



Opportunity Through Education

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

**Monitoring Dates: April 4-April 29, 2022
Report Date: June 8, 2022**

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



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TO: Kayci Arnoldi, Special Education Director
Sweetwater County School District #1

FROM: Sheila Thomalla, Monitoring Team Supervisor

SUBJECT: Special Education Results Driven Accountability Monitoring Results

REVIEW DATE: April 4 - April 29, 2022

REPORT DATE: June 8, 2022

Introduction

The Individuals with Disabilities Act (IDEA) Part B Regulations include the following provision:
The State must monitor the implementation of this part, enforce this part in accordance with §300.604(a)(JJ and (a)(3), (b)(2)(1) and (b)(2)(v), and (c)(2), and annually report on performance under this part. 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 2020-21 school year, Sweetwater 1 was selected for monitoring for Results Driven Accountability (RDA). The monitoring conducted in the 2021-22 school year was to verify correction of the findings that resulted in that monitoring conducted on January 8 to February 5, 2021.

At that time, Sweetwater 1 was found to be noncompliant in 3 areas:

1. Comprehensive Evaluations, in particular appropriate testing for initial evaluations, evaluation procedures, and determination of eligibility including those procedures used for English Learners.
2. Identified Needs Reflected in the IEP, in particular lack of evident link between comprehensive evaluation, present levels of performance, measurable goals, supplementary aids and services

- a. Identified Needs Reflected in the IEP with particular regard for social emotional support.
3. Procedural, specifically LRE requirements, continuum of Alternative Placements, PWN in Native Language of parent, and Surrogate Parent requirements.

A Corrective Action Plan (CAP) went into effect April 5, 2021. The school district had one year to complete the agreed upon action steps to remediate noncompliance, ensure changed practices to maintain IDEA compliance in the future, and improve outcomes for students with disabilities. The current verification process does not duplicate the findings of noncompliance prior to this review and focuses on correction subsequent to that review.

A verification monitoring of Sweetwater 1 was completed April 4-29, 2022. Due to the focused nature of a verification monitoring, WDE elected to review a subset of the total sample provided; 61 of 113 total FAPE student IEPs and 36 of 84 total LRE student IEPs. In addition, 10 student IEPs were removed from the FAPE sample due to not being active students, 8 were removed from LRE. WDE had 9 student IEPs designated for Social Emotional Behavior review, however all 9 IEPs were for inactive students.

Listed below are the results of the review. Information is provided in four categories: commendations, systemic findings of noncompliance, individual findings of noncompliance, and program recommendations. Individual and systemic findings of noncompliance will require a compliance agreement.

Commendations: The WDE would like to commend you on the action steps taken to make improvements to special education systems and procedures within Sweetwater 1. It is apparent that much effort has been made to make lasting and systemic changes toward the betterment of outcomes for students. Sweetwater 1 has taken the initiative to identify issues and work toward solutions in collaboration with WDE.

Systemic Findings

Area 1: Comprehensive Evaluation Citation: 34 CFR § 300.301 Initial Evaluations, § 300.304 Evaluation Procedures, §300.306 Determination of Eligibility.

According to §300.304(6), students are entitled to a comprehensive evaluation which is sufficient enough to determine all of the special education needs of the student. §300.301 defines the requirement for procedures to evaluate in order to determine if a student has a disability and what the educational needs are of the student. §300.306 defines the requirements for interpretation of evaluation data when making a determination of special education eligibility.

Initial monitoring of student IEPs found a lack of documentation of processes for Part B eligibility, including missing or limited information to support eligibility determinations and inappropriate documentation related to testing processes. Also, student IEPs and testing documentation of English Learners were missing English proficiency data and/or how students may have been evaluated in their native language. §300.304(c)(ii) indicates that evaluations must be administered in the student's native language and in the form most likely to yield accurate results. §300.309(a)(3)(vi)

defines limited English proficiency as an exclusionary factor for the determination of a specific learning disability.

Through the verification monitoring process, WDE has determined the Comprehensive Evaluation finding of noncompliance to be systemically corrected. Evaluations were found to be comprehensive in nature with appropriate assessments and procedures being used to determine eligibility. Also, one student's IEP indicated thorough discussion and use of processes to determine if the student's status as an English learner was impacting his educational need for special education. Other students, who are English learners, have evidence of ACCESS scores included in their reevaluation and IEP data, indicating consideration of language status.

Area 2: Identified Needs Reflected in the IEP Citation: 34 CFR § 300.320 Definition of Individualized Education Program, § 300.39(b)(3) Specially designed instruction

According to §300.320, LEAs must write an IEP for each student with a disability that is developed, reviewed, and revised in accordance with §300.320 and 300.324 which includes present levels of academic achievement and functional performance, measurable goals designed to meet a student's individual needs, progress toward these goals, and a statement of special education, related services, and supplementary aids and services. Specially designed instruction is defined as the adaptation of content, methodology, or delivery of instruction inline with the unique needs of the eligible student §300.39(b)(3).

