

**Special Education Leadership Meeting  
November 20, 2009**

***Compliance Monitoring Under the IDEA  
And  
Regulation Review***

*Prior Written Notice  
Parent Participation at IEP Meetings  
Measurable Annual Goals  
IEPs and Specialized Instruction*

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## *Compliance Monitoring under the IDEA*

- IDEA 2004 strengthened the State's monitoring responsibilities and reporting requirements.

See, 34 C.F.R. 300.600-608

## *Compliance Monitoring under the IDEA*

- The State must:
  - (1) monitor the implementation of Part B of the IDEA;
  - (2) enforce Part B of the IDEA; and
  - (3) annually report to OSEP on the State's performance under Part B.

See, 34 C.F.R. 300.600(a)

## *Compliance Monitoring under the IDEA*

- The State must monitor LEAs in certain priority areas, including, but not limited to:
  - (1) The provision of FAPE in the LRE;
  - (2) The State exercise of general supervision, including child find, the use of resolution meetings, mediation, and transition services; and
  - (3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

## *Compliance Monitoring under the IDEA*

- ▶ An overview of Indicator 15 of the APR is helpful to understanding the State's monitoring activities and use of particular terms.
- ▶ Indicator 15 requires the State to report to OSEP on all findings of noncompliance identified through the State's general supervision system.

## *Compliance Monitoring under the IDEA*

- ▶ So what is the State’s “general supervision system”?

It includes, but is not limited to, the fall monitoring activities, any focused monitoring activities, the review of data reported by LEAs in December, the State complaint system, and due process hearings.

The State must use its system to identify any noncompliance with Part B of the IDEA.

## *Compliance Monitoring under the IDEA*

- ▶ The State must notify LEAs in writing of any findings of noncompliance.
- ▶ The State must ensure noncompliance is corrected as soon as possible, but in no case, later than one year from the date of identification.

## *Here is a Sample of Findings from the Department's Fall 2009 monitoring...*

On October 8, 2009, the Department reviewed the IEPs of 125 students from various schools. The Department identified 5 IEP meetings conducted without the required participants present at the meetings.

As a result, the Department finds a violation of 14 DE Admin Code § 925.21.0.

The Department directs the District to take the following corrective action:

## *Sample...*

### **(1) No Participation by General Education Teacher of the Student**

Four IEP meetings were held at School A with no participation by a general education teacher for students who were moving to a lesser restrictive educational placement.

By **February 5, 2010**, the District shall ensure an IEP team meeting is re-convened for each of the 4 IEPs mentioned above. The meeting participants shall include a general education teacher of the student, and the purpose of each meeting shall be to review and revise the IEP, as appropriate, with the input and participation of the general education teacher of the student, and to ensure the general education teacher is familiar with and implementing the IEP, as required.

By **February 19, 2010**, the District shall provide a written report to the Department describing each IEP meeting held, who was in attendance, and what action(s) were taken.

# Sample...

## (2) No Participation by Parent

One IEP meeting was held at School E with no evidence of participation by the parent, and no record of the parent being invited to the meeting or other attempts to ensure the parent's participation.

By **February 5, 2010**, the District shall ensure an IEP team meeting is re-convened for the student. The meeting participants shall include the parent, and the purpose of the meeting shall be to review and revise the IEP, as appropriate, with the participation of the parent.

By **February 19, 2010**, the District shall provide a written report to the Department describing the IEP meeting held, who was in attendance, and what action(s) were taken.

## Sample...

So, assume the District verifies it has taken the corrective action steps above, and reports to the Department.

Has the noncompliance been corrected?

*It depends.* The Department will send the District a writing to confirm whether it considers the corrective action plan complete. And, the Department may require additional action depending upon the nature of the finding of noncompliance, and whether it is systemic or isolated.

# *Here is Another Sample, this time, Regarding Measurable Annual Goals...*

The Department reviewed the IEPs of 50 students from School A and School B. The Department identified 15 IEPs without measurable annual goals as required by 14 DE Admin Code § 925.20.1.2. Note, the District is 70% compliant.

