



Opportunity Through Education

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TO: [REDACTED], Special Education Director
Sweetwater County School District #1

FROM: Sheila Thomalla, Monitoring Team Supervisor,

SUBJECT: Special Education Results Driven Accountability Monitoring

REVIEW DATE: January 25, 2021 - February 8, 2021

REPORT DATE: April 5, 2021

Introduction

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

(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).*

(b) *The primary focus of the State's monitoring activities must be on—*

(1) *Improving educational results and functional outcomes for all children with disabilities; and*

(2) *Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities. [C.F.R. §300.600].*

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

District Selection

During the 2019-20 school year, Sweetwater County School District #1 was selected for Results Driven Accountability (RDA) Monitoring, using the seven-criterion selection formula.

(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 2018-19 year. The Data-Drill down completed on January 23, 2020 as part of the RDA monitoring process was used to determine hypotheses and a sample for review.

The WDE and the Sweetwater #1 teams elected to monitor a sample of special education records in Sweetwater #1 in compliance with Part B regulations governing the following areas:

- a. Provision of Free and Appropriate Public Education (FAPE)
- b. Identification and provision of services for students with social, emotional and behavioral needs
- c. Least restrictive environment (LRE)

The original monitoring sample consisted of 228 students. The first hypothesis included 129 students in grades 4-11 who had been identified for special education, under the categories of specific learning disability, other health impairment or emotional disability, with an LRE that was coded as the resource room and scored below basic on both reading and math in spring 2019. The second hypothesis consisted of 13 students who were identified with an emotional disability and were not receiving counseling services. The third hypothesis consisted of 86 students identified as other health impaired who scored below basic on the 2019 state assessment. The 2018-19 WY-TOPP data was used for this sample because the state assessment was not administered in 2019-20 due to the COVID-19 pandemic.

Listed below are the results of the file reviews and staff interviews. They are provided in four categories: commendations, individual findings of noncompliance, systemic 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 you on the level of preparedness, engagement, and participation of your staff during this process. The level of leadership and commitment to serve students was evident in our interactions. In addition, it was evident that Sweetwater County School District #1 is embracing the opportunity for improvement.

Findings of Noncompliance

Individual Findings of Noncompliance	<ul style="list-style-type: none">• [REDACTED] Evidence from the file review indicated the student had a hearing loss that was not properly evaluated as part of the student's evaluation for special education. In addition, the evaluation was not comprehensive in all suspected areas of need (hearing and audiological functioning) in the child's native language with awareness of the potential sensory impact on evaluation measures. 34 CFR §300.304(4). The review concluded that the student's individual education program (IEP) did not contain all of the necessary supplementary aides and supports to assist the student to access the general education. Based on CFR §300.320(4)(iii), the special education team should reconvene to determine what supplementary aids and services are needed to ensure the student can participate with nondisabled peers in the regular class and to consider the student's hearing status.• [REDACTED] Evidence from the file review suggests that the MDT team did not follow the Wyoming Severe Discrepancy Model formula to complete the SLD determination for eligibility. No evidence of regression to the mean or reference to Appendix A from Wyoming Chapter 7 was found, suggesting the data used to qualify the student does not meet Wyoming Chapter 7 criteria. Additional evidence indicates that the student's behavior impedes his learning or the learning of others; however, a work completion goal was the only goal that addressed functional behavior. No FBA had been completed to support the development of the goal, or learning strategies to improve impulsive talk. Evidence suggests that a comprehensive assessment has not been completed to determine all needs. The district is reminded of 34 CFR §300.304(6): an evaluation must be sufficiently comprehensive to identify all of the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified. The team should reconvene to determine if data has met SLD severe discrepancy criteria, and determine the need for an FBA issuing Prior Written Notice (PWN) as appropriate.• [REDACTED] Evidence from the file reviewed indicated that the district proposed to implement an IEP written on 3/27/2020, the district is not implementing the IEP as written. Procedurally, the district should have given consideration to the IEP, supports, and services developed by the out-of-district placement (NWBOCES) for transition of the student back into district. The student was receiving services while attending NWBOCES and these were not considered by the IEP Team. Procedurally when students are placed out of the district, including court or residential placements, the district retains responsibility for development of a compliant IEP. Evidence from review of the file indicates that the district did not ensure compliance
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	<p>during the development of the out-of-district IEP. The district should reconvene and develop a current and appropriate IEP, and then make a placement decision based upon that IEP.</p> <ul style="list-style-type: none"> • [REDACTED] Evidence from the file review indicated that upon transitioning to the out-of-district placement, comparable services were not offered and no PWN was provided to the parents regarding the changes to the student's IEP. Procedurally when students are placed out of the district, including court or residential placements, the district retains responsibility for development of a compliant IEP. Evidence from review of the file indicates that the district did not ensure compliance during the development of the out-of-district IEP. The district should reconvene and develop a current and appropriate IEP. <p>Teams have 30 days from the receipt of this report to correct or develop a plan to bring these findings into correction.</p>
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Systemic Findings

