



Opportunity Through Education

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**Individuals with Disabilities Education Act  
Results Driven Accountability  
Monitoring Report  
for  
Fremont County School District #38**

**Monitoring Dates: February 15, 2022- March 16, 2022  
Report Date: May 16, 2022**

**Report Created by: Wyoming Department of Education,  
Special Education Programs Division**

**TO:** Karen Brown, Special Education Director  
Fremont County School District #38

**FROM:** Sheila Thomalla, Monitoring Team Supervisor

**SUBJECT:** Special Education Results Driven Accountability Monitoring Results

**REVIEW DATE:** February 15, 2022- March 16, 2022

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## Introduction

The Individuals with Disabilities Act (IDEA) Part B Regulations include the following provision:

*CFR § 300.600 State monitoring and enforcement.*

*(a) The State must-*

- (1) Monitor the implementation of this part;*
- (2) Make determinations annually about the performance of each LEA using the categories in § 300.603(b)(1);*
- (3) Enforce this part, consistent with § 300.604, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in § 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); and*
- (4) Report annually on the performance of the State and of each LEA under this part, as provided in § 300.602(b)(1)(i)(A) and (b)(2).*

In accordance with these regulations, the ultimate goal of the Wyoming Department of Education's (WDE) monitoring process is to promote systems change that will positively influence educational results and functional outcomes for students with disabilities.

## District Selection

During the 2020-21 school year, Fremont #38 was selected for Results Driven Accountability (RDA) Monitoring, using the seven-criterion selection formula based on 2019-20 data.

- (1) Indicator 3C: WY-TOPP Reading proficiency rates for students with disabilities who took the regular assessment.*
- (2) Indicator 3C: WY-TOPP Math proficiency rates for students with disabilities who took the regular assessment.*
- (3) WY-TOPP Student Growth Percentiles (SGP): The average Reading SGP for students with disabilities who took the regular assessment.*
- (4) WY-TOPP Student Growth Percentiles (SGP): The average Math SGP for students with disabilities who took the regular assessment.*
- (5) Indicator 5: the percent of students in the regular environment at least 80 percent of the time.*

*(6) Reading Gap Analysis: The difference in WY-TOPP Reading proficiency rates between students with disabilities and students without disabilities*

*(7) Math Gap Analysis: The difference in WY-TOPP Math proficiency rates between students with disabilities and students without disabilities.*

The district was found to fall into the Needs Assistance determination level for the 2020 - 21 year. The Data-Drill Down completed on March 19, 2021, as part of the RDA monitoring process was used to determine the monitoring hypotheses and a sample for review.

Through a data review with Fremont #38, the WDE elected to monitor a sample of special education students to determine the district's compliance with Part B regulations governing the following areas:

- a. Free Appropriate Public Education (FAPE)- for students with an LD eligibility category as well as all students in grades 6-12.
- b. Related Services- for students who were found eligible in a low-incidence disability category and are only receiving one, or fewer, related services.
- c. Social-Emotional FAPE- for all students who are served in an out of district placement as well as those who are served in district, but are not listed as being served in the RE or RR setting.

The original monitoring sample consisted of seventy-eight student files. The following files were removed from the sample: thirteen student files were removed due to students transferring out of the district. A total of sixty-five files were reviewed.

Listed below are the results of the file reviews and staff interviews. They are provided in four categories: commendations, systemic findings of noncompliance, individual findings of noncompliance, and program recommendations. Individual and systemic findings of noncompliance will require some form of corrective action.

**Commendations** – The WDE would like to commend Fremont #38 on the level of preparedness and professionalism of the staff during our time on site. The desire and willingness of the staff as a whole to learn through this process to improve outcomes for students with disabilities is admirable and the commitment to the students they serve was evident in our interactions.

## **Findings of Noncompliance**

### **Systemic Noncompliance**

#### **Area 1: Comprehensive Evaluations**

##### **§ 300.304 Evaluation Procedures.**

- (c) Other evaluation procedures. Each public agency must ensure that-
  - (4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;
  - (6) In evaluating each child with a disability under §§ 300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.

Of the sixty-five files reviewed, twenty-five files were found to lack a comprehensive evaluation. In some instances, the evaluation did not address all areas of suspected need, and in others, all areas of need uncovered during the evaluation process were not addressed within the student's IEP. In several files when a specific learning disability was suspected the only assessments completed were for cognitive ability and/or academic achievement. Even in instances when the team had evidence of concerns around attendance and social/emotional development, no further assessments were used to assure all underlying needs were being identified and addressed. The files reviewed indicated a lack of high-quality observations being used as a component of comprehensive evaluations. Observations were not consistently completed in the child's learning environment, which is the expected practice according to § 300.310(a). In some cases observations were conducted during standardized testing. Appropriate observations within the learning environment are a necessary part of a comprehensive evaluation for students suspected of having a specific learning disability and for a reasonable calculation of FAPE.

**Area 2: Link Between Identified Needs and Services Provided**  
**§ 300.324 Development, review, and revision of IEP.**

(a) Development of IEP -

(1) General. In developing each child's IEP, the IEP Team must consider -

- (i) The strengths of the child;
- (ii) The concerns of the parents for enhancing the education of their child;
- (iii) The results of the initial or most recent evaluation of the child; and
- (iv) The academic, developmental, and functional needs of the child.

Twenty-six files were found to have IEPs that did not address all identified student needs. The unmet needs fell into three general categories; attendance, social/emotional, and vision/hearing. During interviews, staff identified some activities or supports that they might provide for a student if they had concerns in an area outside of what was written in the IEP, but those were not included formally on the IEP in order to assure documentation of progress and ongoing instruction in that area if a student needed it.

Additionally, nine files indicated students were receiving specially designed instruction without data to support the need for specially designed instruction. Tier 3 interventions should be offered by general education prior to adding special education services.

**Area 3: Goal Development**  
**§ 300.320(a)(2)**

(i) A statement of measurable annual goals, including academic and functional goals designed to -

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability;

(ii) For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;

Fifty-eight files demonstrated noncompliance in the area of goal development. There were multiple areas found. These areas include 1) multiple targets or unmeasurable targets, 2) unrelated or no baseline data, 3) objective timeframes, and 4) goals remaining the same over multiple years.

Fifty-two files include goals containing multiple targets or targets that were not adequately defined or measurable. In instances of related services, frequently goals were described in terms of “moderate assistance” or “minimal assistance.” While these terms may have accepted definitions in the medical profession, they are not clearly defined and understood within the education field.

Forty-two files did not contain baselines or had unrelated baselines. Baseline data is essential in the development of goals. Without this information it is difficult for the team to specify a clear, measurable level of attainment and makes subsequent progress monitoring difficult or impossible. For example, a baseline simply indicated “1 detail” with no further elaboration.

Twelve files had goals that contained objectives/benchmarks that did not indicate a clear timeframe or were not measurable. In some cases, the benchmarks were listed with no time frame indicated. In other cases, the time frames were listed as “one year,” “end date of the IEP,” “duration of the IEP.” Further, the objectives were not measurable and in some cases did not align with the annual goal. For example, one file listed an objective with a target of 80% proficiency on the skill but the overall goal was for the student to obtain 70% proficiency on all objectives.

Seventeen files demonstrated a lack of meaningful change in the IEP goal(s) from year to year, whether the student was, or was not, making progress. For example, one file contained a counseling goal on the previous year’s IEP that the student met. Despite this, the team continued with the same counseling goal on the following IEP. Another file contained the same goals for academics and related services as the previous year’s IEP and included a statement which read, “Due to \*student\* being a virtual student, who did not participate in any academic learning, I do not have any data to report on \*student\* academically.” The team did not address the lack of progress in the previous year and elected to continue the same goals with no evidence that there was consideration of the need for possible alternative interventions and/or goals. IEP teams must review the IEP at least annually to determine whether goals are being achieved and steps to be taken if the student is not making expected progress.

#### **Area 4: Location of Special Education and Related Services**

##### **§ 300.320 Definition of individualized education program**

(a)(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child -

- (i) To advance appropriately toward attaining the annual goals;
- (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
- (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

Forty files were found to lack clearly indicated special education or related services. Twenty-four files do not specify the location of services. A service line indicates both the special education and the regular education classroom. These location listings are not specific and therefore not making clear to the team and parents where, and when, the child will receive specially designed instruction.

Sixteen files showed special education services which encompass broad instead of specific areas of instructional need. Examples include services listed as combined academics such as reading and writing or English Language Arts.

## **Area 5: Least Restrictive Environment (LRE)**

### **§ 300.114 LRE requirements.**

(a)(2) Each public agency must ensure that -

(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and

(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

There were three areas of noncompliance identified in regard to LRE.

First, there is a concern over the highly restrictive nature of the Life Skills programs and lack of access to general education curriculum and same-aged, typically developing peers. Students were not provided with rigorous instruction, and through file reviews, interviews, and observations, it was determined that students are not being taught to the state or extended standards. For example one student's IEP only consists of goals that are cooking based. Another student does not have any academic goals at all in their IEP.

Second, there is a concern regarding the LRE justifications for students receiving special education in an environment other than the general education environment. LRE justifications did not provide adequate explanations of the accommodations, supports, and services that had been provided in an attempt to keep students in the general education environment prior to moving them to a more restrictive environment. There were seven files reviewed that lacked adequate and compliant LRE justifications. For example, one student's LRE statement says that they need to be removed from the general education environment because they are below grade level. Further, it was found through observation and interviews that several of the students placed in the Life Skills programs were on a modified day without appropriate justification or documentation within the IEP. There were two files reviewed that were found to have these modified days.

Third, there is a concern regarding the accuracy of the amount of service time a student is receiving as indicated by the IEP. Through interview and observation, it was determined that nineteen files reviewed did not accurately reflect the amount of special education service time that was being provided to the student. One student had 30 minutes per day of special education service for reading, 30 minutes for math, and 30 minutes for writing listed on the IEP. However, through interviews, it was found that the student was actually in the Life Skills room for a total of 4 hours per day but this time was not accounted for on the IEP. In another case, a student's file listed 45 minutes per day, 4 days per week, of service time for math but when staff were interviewed, it was determined that the student was only getting 45 minutes one day a week provided by the teacher and the other 3 days of services were being provided by a paraeducator.

## **Area 6: Related Service Provision**

### **§ 300.34 Related Services.**

(a) *General. Related services* means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.

Related services per the federal regulations are provided to assure the student is able to benefit from special education. All thirty-four reviewed files which included related services indicated that the related services are being provided in isolation with no evidence of how the related service providers are working with the rest of the IEP team to generalize the skill to best benefit the student in accessing his/her education. The providers are addressing the concerns that are identified in the formal assessments for each of the related services; however, there is little collaboration to assure those skills are being generalized to the other education skills and settings. This lack of collaboration also means that all related services are being provided within a pull-out environment. Additionally it was determined through interviews that transportation services were not being considered as a related service for all students who demonstrated a need. In some cases, special transportation was being provided but was not being reflected in the service grid.

## **Area 7: Appropriate IEP Team Participation**

### **§ 300.321 IEP Team.**

- (a) *General.* The public agency must ensure that the IEP Team for each child with a disability includes
- (1) The parents of the child;
  - (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
  - (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
  - (4) A representative of the public agency who -
    - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
    - (ii) Is knowledgeable about the general education curriculum; and
    - (iii) Is knowledgeable about the availability of resources of the public agency.
  - (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;
  - (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
  - (7) Whenever appropriate, the child with a disability.

The IEP team must include the above listed team members. Eighteen files were found to not have the appropriate team make up. For example students who were in the Life Skills program did not have a general education teacher who was documented to be at their annual IEP team meeting. Students who have been placed at Sunrise also lack evidence that a general education teacher was in attendance at, or participated in, their

annual IEP meeting. Two files contain no evidence that anyone was in attendance at their reevaluation meeting other than the speech language pathologist.

## **Area 8: Postsecondary Transition Planning**

### **§ 300.320 Definition of individualized education program**

(b) *Transition services*. Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include -

(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

(2) The transition services (including courses of study) needed to assist the child in reaching those goals.

### **§ 300.321 IEP Team**

(b) *Transition services participants*.

(1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under § 300.320(b).

(2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.

(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.

Four transition-age student files were reviewed and all four were found to be non-compliant in regards to transition service planning. There were 5 areas of concern indicated.

Three files were found to have education/training and career/employment goals that were either not appropriate in light of the student's circumstances or were not unique to a career or education goal. For example, one student's file listed the same goal, "(student) will attend CWC and major in Cosmetology" for both the education/training and the career/employment goal.

Of the four files reviewed, three were indicated to have a course of study that did not contain specific courses relevant to the student's transition goal. Courses of study should not only reflect core classes the student will take, but also electives that would support the student in meeting their transition goals.

Three files reviewed did not contain evidence of appropriate transition activities that would support the student in their post-secondary goals. For example, one student's file listed "research daily living options for independent living" and "completion of course work" as the only transition activities being provided. Transition activities should be specific to supporting transition needs and not a continuation of the student's regular educational programming.

One file reviewed did not contain evidence that consent for an outside agency (DVR, Recruiter, etc) to be invited to the student's transition planning meeting was obtained despite indication in the IEP that those agencies were present at the meeting.



One file reviewed did not contain evidence that an age-appropriate transition assessment was complete prior to developing the student's post-secondary transition plan.

**Area 9: Procedural**

**§ 300.613 Access rights.**


- (a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to § 300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made.
- (b) The right to inspect and review education records under this section includes -
  - (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
  - (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and
  - (3) The right to have a representative of the parent inspect and review the records.
- (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Per IDEA, parents have the right to inspect and review any educational records relating to their child without unnecessary delay. In sixty-five files that were reviewed, thirty-four were missing their full educational record. For example one file was missing eligibility paperwork. Another file was missing the consent for evaluation.


There were twenty-seven files where there was no access to specific evaluation reports. For example when a student had a speech and language evaluation it was attached to their educational record through a google document. To view the report a person had to be granted access to the report by the speech pathologist. If the speech pathologist were to leave the school district, the school would no longer have access to that part of the student's educational record.

During on-site file reviews, it was found that documents that were in the paper file were not in the electronic file and vice-versa, indicating that neither of these platforms could be counted on to contain the entire educational record for the student.

**Individual Findings of Noncompliance**

	Present levels of academic achievement and functional performance (PLAAFP) contains very minimal information. Nothing in the IEP (PLAAFP, LRE and prior written notice) discussing why the student is at Sunrise or consideration of when he will come back. When granted access to the speech report, it was the speech report for another student. No access to general education curriculum. LRE
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	<p>justification not sufficient. Does not indicate the very restrictive setting nor does it justify why the student is placed there and what the team tried prior to this placement that wasn't successful. No discussion of a plan to move into a less restrictive setting. No evidence of a behavior plan or FBA being conducted. Based on interviews, an FBA is conducted on all students who enter Sunrise by the counselor. No evidence of consent to evaluate or the FBA being completed. Team should reconvene and ensure student's IEP is reflective of his current placement and provide evidence that less restrictive environments have been, and are being, considered.</p>
<p>██████████</p>	<p>Student was evaluated at St.Stephens but initial WY eligibility was not determined when the student transferred to Arapahoe. Team should reconvene and reevaluate the student to determine initial Wyoming eligibility for special education services.</p>
<p>██████████</p>	<p>According to the most recent IEP, the student has significant vision concerns and a degenerative condition. No TVI assessment, services, or accommodations. High school student but spends his day in the Life Skills classroom at the grade school. Placements must be age-appropriate. Team should reconvene and consult with a TVI to ensure all needs are being met. Additionally, the team should consider the appropriateness of the student's current placement and determine potential alternatives.</p>
<p>██████████</p>	<p>Reading, writing, and math are in the IEP as related services. Team should reconvene and amend the IEP to reflect academic services as specially designed instruction.</p>
<p>██████████</p>	<p>There has been no evaluation conducted since entering the school district (due 11/29/2021). The student has a modified school day without appropriate justification and no access to gen education curriculum or typical peers. Program modification simply says Life Skills Programming which does not describe what and how the curriculum is being modified. Goals are the same as the prior IEP with no adaptive needs being addressed through goals. No academic goals or service time are indicated. The team should reconvene and determine a plan to evaluate the student and develop a new IEP based on the new evaluation results.</p>
<p>██████████</p>	<p>The IEP does not reflect the current placement. The IEP says the student is at Sunrise but the student has returned to the district. The LRE statement is not complete. The academic goals are not aligned to the state content or extended standards. The team should reconvene and amend the IEP to reflect the student's current placement as</p>

	well as determine goals that are related to the academic needs identified in his most recent evaluation.
	<p>Documentation from CDC evaluation states the student was referred by a doctor due to high risk of autism, this hasn't been followed up on. Student is on a modified day without appropriate justification. Student is in a Life Skills classroom all day but there are only services written for 70m/day. Social/emotional, adaptive, and functional needs not addressed. No access to typical peers or general education curriculum. Special transportation is being provided but is not listed as a related service. Team should reconvene and determine if additional evaluations are needed to ensure all areas of need have been identified and addressed. Additionally, the team should ensure that the IEP accurately reflects the student's current placement and service times.</p>

**Recommendations –**

- The district should consider ongoing training and possible extension of contracted days for the case manager to ensure adequate time and resources are available for the responsibilities of the position to be carried out.

If you have any questions concerning this report, please contact Sheila Thomalla at [sheila.thomalla2@wyo.gov](mailto:sheila.thomalla2@wyo.gov).

cc: Dr. Roy Brown, Superintendent, Fremont County School District #38  
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