

WYOMING DEPARTMENT OF EDUCATION

Special Education Programs

November 2020 Verification Report

BHD (REGION 6) CDC VERIFICATION OF CORRECTIVE ACTION

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Background

Wyoming Department of Education, Special Education Programs (WDE) is the state educational agency responsible for special education funding and compliance pursuant to the Individuals with Disabilities Education Act (IDEA).¹ In November 2019, WDE conducted a program review at the BHD Child Development Services of Fremont County (Region 6) in fulfillment of its general supervisory responsibility with the cooperation of the Wyoming Department of Health, Behavioral Health Division (BHD), Early Intervention and Education Program. The review was intended to ensure students with

¹ 34 C.F.R. §300.149

disabilities receive a Free Appropriate Public Education (FAPE) through the identification of potential noncompliance with IDEA, federal regulation, and Wyoming Special Education Rules.

Authority

WDE is responsible for special education general supervision pursuant to Part B of the IDEA. In order to meet this obligation, WDE must ensure that the requirements of IDEA are met, that each eligible child with a disability receives FAPE, including special education and related services provided at public expense according to an Individualized Education Program (IEP), and that each educational program for children with disabilities in Wyoming meets the educational standards of the state.²

Part B of IDEA provides a system of services, supports, and protections for children commencing at age 3.³ In Wyoming, the BHD provides IDEA mandated services for student with disabilities age three through five in 14 regional child development centers.⁴ Because WDE is the state educational agency responsible for special education, WDE maintains responsibility for special education compliance oversight at the regional centers operated by the the BHD.⁵ Through this authority, WDE has the obligation to monitor compliance with the IDEA and Wyoming Rule in all local education agencies within its jurisdiction.

Once noncompliance is found, WDE must verify correction of noncompliance within one year.⁶ As applied to THE BHD (Region 6), WDE identified noncompliance, ordered the the BHD to correct the noncompliance by following a prescriptive corrective action plan, and then reviewed student files to verify correction of noncompliance.

Summary of the Program Review

WDE conducted a program review of the the BHD (Region 6). The WDE investigator reviewed multiple data sources, including a random sample of 64 student files.

² 34 C.F.R. §300.17

³ 34 C.F.R. §300.101

⁴ W.S. §21-2-701

⁵ W.S. §21-2-703(a)

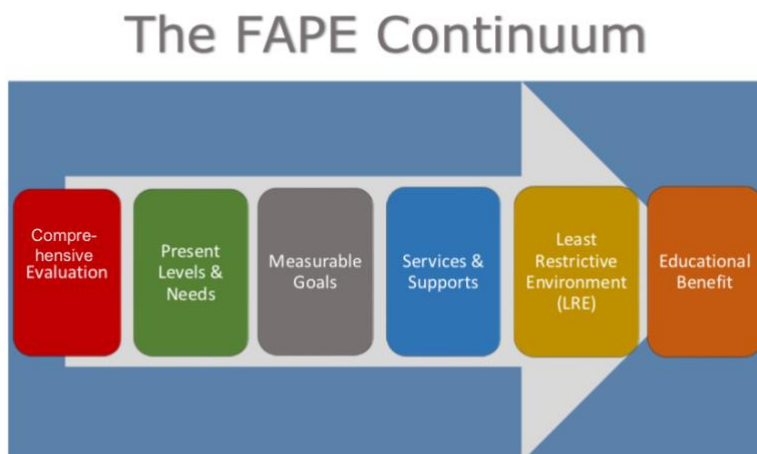
⁶ 34 C.F.R. §300.600(e)

The program review focused on four broad areas necessary for compliance under IDEA.

The focus areas included:

- Comprehensive evaluations and identification of educational needs;
- The provision of FAPE, including whether services were aligned with educational need and provided consistent with the IEP;
- The provision of services in the Least Restrictive Environment (LRE); and
- Providing parents Prior Written Notice (PWN).

