.mass.edu/mcas/subgroups2.aspx?linkid=25&orgcode=08850000&fycode=2008&orgtypecode=5&>

## Whittier Regional Technical School

Academic assessment reports did not always contain educationally relevant findings and recommendations that provided information on the student's instructional needs.

Progress reports showed that the written narratives did not always contain information specific to the student's progress towards meeting the annual IEP goals.

The IEP Team does not always reconvene to address or document the steps taken when a student is failing to make progress towards the annual IEP goal and is failing to achieve passing grades. In addition, when progress meetings are conducted, the results of the progress meetings that involve changes to the student's IEP goals, accommodations and/or services are not always disseminated to the student's teachers.

[IEP] goals and benchmarks did not always address the individual student's area of need for specially designed instruction and/or related services consistent with the student's disability and skill deficits.

There is a lack of evidence that IEP Teams consider that the student's need for academic goals, accommodations and modifications must be extended or developed for the related technical and shop classes as part of the vocational academic curriculum.

Proposed IEPs were provided to the parents/guardians without the signed assurance statement indicating that the IEP goals are those of the Team and the indicated services will be provided by the district.

Students are pulled out of vocational-technical classes for tutoring based upon the results of MCAS practice tests and MCAS assessments. Removal is not based upon a review of the student's IEP goals, accommodations, modifications, and a written justification for the reason why a student must be removed from the vocational class for one period for each subject area.

IEP Teams are not always considering a student's need for an extended day or year program.

Not all general education teachers are informed of their specific responsibilities for a student's IEP. General education teachers in inclusion classrooms are informed and provided with ongoing assistance in

the appropriate implementation of an individual student's IEP goals, accommodations and modifications. However, general education teachers not involved in inclusion classrooms with special education teachers are not always aware of their responsibility regarding students' IEPs. In addition, some general education teachers are not always knowledgeable regarding the appropriate implementation of a student's goals, accommodations and modifications across the curriculum and in their particular subject area as it pertains to the targeting of the student's areas of need for reading, writing, mathematics, and comprehension skills.

The written notices to parents/guardians (N1 and N2) regarding the district's proposed actions, do not always address the required questions and the written information does not always provide information regarding the reason for the district's actions as relevant to the individual student's educational, therapeutic, and functional needs.

The school has provided a basic rights training for interested parents. However, there was no evidence provided regarding the manner in which the existing Parent Advisory Council is involved in the planning, development and evaluation of the school's special education program.

[There was no] evidence that the school addresses the essential and diverse learning needs of students who are not achieving passing scores on the MCAS practice tests and MCAS assessments within the general education classroom. The practice is to remove a student from electives and the vocational curriculum in order to receive additional mandated tutoring in each MCAS subject area where a passing score was not received, rather than implementing a plan to address the areas of need across the curriculum so that the student can maintain full participation across the curriculum. Data is gathered regarding the targeted areas of curricular need for each individual student but the results of the MCAS practice tests, MCAS assessments and other standardized assessments are not used to revise or tailor the cross-curricular goals and instruction in the teacher's individual curricular area and/or the individual student's IEP goals, accommodations and/or modifications.

Some instructional groups exceeded the class size requirements and there was no documentation regarding the school's provision of written notification to the Department and to the parents regarding the increase in class size. In addition, when an aide was absent from the class, there was no evidence of procedures in place to provide a substitute aide to ensure adherence to class size requirements.

[For disciplinary matters] There was no written explanation for the suspension and no written statement regarding the Team's determination regarding whether the behavior was a manifestation of the student's disability. Not all persons who participate on manifestation determination Team meetings have an understanding of their role and the purpose for convening a manifestation determination.

The school has not provided teaching personnel with sufficient resources, training and a mechanism to effectively implement [some regulatory requirements.]

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.