

Recommended Preventive Actions for practices  
that **do not** represent Noncompliance:

New Hampshire has a responsibility, under federal law, to have a system of general supervision that monitors the implementation of the Individuals with Disabilities Education Act (IDEA) by school districts. The general supervision system is accountable for enforcing IDEA and the New Hampshire Rules for the Education of Children with Disabilities and for ensuring continuous improvement. As stated in section 616 of 2004 amendments to the IDEA, "The primary focus of Federal and State monitoring activities described in paragraph (1) shall be on –

- (A) Improving educational results and functional outcomes for all children with disabilities; and
- (B) Ensuring that States meet the program requirements under this part, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities."

The special education compliance & improvement monitoring review is one method that the Bureau of Special Education utilizes to implement the general supervision system. The special education compliance & monitoring review is comprised of:

- Policies, Procedures, and Effective Implementation
- District Special Education Forms and Effective Implementation
- Special Education Personnel
- Monitoring of the Special Education Process, and
- Improvement, Correction, Assistance, and Enforcement

When the monitoring team is in the district to conduct the onsite review, it may be determined that the district has practices that have the potential to become problematic. The NHDOE identifies these practices and recommends preventive actions for these practices. Whereas these practices do not rise to the standard of noncompliance, and therefore require no corrective actions, the NHDOE believes that the practices are noteworthy to be addressed.

The recommended preventive actions listed below are compiled from a list of practices that were found to be compliant but have the potential to be problematic. This list has been created to assist districts in preparing for compliance monitoring visits.

- During the compliance monitoring visit, the team found evidence of a form labeled "Referral for Special Needs Assessment Medical Information." The form also included a box to document "School nurse should be notified of student referral team meeting" or "School nurse does not feel it is necessary to attend team meeting." Whereas, this form is outside of the special education process, it is recommended that this form be discontinued or that a procedure be approved as to the intent of the form and when it will be used.
- During the compliance monitoring visit, the team found evidence of a process labeled simple functional behavior assessment. 34 CFR 300.530, Authority of

School Personnel, outlines the functional behavior assessment. Whereas, there is no provision in IDEA for a simple functional behavior assessment, it is recommended that the practice be discontinued or that a process be developed as to the intent of the procedure and when it will be implemented.

- During the compliance monitoring visit, the team found evidence that the parent consent form to evaluate did not state what type of evaluation the parent was giving permission for. 34 CFR 300.304(a) states that notice must be given which describes any evaluation procedures the district proposes to conduct. It is recommended that the district develops a practice of describing the proposed evaluation procedures.
- When reviewing written prior notices, multiple actions were included on one form. Reviewers could not clearly distinguish the required components of the written prior notice for each action. It is recommended that the district implement a practice to complete a separate written prior notice for each action or clearly enumerate the components for each action on one form (Determination of Eligibility, IEP, and Placement).
- Upon review of documents, the role and area of certification of team member participants was not clear. When signing in at IEP Team meetings, include the participants' role(s) and area(s) of certification.
- When reviewing the Record of Access, there was no indication of the authorized personnel for student files. It is recommended that the district clearly post the list of authorized personnel with student files. Authorized personnel are those employees of the district who can access the special education file without having to sign the record of access located in the file itself. This generally includes those staff members who would regularly need to access the student's special education information as a regular matter of course in their job. This would generally include employees of the district who are special education teachers, related service providers, etc. Classroom teachers do not typically have to regularly access a student's special education file, and therefore would need to sign the record of access.
- When reviewing the district's lists of Authorized Personnel posted on the special education file cabinets in individual schools, it was noted that several schools included regular education teachers on this list. Authorized personnel are those employees of the district who can access the special education file without having to sign the record of access located in the file itself. This generally includes those staff members who would regularly need to access the student's special education information as a regular matter of course in their job. This would generally include employees of the district who are special education teachers, related service providers, etc. Classroom teachers do not typically have to regularly access a student's special education file, and therefore would need to sign the record of access. It is recommended that the district consider updating

this list to include only those employees who would not need to sign the record of access.