Providing students with disabilities with FAPE requires accurate and comprehensive identification of a student’s disability and all special education needs. Comprehensive evaluation serves as the first mandatory step in the requirement to propose and provide FAPE. Once a team has a clear understanding of educational needs through comprehensive evaluation, the team must align special education services to meet those needs. Special education services must be delivered in the least restrictive environment appropriate to meet a student’s educational needs, a hallmark mandate of the IDEA. The first three areas of focus in the program review comprise critical steps in the FAPE Continuum, depicted below.



The last area of focus in the program review ensures protection for parents and students. PWN is a procedural safeguard guaranteed to parents by the IDEA as implemented by the federal regulations. The purpose of PWN is to provide parents with notice and information regarding their child’s program and services. Courts routinely hold that denial of effective parental participation rises to the level of a denial of FAPE.

In conducting the review, the WDE investigator used a data convergence model to determine noncompliance. In other words, more than one source of data supported any finding of noncompliance. The outcome of the Compliance Review is summarized below.

COMPREHENSIVE EVALUATION

Evaluations must consist of a variety of assessments and procedures to determine if the child is eligible under IDEA and the educational needs of the child to assist in determining the content of the IEP.⁷ 44 files were reviewed to determine if the BHD (Region 6) conducted comprehensive evaluations. The BHD (Region 6)) did not meet the IDEA's requirements for individualized, comprehensive evaluations. All students received the same or very similar type of evaluation in order to determine if the student was eligible for special education. This held true for students with speech language impairments and for students with significant cognitive impairments. Staff were unaware of the need to comprehensively evaluate students in all suspected areas of disability. Staff reported that they do not conduct cognitive evaluations and do not have the appropriate staff to conduct assessments for cognitive disabilities and autism. The failure to conduct individualized, comprehensive evaluations is a violation of IDEA and Chapter 7 of the Wyoming Department of Education Special Education Rules.

THE PROVISION OF FAPE

Under Part B of the IDEA, eligible students are entitled to receive FAPE commencing at age three. FAPE includes special education and related services that are provided at public expense, meet the standards of the state educational agency, and are provided in conformity with an IEP.⁸ 44 files were reviewed for compliance with the FAPE standard. 38 files contained the same level of service for students. The BHD (Region 6) provided speech or special education one time per week for 20 minutes. Regardless of educational need, most students received 20 minutes per week of service. This was true even for students with extremely low scores on developmental assessments. Upon

⁷ 34 C.F.R. §§300.301 through 300.304

⁸ 34 C.F.R. §300.17

inquiry, staff indicated that this amount of service was a standard practice at the BHD (Region 6).

LEAST RESTRICTIVE ENVIRONMENT

In determining the educational placement of a child with a disability, *including a preschool child with a disability*, the BHD (Region 6) must ensure that the placement decision is made in conformity with the LRE provisions.⁹ The LRE provisions of IDEA are fully applicable to the placement of preschool children with disabilities.¹⁰ To the maximum extent appropriate, children with disabilities must be educated with nondisabled children. Removal from the regular education environment may occur only if the nature or severity of the student's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.¹¹ The IDEA requires that all education placement decisions be considered on an individual basis considering each child's unique needs.¹² The developmental preschool model in Wyoming does not provide for a regular classroom environment, as nearly all students participating in the BHD (Region 6) program are students with disabilities.

Of the 44 files reviewed, it was impossible to ascertain whether the student's placement was in a community-based preschool or the center-based preschool. The LRE was frequently identified only as "preschool." Upon inquiry, the acting director and special education coordinator were unaware of the need to identify whether a student's LRE was placement in a community setting or the BHD (Region 6) special education environment.

PRIOR WRITTEN NOTICE

The BHD (Region 6) appropriately used PWN at several required points, including proposing evaluations, IEP services, or IEP amendments. However, the BHD (Region 6) did not meet IDEA's requirement to provide parents PWN before exiting a student from special education, or amending services in the IEP.

