



Opportunity Through Education

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**Individuals with Disabilities Education Act
Results Driven Accountability
Verification Monitoring Report
for
Niobrara County School District #1**

Monitoring Dates: 2/10/2023-6/12/2023

Report Date: 8/14/2023

**Report Created by: Wyoming Department of Education,
Special Education Programs Division**

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Introduction

The Individuals with Disabilities Act (IDEA) Part B Regulations include the following provision at 34 CFR § 300.600

- (a) The State must -
 - (1) Monitor the implementation of this part;
 - (2) Make determinations annually about the performance of each LEA using the categories in § 300.603(b)(1);
 - (3) Enforce this part, consistent with § 300.604, using appropriate enforcement mechanisms, which must include, if applicable, the enforcement mechanisms identified in § 300.604(a)(1) (technical assistance), (a)(3) (conditions on funding of an LEA), (b)(2)(i) (a corrective action plan or improvement plan), (b)(2)(v) (withholding funds, in whole or in part, by the SEA), and (c)(2) (withholding funds, in whole or in part, by the SEA); and
 - (4) Report annually on the performance of the State and of each LEA under this part, as provided in § 300.602(b)(1)(i)(A) and (b)(2).
- (b) The primary focus of the State's monitoring activities must be on -
 - (1) Improving educational results and functional outcomes for all children with disabilities; and
 - (2) Ensuring that public agencies meet the program requirements under Part B of the Act, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.
- (c) As a part of its responsibilities under paragraph (a) of this section, the State must use quantifiable indicators and such qualitative indicators as are needed to adequately measure performance in the priority areas identified in paragraph (d) of this section, and the indicators established by the Secretary for the State performance plans.
- (d) The State must monitor the LEAs located in the State, 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 FAPE in the least restrictive environment.
 - (2) State exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in § 300.43 and in 20 U.S.C. 1437(a)(9).
 - (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.
- (e) In exercising its monitoring responsibilities under paragraph (d) of this section, the State must ensure that when it identifies noncompliance with the requirements of this part by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance.

In accordance with these regulations, the ultimate goal of the Wyoming Department of Education's (WDE) monitoring process is to promote systems change that will positively influence educational results and functional outcomes for students with disabilities.

District Selection

During the 2020-21 school year, Niobrara County School District #1 (Niobrara 1) was selected for Results Driven Accountability (RDA) Monitoring using the seven-criterion selection formula based on 2019-20 data.

The district was found to fall into the *Needs Assistance* determination level for the 2020-21 year. At that time, Niobrara 1 was found to be non-compliant in eight areas:

Area 1: Not Addressing all identified needs: Files reviewed did not address all identified needs, specifically, social-emotional needs and executive functioning skills.

Area 2: IEP Development - Present Levels of Functional and Academic Performance (PLAAFP): Files reviewed were found to have inadequate development of the present levels of academic achievement and functional performance.

Area 3: Goal Development: Files reviewed did not identify specific skill deficits or were not aligned with a programmatic-based target.

Area 4: Location of Special Education and Related Services: Files reviewed lacked a clear indication of where special education services were being delivered.

Area 5: Supplementary aids and services: Files reviewed did not clearly indicate how supplementary aids and services were provided to the student, specifically, frequency, duration, and location.

Area 6: Lack of expected progress: Files reviewed had evidence of the student not making adequate progress in light of the student's needs. The files did not indicate that the team had met to address this lack of progress or made any adjustments to the IEP.

Area 7: Least Restrictive Environment (LRE): Files reviewed indicated evidence of highly restrictive placements and placements of students with non-age-appropriate peers.

Area 8: Post-Secondary Transition Planning: Files reviewed had incomplete transition sections or had a course of study that did not contain specific courses relevant to the student's transition goals. This area will be addressed individually through Indicator 13 file reviews.

A Corrective Action Plan (CAP) was enacted on April 20, 2022. The school district had one year to complete the agreed-upon action steps to remediate noncompliance, ensure changed practices to maintain IDEA compliance in the future and improve outcomes for students with disabilities. The current verification process focuses on correction subsequent to the March 29, 2022 review.

Verification of Correction of Noncompliance

The purpose of the current verification process is to determine whether the areas of noncompliance identified through the RDA monitoring have been fully corrected through corrective action (CAP) activities. A verification review of Niobrara 1 files was completed. During this process, a sample of 75 student files was reviewed by the WDE. Fourteen of the files were removed from the sample of 75 due to the student no longer being an active student in Niobrara 1 or having been returned to the general education program. The 61 remaining files were reviewed for the eight areas of noncompliance from the initial monitoring. Of the 61 files reviewed, 27 were from the brick-and-mortar setting, and 34 were from the WYVA setting. As in the original monitoring, the WDE will consider the Niobrara system in its entirety and not each individual sub-system as separate entities.

Listed below are the results of the file reviews. Information is provided in three categories: systemic findings of non-compliance, individual findings of non-compliance, and program recommendations. Individual and systemic findings of noncompliance will require a continued compliance agreement.

