

Department of Corrections

Compliance Monitoring: Exceptional Student Education Programs

October – November 2007



Bureau of Exceptional Education and Student Services
Florida Department of Education

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January 3, 2008

Mr. Blake Heidelberg, Chief
Bureau of Program Services
Florida Department of Corrections
2601 Blair Stone Road
Tallahassee, Florida 32399-2500

Dear Mr. Heidelberg:

We are pleased to provide you with the final report of the monitoring of the Department of Corrections' exceptional student education programs at selected correctional facilities. The report includes a system improvement plan outlining the findings of the monitoring team. Bureau staff have worked with John Howle, Administrator of Special Education Programs, and his staff to develop a system improvement plan that includes strategies and activities to address the areas of concern and noncompliance identified in the report. The system improvement plan has been approved and is included as a part of this final report.

The first scheduled update on the system improvement plan is due on January 30, 2008. If my staff can be of any assistance as you implement the system improvement plan, please contact me or Kim C. Komisar, Ph.D., Program Director, ESE Monitoring. Dr. Komisar may be reached at (850) 245-0476, or via electronic mail at Kim.Komisar@fldoe.org.

Thank you for your continuing commitment to improve exceptional education services in the Department of Corrections.

Sincerely,

A handwritten signature in black ink, appearing to read "Bambi J. Lockman".

Bambi J. Lockman, Chief
Bureau of Exceptional Education and Student Services

Enclosure

cc: John Howle
Amy Yarbrough-Coltharp
Kim C. Komisar
Ken Johnson

BAMBI J. LOCKMAN
Chief

Bureau of Exceptional Education and Student Services

Department of Corrections

Compliance Monitoring: Exceptional Student Education Programs

October – November 2007

Florida Department of Education
Bureau of Exceptional Education and Student Services
ESE Program Administration and Quality Assurance

Department of Corrections Final Monitoring Report

Compliance Monitoring: Exceptional Student Education Programs

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Department of Corrections Final Monitoring Report

Compliance Monitoring: Exceptional Student Education Programs

October – November 2007

Authority

The Florida Department of Education, Bureau of Exceptional Education and Student Services, in carrying out its roles of leadership, resource allocation, technical assistance, monitoring, and evaluation is required to oversee the provision of exceptional student education services in the enforcement of all laws and rules (Sections 1001.03(8) and 1008.32, Florida Statutes (F.S.)). In fulfilling this requirement, the Bureau conducts monitoring activities of the exceptional student education (ESE) programs provided by the Department of Corrections (DOC) in accordance with Sections 1001.42 and 1003.57, F.S. Through these monitoring activities, the Bureau examines and evaluates procedures, records, and programs of exceptional student education (ESE); provides information and assistance to correction institutions; and otherwise assists the DOC in operating effectively and efficiently. One purpose of the Individuals with Disabilities Education Act of 2004 (IDEA 2004) is to assess and ensure the effectiveness of efforts to educate students with disabilities (Section 300.1(d) of Title 34, Code of Federal Regulations (CFR)), and a good faith effort is required to assist students with disabilities to achieve their stated goals and objectives in the least restrictive environment (34 CFR §300.120 and §300.149(d)) as appropriate to the facility. In accordance with the IDEA 2004, the Department is responsible for ensuring that the requirements of the IDEA are carried out and that each educational program for students with disabilities administered in the state meets the educational requirements of the state (34 CFR §300.600(a)-(b)(1) and (2)). Federal Regulations for IDEA 2004 were made public on August 14, 2006, and implementation required October 13, 2006.

The monitoring system reflects the Department's commitment to provide assistance, service, and accountability to the DOC, and is designed to emphasize improved educational outcomes for students while continuing to conduct those activities necessary to ensure compliance with applicable federal laws and regulations and state statutes and rules. In addition, these activities serve to ensure implementation of corrective actions, such as those required subsequent to monitoring by the U.S. Department of Education, Office of Special Education Programs, (OSEP) and by the Office for Civil Rights (OCR), as well as other quality assurance activities of the Department.