⁹ 34 C.F.R. §300.116 (emphasis added)

¹⁰ *Dear Colleague Letter: Preschool Least Restrictive Environments*, 69 IDELR 106 (OSEP 2017)

¹¹ 34 C.F.R. §300.114

¹² 64 Federal Register 12471

Verification: Correction of Noncompliance

In response to the noncompliance documented during the program review, WDE ordered the BHD as the local education agency responsible for (Region 6) to complete a series of corrective action steps. The purpose of this corrective action is to remediate noncompliance, ensure changed practices in order to maintain IDEA compliance in the future, and most importantly, improve outcomes for students with disabilities.

Verification is intended to document correction of prior noncompliance and also document implementation of changed practices to ensure future IDEA compliance. The verification process does not duplicate findings of noncompliance noted in the 2019 program review. It focuses on correction of noncompliance subsequent to the 2019 program review. During the verification process, WDE reviewed 24 files of students enrolled in or exited from services at the BHD (Region 6). The files were reviewed across the same four broad areas of the 2019 program review. The following summarizes the results of the verification process.

THE ELECTRONIC RECORD KEEPING SYSTEM

As a general concern, the electronic record keeping system presents many challenges for the creation and storage of mandatory special education documentation. First, the content is significantly altered, negatively affecting the ability to memorialize team decision-making, a critical element in the IEP process. For example, it was difficult, and sometimes impossible, to locate signed documents. When a signed document was present in the electronic file, it was stored in a location separate from the underlying document. Specifically, the informed consent page of an evaluation proposal was separate from the remainder of the proposal; the consent for initial services was separate from the service proposal; and signature pages documenting IEP attendance were separate from the underlying IEP. Of further concern, the IEP goals were separate from the remainder of the IEP, and data on goal progress was housed in yet another location. It was difficult, and at times impossible, for the BHD (Region 6) to comply with the requirement to produce all documentation necessary for WDE to carry out its general supervisory responsibility pursuant to 34 C.F.R. §300.211.

Of greatest concern, the electronic records in the current system would be nearly impossible for the BHD (Region 6) to comply with its duty to produce complete access or a copy of a child's special education record upon request of a parent consistent with 34 C.F.R. §300.613 and guaranteed to a parent through 34 C.F.R. §300.504(c)(4).

COMPREHENSIVE EVALUATION

The Battelle Developmental Inventory II (BDI) was used (or relied upon if used in a previous evaluation) in all evaluations. The BHD has a list of approved assessments on its website (https://health.wyo.gov/wp-content/uploads/2018/02/ApprovedAssessmentsLetter_8-14-2017.pdf), which includes the BDI. However, the BDI is only one of 17 approved assessment tools for the preschool population. Students with more significant disabilities would need assessments in addition to the BDI for eligibility purposes and determination of educational needs.

The BDI is described in many of the 24 files reviewed as a "progress monitoring" tool and further described the use of the BDI as "for progress monitoring purposes only." Despite this stated limitation, the BDI was routinely used as the sole assessment for eligibility purposes. In sum, other comprehensive assessment tools are approved for use by the BHD, but remain unutilized.

Also of concern is the lack of documentation regarding a student's disability adversely affecting educational performance such that the student needs special education.¹³

A February 12, 2018 letter from the BHD to all Regional Child Development Centers (<https://health.wyo.gov/wp-content/uploads/2018/02/Eligibility-Guidance.pdf>) explains the necessity of making a two-prong eligibility determination, confirming an IDEA disability and the need for specially designed instruction. Some of the files reviewed failed to document the second prong, or the disability's adverse affect on the student's educational performance and the need for special education. (See files # [REDACTED], # [REDACTED], # [REDACTED], # [REDACTED].)

The BHD (Region 6) continues to struggle with conducting comprehensive evaluations in all areas related to a suspected disability. As a result, the BHD (Region 6) is

¹³ 34 C.F.R. §300.8

noncompliant with the IDEA and WDE comprehensive evaluation requirements. The following files are examples of ongoing concerns.

