

**DEPARTMENT OF EDUCATION
SPECIAL EDUCATION PROGRAMS
Eagle Butte School District
Accountability Review - Monitoring Report 2016-2017**

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Dates of On Site Visit: October 20 & 21, 2016

Date of Report Sent to District: October 26, 2016

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

Date Closed: August 9, 2017

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.)

GENERAL SUPERVISION / STATE PERFORMANCE PLAN COMPLIANCE INDICATOR

ARSD 24:05:24:01. Referral. Referral includes any written request which brings a student to the attention of a school district administrator (building principal, superintendent, or special education director) as a student who may be in need of special education. A referral made by a parent may be submitted verbally, but it must be documented by a district administrator. Other sources of referrals include the following:

- (1) Referral through screening;
- (2) Referral by classroom teacher;
- (3) Referral by other district personnel;
- (4) Referral by other public or private agencies; and
- (5) Referral by private schools, including religious schools.

ARSD 24:05:30:05. Content of notice. The notice must include the following:

- (1) A description of the action proposed or refused by the district, an explanation of why the district proposes or refuses to take the action, and a description of any other options the IEP team considered and the reasons why those options were rejected;
- (2) A description of each evaluation procedure, assessment, record, or report that the district uses as a basis for the proposal or refusal;
- (3) A description of any other factors which are relevant to the district's proposal or refusal;
- (4) A statement that the parents of a child with a disability have protection under the procedural safeguards of this article and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

(5) Sources for parents to contact to obtain assistance in understanding the provisions of this article.

ARSD 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.

ARSD 24:05:25:03. Preplacement evaluation. Before any action is taken concerning the initial placement of a child with disabilities in a special education program, a full and individual initial evaluation of the child's educational needs must be conducted in accordance with the requirements of this chapter. Initial evaluations must be completed within 25 school days after receipt by the district of signed parent consent to evaluate unless other timelines are agreed to by the school administration and the parents.

Written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of the 25 school day evaluation timeline. If another timeline for completing the evaluation process is agreed to by the parent and school administration, the written evaluation reports, determination of eligibility, and conducting an IEP team meeting must be completed within 30 days from the end of agreed upon evaluation timeline.

Consistent with the consent requirements in this section, either a parent of a child or a school district may initiate a request for an initial evaluation to determine whether the child is a child with a disability.

ARSD 24:05:25:04. Evaluation procedures -- General. School districts shall ensure, at a minimum, that evaluation procedures include the following:

(5) A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parents, that may assist in determining:

- a) Whether the child is a child with a disability; and
- b) The content of the child's IEP, including information related to enabling the child:
 - i. To be involved in and progress in the general education curriculum; or
 - ii. For a preschool child, to participate in appropriate activities;

ARSD 24:05:25:12. Documentation of eligibility for specific learning disabilities. For a child suspected of having a specific learning disability, the documentation of the determination of eligibility shall contain a statement of:

- (1) Whether the child has a specific learning disability;
- (2) The basis for making the determination, including an assurance that the determination has been made in accordance with this section;
- (3) The relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
- (4) The educationally relevant medical findings, if any;

(5) Whether:

(a) The child does not achieve adequately for the child's age or does not meet state-approved grade-level standards; and

(b) The child does not make sufficient progress to meet age or state-approved grade-level standards; or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade level standards or intellectual development;

(6) The determination of the group concerning the effects of a visual, hearing, or motor disability; cognitive disability; emotional disturbance; cultural factors; environmental or economic disadvantage; or limited English proficiency on the child's achievement level;

(7) If the child has participated in a process that assesses the child's response to scientific, research-based intervention:

(a) The instructional strategies used and the student-centered data collected; and

(b) The documentation that the child's parents were notified about:

(i) The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

(ii) Strategies for increasing the child's rate of learning; and

(iii) The parents' right to request an evaluation;

(8) If using the discrepancy model, the group finds that the child has a severe discrepancy of 1.5 standard deviations between achievement and intellectual ability in one or more of the eligibility areas, the group shall consider regression to the mean in determining the discrepancy; and

(9) If using the response to intervention model for eligibility determination, the group shall demonstrate that the child's performance is below the mean relative to age or state approved grade level standards.

ARSD 24:05:25:22. IEP team to develop individual education program. If the child is determined to be in need of special education or special education and related services, the IEP team shall develop an appropriate individual education program for the child. At the beginning of each school year thereafter, the district must have in effect an IEP for each child with disabilities within its jurisdiction. For children beginning at age three, an IEP shall be in effect by that date. If a child's third birthday occurs during the summer, the IEP team shall determine the date when services under the IEP will begin. All IEPs shall be developed in accordance with the provisions of this article.

ARSD 24:05:27:04. Determination of related services. In deciding whether a particular developmental, corrective, or other supportive service is a related service, the members of the IEP team shall review the results of the individual evaluations used to determine the child's need for special education. Based on the specific special education services to be provided, the team shall determine whether or not related services are required in order to assist the child to benefit from the special education program.

ARSD 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.

An IEP pursuant to chapter 24:05:27 shall be developed and implemented by the IEP team that addresses the need for extended school year services. The IEP team shall determine the length of the school day and duration of extended school year services based on the individual child's needs.

In implementing the requirements of this section, a district may not:

- (1) Limit extended school year services to particular categories of disability;
- (2) Unilaterally limit the type, amount, or duration of those services; or
- (3) Apply a regression/recoupment criterion to children in need of prolonged assistance.

As used in this section, the term, extended school year services, means special education and related services that meet the standards of the state and are provided to a student with a disability beyond the normal school year of the district, in accordance with the student's IEP and at no cost to the parents of the student.