- Based on the review of the district's policies and procedures manual, the monitoring team determined that the District Special Education Plan Introduction refers to the New Hampshire's Rules for the Education of Children with Disabilities 2008. The current NH Rules have the dates of Amended as of December 1, 2010, amended as of May 15, 2014. It is recommended that the district update its Special Education Plan to be compliant with the current NH Rules.
- Based on the review of the policies and procedures manual, page 19 under Personnel Development, and indicates that the district's Professional Master Development Plan is in effect for a five year period from July, 2009-July, 2014. It is recommended that the district update information from its current Professional Master Development Plan in the Special Education Plan in the Special Education Policy and Procedures Manual regarding professional development.
- During the compliance monitoring visit, the team found evidence that all of the objectives in an IEP included begin dates that were prior to the IEP start date. Ensure that dates for objectives in the IEP are within the IEP period.
- In reviewing files at the district, the monitoring team noticed that some special education case managers had a practice of seeking consent when presenting the parents with a Written Prior Notice using a form called "Informed Consent", which was attached to a Written Prior Notice. It is recommended that the district consider not using the "Informed Consent" form in conjunction with the Written Prior Notice form, as it is misleading to both parents and staff. The intent of Written Prior Notice is not for parents to give consent, but rather to provide the parents with all the information they need based upon the meeting in order for them to then consider the actions being proposed or refused by the district. Then, after taking in to account all of the information presented on the Written Prior Notice, parents can decide whether or not they will provide written consent to the proposals.
- The meeting invitation form is being used as an "FYI" notification to area agencies, rather than an invite to the meeting. It is recommended that the district immediately stops this practice.
- The Written Prior Notice form includes a line for a parent/guardian signature. Whereas this is included on the form, it is critical that the form also reflect that the parent/guardian is signing only to indicate that he/she is in receipt of the form. It is recommended that the district consider not including a signature line in order to ensure that parents/guardians understand that the form is to provide information to make an informed decision, not to give consent. Additionally, the NHDOE

recommended that the district strongly consider using separate forms to capture meeting minutes and the content of the Written Prior Notice.

- The district has one eligibility determination form to use for the consideration of any area of disability. For the determination of a specific learning disability, the form references a guide and includes one component of the regulations. For the determination of a specific learning disability, IDEA has specific documentation criteria found in 34 CFR 300.311. It is recommended that the district consider developing a separate form for the determination of a specific learning disability in order to ensure that all components are reviewed and considered in making the determination.
- The district's form, Eligibility and Disposition of Referral Meeting Minutes, includes a section on page 2 of the form entitled "Evaluation Team Summary Report (If determining eligibility only)". This section states "To be eligible under the NH State Standards for the Education of Students with Disabilities, a student must meet two criteria:" This could be considered limiting, as there are many more considerations in determining eligibility. It is recommended that district should consider revising this form or create a new form to address all evaluation requirements in accordance with CFR 300.301 through CFR 300.311; Ed 1107.01(a), Ed 1107.02, and 1108.01(a). Additionally, it appears as though the district may be referencing the New Hampshire Rules for the Education of Children with Disabilities in the quotation above with the term "NH State Standards..." The term "NH State Standards" may be misleading as it typically associated with curriculum components. It is recommended that the district should consider revising this form to reflect the requirement for an Evaluation Report in accordance with Ed 1107.05.
- The district's form, Eligibility and Disposition of Referral Meeting Minutes, includes a section on page 2 and 3 of the form entitled "Evaluation Team Summary Report (If determining eligibility only)". The conclusion section includes two check boxes for determining eligibly, followed by a place to enter the primary, secondary, and tertiary or multiple "handicap", which is then followed by a statement that the appropriate supplement is attached. There are 8 check boxes for disability areas in which a supplement could be attached. In New Hampshire, there are 14 categories of disability. The 8 areas on the form are not inclusive of all disability categories, and of those 8 boxes, only two specifically state that there is a supplement and one states that there is a guide form. It is unclear as to what criteria were used in determining eligibility for the specific disability areas. It is recommended that the district consider creating a new form/forms to include criteria for different disabilities in accordance with 34 CFR 300.306, 34 CFR 300.8. Table 1100.1 in the NH Rules for the Education of Children includes a list of disability areas for your reference.
- Meeting invitations reviewed during the monitoring visits indicated one or more purposes; however, when reviewing the corresponding meeting minutes, the

notes were not consistent with what the stated purposes for the meeting stated on the invitation. It is recommended that the district consider training for staff to ensure that meeting minutes include consistent and clear notes which match the stated purpose(s). Ed 1103.02(a) states that the notice shall include the purpose, time, location and identification of the participants.

- The district's Written Prior Notice form has the potential to be limiting as it provides a list of occasions in which the form would be used, which could be misinterpreted as being the only times in which this form is or should be used. It is recommended that the district consider revising this form.