- # [REDACTED]: No evaluative data located in the file. No Multi-Disciplinary Team Report in the file. Student eligible as Developmentally Delayed in March 2019. Eligibility changed to Speech/Language Disability in March 2020 without further assessment, review of eligibility criteria, or Multi-Disciplinary Report.
- # [REDACTED]: The BDI is used to measure scores below the 1st percentile in Pre-Academics, below normal in speech/language, and below normal in fine motor. No further evaluations conducted to address cognitive functioning. Student was eligible due to speech/language impairment.
- # [REDACTED]: Parents obtained a private evaluation in May 2019 to address concerns regarding potential autism and cognitive delays. The BDI was used in December 2019 to determine initial eligibility under Autism Spectrum Disorder (ASD) with most skill areas measured at the 1st percentile. Evaluators noted a definite sensory dysfunction, but no further assessments were administered. Despite high level concerns for this student, only the BDI was used for evaluative purposes. In October 2020, without meeting eligibility criteria the Student's eligibility criteria was changed to ASD and Traumatic Brain Injury (TBI) due to a stroke in utero. According to WDE's Chapter 7 Rules, TBI means an acquired injury to the brain caused by an external physical force resulting in total or partial functional disability or psychosocial impairment or both, that adversely affect a child's educational performance. TBI does not apply to brain injuries that are congenital or degenerative or to brain injuries induced by birth trauma. It is inconsistent with Wyoming's eligibility criteria to apply TBI to a student who has not experienced injury due to external force.
- # [REDACTED]: The student was served in Part C for cognitive concerns. However, the initial Part B evaluation addressed communication only. The student struggled to make progress, resulting in a determination of the need for extended school year services. The IEP was not effective at least in part because the student's needs were not comprehensive identified and served.
- # [REDACTED]: A physician referred the student for evaluation due to concerns regarding potential cognitive impairment. The BDI was used in January 2020 to

identify the student as eligible under speech/language impairment only. The student made only limited progress through November 2020.

- # [REDACTED]: The student had been determined ineligible for Part C services in November 2019. The student was again referred for special education evaluation in January 2020. The BDI was used to conduct an initial Part B evaluation in March 2020. The Student was deemed eligible under the category of Developmental Delay. The lack of comprehensive evaluation in all suspected areas of disability resulted in serial evaluations only months apart.
- # [REDACTED]: The initial evaluation was conducted based on a review of existing data from Part C in November 2018. Social/emotional concerns were noted, but never assessed. No additional assessments were conducted after the 2019 compliance review. Noncompliance continues to date.
- # [REDACTED]: A student with Downs Syndrome, medical issues, and mobility impairments was evaluated in September 2019 using the BDI. All scores were measured below the 1st percentile. No additional cognitive or adaptive measures were administered. Use of the BDI alone is not sufficient to determine eligibility for a Cognitive Disability. Rather than conduct the necessary assessments for a comprehensive evaluation, the student was determined eligible under the Other Health Impairment category only.
- # [REDACTED]: The student was referred for an initial evaluation during the Part C to Part B transition in October 2019. The parent shared that the family was in the process of seeking a private evaluation to address concerns that the student may have autism. Rather than proposing a comprehensive evaluation to address the suspected disability of ASD, BHD (Region 6) identified the student as eligible for speech/language services only. Once the private evaluation was completed in November 2019, the student's eligibility category changed to ASD. BHD (Region 6) did not propose to assess the student in areas related to the suspected ASD disability.
- # [REDACTED]: The initial evaluation in order to transition from Part C to Part B took place in April 2019 through a review of existing data. Part C had evaluated the student with the BDI 6 months prior to the initial evaluation for Part B eligibility.

Documented cognitive concerns were not addressed during the initial Part B evaluation. The student experienced lack of progress toward IEP goals.

