

**DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION PROGRAMS  
Dakota Valley School District  
Accountability Review - Monitoring Report 2019-2020**

**Team Leader: Brenda Boyd**

**Team Members: RDA Monitor(s): Joan Ray, Amy Beasley, Jessica Ahlers, Special Education Programs: Becky Cain Transition Liaison: Bev Peterson**

**Dates of On-Site Visit:** October 7, 2019

**Date of Report Sent to District:** November 25, 2019

**All non-compliance must be corrected within 1 year of this report date.**

**Date Closed:** April 23, 2020

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**Program monitoring and evaluation.**

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Division of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

- (1) That the requirements of this article are carried out;
- (2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Native American children operated or funded by the Secretary of the Interior:
  - (a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and
  - (b) Meets the educational standards of the state education agency, including the requirements of this article; and
- (3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

**State monitoring--Quantifiable indicators and priority areas.**

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

- (1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;
  - (2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; 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. (Reference-ARSD 24:05:20:18:02.)
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**State enforcement -- Determinations.**

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Division of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act'
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference-ARSD 24:05:20:23.04.)

**Deficiency correction procedures.**

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARSD 24:05:20:20.)

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**GENERAL SUPERVISION / STATE PERFORMANCE PLAN COMPLIANCE INDICATOR**

**24:05:25:03.04. Evaluation procedures -- Notice.** The school district shall provide notice to the parents of a child with a disability, in accordance with this article, that describes any evaluation procedures the district proposes to conduct.

**24:05:25:04.02. Determination of needed evaluation data.** As part of an initial evaluation, if appropriate, and as part of any reevaluation, the individual education program team required by § 24:05:27:01.01 and other qualified professionals as appropriate with knowledge and skills necessary to interpret evaluation data, shall:

- (1) Review existing evaluation data on the child, including:
  - (a) Evaluations and information provided by the parents of the child;
  - (b) Current classroom-based local or state assessments and observations; and
  - (c) Observations by teachers and related services providers; and
- (2) Based on the above review and input from the student's parents, identify what additional data, if any, are needed to determine:
  - (a) Whether the student has a particular category of disability as described in this article;
  - (b) The present levels of academic achievement and related developmental needs of the student; and
  - (c) Whether the student needs special education and related services.

The school district shall administer assessments and any other evaluation materials as may be needed to produce the data required to make the determinations listed in subdivision (2) of this section. If no additional data are needed to make the determinations listed in subdivision (2) of this section, the school district shall notify the student's parents of this fact and the reasons for this decision. The group described in this section may conduct its review without a meeting.

**24:05:25:16.01. Participation of student in IEP team meeting.** If a purpose of the IEP team meeting is the consideration of postsecondary goals and transition services for a student, and if the meeting is 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:

- (1) Indicate that a purpose of the meeting is the consideration of the postsecondary goals and transition services for the student;
- (2) Indicate that the district will invite the student; and
- (3) To the extent appropriate, with the consent of the parents or a student who has reached the age of majority, identify any other agency that is likely to be responsible for providing or paying for transition services and that will be invited to send a representative.

Parental consent, or the consent of an eligible student who has reached the age of majority under state law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

**24:05:27:01.03**

**Content of individualized education program.** Each student's individualized education program shall include:

- (1) A statement of the student's present levels of academic achievement and functional performance, including:
  - (a) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or
  - (b) For preschool student, as appropriate, how the disability affects the student's participation in appropriate activities;
- (2) A statement of measurable annual goals, including academic and functional goals, designed to:
  - (a) Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
  - (b) Meet each of the student's other educational needs that result from the student's disability;For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP shall provide a description of benchmarks or short-term objectives;
- (3) 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 student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student:
  - (a) To advance appropriately toward attaining the annual goals;
  - (b) To be involved and make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and
  - (c) To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;
- (7) A description of how the student's progress toward the annual goals described in this section will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- (8) Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:
  - (a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills; and
  - (b) The transition services (including courses of study) needed to assist the student in reaching those goals; and

- (9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

**24:05:28:03. Factors in determining placements.** Each school district shall establish and implement procedures which ensure that the following factors are addressed in determining placements:

- (1) Each child's educational placement must be individually determined at least annually and must be based on the child's individual education program;
- (2) Provisions are made for appropriate classroom or alternative settings necessary to implement a child's individual education program;
- (3) Unless a child's IEP requires some other arrangement, the child shall be educated in the school which that child would normally attend if not disabled. Other placement shall be as close as possible to the child's home;
- (4) Placement in the least restrictive environment will not produce a harmful effect on the child or reduce the quality of services which that child needs; and
- (5) 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.

**24:05:25:26 Extended school year authorized.** The district shall provide extended school year services to eligible children if the IEP team determines on an individual basis that such services are necessary for the provision of FAPE.

**24:05:29:05. Record of access.** Each school district shall keep a record of parties obtaining access to education records collected, maintained, or used under this chapter, except access by parents and authorized employees of the district, including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. A parent or eligible student may inspect this record on request.

**24:05:25:06. Reevaluations.** A school district shall ensure that a reevaluation of each child with a disability is conducted in accordance with this chapter if the school district determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parents or teacher requests a reevaluation.

A reevaluation conducted under this section may occur not more than once a year, unless the parent and district agree otherwise, and must occur at least once every three years, unless the parent and the district agree that a reevaluation is unnecessary.

Reevaluations must be completed within 25 school days after receipt by the district of signed consent to reevaluate unless other time limits are agreed to by the school administration and the parents consistent with § 24:05:25:03.

Each school district shall follow the procedures under § 24:05:25:04.02 when reevaluating a student for the additional purposes of:

- (1) Determining whether the child continues to have a disability and determining the educational needs of the child;
- (2) Determining the present levels of academic achievement and related developmental needs of the child;
- (3) Determining whether the child continues to need special education and related services; and
- (4) Determining whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general education curriculum.

If no additional data are needed to determine continuing eligibility and the child's educational needs, the district shall notify the parents of that determination and reasons for it and of the right of the parent to request an assessment, for purposes of determining the child's educational needs under this article, and to determine continuing eligibility. The school district is not required to conduct an assessment unless requested to do so by the child's parents.

However, a school district shall follow the procedures in this chapter before determining that the child is no longer a child with a disability. The evaluation procedures described in this chapter are not required before the termination of a child's eligibility under this article due to graduation from secondary school with a regular high school diploma, or exceeding the age eligibility for FAPE.

**24:05:27:12. Graduation requirements.** Completion of an approved secondary special education program with a regular high school diploma signifies that the student no longer requires special education services. A regular high school diploma does not include an alternative degree that is not fully aligned with the state's academic standards, such as a certificate or a general educational development credential (GED). Graduation from high school with a regular high school diploma constitutes a change in placement requiring written prior notice in accordance with this article.

The instructional program shall be specified on the individual educational program. The individual educational program shall state specifically how the student in need of special education or special education and related services will satisfy the district's graduation requirements. The IEP team may modify the specific units of credit described in § 24:43:11:02. Parents must be informed through the individual educational program process at least one year in advance of the intent to graduate their child upon completion of the individual educational program and to terminate services by graduation.

For a student whose eligibility terminates under the above graduation provisions, or due to exceeding the age eligibility for a free appropriate public education, a school district shall provide the student with a summary of the student's academic achievement and functional performance, which shall include recommendations on how to assist the student in meeting the student's postsecondary goals.

**24:05:27:01.02. Development, review, and revision of individualized education program.** In developing, reviewing, and revising each student's individualized education program, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student. The individualized education program team also shall:

(1) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;