Monitoring Process

The purpose of the monitoring process is to implement a methodology that targets the Bureau's monitoring intervention on key data indicators identified as significant for educational outcomes for students. Through this process, the Bureau uses data to guide monitoring decisions, thereby implementing a strategic approach to intervention and commitment of resources that will improve student outcomes. In general, decisions regarding the type and extent of monitoring

activities, including the need for on-site visits, are based on the most current data available for a given local educational agency (LEA). Due to the unique nature of educational programs implemented in correctional settings, on-site monitoring of special education services in DOC facilities are conducted annually. This schedule allows for Bureau staff to verify correction of previous noncompliance and to more effectively target technical assistance to DOC staff. A detailed description of the Bureau's monitoring process is provided in *Compliance Monitoring: Department of Corrections Exceptional Student Education Programs (2007)*, which includes the protocols used by Bureau staff. This document is available on the Bureau's website at www.firn.edu/doe/commhome/mon-home.htm.

Background Information

Between October 22 and November 1, 2007, the Bureau conducted on-site reviews of the exceptional student education (ESE) programs in DOC facilities. John Howle, Special Education Administrator, and Amy Yarbrough-Coltharp, Special Education Program Specialist, served as the coordinators and points of contact for DOC during the monitoring visit. The Bureau monitoring team consisted of: Ken Johnson, Program Specialist, who served as the team leader; Kim Komisar, Program Director – ESE Monitoring and Compliance; and Annette Oliver, Program Specialist. On-site visits to the following five correctional facilities were conducted:

- Holmes Correctional Institution
- Apalachee Correctional Institution: ACI East
- Sumter Correctional Institution
- Sumter BTU
- Marion Correctional Institution

During the planning process for this monitoring visit, as well as through technical assistance contacts with the Bureau throughout the past year, DOC staff reported considerable efforts during the past year directed toward providing in-service training to ESE and basic educational staff, particularly in the development of appropriate individual education plans (IEPs). Based on this information and the nature and extent of the findings from 2006-07, a decision was made to focus the 2007-08 monitoring process on verification of correction of noncompliance. The primary areas of concern are described below.

Previous Findings: Development of IEPs

Noncompliance and/or concerns identified in 2006-07 were related to the requirements that:

- The students placement must be determined by the IEP team at least annually and is based on the IEP
- The IEP must be reviewed at least annually and revised as appropriate to address lack of expected progress towards annual goals, results of any reevaluation, information from the parents, or child's anticipated needs
- In the case of a student whose behavior impedes his or her learning or the learning of others, the IEP team must consider positive behavioral interventions, strategies, and supports to address that behavior
- The need for instruction or information related to self-determination must be considered

- The IEP team must include, at a minimum, the student, a representative of the educational agency, at least one ESE teacher of the student, at least one general education teacher of the student, and an interpreter of instructional implications of evaluation

Previous Findings: Content of IEPs

Noncompliance and/or concerns identified in 2006-07 regarding missing or insufficient content of IEPs were related to the requirements that the IEP include:

- An explanation of the extent, if any, to which the student will not participate with nondisabled peers in the general education setting
- A statement of the special education and related services; supplemental aids and services, accommodations, modifications, and supports for school personnel to be provided to the student, including the location and frequency of those services
- A statement of the student's course of study
- A statement of the students present levels of academic achievement and functional performance, including how the disability affects the student's involvement and progress in the general curriculum
- Measurable annual goals and short-term objectives or benchmarks that relate to the needs resulting from the disability and focus on enabling the student to be involved and progress in appropriate activities
- Measurable postsecondary goals, based on age-appropriate assessment, related to training, education, employment, and if appropriate, functional vocational evaluations and daily living skills

Previous Findings: IEP Implementation

Noncompliance and/or concerns identified in 2006-07 regarding IEP implementation were related to:

- Instructional accommodations
- Services provided to students with cumulative suspensions over 10 days in a school year sufficient for the student to progress in curriculum and advance towards achieving goals

Previous Findings: ESE Policies and Procedures

Noncompliance and/or concerns identified in 2006-07 related to other ESE policies and procedures were related to:

- Insufficient or lack of prior written notice of change of FAPE and written notice of IEP team meetings
- Student participation in IEP team meetings, including ensuring other means of participation if attendance is not possible
- Inclusion of outside agency representative on the IEP team, if appropriate
- A copy of the IEP provided to the student
- Identification of an IEP team member responsible for follow-up regarding transition services
- Parent and student notification of the transfer of rights upon reaching the age of majority
- Documentation of written consent is required for when conducting formal assessments as part of reevaluation
- Availability of a continuum of placements sufficient to meet the needs of all students

Onsite Monitoring Activities

A summary of activities conducted during the 2007 monitoring of DOC facilities is included in Table 1 below.