- # [REDACTED]: The initial evaluation recommended further evaluation and observations due to social and emotional concerns in February 2019. The student scored in the 1st percentile in Pre-Academics of the BDI. A definite dysfunction in sensory processing was noted. Additional evaluations were never administered after the previous compliance review. In January 2020, the IEP team added ESY to help address the student's "slow rate of progress."
- # [REDACTED]: The BHD (Region 6) conducted serial evaluations rather than a comprehensive evaluation assessing the whole child. When the student transitions from Part C to Part B in January 2019, the scores of the BDI from September 2018 were used to determine eligibility. A separate speech/language assessment occurred in January 2019. However, although behavior was a primary concern, it was not assessed until April 2019.
- # [REDACTED]: The BHD (Region 6) conducted serial evaluations rather than a comprehensive evaluation assessing the whole child. The initial evaluation occurred in November 2019 using the BDI. The primary concern was social/emotional and behavioral skills. The student was determined eligible under the Developmental Delay category. A reevaluation was proposed and commenced 3 months later in February 2020 due to lack of progress. The evaluation was not completed as a result of the COVID-19 related shutdowns. The student exited from the program in April 2020.
- # [REDACTED]: The BHD (Region 6) conducted serial evaluations rather than a comprehensive evaluation assessing the whole child. The initial evaluation was conducted in the areas of Pre-Academics and Communication in order to transition the student from Part C to Part B in September 2019. Scores on the BDI measured Pre-Academic skills to be at the 1st percentile. Social/emotional concerns were also noted. No further testing was conducted until January 2020 when the student was reevaluated for fine motor and sensory issues. A January 6, 2020 note in the record stated that the student "might be on the spectrum." No further assessments were conducted to comprehensively or accurately identify the student's disability or educational needs.

- # [REDACTED]: During the Part C to Part B transition, the initial evaluation was based on a review of existing data from a Part C evaluation using the BDI. In January 2019, the student was determined eligible in the category of Speech/Language Disability. In January 2020, the Social Worker recommended an evaluation from a neurologist to get more information regarding the student's functioning. Despite needing more evaluative information, the BHD did not propose additional assessments. Rather, the BHD waited for Parents to schedule and obtain an evaluation at the University of Utah. The August 2020 outside evaluation diagnosed the student with, "Autism Spectrum Disorder with language impairment, Level 3 Requiring Very Substantial Support and Developmental Delay." As a result of this diagnosis, the student's eligibility category was changed to ASD in November 2020.
- # [REDACTED]: The initial evaluation occurred in 2018. The outcome of the evaluation recommended cognitive services. The student was identified as having a Speech/Language Disability. The Student was diagnosed with ocular cancer in October 2019. Notes from a Prior Written Notice indicate, "Since [Student] has been ill we have not seen her in person for almost a year and will also change [Student's] eligibility determination." Notes from January 2020 indicate that cognitive testing was needed. Despite long standing cognitive concerns, no proposal to evaluate cognitive functioning was made until January 2020. Meeting notes from January 2020 indicate the student would not be returning to school for health reasons.

THE PROVISION OF FAPE

Under Part B of the IDEA, eligible students are entitled to receive FAPE commencing at age three. FAPE includes special education and related services that are provided at public expense, meet the standards of the state educational agency, and are provided in conformity with an IEP.¹⁴ The most recent landmark United States Supreme Court decision further defined FAPE to mean special education and related services reasonably calculated to provide educational benefit in light of a student's unique

¹⁴ 34 C.F.R. §300.17

circumstances.¹⁵ FAPE must be uniquely designed for each student based on results of the comprehensive evaluation and identification of educational needs.

The majority of the 24 files reviewed during this verification process confirmed that students, regardless of disability or educational need, received the same amount of specially designed instruction or speech service. The BHD (Region 6) provided speech or special education one time per week (or 3 times per month) for 20 minutes. The IDEA requires that services be aligned to students' needs rather than program configurations or funding. This was a finding of noncompliance in the November 2019 compliance review, and it continues to be noncompliant, even for students with extremely low scores on developmental assessments. (For example, students # [REDACTED], [REDACTED], [REDACTED], [REDACTED].)