Initial monitoring file review revealed concerns with documentation of students' needs, as identified through a comprehensive evaluation, within the present levels of academic and functional performance, measurable goals, and/or accommodations/supplementary aids and services. Student IEPs lacked 1) a clear link between needs identified and the developed IEP, 2) the development of adequate and appropriate goals to meet needs, 3) services provided to sufficiently match the identified needs, 4) progress monitoring processes, and 5) a response to students' lack of progress.

Through verification monitoring, WDE has determined that the finding of Identified Needs Not Reflected in the IEP has been partially corrected. Sufficient evidence was found to support the provision of services for identified needs, especially social/emotional needs and absences. Student IEPs were also found to provide a clear link between identified needs and developed IEP. Three student IEPs were found to identify needs for which the student was not receiving services or accommodations, however the remainder of students reviewed demonstrated evidence of link from evaluation through the IEP.

Continued noncompliance was found regarding: 1) the development of adequate and appropriate goals to meet needs, 2) insufficient progress monitoring, and 3) insufficient response to a determined lack of progress. The purpose of a student's IEP goal is to allow the IEP team to increase proficiency in a specific area of need leading to progress in the general education curriculum. Therefore, specific skill needs must be identified and targeted in both baselines and goals. Goals need to pass the "stranger test" in implementation and progress monitoring. While goals do not need to detail every step toward the targeted skill, vague or immeasurable goals may result in a denial of FAPE.

23 student IEPs were found to contain nonspecific, unmeasurable, and/or unaligned goals. Examples include: Lack of alignment between baseline and target occurs when the skill or method of measure

does not match. This makes it difficult to accurately measure progress. Writing goals to grade level expectations, either academically or functionally, calls the specially designed instruction and individualization into question. §300.39(b)(3) requires specially designed instruction to address the unique needs of the student in order to ensure access to the general curriculum and make progress toward standards, not the standard itself.

- Nearly all reading goals reviewed contained a target of general reading comprehension versus the targeting of a specific skill deficit causing a broad reading comprehension problem. This is true across all grade bands.
- Writing goals, on the whole, were found to be more skill specific; however, some were found to contain broad goals such as a target to write a paragraph or multiple paragraphs (such as the student with WISER [REDACTED]).
- Math goals were found to be skill specific in most cases. However, a number contain multiple targets and/or are written to grade level (such as the student with WISER [REDACTED]).
- Functional and social skills goals were found which demonstrates the addressing of executive functioning and social/emotional skills. Functional goals, however, have been found to not be skill specific, not contain specially designed instruction, and thereby be immeasurable. Social/emotional goals have been found to demonstrate evidence of specially designed instruction in some cases, however are very difficult or not able to be measured.
 - For example, student IEP containing WISER [REDACTED] contains a functional goal in which the target is regarding work completion (no more than a total of 10 missing assignments for all classes). This goal does not contain a skill that is specifically being taught to the student in order to assist the student in overcoming the deficit that is preventing work completion.
 - The above IEP contains two social/emotional goals with a number of skills causing difficulty with measurability, and subjectivity. Objectifying and quantifying the skill(s), environments, and method of measurement will lead to more concrete measure of progress for this student.
 - A second example is the student IEP for WISER [REDACTED], which contains a functional behavior goal and a social work goal, both of which do not identify the specific targeted skill.
- Language goals were also found to contain multiple targets such as student with WISER [REDACTED].

7 student IEPs reviewed demonstrate missing or inadequate progress monitoring.

- 2 IEPs report no data due to absences with no evidence of an attempt to address the absences (WISERs [REDACTED] and [REDACTED]).
- At least 4 IEPs were found in which the method of measurement used during progress monitoring does not match the target.
- Also, WISER [REDACTED] is a file of a student in an out of district placement for whom progress reports are missing. A note indicates progress has been emailed to staff, but it was not found in the file.

Finally, 33 student IEPs show a lack of student progress and/or a lack of meeting goals within the annual IEP. Missing was evidence regarding how this lack of progress is being addressed. Many of

these goal(s) were retained as written or target(s) lowered on the subsequent IEP. Also of concern is the lack of individualization evidenced by student goals that were similar across all grade bands reviewed.

The *Andrew F. v. Douglas County School District* decision found that an IEP must be reasonably calculated to enable a child to make progress that is appropriate in the light of the child's circumstances; minimal progress is no longer the standard of FAPE. When goals are inappropriate (including lack of specificity) to the child's needs or unchanged from year to year, a denial of FAPE may be occurring. Also, if a student fails to make progress within a reasonable period of time, the IEP team must revisit the IEP and revise as necessary to ensure the student is receiving appropriate services and the goals are individualized. A district's continuation of inadequate services when a student fails to make progress may also be a denial of FAPE.

Area 2a: Identified Needs Reflected in the IEP Citation: 34 CFR § 300.320 Definition of Individualized Education Program - specifically regarding social emotional service provision.