Table 1 – Summary of Activities

Activity	Number
IEP/Record Reviews	16
Focus Groups	Total groups: 5 Total students: 26
Individual student case studies	8
Classroom Visits	17
Interviews	
Central office agency staff	2
School staff, by institution	
Education Supervisors	<u>1</u> <u>0</u> <u>1</u> <u>-</u> <u>1</u> <u>3</u>
Placement and Testing Specialists	1 1 1 - 0 3
ESE teachers	1 2 1 1 1 6
General education teachers	2 2 3 1 4 12
ESE students	<u>4</u> <u>4</u> <u>1</u> <u>3</u> <u>4</u> <u>16</u>
	Total: 42

Results

Findings based on information generated through record reviews; focus group interviews; individual interviews; case studies; and classroom visits are summarized below. Individual and systemic findings of noncompliance as well as concerns are included in this report. To be determined systemic in nature, an item must be found noncompliant in at least 25% of the records reviewed or through equivalent support from interviews or other sources. In the DOC, at least four of the IEPs must have been noncompliant on a given item to be considered a systemic finding.

Systemic findings related to the following requirements were identified:

- 34 CFR 300.504(c). The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under sections 300.148, 300.151 through 300.153, 300.300, 300.502 through 300.503, 300.505 through 300.518, 300.530 through 300.536, and 300.610 through 300.625.
 - In 16 of 16 records reviewed from all five institutions, the notice of procedural safeguards provided to students was not the most recent and did not reflect IDEA 2004.

Individual or non-systemic findings related to the following requirements were identified:

- 34 CFR 300.320(a)(4) and (7); Rule 6A-6.03028(7)(c), FAC. The IEP contains a statement of program modifications or classroom accommodations, including location and anticipated initiation, duration, and frequency.
 - Based on IEP reviews, student interviews, and staff interviews, instructional accommodations identified on the IEP were not consistently implemented at one institution.

- 34 CFR 300.320(a)(2). The IEP must include measurable annual goals, including academic and functional goals, and short-term objectives or benchmarks, designed to meet the student's needs that result from the disability to enable the child to be involved in and make progress in the general curriculum and meet the student's other needs that result from the disability.
 - The IEP for one student indicated that the student currently had no need for instruction in social/emotional skills, but that the IEP team would meet as needed to address the student's potential future need in this area. There was evidence on other sections of the IEP that the student had needs in the area of anger management and self control. The student was in confinement on the day of the onsite review and his record reflected frequent disciplinary actions.

In addition, a concern was noted regarding the following requirement:

- 34 CFR 300.320(a)(2). The IEP must include measurable annual goals, including academic and functional goals, and short-term objectives or benchmarks, designed to meet the student's needs that result from the disability to enable the child to be involved in and make progress in the general curriculum and meet the student's other needs that result from the disability.
 - The IEP form designates a space to document annual goals, but not a corresponding space for short-term objectives or benchmarks. While the IEP teams had incorporated all required content regarding short-term objectives and/or benchmarks into the annual goals section on 16 of 16 IEPs reviewed (100%), the IEP form itself might lead less knowledgeable IEP teams to develop IEPs without required short-term objectives or benchmarks

It should be noted that, as verification of the improvement activities described by DOC staff, significant improvement was observed in the following areas during the course of these monitoring procedures:

- Development of IEPs for individual students
- Content of IEPs for individual students
- Implementation of IEPs for individual students
- Procedures used by correctional educators in the provision of ESE and related services
- Communication and collaboration between special education teachers and general education teachers in providing ESE and related services for students with disabilities

Promising Practices

During the on-site monitoring visit promising practices were noted by DOC and school staff and by Bureau monitors. Some of the reported promising practices were specific to the institution or program while others were the results of Department-wide initiatives. DOC is encouraged to continue to promote an atmosphere where teachers and staff can share these practices. Some of the reported promising practices are listed below.

