

Verification of Annual (July 2015) Compliance Report

District: Newark Public Schools

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In collaboration with the

New Jersey Department of Education Programs

Office of Special Education

M.A. Settlement Agreement

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Introduction

This July 2015 Annual Verification Report was prepared in accordance with the M.A. Settlement Agreement to verify the accuracy of the July 2015 Annual Compliance Report submitted by the Newark Public Schools. Verification activities were conducted in keeping with the monitoring methodology developed by the Office of Special Education Programs and approved by the Parties to the Settlement Agreement.

This Report is limited to the monitoring activities in Section I of the Settlement Agreement. Other areas of noncompliance, identified by the Special Education Compliance Officer, are contained in separate reports to the District and the NJDOE.

Since the M.A. Settlement Agreement was executed on January 27, 2012, the Special Education Compliance Officer, along with staff from the New Jersey Special Education Programs (NJOSEP) has been conducting the monitoring activities in Section I of the Agreement.

The verification activities are focused on the following monitoring priorities:

Monitoring Priority 1: NPS will achieve 95% compliance with identification meetings conducted within 20 calendar days

Monitoring Priority 2: NPS will achieve 95% compliance with IEPs implemented within 90 days at the district, network and school levels

Monitoring Priority 3: NPS shall complete and maintain an Intervention and Referral Services Team Procedure Review form, exhibit A to the settlement agreement, for any student for whom a request for intervention and referral services is made

II. Method for Conducting Evidenced-Based Verification of the Accuracy of Data

Monitoring Activities

Verification of the Newark Public School's July 2015 Annual Compliance Report was conducted beginning the week of August 24, 2015 using the previously agreed upon methodology.

Verification of the Accuracy of Data in Relation to Documentation in Case Files

- a. Using the agreed upon verification methodology formula, the Special Education Compliance Officer, and OSEP staff, attempted to verify the data submitted in the Annual Compliance Report by network, school, collaborative/preschool, and the district through onsite monitoring of original documentation including:
 - Referral Form;
 - Attendance sheet from identification meeting;
 - Written Parental Consent;
 - IEP;

- Placement Database;
 - Placement Documentation;
 - Schedules for classes and related services; and
 - Other data sources.
- b. Using the Research Randomizer at <http://www.aschool.us/random>, a sample of at least 25 % of the schools in the district (for which data was available) was selected.
- c. Using the agreed upon verification methodology, the following students were randomly selected:
1. Five students, from each school, who were evaluated within the timeframe of the Report; and
 2. Twenty-five students, from the collaborative/preschool, who were evaluated within the timeframe of the Report.
- d. The following activities were conducted:
1. Reviewed the documents listed above to verify date of receipt of referral, date of identification meeting, date of written parental consent, date of IEP implementation for the 20 day and 90 day timelines;
 2. Compared reasons for late evaluations with documentation, e-mails, and interviews to verify reasons for delay; and
 3. Pursuant to paragraph E (9) of the Settlement Agreement, determined whether an Intervention and Referral Services Team Procedure Review form had been completed for any student for whom a request for intervention and referral services was made prior to referral to Child Study Team.

III. Review of Data-20 Day Rates of Compliance and Results of Verification of Data

Monitoring Priority 1: NPS will achieve 95% compliance with identification meetings conducted within 20 calendar days at the district, network and school levels

Indicator 1: Through review of randomly selected case files from randomly selected schools in each network, the data reported in the Annual 20 Day Compliance Report matches that found in the student case file review.

Data Overview: Sixty-one (91%) of the sixty-seven Newark public schools reported data for 20 day timelines. Thirty of those schools were randomly selected for a case file review. Five case files were selected, as per the agreed upon methodology, for review at each of the selected schools. However, some schools reportedly did not receive five referrals in the time period covered in the Annual report.