LEAST RESTRICTIVE ENVIRONMENT

In determining the educational placement of a child with a disability, *including a preschool child with a disability*, BHD (Region 6) must ensure that the placement decision is made in conformity with the LRE provisions, including consideration of the full continuum of placements appropriate to meet a student's educational needs.¹⁶ The LRE provisions of IDEA are fully applicable to the placement of preschool children with disabilities.¹⁷ To the maximum extent appropriate, children with disabilities must be educated with nondisabled children. Removal from the regular education environment may occur only if the nature or severity of the student's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.¹⁸ The IDEA requires that all education placement decisions be considered on an individual basis considering each child's unique needs.¹⁹ The developmental preschool model in Wyoming does not provide for a regular classroom environment, as nearly all students participating in the BHD (Region 6) program are students with disabilities.

The United States Department of Education, Office of Special Education Programs (OSEP) articulated its expectation that all local education agencies (the regional developmental preschools through contract with the Division) must explore alternative methods to ensure that the LRE requirements are met for each preschool child with a disability. These methods may include: (1) providing opportunities for the participation

¹⁵ *Andrew F. v. Douglas County Sch. Dist. RE-1*, 69 IDELR 174 (2017)

¹⁶ 34 C.F.R. §300.116 (emphasis added)

¹⁷ *Dear Colleague Letter: Preschool Least Restrictive Environments*, 69 IDELR 106 (OSEP 2017)

¹⁸ 34 C.F.R. §300.114

¹⁹ 64 Federal Register 12471

of preschool children with disabilities in preschool programs operated by public agencies other than LEAs (such as Head Start or community-based child care); (2) enrolling preschool children with disabilities in private preschool programs for nondisabled preschool children; (3) locating classes for preschool children with disabilities in regular public elementary schools; or (4) providing home-based services. If a public agency (the BHD (Region 6)) determines that placement in a private preschool program is necessary for a child to receive FAPE, the public agency must make that program available at no cost to the parent.²⁰ An August 23, 2017 letter to the Regional Child Development Center Directors reiterated the BHD's understanding and commitment to placing preschoolers in the LRE consistent with IDEA.

Of the 24 files reviewed, it was impossible to ascertain whether the student's placement was in a community-based preschool or the center-based preschool. The LRE was frequently identified only as "preschool." Although this was identified as a concern in the November 2019 program review, the practice of utilizing "preschool" or "center" as the identified LRE does not sufficiently address the LRE analysis.

The majority of students continued to receive services in a center based model (with the exception of remote services due to COVID). For example, Student # [REDACTED] attended a local preschool at the time of eligibility in October 2019. One year later in October 2020, the student's placement was changed to receive services at the community preschool. The reason for the delay in providing services in the LRE for this particular student is not documented, nor is it well documented for any student.

PRIOR WRITTEN NOTICE

The BHD (Region 6) must give a parent prior written notice a reasonable amount of time before it:

- (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- (2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.²¹

Nearly all files contained evidence that PWN was provided to parents when proposing evaluations, placements, and IEP amendments. Issuance of PWN at the mandatory trigger points is a noted strength for the BHD (Region 6). They are to be commended

²⁰ *Dear Colleague Letter: Preschool Least Restrictive Environments*, 69 IDELR 106 (OSEP 2017)

²¹ 34 C.F.R. §300.503

for keeping parents and caregivers informed of critical information throughout the IEP process.

Conclusions

COMPREHENSIVE EVALUATION

Little improvement in conducting comprehensive evaluations was noted during the Verification process. The BHD (Region 6) does not meet the IDEA's requirements for individualized, comprehensive evaluations. All students received the same or very similar type of evaluation in order to determine if the student was eligible for special education and determine educational needs. This held true for students with speech language impairments and for students with significant cognitive impairments or ASD.

The continued failure to conduct individualized, comprehensive evaluations is a violation of IDEA and Chapter 7 of the Wyoming Department of Education Special Education Rules.

THE PROVISION OF FAPE

The BHD (Region 6) does not meet IDEA's requirements with respect to the provision of FAPE. Services are provided based on established practice and scheduling, rather than individualized student need. The similarities between service amounts in nearly all IEPs reviewed contradicts the individualized nature of IEP planning. Service amounts must be based in individual student need determined through comprehensive evaluation and planned by the IEP team. Until the ongoing deficiencies surrounding the failure to conduct comprehensive evaluations is corrected, it is unlikely that services for students with disabilities in the BHD (Region 6) will be aligned with all identified educational needs.