(1) By **February 5, 2010**, the District shall ensure the IEPs of the students are reviewed and revised to contain measurable annual IEP goals. The District shall revise the IEPs at properly convened IEP team meetings, or the District and parents may enter into an agreement to revise the IEPs without IEP team meetings as long as the District establishes the requirements of 14 DE Admin Code § 925.20.4 are met.

(2) By **February 19, 2010**, the District shall provide a written report to the Department describing how each IEP was revised, including copies of any revised IEP goals as a result of the Department's findings.

## *Sample...*

(3) By **March 5, 2010**, the District shall: (a) provide in-service training to all special education staff on how to develop measurable annual goals; and (b) provide the Department with a report confirming the training was provided, with a list of the staff who attended, and copies of any written materials distributed.

Assume again, the District verifies it has taken the corrective action steps above, and reports to the Department.

Has the noncompliance been corrected?

And, on what date?

# *Compliance Monitoring under the IDEA*

*Any Questions?*



# *Regulation Review*

Several Compliance Areas Noted from Fall 2009 Monitoring Involve:

- (1) Prior Written Notice
- (2) Parental Participation at IEP Meetings
- (3) Measurable Annual Goals
- (4) IEPs and Specialized Instruction

# *When Is PWN Required?*

A school district must give parents PWN no less than 10 business days before the school district proposes to or refuses to initiate or change -

the identification, evaluation, educational placement of a child with a disability, or the provision of FAPE to a child with a disability.

14 DE Admin Code 926.3.1.; 34 C.F.R. 503(a)

# *When Is PWN Required?*

In cases involving a change of placement for a disciplinary removal, the PWN must be provided no less than 3 business days before the school district proposes to change the child's placement.

14 DE Admin Code 926.3.1.; 34 C.F.R. 503(a)

# *What Does PWN Have to Contain?*

- Description of the action proposed or refused
- Explanation of why the action was proposed or refused
- Description of other options the IEP team considered and the reasons those options were rejected
- Description of each evaluation procedure, assessment, record, or report used as a basis for the proposed or refused action
- Description of other relevant factors
- Statement that parents are protected by the procedural safeguards of the IDEA and DOE regulations
- Sources for parents to contact for help in understanding IDEA and DOE regulations
- A full explanation of the procedural safeguards available to parents

# *Prior Written Notice*

Specific issues:

- (1) Can parents waive the receipt of prior written notice?
- (2) What does the waiver line really mean on the last page of the Department's PWN form?

## *Prior Written Notice*

- (3) Must a District have written evidence in its files to show that a parent received the prior written notice?
  
- (4) Is prior written notice required for a re-evaluation to continue a child's eligibility for special education services?

## *Prior Written Notice*

- (5) When a District proposes a new IEP, how long must the District wait before implementing it?
- (6) Is prior written notice required for transfer students?
- (7) Is prior written notice required if parents don't attend the IEP meeting?

# *Parental Participation at IEP Meetings*

- ▶ Each LEA must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting.
- ▶ Parents must be notified of an IEP meeting at least 10 business days in advance.

# *Parental Participation at IEP Meetings*

A meeting may be conducted without a parent in attendance if the LEA is unable to convince the parents they should attend. In this case, the LEA must keep a record of its attempts to arrange a mutually agreed on time and place, such as:

- (1) detailed records of phone calls made or attempts and the results of those calls;
- (2) copies of correspondence sent to the parents and any responses received; and
- (3) detailed records of visits made to the parent's home or place of employment and the results of those visits.

See, 14 DE Admin Code 925.22.4.

# *Measurable Annual Goals*

A child's IEP must include:

A statement of measurable annual goals, including academic and functional goals designed to 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 meet each of the child's other educational needs that result from the child's disability.

See, 14 DE Admin Code 925.20.1.2

# *IEPs and Specialized Instruction*

## Discussion