- Initial results of the Soliloquy Reading Program in place at Sumter Correctional Institution and Sumter BTU are encouraging; the research-based program has the potential to significantly impact reading skills and has been favorably received by inmates who have used it

- Classification Officers and Security Officers are included in IEP meetings; staff report that their input is valued and they provide information regarding the student's present level of functioning, particularly in the area of strengths and weaknesses related to self-management.
- Options are available at most institutions for students to be enrolled in academic and vocational programming simultaneously
- Staff and inmates report that program and work assignment areas serve as educational vehicles
- The Transition Program is available to all students

DOC Response

Correction of noncompliance must occur as soon as possible but in no case longer than one year from identification. The timeline for correction begins when the Bureau issues its final report. Within 60 days of receipt of the report, findings of noncompliance that can be individually rectified (e.g., a finding that is correctable by reconvening of the IEP team) must be corrected and a corrective action plan (CAP) to address systemic noncompliance or noncompliance that cannot be individually rectified must be implemented. The recommendations and technical assistance resources included below should be considered when developing strategies and/or interventions.

In response to the findings noted above, DOC developed a CAP in consultation with the Bureau. The CAP includes activities and strategies intended to address specific findings, as well as measurable evidence of change (e.g., summary report of record reviews conducted post-training to assess application of the skills and content targeted through professional development), and a schedule for verification of correction of noncompliance. The CAP developed in response to the 2007-08 monitoring of DOC is included in this report (p. 9).

Recommendations

The following recommendations are proposed for the DOC to consider when developing the corrective action plan and determining strategies that are most likely to effect change. The list is not all-inclusive, and is intended only as a starting point for discussion among the parties responsible for the development of the CAP.

- Conduct periodic self-assessments of ESE programs across institutions to ensure that IEPs are being implemented and that all information is reported accurately.
- Utilize Corrections Distance Learning System for staff training to include education supervisors, placement and transition specialists, and special education teachers when travel is limited.
- Develop training modules to address the range of procedures related to the provision of services to students with disabilities (e.g., developing appropriate individualized IEPs with measurable annual goals and short-term objectives clearly delineated)
- Develop training modules that address the importance the provision of accommodations for individual students as specified on the IEP for individual students.

Technical Assistance

Bureau staff are available for assistance on a variety of topics. A partial list of contacts is provided in Table 2 below. If there are additional topics or areas of concern that are not included, please contact the Bureau for assistance.

Table 2 – Bureau Contacts

ESE Program Administration and Quality Assurance—Monitoring		(850) 245-0476
Kim Komisar, Ph.D., Program Director ESE Monitoring and Compliance Kim.Komisar@fldoe.org	Ken Johnson, Ed.D., Program Specialist Team Leader - DOC Ken.Johnson@fldoe.org	
Brenda Fisher, Program Specialist Brenda.Fisher@fldoe.org	Annette Oliver, Program Specialist Annette.Oliver@fldoe.org	
Laura Harrison, Program Specialist Laura.Harrison@fldoe.org	Jill Snelson, Program Specialist Jill.Snelson@fldoe.org	
ESE Program Administration and Quality Assurance—Monitoring		(850) 245-0476
Patricia Howell, Program Director Dispute Resolution Patricia.Howell@fldoe.org	Demetria Harvell, Program Specialist Demetria.Harvell@fldoe.org	
Karlene Deware, Program Specialist Karlene.Deware@fldoe.org	Pam Tetreault, Program Specialist Pam.Tetreault@fldoe.org	
Vicki Eddy, Program Specialist Vicki.Eddy@fldoe.org		
Special Programs Information and Evaluation		(850) 245-0475
Karen Denbroeder, Administrator Karen.Denbroeder@fldoe.org	Marie LaCap, Program Specialist Marie.Lacap@fldoe.org	
Virginia Sasser, Program Specialist Virginia.Sasser@fldoe.org		
Clearinghouse Information Center		(850) 245-0477
cicbiscs@FLDOE.org		
ESE Program Development and Services		(850) 245-0478
Cathy Bishop, Administrator Cathy.Bishop@fldoe.org	Behavior; Discipline; E/BD Martha Murray, Program Specialist Martha.Murray@fldoe.org	
Ginny Chance, Program Director Ginny.Chance@fldoe.org	Mentally Handicapped Sheryl Sandvoss, Program Specialist Sheryl.Sandvoss@fldoe.org	
Joyce Lubbers, Program Director Joyce.Lubbers@fldoe.org		