Systemic Findings of Noncompliance:

Area 1: Not Addressing all identified needs:

Evidence: The WDE reviewed 61 student files to determine if all identified needs had been addressed in the student IEPs.

After reviewing to verify that all files addressed all identified needs adequately in the IEP, the WDE finds Niobrara in compliance with this previous area of non-compliance. Zero of the files reviewed demonstrated a deficit in identifying and addressing student need.

Conclusion: Not addressing all identified needs is no longer a concern and has been systemically corrected by Niobrara 1.

Area 2: IEP Development - Present Levels of Academic Achievement and Functional Performance (PLAAFP):

Citation:

34 C.F.R. § 300.320 Definition of individualized education program.

(a) *General.* As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with § 300.320 through § 300.324, and that must include -

- (1) A statement of the child's present levels of academic achievement and functional performance, including -
 - (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
 - (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

and

34 C.F.R. § 300.324 Development, review, and revision of IEP.

(a) Development of IEP -

- (1) General. In developing each child's IEP, the IEP Team must consider -
 - (i) The strengths of the child;
 - (ii) The concerns of the parents for enhancing the education of their child;
 - (iii) The results of the initial or most recent evaluation of the child; and
 - (iv) The academic, developmental, and functional needs of the child.

Evidence: The WDE reviewed the present levels of academic achievement and functional performance statements of 61 student files.

Sixteen files reviewed exhibited an inadequate development of the present levels of academic achievement and functional performance (PLAAFP). The PLAAFP statements reviewed consisted of information copied from the most recent evaluation report, district testing results, state test scores, student grades, including complete report cards and qualitative teacher reports. This information, while connected to student academic performance, failed to indicate how the student was performing in relation to the general education curriculum or other students in the general education setting as required by § 34 CFR 300.320(a)(1)(i), **How the child's disability affects the child's involvement and progress in the general education curriculum.** Consequently, the present levels of academic achievement documented in the Individualized Education Program (IEP) resulted in issues in identifying skill deficits and, subsequently, with goal development. The existing statements fail to provide a comprehensive understanding of the student's abilities, strengths, and areas of need for the purposes of designing specialized instruction and reasonably calculated annual goals.

Examples include:

- WISER [REDACTED]
- WISER [REDACTED]

- WISER [REDACTED]

The review of files and PLAAFP statements were also missing baseline information in specific areas that the student subsequently had a goal written in that area.

Examples include:

- WISER [REDACTED]
- WISER [REDACTED]
- WISER [REDACTED]

An additional concern noted in the review was that PLAAFP statements were missing information and data from every student service provider.

Examples include:

- WISER [REDACTED]: PLAAFP is missing speech/language information and data.
- WISER [REDACTED]: PLAAFP is missing information supporting counseling and behavior goals.
- WISER [REDACTED]: PLAAFP is missing speech/language information and data.

Conclusion: The development of Present Levels of Functional and Academic Performance remains a concern.

Area 3: Goal Development:

Citation:

34 C.F.R. § 300.320(a)(2)

- (i) A statement of measurable annual goals, including academic and functional goals designed to—
 - (A) Meet the child’s needs that result from the child’s disability to enable the child to be involved in and make progress in the general education curriculum;
 - and
 - (B) Meet each of the child’s other educational needs that result from the child’s disability;
- (ii) For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;

Evidence: The WDE reviewed the annual goals of sixty-one student files.

Through the review of Individualized Education Programs, WDE verification monitoring resulted in 11 files with non-compliant goals. Areas of specific concern continue to be: the failure to identify specific skill deficits and goals that were unable to be measured.

Conclusion: Goal development remains a concern.

Area 4: Location of Special Education and Related Services:

Citation:

34 C.F.R. § 300.320(a)(4)

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 child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child -

- (i) To advance appropriately toward attaining the annual goals;
- (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
- (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

and

34 C.F.R. § 300.320(a)(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

Evidence: The WDE reviewed the special education and related services for 61 files provided in the sample. Additionally, an onsite visit was conducted to clarify questions that arose during the verification process pertaining to the location of special education services listed as support.

During the verification monitoring, 12 files were found to have special education and related services that did not clearly state a location. Nine files listed the service location as ‘general education/resource room’ or ‘regular/resource room’. An additional two files had services listed as ‘WYVA’ or ‘NCHS classroom’. Information gathered during the onsite visit clarified the services on four IEPs that were listed as ‘support.’

Examples include:

- WISER [REDACTED]: Lists special education services as Reading/Writing; 30 minutes 3 times each week, for 32 weeks. Location: Resource/Regular Classroom and Reading/Writing (support), 30 minutes 3 times each week, for 32 weeks, General Ed/Resource Room
- WISER [REDACTED]: Special education services listed as Reading Proficiency, 50 minutes 2 times each week for 32 weeks, Regular & Resource Room. ESY services for this student are listed for the location of NCHS.
- WISER [REDACTED]: Area of specialized instruction is listed as Specialized Instruction in Reading/Writing, frequency and duration are listed as 30 minutes 4 times each week, for 33 weeks. Location for this and all services is listed as WYVA.

