

## **2017-2018 Noncompliant Practices**

The intent of the Compliance & Improvement Monitoring (CIM) process is to improve student outcomes for students with IEPs by:

1. Ensuring districts understand and are implementing special education requirements in accordance with the *New Hampshire Standards for Education of Children with Disabilities*, *New Hampshire Statutes*, and the *Individuals with Disabilities Act (IDEA)*; and
2. Improving special education procedures and practices.
3. Identifying and supporting correction of noncompliance, consistent with OSEP Memo 09-02.

Districts are notified of selection one year prior to the initial on-site monitoring. Sixty days after the initial monitoring, districts are issued a report. One year from the date of the report, all noncompliance is to have been verified as corrected.

The two-year process begins with district notification in November. The CIM selection process is outlined in the Bureau's FY'15 Memo #18. Six districts are selected for the CIM process each year. An additional district may self-select to participate in the CIM process.

Trainings are offered by the NHDOE from the February through September. Districts submit required documents to the NHDOE in October for review. Initial on-site monitoring follows in November and December.

Districts receive written notification of findings of noncompliance along with required corrective actions and timelines within 60 days of the last monitoring on-site visit. In the spring and summer, first stage student correction on-site visits and follow-up visits occur. Second stage new student on-site reviews for districts to demonstrate correct implementation of the regulations with student correction on-site visits and follow-up visits wrap-up the process. Refer to the 2017-2018 Sample Timeline.

The NHDOE would like NH school districts to be informed of noncompliant practices as a result of the CIM process and is providing below the areas reviewed for the CIM process.

### **Special Education Procedures and Effective Implementation**

Each district must have special education procedures and effective implementation of practices that are aligned and support the implementation of IDEA, New Hampshire Statutes, and the New Hampshire Standards for the Education of Children with Disabilities (NH Standards). As part of the CIM review, the monitoring team reviews districts' special education procedures plans for compliance. Refer to the 2017-2018 Special Education Procedures Review.

Three out of the six districts monitored had findings of noncompliance in this area.

- New Hampshire Standards for the Education of Children with Disabilities
  - Rule citations were **not based on the current New Hampshire Standards.**
- Child Find
  - Referral timelines were **not based on the current NH Standards.**
  - Procedures **did not include a description pertaining to Child Find in regards to locating, identifying, and evaluating** all children who are potentially children with disabilities or known to be a child with disabilities within its geographic boundaries for approved nonpublic private schools (including religious elementary and secondary schools) and **did not provide an accurate count of those students.**
- Confidentiality of Information
  - The district's special education procedures manual regarding children's rights and disciplinary information **included rule citations that were not reflective of current New Hampshire Standards.**
- Special Education Facilities, Personnel and Services
  - Procedures did not comply with 34 CFR 300.156, Ed 306.15(e)(f), and Ed 1113.12(a), in which highly qualified teacher has been removed. **The district is responsible for ensuring that the policies and procedures are current with recent changes in federal regulations, state laws and NH Standards.**
  - Procedures did not include a description pertaining to qualified examiners holding appropriate license or certification for required assessments. **The district is responsible for ensuring that the policies and procedures are current with recent changes in federal regulations, state laws and NH Standards.**
  - Procedures did not include a description pertaining to the maintenance of program descriptions including information on the supports and services provided by each program, and the age ranges and disabilities of student that program is approved to serve. **The district is responsible for ensuring that the policies and procedures are current with recent changes in federal regulations, state laws and NH Standards.**
  - The special education procedures manual **did not include a detailed description of all facilities, personnel, and services the LEA is required to make** available in those instances where the educational needs of the child with a disability cannot be met in a regular education setting.
- Parent Involvement
  - The district's special education procedures manual included information regarding parent participation that does not comply with applicable state and federal rules, **allowing a meeting to continue if a parent requests that a meeting continue without them in attendance.**
- Public Participation
  - The policy did not include a public participation component that describes the district's **procedure to ensure the district application is available for review by parents, other agencies, and the general public.**
- Procedural Safeguards
  - For discipline procedures [34 CFR 300.504(a)(h)], the policy did not include a description pertaining to when a copy of the current procedural safeguards will be given to parents to include the date in which the decision was made to make a removal that constitutes a change in placement of a child with a disability because of a violation of code of student conduct. **The district is responsible for ensuring that the policies and procedures are**

**current with recent changes in federal regulations, state laws and NH Standards.**

- Specific Learning Disabilities –Evaluation
  - The policy **did not specify the evaluation procedure and standards that will be used to evaluate whether a child has a specific learning disability** per Ed 1107.02(b), which should include using one or more of the following criteria:
    - (1) A discrepancy model between intellectual skills and achievements;
    - (2) A process that determines if the child responds to scientific, research-based intervention as part of the evaluation procedures described in 34 CFR 300.307(a)(2); and
    - (3) Other alternative research-based procedures as described in 34 CFR 300.307(a)(3).
  - The district’s special education procedures manual **referred to appendices that are not included**, as well as **rule citations that do not exist** in the current New Hampshire Standards. Additionally, **the time extension for an evaluation was not reflective of the current New Hampshire Standards** regarding when an extension may or may not be allowed.
- Placement of Children with Disabilities
  - The special education procedures manual included the district’s continuum of alternative placements; however, **there were incorrect rule citations and language for Home Instruction, as well as references to rules and tables that do not correspond to the current New Hampshire Standards.**
- Coordination with other Local and State Agencies
  - The policy **did not clearly describe the district’s procedure to ensure coordination with other local and state agencies** in meeting the needs of children with disabilities.