**Department of Corrections
Corrective Action Plan**

**Compliance Monitoring: Exceptional Student Education Programs
2007-08**

Findings of Noncompliance/Citation	Improvement Strategies/Interventions	Outcome Measures and Timeline
IEP Implementation		
<p>The IEP contains a statement of program modifications or classroom accommodations, including location and anticipated initiation, duration, and frequency. (34 CFR 300.320(a)(4) and (7); Rule 6A-6.03028(7)(c), FAC.)</p>	<p>Training and/or technical assistance regarding identification and provision of student-specific accommodations required for participation in the general curriculum will be provided.</p> <p>Staff will conduct quarterly review of a sampling of TP/IEPs (≥ 20 records) of students for inclusion of accommodations.</p> <p>Staff will conduct quarterly spot checks of the implementation of accommodations for 10 students.</p> <p>Following an analysis of the results, DOC staff will determine if additional targeted training is required.</p>	<p>DOC to submit training agendas and materials.</p> <p>DOC self-assessment report reveals compliance with targeted elements for 100% of TP/IEPs reviewed.</p> <p>DOC self-assessment report reveals implementation of accommodations for 100% of sampled students.</p> <p>Results of training indicate participants perceive a greater understanding of accommodations and implementation of accommodations in classroom instruction and assessment.</p> <p>June 2008</p>

Findings of Noncompliance/Citation	Improvement Strategies/Interventions	Outcome Measures and Timeline
IEP Content		
<p>The IEP must include measurable annual goals, including academic and functional goals, and short-term objectives or benchmarks, designed to meet the student's needs that result from the disability to enable the child to be involved in and make progress in the general curriculum and meet the student's other needs that result from the disability. (34 CFR 300.320(a)(2))</p>	<p>The IEP team for one student is required to reconvene to address the development of measurable annual goal(s) to address the student's social/emotional needs, and to identify the services required to meet those goals. The district has been provided information regarding this student under separate cover.</p>	<p>DOC to submit documentation that the IEP team reconvened to address the use of positive behavior interventions and supports, and/or other strategies to address the behavior. January 2008</p>
	<p>The IEP form designates a space to document annual goals, but not a corresponding space for short-term objectives or benchmarks.</p> <p>The IEP form will be revised to include short-term objectives or benchmarks.</p> <p>Training and/or technical assistance regarding development of annual goals and short-term objectives or benchmarks will be provided.</p> <p>Staff will conduct quarterly review of a sampling of TP/IEPs (≥ 20 records) of students for inclusion of delineated annual goals and short-term objectives. Following an analysis of the record review results, DOC staff will determine if additional training is required or targeted training meet compliance.</p>	<p>DOC report of self-assessment reveals compliance with delineation of annual goals and short-term objectives for 100% of TP/IEPs reviewed.</p> <p>DOC to submit training agendas and materials. Results of training indicate participants perceive a greater understanding of the development and implementation of annual goals and short-term objectives. June 2008</p>

Findings of Noncompliance/Citation	Improvement Strategies/Interventions	Outcome Measures and Timeline
Other Policies/Procedures/Practices		
<p>The procedural safeguards notice must include a full explanation of all of the procedural safeguards available under sections 300.148, 300.151 through 300.153, 300.300, 300.502 through 300.503, 300.505 through 300.518, 300.530 through 300.536, and 300.610 through 300.625. (34 CFR 300.504(c))</p>	<p>DOC will provide DOE-approved procedural safeguards notice to all institutions. Use of the updated notice will be verified by staff during routine site-visits.</p>	<p>DOC to submit documentation of communication with individual institutions providing instruction on the use of the updated procedural safeguards notice.</p> <p>DOC report of self-assessment reflects dissemination of current procedural safeguards notice at 100% of institutions.</p> <p>January 2008</p>

Glossary of Acronyms

BTU	Basic Training Unit
Bureau	Bureau of Exceptional Education and Student Services
CAP	Corrective Action Plan
CFR	Code of Federal Regulations
DOC	Department of Corrections
DOE	Department of Education
E/BD	Emotional/Behavioral Disability
EMH	Educable Mentally Handicapped
ESE	Exceptional Student Education
FAC	Florida Administrative Code
FAPE	Free Appropriate Public Education
FBA	Functional Behavioral Assessment
F.S.	Florida Statutes
IDEA	Individuals with Disabilities Education Act
IEP	Individual Educational Plan (for students with disabilities)
LEA	Local Educational Agency
OCR	Office for Civil Rights
OSEP	Office of Special Education Programs