LEAST RESTRICTIVE ENVIRONMENT

The BHD (Region 6) does not meet IDEA's mandate to provide student placements in the least restrictive environment. The IEPs reviewed do not support or justify the number of students served in the BHD (Region 6) preschool setting rather than in the community. There is no evidence in student records that IEP team consider a continuum of placements available to preschool children or no evidence in the record why students were unable to be successful in lesser restrictive environments.

PRIOR WRITTEN NOTICE

The BHD (Region 6) appropriately uses PWN at most required points in the special education process.

Recommendations

As the SEA, WDE has the obligation to ensure ongoing compliance with the IDEA and state rule. Additional remediation measures are warranted in an effort to ensure that BHD (Region 6) corrects all continued noncompliance as noted in this report. To that end, WDE must enforce compliance with Part B of the IDEA using appropriate enforcement mechanisms which must include, if applicable, the enforcement mechanisms identified in 34 C.F.R. §300.604(a)(1) (technical assistance), (a)(3) (conditions on funding of an LEA), (b)(2)(i) (a corrective action plan or improvement plan), (b)(2)(v) (withholding funds, in whole or in part, by the SEA), and (c)(2) (withholding funds, in whole or in part, by the SEA). This graduated system of sanctions to gain compliance is intended to encourage local education agencies like the BHD to take the necessary steps to achieve systemic change and correct noncompliance.

The BHD (Region 6) has not achieved compliance with IDEA and state requirements despite recent, extensive corrective action in a prior state complaint and in the November 2019 compliance review. Although the BHD (Region 6) completed the discrete corrective action steps required by WDE, those discrete steps have not resulted in system-wide change. In order to avoid the risk of state level corrective action due to WDE's failure to correct noncompliance within one year pursuant to 34 C.F.R. §300.604, or the greater risk of WDE being forced to become the direct service provider if the BHD is unable to establish and maintain programs of FAPE that meet the requirements of Part B of the IDEA pursuant to 34 C.F.R. §300.227, WDE must impose additional corrective action measures to support and ensure systemic change. The following recommendations are suggested to build on previous corrective action and provide additional support and oversight to facilitate system change.

1. Direct the BHD to retain an independent expert in special education compliance to provide oversight, leadership, and mentoring to the BHD (Region 6) as follows:
 - a. The independent expert shall be selected by WDE.

- b. The BHD shall provide adequate funding to engage the independent expert at the various BHD (Region 6) locations for 60 hours per month for the first three months, 40 hours per month for the next three months, and 10 hours per month for the next three months to ensure firmly embedded, compliant practices that result in system change.
 - c. The independent expert shall provide hands-on leadership, oversight, and mentoring focusing on the three areas that continue to be compliance concerns, including comprehensive evaluations, aligning special education services to needs, and providing FAPE in the least restrictive environment.
 - d. The independent expert, in collaboration with the BHD (Region 6) staff, shall review student files for IDEA compliance and submit a report to WDE on a monthly basis.
 - e. The independent expert shall review the electronic data system for compliance with the IDEA and provide a report to the BHD and WDE regarding the findings of the review.
 2. The BHD (Region 6) shall develop a network of resources to be used for comprehensive evaluation purposes, as evidenced by memoranda of understanding, inter-governmental agreements, service contracts, etc.
 3. The BHD (Region 6) shall develop a full continuum of alternative placements consistent with the IDEA requirements for least restrictive environment. The BHD (Region 6) shall work with the independent expert to develop and implement an LRE checklist or decision tree to be used at each IEP team meeting to ensure that students are provided special education services with nondisabled peers to the maximum extent appropriate.
 4. The BHD (Region 6) Board of Directors shall provide a written affirmation of compliance with the above steps and commitment to providing services to preschool children with disabilities that meet the requirements of Part B of the IDEA.

Respectfully submitted November 30, 2020.



Lenore Knudtson
WDE Investigator