<p>Area 1: Comprehensive Evaluation Citation: § 300.301 Initial Evaluations, § 300.304 Evaluation Procedures, §300.306 Determination of Eligibility</p>	<p>Findings: According to 34 CFR § 300.304 Evaluation Procedures students are entitled to a comprehensive evaluation. The file reviews conducted for Sweetwater County School District #1 revealed evidence of concerns with comprehensive evaluations. Analysis of the file review data indicated that files lacked documentation of appropriate testing. Seventeen files were identified to have inappropriate documentation related to testing processes for Part B eligibility determination. For instance, one file reviewed relied upon the opinion of the examiner to document continued eligibility for a specific learning disability. 34 CFR § 300.309 Determining the Existence of a Specific Learning Disability indicates that a student is not achieving adequately, not progressing sufficiently to make progress according to state grade level standards, and the lack of performance is not due to other disabilities, cultural influences, environmental disadvantages of limited English proficiency as determined through data collection. File reviews also revealed that eligibility determination and evaluation reports were missing or contained limited data/information to support eligibility determinations. Nineteen files were found to have missing or limited data. For instance, one file review referenced a November 2020 evaluation, but this evaluation was not found within the file. In another instance, the student was identified as an English Language Learner, but there was no indication of English proficiency data within the evaluation or notice of how the student was evaluated in his native language. File reviews also revealed cases in which students with limited English proficiency were not evaluated in their native languages. Six specific cases were identified that did not include documentation of</p>
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	<p>students identified with English as a second language evaluated in their native languages. According to 34 CFR § 300.304 Evaluation Procedures, students must be evaluated in their native language when feasible. Such data should be reported within the evaluation reports and eligibility determination documents.</p> <p>Results also indicate that evaluation procedures have resulted in improper eligibility as defined Wyoming Chapter 7. For instance, evaluation procedures failed to meet the requirements to answer all eligibility criteria and no justification as to how eligibility criteria were met was provided in supplemental documentation.</p> <p>Finally, file reviews indicated that the evaluation processes employed by the district did not always result in clear documentation of educational need. As 34 CFR §300.306(c) indicates, districts must use a variety of sources, and ensure that information is documented and considered to determine eligibility and need for special education. Educational need as part of the comprehensive evaluation/eligibility determination process is linked to IEP development. Failure to complete such steps reduces the team’s ability to develop an appropriate IEP which will likely result in an inappropriate FAPE offering.</p>
<p>Area 2: Identified Needs Reflected In the IEP Citation: §300.320 Definition of Individualized Education Program</p>	<p>Findings: The file reviews revealed concerns with documentation of students' needs as determined through a comprehensive evaluation within present levels of performance, measurable goals or accommodations/supplementary aids and services. Twenty-nine files reviewed did not evidence a link between needs, which had been identified in the comprehensive evaluation, to the developed IEP. Nine files were reviewed, with evidence suggesting concern with the development of adequate and appropriate goals to meet the identified needs of students. Evidence from another fourteen files indicated that the services proposed did not sufficiently match the identified needs. An additional twenty files were reviewed that lacked adequate progress monitoring processes or documentation of progress toward the IEP goals. A final seventeen files did not indicate reviewed that that the district responded to students' lack of progress.</p> <p>According to §300.320, LEAs must write IEPs for “each child with a disability that is developed, reviewed and revised in a meeting in accordance with §300.320 through §300.324 including a statement of present levels, measurable annual goals, supplementary aids and services.” IEPs must be reviewed no less than annually to ensure that a student is making progress and to address lack of expected progress, and address concerns.</p>