Network One Schools /20 day Timeline

Twenty-five case files were identified in five Network One schools to determine agreement with dates on the 20 day Annual Compliance Report. Of the twenty-five case files, **twenty-two case files** were available for review. Of the **twenty-two case files** available for review, **twenty case file (91%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Ann Street	4	4
First Ave	5	5
H Tubman	5	5
Ivy Hill	3	2
Speedway	5	4

Network Two Schools/ 20 day Timeline

Nineteen case files were identified in five Network Two schools to determine agreement with dates on the 20 day Annual Compliance Report. Of the nineteen case files, **ten case files** were available for review. Of the **ten case files** available for review, **eight case files (80%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Arts High	3	3
Bard High	0	0
Central High	2	2
Eastside High	4	3
University High	1	0

Network Three Schools/20 day Timeline

Fifteen case files were identified in five Network Three schools to determine agreement with dates on the 20 day Annual Compliance Report. Of the fifteen case files, **nine case files** were available for review. Of the **nine case files** available for review, **eight case files (89%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Girls Acad.	2	2
JF Kennedy	3	3
MX Shabazz	1	1
Newark EC	2	2
Newark Voc	1	0

Network Four Schools/20 day Timeline

Twenty-five case files were identified in five Network Four schools to determine agreement with dates on the 20 day Annual Compliance Report. Of the twenty-five case files, **twenty case files** were available for review. Of the **twenty case files** available for review, **fourteen case files (70%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Belmont Runyon	5	4
Elliott	4	3
Mckinley	3	2
Hernandez	4	3
Ridge	4	2

Network Five Schools/20 day Timeline

Twenty-five case files were identified in five Network Five schools to determine agreement with dates on the 20 day Annual Compliance Report. Of the twenty-five case files, **nineteen case files** were available for review. Of the **nineteen case files** available for review, **twelve case files (63%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Ben Franklin	3	3
Camden	2	2
Peshine	5	3
Quitman	4	1
Thirteenth Ave	5	3

Collaborative/Preschool (700/702) 20 day Timeline

Twenty-three case files were identified in Collaborative/Preschool locations (700/702) to determine agreement with dates on the 20 day Annual Compliance Report. Of the twenty-three case files identified, **twenty-one case files** were available for review. Of the **twenty-one case files** available for review, **8 case files (38%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Collaborative/PSH	21	8

Summary/20 day Timeline

Total Case Files Requested	Total Case Files Reviewed	Total Case Files Not Reviewed	Total Case Files Agree	Total Case Files Not Agree
132	101	31	31	70

Overall Percent of Case Files Did Agree

31%

Overall Percent of Case Files Did Not Agree

69%

IV. Review of Data-90 Day Rates of Compliance and Results of Verification of Data

Monitoring Priority 2: NPS will achieve 95% compliance with IEPs implemented within 90 days at the district, network and school levels.

Indicator 2: Through review of randomly selected case files from randomly selected schools in each network the data reported in the 90 Day Annual Compliance Report matches that found in the student case files reviewed

Data Overview: Fifty-Seven (85%) of the sixty-seven Newark public schools reported data for 90 day timelines. Twenty-five of those schools were randomly selected for a case file review. The approved methodology states that five case files will be selected for review at each of the selected schools. However, some schools did not have five referrals that were warranted for an evaluation in the time period covered in the Annual Compliance Report. In those instances the maximum number of available case files was reviewed.

Network One Schools/90 day Timeline

Twenty-five case files were identified in five Network One schools to determine agreement with dates on the 90 day Annual Compliance Report. Of the twenty-five case files, **twenty-two case files** were available for review. Of the **twenty-two case files** available for review, **fifteen case files (68%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Ann Street	4	4
First Ave	5	3
H Tubman	5	3
Ivy Hill	3	2
Speedway	5	3

Network Two Schools/ 90 day Timeline

Fifteen case files were identified in five Network Two schools to determine agreement with dates on the 90 day Annual Compliance Report. Of the fifteen case files, **ten case files** were available for review. Of the **ten case files** available for review, **seven case files (70%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Arts High	3	3
Bard High	0	0
Central High	2	2
Eastside High	4	1
University High	1	1

Network Three Schools/90 day Timeline

Fifteen case files were identified in five Network Three schools to determine agreement with dates on the 90 day Annual Compliance Report. Of the fifteen case files, **nine case files** were available for review. Of the **nine case files** available for review, **eight case files (89%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Girls Acd.	2	2
JF Kennedy	3	3
MX Shabazz	1	1
Newark EC	2	1
Newark Voc	1	1

Network Four Schools/90 day Timeline

Twenty-five case files were identified in five Network Four schools to determine agreement with dates on the 90 day Annual Compliance Report. Of the twenty-five case files, **twenty case files** were available for review. Of the **twenty case files** available for review, **eighteen case files (90%)** did not match dates provided in the Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Belmont Runyon	5	5
Elliott	4	4
Mckinley	3	2
Hernandez	4	3
Ridge	4	4

