



Legislative Audit Division

Performance Audit Summary

Oversight of Special Education Services December 2005

Introduction

The Legislative Audit Committee requested a performance audit of the oversight of special education classification and placement processes by the Office of Public Instruction (OPI). The audit focused on program criteria and monitoring controls related to classifying and providing special education services.

The Individuals with Disabilities Education Act (IDEA) (federal law) contains the requirements that govern special education. The Superintendent of Public Instruction supervises and coordinates the conduct of special education in the state by establishing a planned and coordinated program. The Special Education Division within OPI is assigned this responsibility. Compliance monitoring is OPI's main oversight role in the delivery of special education. Division personnel review special education student records at school district facilities to determine compliance with federal and state laws and rules. The compliance monitoring process can be divided into three general phases: 1) pre-site activities, 2) on-site activities, and 3) post-site activities.

Pre-Site Compliance Monitoring

The two main activities OPI personnel conduct in preparing for on-site compliance monitoring are scheduling the visit and selecting a sample of student records to review. OPI developed a five-year cycle for compliance monitoring of school districts. According to policy, monitoring teams are to conduct random reviews of student records to ensure compliance with IDEA.

We noted OPI personnel use different sampling procedures that serve different purposes, none of which are random. In addition, OPI staff are not clear on the minimum number of records to review. If the purpose of sampling is to ensure compliance with IDEA, the sample selected should be adequate enough to ensure it represents the special education population and minimize the risk of concluding school processes are compliant when they are not. ***OPI managers need to define the purpose of pre-site sample selection, and revise policy to ensure record samples are adequate enough to represent the entire population and the requirements of IDEA are met.***

Once a sample is selected for review, the list of student records is provided to the school district in advance. For several of the compliance monitoring reviews we

observed, teachers were provided an opportunity to get their records in order prior to OPI personnel arriving. The purpose of monitoring is to review documentation with an overall goal of improving school district processes and ensuring compliance. Providing the list of student records in advance may only get the records on the sample list in order. Thus, current procedures do not provide for a true representation of school district processes. This limits the ability of OPI to provide input and technical assistance, as well as impacting school district personnel's opportunity for gaining knowledge on correct practices. ***The sample selection process should be modified to exclude or further control the pre-selection of records. This should provide OPI more assurance student records reviewed are representative of all records and district practices.***

Follow-Up On Previous Findings

A report is prepared for each on-site monitoring review detailing the findings of the OPI review, including required corrective action and technical assistance. Pre-site activities do not include formal procedures for consideration and follow-up on previous compliance monitoring findings or evaluation of the effectiveness of technical assistance. There is no written policy or guidance directing staff to review previous findings. ***The monitoring process should include a comparison of previous findings to current findings to determine if noncompliance is continuing or trends exist.***

On-Site Compliance Monitoring

A key component of special education is determination of eligibility. In order to be eligible to receive special education services, a child must be a child with a disability. OPI staff review the student record to ensure eligibility forms are contained in the student record and proper procedures are followed. The OPI monitoring process does not consistently ensure proper determination of eligibility. While OPI monitoring specialists review student records for documentation related to disability criteria and need for special education, the process does not always ensure disability criteria were met.

While it is the responsibility of the school district to determine eligibility, according to administrative rule, all persons who can assist in identifying the disability and determine services to meet the needs of a child shall participate in the placement process. This rule, along with the mandate for OPI to ensure compliance,

establishes OPI's responsibility for ensuring proper determination of eligibility. OPI should not "second-guess" school district determinations by deeming children eligible or ineligible; rather, ***OPI should review school eligibility determinations to ensure the process and decision-making are based on sound practice and accepted procedures, and followed to conclusion.***

If a child is referred for evaluation and the school district determines the child is not a child with a disability and/or is not in need of special education and related services, an Individualized Education Program is not developed and the child does not receive services. OPI's current monitoring process does not include a review of records for children who were referred for special education services, but were determined ineligible. ***A review of these records should be an integral part of special education oversight.***

Post-Site Compliance Monitoring

After conducting on-site reviews of student records, OPI personnel compile monitoring results, make compliance decisions, and inform school districts of any required actions. A report is sent to school district administrators outlining positive aspects, required corrective actions, and suggestions for technical assistance and training.

OPI monitoring specialists use the student record review form to document their compliance review. The team leader is responsible for compiling the results of the compliance review. After compiling results, OPI staff schedule a decision-making meeting called a "debriefing." The lead monitoring specialist presents findings from compliance reviews at the division debriefing and the group provides input on whether or not the school district is in compliance. The lead monitoring specialist then prepares the monitoring report.

Methods for compiling data from student record review forms vary from staff to staff. These variations increase the potential for inconsistent decision-making and inaccurate results. Inconsistency in the process has negative impacts such as confusing school district personnel on what constitutes noncompliance.

There are also no established standards to help ensure consistent decision-making. While policy indicates a division debriefing will discuss whether or not the frequency of concerns is systemic, there is no standard on what constitutes a systemic issue. The general process involves informal discussion and recollection.

The process can be strengthened by establishing formal reference points for use in discussions of compliance, including creation of policies to allow for exceptions.

Autonomy Exists in the Monitoring Process

During our audit, we noted OPI personnel operate autonomously and supervision is limited. In addition, policies and procedures to guide OPI personnel during the monitoring process are limited. As a result, variations occur in procedures used by monitoring staff.

More guidance, in the form of supervision, will help improve consistency. Various recommendations in this report address specific development of policy. However, establishing policies and procedures is only one step of the process. There must be oversight of ongoing activities to ensure policies are being followed.

Special Education Documentation

Documentation is an important part of the monitoring process, both documentation maintained in student records, as well as documentation maintained by OPI. Student records contain referrals, assessments, evaluation plans, child study team reports, and individualized education programs. OPI has forms available for use by school districts, as well as forms to document compliance monitoring. We noted three areas where we believe changes will help strengthen the program.

Standardization of Forms - There is no consistency statewide in documentation. Variations exist from school to school. ***Mandating a standard set of special education forms statewide is a logical next step to creating better and consistent documentation.***

Student Record Review Form - OPI personnel created a form to document the compliance review of student records called the student record review form. However, the form does not provide clear direction on proper completion resulting in inconsistent documentation and subsequent decision-making. ***OPI personnel need better guidance for completing the student record review form.***

Review of Existing Evaluation Data - According to federal law, whenever school personnel meet to determine if a child is or continues to be a child with a disability and in need of special education, they must review any existing evaluation data. OPI personnel developed a form to document this review. However, federal and state law and rules do not require a specific form and the form has become an issue of noncompliance. ***To address the issue additional staff guidance on reviewing records should be developed and the form eliminated.***

For a complete copy of the report (05P-01A) or for further information contact the Legislative Audit Division at 406-444-3122; e-mail to lad@mt.gov or check the web site at <http://leg.mt.gov/audit>.