**District Special Education Forms and Effective Implementation**

As part of the Special Education Compliance & Improvement Monitoring (CIM) review of district forms implementing the special education process, the Bureau of Special Education also looks for evidence that the policies and procedures are effectively being implemented. The monitoring team reviews nine district forms to ensure the implementation of the special education process compliance. Refer to the 2017-2018 Forms Review.

One out of the six districts monitored had findings of noncompliance in this area.

- Parental Permission to Waive Time Limits for Written Notice
  - The form **allows for timelines that cannot be waived to be waived**. Additionally, this form has another section that allows for a 15 day extension to complete evaluations which is **not reflective of the current New Hampshire Standards.**
- Specific Learning Disability Eligibility Determination Documentation
  - The district’s form “Specific Learning Disability Eligibility Checklist” does comply with Ed 1107.02 as the **form is limiting.**
- Evaluation Report
  - The district’s form “Diagnostic Summary Report” does comply with Ed 1107.05(a)(1); however this form **does not comply with Ed 1107.05(b(2) &(3).** Additionally, this form **includes a statement regarding extensions which does not comply with current New Hampshire Standards.**

### Special Education Personnel

The Bureau reviews school districts' special education staff certifications using the New Hampshire Educator Information System. Each special education staff member's endorsement is compared to the subject/assignment. This process is used for special educators who hold Education Intern License 4 (INT4), Beginning Educator Certification (BEC) and Experienced Educator Certification (EEC). If the endorsement is appropriate to the subject/ assignment, then the renewal date of the endorsement is verified to ensure that the endorsement was current. If there is a discrepancy between endorsement and the subject/assignment, the district is given an opportunity to verify the data. Refer to the 2017-2018 Personnel Review.

One out of the six districts monitored had a finding of noncompliance in this area.

- Personnel Standards
  - A staff member has a **Subject/Assignment in Special Education Administrator; however has an endorsement in General Special Education.**

### Program Visits

The purpose of the program visits is to observe the district's full range of opportunities for the child with a disability that cannot be met in a regular education setting. Per Ed 1111, districts shall ensure that children with disabilities are educated with children who do not have disabilities to the maximum extent appropriate and that removal from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. School districts shall comply with the requirements of 34 CFR 300.115, relative to continuum of alternative placements.

One out of the six districts monitored had a finding of noncompliance in this area.

- Class Size and Age Range
  - The review team observed that **the Resource Room program was operating as a self-contained program** and that **the student population had an age range greater than four years.**

### Monitoring of Special Education Process

Districts are responsible for implementing the special education process in accordance with IDEA, New Hampshire Statutes, and the New Hampshire Standards for the Education of Children with Disabilities. The self-assessment data collection form highlights the district's understanding of the requirements of IDEA and the New Hampshire Standards for the Education of Children with Disabilities and is reviewed during the monitoring visit. Each area of compliance on the self-assessment data collection form clearly outlines whether the compliance is either a requirement of both IDEA and the New Hampshire Standards for the Education of Children with Disabilities or a requirement of solely the New Hampshire Standards for the Education of Children with Disabilities. During the monitoring visit, the monitoring

team verifies the evidence of compliance based on the review of the student file, using the district’s self-assessment as a resource.

Based on this review, the Bureau of Special Education identifies findings of noncompliance with IDEA and the New Hampshire Standards for the Education of Children with Disabilities. The findings include the compliance citation, the area of compliance, the specific component of the regulation, and the required corrective actions, which include timelines for demonstrating correction of noncompliance. Student specific information is not included in the report but is provided to the district’s Special Education Director.

There are 71 self-assessment questions. Noted below are the questions with 25% or more noncompliance.

| <b>Self-Assessment Question</b>  | <b>Percent Noncompliance</b> |
|--|------------------------------|
| 38. Provide the evidence of a statement of <b>measurable annual goals</b> , including academic and functional goals.   | 71%                          |
| 68. Provide the evidence that the <b>notice</b> given to the parents of a child with a disability included a <b>description of each evaluation procedure, assessment, record, or report</b> the agency used as a basis for the proposed or refused action. <i>(Written Prior Notice for Placement)</i>   | 62%                          |
| 62. Provide the evidence that the <b>notice</b> given to the parents of a child with a disability included a <b>description of each evaluation procedure, assessment, record, or report</b> the agency used as a basis for the proposed or refused action. <i>(Written Prior Notice for IEP)</i>   | 47%                          |
| 8. Provide the evidence that the <b>notice</b> given to the parents of a child with a disability included a <b>description of each evaluation procedure, assessment, record, or report</b> the agency used as a basis for the proposed or refused action. <i>(Written Prior Notice for Determination of Eligibility)</i>   | 45%                          |
| 67. Provide the evidence that the <b>notice</b> given to the parents of a child with a disability included an <b>explanation of why the agency proposed or refused to take the action</b> . <i>(Written Prior Notice for Placement)</i>  | 41%                          |
| 53. Provide the <b>written evidence documenting implementation of the IEP</b> with regards to <b>supports for school personnel</b> .   | 39%                          |
| 69. Provide the evidence that the <b>notice</b> given to the parents of a child with a disability included a <b>description of other options</b> that the IEP team considered and the reasons why those options were rejected. <i>(Written Prior Notice for Placement)</i>   | 39%                          |
| 70. Provide the evidence that the <b>notice</b> given to the parents of a child with a disability included a <b>description of other factors</b> that were relevant to the LEA’s proposal or refusal. <i>(Written Prior Notice for Placement)</i>  | 38%                          |
| 37. For each student with a disability beginning at age 14 or younger, if determined appropriate by the IEP team, provide the evidence of a <b>statement of the transition service needs</b> of the student under the applicable components of the student’s IEP <b>that focuses on the student’s courses of study</b> such as participation in advanced-placement courses, vocational education, or career and technical education. | 32%                          |