Network Five Schools/ 90 day Timeline

Twenty-five case files were identified in five Network Five schools to determine agreement with dates on the 90 day Annual Compliance Report. Of the twenty-five case files, **nineteen case files** were available for review. Of the **nineteen files** available for review, **eighteen case files (95%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Ben Franklin	3	3
Camden	2	1
Peshine	5	5
Quitman	4	4
Thirteenth Ave	5	5

Collaborative/Preschool-Locations 702 90 day Timeline

Twenty-three case files were identified in Collaborative/Preschool locations (700/702) to determine agreement with dates on the 90 day Annual Compliance Report. Of the **twenty-three** case files, **twenty-one case files** were available for review. Of the **twenty-one case files** available for review, **18 case files (86%)** did not match dates provided in the Annual Compliance Report.

School	No. of Case Files Reviewed	No. of Case Files Not Agree
Collaborative/PSH	21	18

Summary 90 day Timeline

Total Case Files Requested	Total Case Files Reviewed	Total Case Files Not Reviewed	Total Case Files Agree	Total Case Files Not Agree
132	101	31	17	84

Overall Percent of Case Files Did Agree

17%

Overall Percent of Case Files Did Not Agree

83%

V. Intervention and Referral Services Team Procedure Review

Monitoring Priority 3: NPS shall complete and maintain an Intervention and Referral Services Team Procedure Review form, exhibit A to the M.A. Settlement Agreement, for any student for whom a request for intervention and referral services is made

Intervention and Referral Services Review

The Intervention and Referral Services (I&RS) review form was not available for review during the verification visit. The file review conducted as part of the verification activities was not conducted in school buildings. For this review, the selected files were brought to a central location for the review. NPS staff reported that the I&RS review form is maintained in the guidance folders and not in the child study team folders. Priscilla Petrosky will review the I&RS review forms for the selected files to verify their use. An addendum to this report will be issued once this verification activity has occurred.

VI. General Observations of Verification Activities

20 Day Annual Data

The validity of the rate of 20 day compliance reported in the July 2015 Annual Compliance Report may be compromised because of the following observations.

- Approximately 29% of the case files lacked a referral document with a date of receipt needed to establish whether Identification Meeting was held within 20 days, resulting in an inability to determine the timeline from receipt of written referral to Identification Meeting.
- Referral and Identification Meeting dates not found in the 20 Day Annual Compliance Report are not counted when establishing the rate of compliance with the mandated 20 day timeline.
- Approximately 36% of the case files reviewed have no referral or Identification Meeting dates identified on the 20 day Annual report.
- Case files did not typically contain evidence of documentation that 15 day parental notice had been provided to parents or that waivers for shorter time frames were agreed to by parents prior to the Identification Meeting.
- Identification Meetings which reportedly occurred on the same day that the referral was received, not only puts the ability to issue parental notice in question but the ability of the Child Study Team to collect sufficient data on which to base a decision regarding evaluation as well.

90 Day Annual Data

The validity of the rate of 90 day compliance reported in the July 2015 Annual Compliance Report may be compromised because of the following observations.

- Documentation was not found in the case files that would support or explain the use of an “allowable” reason for delaying the 90 day timeline.
- Approximately **65 cases** (64%) of the **101** case files reviewed used an “allowable” and were not factored into the rate of compliance for the 90 day timeline due to the use of an allowable; factoring just these 65 case files in establishing the rate of compliance would have lowered the 90 day rate of compliance from 48% to 44%
- Documentation needed to support IEP implementation continues to be missing in case files

Undated letters with uniformly handwritten dates of IEP implementation were found in case files which had been collected by the district following notification of which case files would be reviewed in the verification process. The credibility of these undated letters is questioned because:

- Some case files had letters signed by the case manager with dates of implementation that differed from the implementation date on the undated letter;

- Some case files had notations entered by the case manager in the “Summary of Contacts” which contradicted the date of Implementation on the undated letter;
- There was no evidence in the case file indicating that the undated letter had ever been sent to the parent;
- The starting date of transportation for the student to arrive to his new placement in some situations contradicted the undated letter; and
- Only case files that contained the undated letters with handwritten dates of implementation were those which the district had collected and brought to a central location while those which were reviewed in the schools (on site) did not contain the undated letters.