Area 2a: Identified Needs Reflected In the IEP

Citation: §300.320

Findings: The file reviews revealed specific concerns with documentation of students' needs for social emotional support and/or counseling through service provision. Four files were found out of compliance due to social work services listed as accommodations/supplementary aids and supports without direct service minutes or goals when the need for social/emotional services had been identified.

The school district is required to provide a statement of the services, supplementary aids, modifications or supports for school personnel deemed necessary for the child to progress within the general education setting and to make progress on annual goals. Further, when a student has health coverage, a school district cannot require parents to use those benefits to cover special education services or require parents to incur out of pocket expenses for special education services. §300.154(d)(2)(i-ii). The documentation reviewed during monitoring suggests that Sweetwater #1 may be failing to provide needed services, electing instead to offer unmonitored at-will services provided through accommodations or, in some instances, offering parents options to obtain such services at their own expense through community resources. Such limitations of service provision fail to meet the requirement for a free and individualized public education provided in an environment with non-disabled peers as is determined most appropriate for each child. The district is reminded of the responsibility to provide services including related services necessary for a student to make progress toward annual goals. The district is reminded that the inability to provide those services within the school day does not remove the district's responsibility to pay for those services. If the district elects to have students obtain services such as counseling from providers outside of the district, the district is still responsible for the payment and any related requirements such as transportation. *N.B. v. Hellgate Elementary*, 541 F.3d 1202 (9th Cir. 2008).

<p>Area 3: Procedural Citation: §§300.114 LRE requirements, §§300.115 Continuum of Alternative Placements, § 300.503 Prior notice by the public agency, 34 § 300.30 Parent, § 300.519 Surrogate Parent</p>	<p>Findings: Additional documentation obtained through the file review process also revealed concern with procedural compliance. Eighteen files lacked adequate LRE justification statements (§300.114, §300.115). It was not clear that these students were placed in the least restrictive environment in which their IEPs could be implemented satisfactorily. In addition, seven files were reviewed that lacked adequate documentation of prior written notice after a proposed change in programming for a student (34 CFR § 300.503 Prior notice by the public agency). Five files failed to document that prior written notice had been provided in the native language for parents whose first language was not English (34 CFR § 300.503(c)). An additional finding concerned the lack of documentation of guardianship, retention of educational rights and appropriate participation at IEP team meetings when students enter foster care or are represented by the Department of Family Services (34 CFR § 300.30, § 300.519).</p>
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Recommendations –

- The WDE recommends that the on-site school psychologist collaborate with the district special education administration to facilitate the district “wheel meetings” to ensure appropriately comprehensive evaluations.
- The district may consider a revision to the current special education procedural manual to address procedural compliance errors, most notably, the lack of interaction with parents and families in the native language and appropriate team membership for students in foster care settings.
- The WDE recommends the district support and provide continued training for a problem-solving model that is led by the onsite school psychologist. This would improve the multidisciplinary evaluation (MDE) Reports. The current reports are frequently cut and pasted from a variety of sources, resulting in reports that lack coherence and are difficult to understand. The purpose of the MDE is to inform parents of the process and report results. It is unclear in the current reports if parents are given adequate information to be able to fully participate in the development of a FAPE offering for their child.
- The WDE recommends the district develop and approve an RTI policy to assure that students are appropriately identified using a process that meets the requirements of the WDE.

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

cc [REDACTED], Superintendent, Sweetwater #1
Margee Robertson, Special Education Director, WDE
Susan Shipley, Special Education Systems Administrator, WDE