State File Review Meeting

* Gary Sherman
  + Time for our office to attempt to address issues regarding assessment, instruction, and student achievement
  + We have a lot going on in regards to testing children with disabilities
  + Seems like in order to address issues, we need to make adjustments within the sped NDE office – Carla will be working on that in order to put more emphasis on student achievement
  + Jill Weatherly will take on an additional ESU, working with ESU 11.
  + LB 1087 – Pete & Nancy Lorenz
  + Want to reduce the gap between students with disabilities and other students
  + Will take a look at what we are currently doing with the skip grants
    - May change the name and purpose of them
  + This push will not replace the monitoring visits
* Ground rules for the day – Beth Wierda and Jeanne Heaston
  + Don’t take things personally, it’s about getting to where we need to be, not defending where we are
  + We are in this together. We need to find solutions that meet everyone’s needs – we want to hear about various possibilities
  + We may not be able to answer all questions today, but we will get back to you with the answer
  + Don’t worry, our goal is compliance – we don’t expect everyone to be at 100%
* ILCD and Monitoring: Meeting the Needs of IDEA
  + Monitoring vs ILCD
    - Fed regulations require states to conduct activities designed to:
      * Improve educational results and functional outcomes for all children with disabilities
      * Ensure that districts meet the requirements of IDEA
      * Monitoring – dot your I’s and cross your t’s (compliance).
      * ILCD – about quality
  + ILCD
    - Self-assessment
    - District directed
    - Draws on various data sources
    - NDE supports the process through ILCD facilitators and NDE regional representatives
  + Monitoring
    - NDE must monitor districts for compliance with state and federal requirements
      * