



**Individuals with Disabilities Education Act
Results Driven Accountability
Monitoring Report
for
Niobrara County School District #1**

**Monitoring Dates: December 6, 2021 - January 21, 2022
Report Date: March 29, 2022**

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

TO: Hunter Kunerth, Special Education Director
Kelley Bilbrey, Special Education Director
Niobrara County School District #1

FROM: Sheila Thomalla, Monitoring Team Supervisor

SUBJECT: Special Education Results Driven Accountability Monitoring Results

REVIEW DATE: December 6, 2021 - January 21, 2022

REPORT DATE: March 29, 2022

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, Niobrara 1 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 23, 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 Niobrara 1, the WDE elected to monitor a sample of students receiving special education services for compliance with Part B regulations governing the following areas:

- a. Educational benefit for students in the Wyoming Virtual Academy (WYVA) - Purposeful sample consisted of students who did not have related services (N=67) or had a disability category of LD or SL and in the RR setting (N=3) and a random sampling of 25 students who did not fit in the purposeful sample (N=25)
- b. Educational benefit for students in the brick and mortar setting - students who scored below basic in reading and math and who did not have a disability category of CD (N=6). At the request of the district, an additional 5 student files were added to this sample for review.
- c. Appropriate consideration of the least restrictive environment (LRE) for students in the brick and mortar setting - two groups of students 1) students with disability categories of AT, CD, DD, ED and in the RE environment and 2) students with disability categories of LD or HL in the RE and receiving 3 or more related services (N=25)
- d. Appropriate evaluation and educational benefit for students with speech-language disabilities - students with a disability of SL and in grades K-1 (N=8)
- e. Appropriate evaluation and educational benefit consideration for students with social-emotional needs - students with a disability of ED or HL (N=17)
- f. Appropriate consideration of extended school year (ESY) - a purposeful sample of 1) students with a disability of AT, CD, DD, ED, HL and not getting ESY 2) students with a disability of LD with at least 2 related services and not getting ESY 3) students with a disability of OI receiving ESY (N=12)

The original monitoring sample consisted of 46 student files from the brick and mortar setting and 95 from WYVA. The following files were removed from the sample: sixty-five student files were removed due to students transferring out, five files were removed due to the student returning to the regular program, 2 files due to parental exit, 3 files were removed due to the student graduating. A total of 66 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 recognize the amount of training and work that Niobrara 1 has completed over the past year as the result of the WYVA special monitoring review conducted

in 2020-21. Both of the special education directors, Mr. Kunerth and Ms. Bilbrey, have been receptive to input and willing to address needs in a timely fashion as they arise. As a result of the progress that has been made over the past year, the WDE will address concerns in this report as a systemic review of Niobrara 1 rather than targeted to either of the two separate programs.

Findings of Noncompliance

Systemic Noncompliance

Area 1: Not Addressing all identified needs

§ 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.

Thirteen students were found to have IEPs that did not address all identified student needs. These needs fell into the two areas: social-emotional and executive functioning skills. During interviews, when asked who would provide skill development in areas of executive functioning and social-emotional skills, staff indicated that students would receive that training if they were in the BEST program or from the school counselor for social-emotional needs. There is a belief that resource room staff cannot provide this type of specially designed instruction even when those needs are identified and inhibit the student's ability to make adequate progress. There did not appear to be anyone who provided executive functioning skills training. Resource staff identified some activities that they might provide for a student if they had concerns, but it was not in a formal way that would assure documentation of progress and ongoing instruction in that area if a student needed it.

Area 2: IEP Development - Present Levels of Functional and Academic Performance (PLAAFP)

§ 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.

§ 300.320 Definition of individualized education program.

(a) *General*. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324, and that must include -

- (1) A statement of the child's present levels of academic achievement and functional

performance, including -

(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

62 of the 66 files reviewed indicate an inadequate development of the present levels of academic achievement and functional performance (PLAAFP). In both programs, the PLAAFP primarily consisted of information copied from the most recent evaluation report even if it was two or more years old, district testing, grades, and teacher reports. Some contained copies of sections of the student standards-based grading. This information did not indicate how the student was performing in relation to the general education or other students in the general education setting. Students in the WYVA program have information regarding progress on district assessments such as IXL or STAR360. While there are several recent scores provided, those scores are general and do not provide information regarding the student's specific skill deficits in the areas described. Functional performance was not addressed in the PLAAFP even in instances where the student had identified needs in that area such as the students in the life skills program.

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;

33 files demonstrated compliance concerns in the area of goal development. In 22 of these files goals did not identify specific skill deficits. Programmatic scores or levels, grade-level growth, broad areas of content, and grade-level standards are indicated in the baseline and the target without targeting specific skills. Identification and goal development toward a specific skill is a necessary part of ensuring a child is working toward gains in goal areas and the general education curriculum. The specific needs of the student is unclear in these cases, and if the student's skill deficit is being addressed adequately. Inadequate PLAAFP development can impact a team's ability to develop skill-specific goals. For example:

- WISER [REDACTED] contains a reading baseline and target referencing Fastbridge aReading Assessment only.
- WISER [REDACTED] reading comprehension goal states the student will read a 3rd-grade level passage with 95% accuracy and increase STAR assessment score to 4.0.
- WISER [REDACTED] contains a math goal stating the student will increase broad areas of math content (algebraic, geometric, and measurement) to reflect 1.5 years of growth. The student is expected to receive 80% or better in all of the skills introduced.
- WISER [REDACTED] math goal indicates solving grade-level problems in a variety of contexts. It is unclear whether the teams are determining specific skill deficits and therefore designing IEPs which will assist the student in progressing toward the general education curriculum

when goals are written with broad outcomes.

Social-emotional and/or executive functioning goals were also found that do not address specific skill deficits. For example:

- WISER [REDACTED] indicates the student will improve attendance and being on time. It is unclear if the team has determined the cause of the attendance concerns, identified the skills needed by the student to overcome these challenges and what specially designed instruction is being provided to help the student achieve this.

8 files were found in which services are being provided, but lacked a goal clearly connected to the services. An IEP needs to clearly outline what skills are being addressed through services provided with a link to how this impacts Present Levels of Academic Achievement and Functional Performance. For example:

- WISER [REDACTED] indicates math intervention, reading proficiency, ESY math, and counseling services, but only contains a goal for social-emotional skills.
- WISER [REDACTED] contains services for ELA, math, online academics, and counseling, but goals for reading, math and writing skills only.

11 files include goals containing multiple targets. Goals should address discrete skills the student is lacking. For example:

- WISER [REDACTED] contains a writing goal, organizational skills goal, and math goal all of which contain multiple targets. This makes the target and the specific skill need of the student unclear and causes difficulty monitoring progress.
- WISER [REDACTED] contains a behavior goal regarding earning points on a check in/check out tracking sheet, containing multiple targets. Again, it is not clear what specific skills the student is working on and raises questions regarding the individuality of the goal.

5 files contain benchmarks without specific timelines.

- WISER [REDACTED] benchmarks contain nonspecific timeframes such as 1-2 months, 2-4 weeks, 1 month. Objectives and/or benchmarks must contain specific timeframes within the timeframe of the annual goal.
- WISER [REDACTED] benchmarks contain end dates only 11/16/22.

3 files contain goals with missing baseline data or baselines not aligned with the goal. It is not possible to measure progress or report progress without baseline data.

For example:

- WISER [REDACTED] contains a decoding goal for accuracy of CVC word reading while the baseline refers to nonsense words. Math goal contains multiple skill targets, while baseline reports program score. Writing goal baseline does not contain data to compare growth.
- WISER [REDACTED] contains a writing goal specific to paragraph writing skills. However, the baseline reports data on a set of different skills. The baseline for the math goal reports data on a norm-based assessment with a goal written to the same. While these align, utilizing a norm-based test does not allow for appropriate designation of skills or progress monitoring.

Area 4: Location of Special Education and Related Services

34 CFR 300.320(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;

22 files lacked clearly indicated special education or related services. 16 files do not specify the location of services. A service line indicates both the resource and regular classroom. "All school environments" and "NCHS" are other nondescript location of services found. One-on-one assistance has been listed as occurring in multiple environments as well. WISER 24637564 demonstrates examples of these location listings which are not specific and therefore do not make clear to the team and parents where the child will receive specially designed instruction. Files for students attending the WYVA have been found to state "WYVA" as the location without specific location such as Virtual English class.

5 files show special education services which encompass broad instead of specific areas of instructional need.

Area 5: Supplementary aids and services

34 CFR 300.320(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;

27 files did not clearly indicate how supplementary aids and services are provided. IEPs should designate the frequency, duration, and location of each supplementary aid and service provided. Individualization should occur for each accommodation including how often the aid is needed (frequency), how long the aid needs to be in place in relation to the frequency (duration), and the specific location or locations in which the student will use the aid/service. IEPs contained information such as duration of 36 weeks or life of IEP, location as NCHS classroom or all school environments, and frequency listed as daily or as needed.

Area 6: Lack of expected progress

§ 300.324(b) Review and revision of IEPs -

(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team -

(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(ii) Revises the IEP, as appropriate, to address -

(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;

Seven files reviewed contained evidence of the student not making adequate progress in light of the student's needs. The files did not indicate that the team had met to address this lack of progress or made any adjustments to the IEP. This was further verified through staff interviews.