The undated letters, with handwritten dates of IEP implementation, were taken at face value for the purposes of this Verification Report. Were they not to have been included, 100% of the case files would have lacked agreement with the 90 day Annual Compliance Report.

Intervention and Referral Services Procedure Review Form

Of the 101 case files reviewed, only **8 referrals came from the I&RS teams**. Note: As stated above, NPS indicated that these forms are kept in the guidance office but will be transferred to CST files this fall. A subsequent review of the forms will be conducted by PHP.

Referrals submitted through the intervention and referral services process continue to diminish while parent referrals have increased significantly.

In many cases, Child Study Teams redirected parent referrals to the School Based Support Team (previously known as the Intervention and Referral Services Team) for intervention services only to find that, months later, the child was again referred to the Child Study Team for an evaluation.

Closing Statement

The lack of original referral documents in case files, lack of documentation of date of receipt of referral documents, lack of alignment between dates on documents found in case files and the Annual Compliance Report, lack of documentation to support “allowable” reasons for delay in meeting the timelines and lack of documentation to support IEP Implementation raises questions as to the legitimacy of dates on the 20 day and 90 day Annual Compliance Report.

The District’s efforts to implement the Easy IEP data management system will require continuous training beyond learning how to navigate the software. District personnel need clear guidance regarding procedures that drive compliance and the documentation that supports intervention, referral, evaluation, placement and implementation of IEP mandated services. The District needs adequate provision of personnel to provide such services including Child Study Team, in-class support and special services so that IEPs and their implementation are, in fact, both conceivable and possible.

VIII. OSEP Directive

The Newark Public Schools is required to implement the Corrective Action Plan which includes the hiring and maintaining of a compliance manager to oversee implementation of settlement activities. The NPS Executive Director must ensure that the compliance manager conducts weekly review of paper files in a sample of schools and of ENCORE and EasyIEP records to verify accuracy of data. The compliance manager will visit a minimum of two schools per week to review a sample of active cases and compare documentation in student files to information recorded in Encore/EasyIEP. If there is a discrepancy, the compliance manager will work with the case manager of the student to resolve the discrepancy and correct the record. A tracking log of this review will be maintained to include the school, student's initials, date of birth and notes indicating that there were no discrepancies or the nature of the discrepancies and how they were resolved. This tracking log will be submitted to OSEP through fax or email every two weeks. OSEP will review the data and assign PHP to follow up when needed.

Forms and letters must be reviewed to ensure that they are dated, signed and complete. Child study team members will be required to maintain files in accordance with the district's procedures. The NPS must inform principals of the requirements for file maintenance.

A **file access log** must be maintained in each pupil record noting any actions completed and each entry must be initialed by CST member or other any other staff member permitted to access the file. The file log should include notes regarding all parent contact, including phone calls for the purpose of rescheduling meetings, following the provision of written invitation, to ensure that documentation of "allowable" reasons for delay is accurate. The compliance manager will review the access logs regularly to ensure consistency with file documents.

PHP will provide OSEP with the documentation used to generate this report and collaborate with OSEP and NPS to identify patterns of errors in dates and identify those schools with more significant accuracy issues. PHP will confer with the compliance manager to guide his weekly review of school files.

NPS, PHP and OSEP will expand their monthly meetings to review activities, including the activities of the compliance manager, data and barriers to compliance as well as identify solutions to the barriers.

In accordance with the CAP, NPS must maintain sufficient child study team staff and provide ongoing technical assistance to ensure accurate maintenance of records, in addition to timely evaluations and provision of services to students.

NPS has indicated that I&RS forms will be moved from the Guidance Files to the child study team files. The compliance manager will include review of files to verify this move as appropriate and PHP will conduct a review of a sample of records to verify.

In order to further determine the root cause of inaccuracies in the tracking of evaluation timelines and determine how errors in timeline data impact the overall 90 day timeline rates, NJDOE will conduct a second review of all files referenced in the Verification Report. This will occur prior to January 31, 2016. NJDOE will meet with NPS and PHP to review the findings and identify oversight and professional development needs.

As NPS moves to more electronic storage of records, PHP and OSEP will work with the district to ensure that electronic files are part of the review. NPS must work with the vendor, however, to put in place business rules that prevent changes to dates and documents after an event has occurred or notice has been provided. During this transition period, due to NPS's continued inability to demonstrate that accurate files are maintained, paper files must include all required documents to demonstrate compliance with 20 and 90 day timeline requirements.