



DEPARTMENT OF EDUCATION

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Secretary of Education
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June 23, 2014

Dr. C.T. Curry
The New Maurice J. Moyer Academy
610 East 17th Street
Wilmington, DE 19802

Re: Special Education Compliance Monitoring 2013-2014

Dear Dr. Curry,

Thank you for meeting with us on June 11, 2014. The purpose of this letter is to summarize matters that were discussed during the meeting and to provide additional information.

A. Background

As you know, the Department of Education ("DOE") is responsible for monitoring local education agencies ("LEAs") for special education compliance. DOE monitors use a protocol to review a random set of individual student records in multiple regulatory areas, including eligibility determination, IEP development, Least Restrictive Environment (LRE), secondary transition, and IEP meeting participants.

Following the individual student record review, the DOE issues a monitoring report summarizing the results of its findings. As stated in a February 10, 2014 Memorandum, the findings identified in the monitoring report trigger different levels of required corrective action. If, for example, noncompliance is found at the individual student level, the LEA must correct the student records, except in limited circumstances (i.e. the student is no longer enrolled at the LEA, the student was dismissed from receiving special education services, or the student no longer attends the school due to graduation or other reasons). Additional LEA level corrective actions may also be required, such as staff training, depending on the total percentage of noncompliance for a particular regulatory item. This year, the DOE is requiring each LEA to provide training to staff in the areas where noncompliance is identified below 100%. The training should be specifically developed by each LEA to ensure staff will be properly implementing the regulations. "Training" can include: (a) presentations to staff by an expert or consultant in special education regulations; (2) distribution of written materials to staff; and/or (3) use of technical assistance documents and professional development modules sanctioned and approved by the U.S. Department of Education.

This year, in order to facilitate the correction of noncompliance, the DOE is requiring LEAs to develop a corrective action plan if any area of noncompliance is identified below 100%. The LEA is responsible for reviewing the findings and conducting a "root cause analysis" to identify the reasons the noncompliance is occurring. The resulting corrective action plan incorporates the

LEA's root cause analysis, as well as timelines for correction of noncompliance and the specific strategies to be used.

Following notification from LEAs that individual student level corrections of noncompliance have been completed, the DOE reviews records for any regulatory item that was less than 100% compliant. Once individual student level corrections of noncompliance have been verified (**Prong 1**) and all LEA level corrections of noncompliance have been completed (i.e. staff training), the DOE begins to review additional student records for compliance verification (**Prong 2**). The number of additional records reviewed depends upon the percentage level of noncompliance at the LEA and other factors.

A. Monitoring Results

In the fall of 2013, your LEA was identified for monitoring in 2013-2014 through a risk-based analysis conducted by DOE staff. On January 9, January 23, and February 3, 2014, DOE monitors conducted an initial on-site student record review. On February 10, 2014, the DOE issued a Memorandum, which was accompanied by a Monitoring Report describing findings of noncompliance based on the protocol at both the individual student and LEA levels.

On February 28, 2014, DOE representatives met with your LEA to discuss the monitoring findings and your LEA's corrective action requirements. DOE representatives subsequently worked with your LEA to develop a Corrective Action Plan. The resulting Corrective Action Plan included your LEA's root cause analysis, timelines for correction of noncompliance, and the specific strategies to be used. Pursuant to your LEA's Corrective Action Plan, individual student level corrections of noncompliance were originally required to be completed by **April 17, 2014**, and LEA level corrections of noncompliance were required to be completed by **May 16, 2014**. However, pursuant to discussions between your LEA and DOE representatives, the deadlines were subsequently extended to May 16, 2014, and May 30, 2014, respectively.

On May 16, 2014, the DOE received notification from your LEA that individual student level corrections of noncompliance had been completed. On May 23, May 28, and June 2, 2014, DOE representatives reviewed records for all regulatory items that were less than 100% compliant. On June 11, 2014, DOE representatives met with your LEA's representatives to discuss the findings of its individual student level verification activities. At that time, of the 67 individual student records that the LEA reported as being corrected, 28 had not been sufficiently corrected. The DOE also noted additional concerns identified during the monitoring process in the following areas: provision of special education services and procedural safeguards.

B. Next Steps

Because your LEA failed to sufficiently correct approximately 42% of individual student files, and in light of other concerns identified by the DOE during the monitoring process, the DOE is requiring your LEA to enter into a Compliance Agreement with the DOE. DOE representatives will work with your LEA to develop the Compliance Agreement and will be in contact with you shortly to schedule a meeting.

As your LEA works through its corrective action steps, please be sure to direct your questions and comments to the team working with your LEA. Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script that reads "Mary Ann Miegowski".

Director, Exceptional Children Resources

MAM:mew

Enclosure

cc: Mark Murphy, Secretary of Education
Mary Kate McLaughlin, Chief of Staff
Jennifer Nagourney, Charter School Office
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