Conclusion: The location of special education services and related services remains a concern.

Area 5: Supplementary aids and services:

Citation:

34 C.F.R. § 300.320(a)(4) 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 child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child -

- (i) To advance appropriately toward attaining the annual goals;
- (ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and
- (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

and

34 C.F.R. § 300.320(a)(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

Evidence: The WDE reviewed the supplementary aids and service packages for the 61 files provided in the sample.

During the verification process, 21 files were found to have supplementary aids and services statements that did not clearly indicate the frequency, location, and duration that these services and aids would be provided to the student. Eighteen reviewed files were found to contain frequency and location statements such as “as needed,” “all locations,” and “all assignments.” In accordance with **34 C.F.R. § 300.320(a)(7)**, individualization should occur for each accommodation, including how often the aid is needed (frequency), how long the aid needs to be in place in relation to the frequency (duration), and the specific location or locations in which the student will use the aid/service. Systemically, IEPs reviewed continued to contain statements of frequency, duration, and location, such as: frequency listed as ‘daily’ or “as needed.”, duration of ‘36 weeks’ or ‘life of IEP,’ and location as ‘NCHS classroom’, ‘WYVA’ or ‘all school environments.’ The lack of specificity of the frequency, duration, and location of supplementary aids and services makes the conditions under which these services will be provided unclear.

Examples include:

- WISER [REDACTED]: Supplementary aids and services list the following: Test in small group- 5 or fewer: Frequency: As Needed; Duration: As Needed; Location: All Environments: In Person & Virtual. This documentation was the same for all 12 supplementary aids and services listed for this specific student.

Conclusion: Supplementary aids and services remain a concern.

Area 6: Lack of expected progress:

Citation:

34 C.F.R. §300.320 (3)(i)(ii)

(3) A description of—

(i) How the child’s progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and

(ii) When periodic reports on the progress the child 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;

and

34 CFR 300.324(b)(1)(ii)(a)

(ii) Revises the IEP, as appropriate, to address

(A) Any lack of expected progress toward the annual goals described in §300.320(a)

Evidence: The WDE reviewed the progress reporting of 61 student files.

Six files were found to be out of compliance in the area of Progress reporting. Two files demonstrated that while progress was reported, reporting on skills was not matched to the goal targets. In two files, the IEP team did not reconvene to address the lack of progress being made by the student due to the student’s lack of attendance. Tracking progress monitoring data to determine a student’s progress on goals is a checkpoint to determine if the current IEP and offering of FAPE is sufficient. Failure to complete such steps reduces the team’s ability to determine the appropriateness of the IEP.

Examples include:

- WISER [REDACTED]: Counseling goal lacks progress reported in the manner identified by the goal. Progress reported is written as “Insufficient Data,” “Some progress,” and “Minimal progress, but no regression,” none of which align with the goal measure to “identify at least (1) trigger that

causes personal stress/anxiety, and discuss coping strategies for (4 out of 5) check-in opportunities. The goal lacks a measurable baseline in the PLAAFP, making it difficult to determine student progress.

Conclusion: Progress reporting remains a concern.

Area 7: Least Restrictive Environment (LRE)

Evidence: During the verification process, WDE reviewed 61 files and found no files that were out of compliance regarding the original findings about the appropriate LRE.

After reviewing to verify that all files adequately addressed LRE, the WDE finds Niobrara 1 has corrected this previous area of non-compliance.

Conclusion: LRE is no longer a concern.

Recommendations:

- While not formally within the purview of this verification process, the WDE noted that files lacked statements pertaining to the student's need for extended school year (ESY) services. The WDE recommends that the Niobrara 1 staff review the requirements for Extended School Year.

Commendations:

The WDE would like to commend Niobrara 1 on its ongoing commitment to improving its systems and processes to ensure that students with disabilities have the best possible educational outcomes. The files reviewed demonstrate a significant improvement from the original monitoring and the WDE commends the ongoing work that the Niobrara 1 team has undertaken to correct the previously identified issues of non-compliance.

Although further correction is necessary, the WDE recognizes the district's efforts to work toward correcting noncompliance over the past year. There have been many unique challenges facing all districts recently, and the WDE acknowledges that correcting systemic findings of any nature is challenging in and of itself. The WDE commends Niobrara 1 for its ongoing commitment to students with disabilities. The WDE is here to assist Niobrara 1 as it continues to work on further improvements and ensure positive outcomes for students with disabilities. If you have any questions concerning this report, please contact Sheila Thomalla at sheila.thomalla2@wyo.gov.

Sincerely,



Sheila Thomalla , Monitoring Team Supervisor
Division of Special Education Programs, Wyoming Department of Education

cc: George Mirich, Superintendent, Niobrara County School District #1
Margee Robertson, Special Education Director, WDE