A school district is required to provide a statement of the special education and related services. §300.34(c) defines counseling, social work, and psychological services as related services. Further, §300.154 (d)(2)(i-ii) defines when a student has health coverage, a school district cannot require parents to use those benefits to cover special education services.

Initial IEP student file review found some social work services to be listed as supplementary aids and supports without direct service minutes, location, or goals when the need for social/emotional services had been identified. Initial review also found that Sweetwater 1 may have been 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.

Through the verification monitoring process, WDE has determined Identified Needs Reflected in the IEP regarding social emotional service provision finding of noncompliance to be systemically corrected. It is clear that IEP teams are considering the social/emotional needs of students and providing direct related services and social/emotional, behavioral, or counseling goals. Indication of further evaluation in this area was found for at least two students.

Area 3: Procedural: Citation: 34 CFR §300.114 LRE requirements, §300.115 Continuum of Alternative Placements, §300.503 Prior notice by the public agency, §300.30 Parent Definition, §300.519 Surrogate Parents

According to §300.114, each district must ensure that students are educated with "nondisabled" peers to the maximum extent possible and are only removed when education in the regular classroom cannot occur satisfactorily with the use of supplementary aids and services. §300.115 requires the provision of a continuum of placements and this continuum to be provided in conjunction with regular class placement.

Initial monitoring found inadequate LRE justification statements, specifically whether the least restrictive environment determination allowed for student IEPs to be implemented satisfactorily and

lack of consideration of a continuum of placement. ***WDE has determined this finding regarding appropriate Least Restrictive Environment consideration remains a concern of noncompliance.***

Verification monitoring found 26 student IEPs to contain inadequate statements of Least Restrictive Environment.

- LRE statements do not contain the individualized, specific reasons why a student needs to be removed from the general environment. Broad statements of area of deficit and generalized statements of need to not constitute a defined understanding of the student's specific learning profiles that require removal. In addition, LRE statements did not contain why the services could not be provided in the regular education environment and what has been tried, but has been unsuccessful in this environment. For example, the IEP for the student with the WISER [REDACTED] lists the student's eligibility categories and deficits in broad areas of reading, writing, and math causing the student to require small group instruction for targeted instruction. This does not explain the individualized reasons why the student requires this removal from the general education environment nor why this can not be achieved within the general education classroom. When statements are written as broad justifications, individualization becomes difficult to achieve.
- There are concerns that statements are similarly written across students, causing concern regarding individualization of LRE decisions. This is true of academic and related service justifications. The above WISER is an example which is similar to others.
- Statements regarding "pull out as needed" does not provide enough specificity. Service times need to be clearly defined in the IEP.
- LRE statements indicate students are being removed from general education in order to receive accommodations. While WDE understands this may occasionally be necessary, such as to read a test to a student, accommodations by definition are to occur within the general education setting in order to provide student access and participation in this environment and curriculum. The above IEP is an example.

§300.503 defines the requirements of prior notice in writing of proposals/refusals to initiate and/or change regarding a special education student. Initial file review found a lack of adequate documentation of prior written notice after a proposed change in programming. ***WDE has determined this finding has been systemically corrected.*** No student IEPs were found to appear to be missing PWN or amendments.

Also, during initial review, it was determined that prior written notice had not consistently been provided in the native language of the parents, as required by §300.503(c). ***WDE has determined that this finding regarding PWN not in parents native language to remain a concern of noncompliance.***

During verification file review, WDE was not able to locate the PWN in the native language for any students in which the parent received the Procedural Safeguards in Spanish or when a translator was in attendance at the meeting. These documents need to be part of the student's permanent record; none were found.

§300.30 defines a parent as a biological parent, foster parent, an individual with whom the child lives or is legally responsible, and a surrogate parent. According to §300.519(g), a district must

ensure the rights of a student are protected by ensuring that a surrogate parent will represent the student in identification, evaluation, placement, and provision of FAPE.

An additional initial finding concerned a 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. ***WDE has determined findings regarding Parent and Surrogate Parents corrected.*** Appropriate documentation was found in the 1 file available for review in which a guardianship situation was evident.

Individual Findings of Noncompliance:

The student with WISER [REDACTED] is a student placed out of district. Progress reports are not found in the file. District will need to ensure that progress reports are included in the permanent record of the student within 30 days of this report.

Recommendations:

1. WDE recommends that Sweetwater 1 continues to ensure that IEPs clearly document student need and subsequent addressing of this need. This includes when services are discontinued, changed, modified, or identified through an evaluation. Addressing does not always require a service, but clear evidence of a decision should be apparent.
2. WDE recommends that Sweetwater 1 continues to ensure that the social and emotional needs of students are being taken into account in IEP planning, including responding to absences and executive functioning difficulties.

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

cc: Kelly McGovern, Ed.S. Superintendent, Sweetwater County School District #1
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