Area 7: Least Restrictive Environment (LRE)

§ 300.114 LRE requirements.

(a) *General.*

(1) Except as provided in § 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§ 300.115 through 300.120.

(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.

§ 300.116 Placements(e)

A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

There were two areas of noncompliance identified in regards to LRE.

First, there is a concern over the highly restrictive nature of the Life Skills programs. Students were not provided with rigorous instruction even though at least two students had received some instruction in the general education the previous year. Through file reviews, interviews and observations it was determined that students are not being taught to the state standards or extended standards which is a result of the highly restrictive nature of the program. According to § 300.116(e) "A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum."

Second, students who are elementary age are being placed at the high school life skills program. According to § 300.116(c) unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. The IEPs for the elementary students who are being placed in the life skills program at the high school do not document an exhaustion of all placements within the elementary building that would necessitate students receiving their services at the high school. The justifications for use of the high school program were more for convenience of the program rather than to address specific needs of the students.

Area 8: Post-Secondary 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.

§ 300.322 Parent Participation

(b) *Information provided to parents.*

- (2) For a child with a disability 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, the notice also must -
 - (i) Indicate -
 - (A) That a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with § 300.320(b); and
 - (B) That the agency will invite the student; and
 - (ii) Identify any other agency that will be invited to send a representative.

18 transition-age student files were reviewed and of those 18 files, 16 were found to be non-compliant in regards to transition service planning. There were 6 areas of concern indicated. 5 of the 18 files were found to have either missing or incomplete transition sections.

9 of the 18 files were found to have education/training and career/employment goals that were either not specific or were the same/similar to other similar-aged students, indicating lack of individualization within the transition planning process. These same 9 files were found to have transition activities that were not specific or were the same/similar to other similar-aged students, again indicating lack of individualization within the transition planning process.

Of the 18 files reviewed, 11 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.

5 files reviewed did not contain evidence that an outside agency (DVR, Recruiter, etc) was invited to the student’s transition planning meeting despite indication in the IEP that those agencies would be involved in the student’s post-secondary training. Examples include:

There was one file, in which there was no evidence that the student was invited to the meeting where post-secondary transition planning was developed and discussed.

| | |
|--|---|
| <p>Individual Findings of Noncompliance</p> | <p>WISER ██████ Concerns regarding lack of access to the general education curriculum. Student is not receiving science or social studies curriculum as a freshman in spite of attending general education science and social studies in the year prior. No clear explanation found. Student does not attend choir with same age peers (goes to the middle school). Student has little exposure to same age peers or the general education curriculum. Lacking justification for WY ALT; student has previously scored advanced in all areas with no accommodations. ESY determination is unclear as PWN states “ESY is available”, not necessary to FAPE; ESY is not written in the IEP. Little data to support changes to programming including the move to a more restrictive setting and less exposure to academics/general education curriculum. In addition, goals are lacking related baselines, measurability, and specificity. The IEP team needs to reconvene and address the above concerns.</p> <p>WISER ██████ The placement of this student and whether special education services are being provided are unclear. Most recent PWN dated 12/7/21, as well as interview with staff, indicate that the student is a ward of the state and possibly at a residential school. The student’s resident district is responsible for ensuring</p> |
|--|---|

| | |
|--|--|
| | <p>that this student is receiving FAPE. FAPE responsibility does not terminate if a student becomes the ward of the state. If Niobrara #1 remains this student's resident district, then the district needs to ensure FAPE through the IEP process.</p> <p>WISER [REDACTED] A comprehensive evaluation has not been completed for this student. Consent was given for general intelligence, academic testing, communication, and motor; however, none of these areas were evaluated. A review of records was done for all except adaptive skills but this review was not based on a comprehension evaluation. Significant information would give reason to suspect autism (sensory needs, social skill deficits, splinter skills), but no further testing was done. The student was retained in kindergarten without sufficient evidence of need indicated in the IEP; academic data stated "proficient" in math and reading with no justification for retention. IEP states student is removed from general education due to behaviors; no FBA has been done, no BIP in place, and no evidence of tried supplementary aids and services. ESY is indicated as necessary; there is no ESY service time. Appropriateness of serving a kindergartner in a high school building and classroom is in question due to the lack of access to same age peers. Goals are not measurable and may not be aligned with the student's ability. A comprehensive evaluation needs to be conducted with this student and the development of an appropriate IEP, FAPE, and placement needs to be reconsidered.</p> |
|--|--|

If you have any questions concerning this report, please contact Sheila Thomalla at sheila.thomalla2@wyo.gov.

- cc: George Mirich, Superintendent, Niobrara County School District #1
- Margee Robertson, Special Education Director, WDE
- Susan Shipley, Special Education Systems Administrator, WDE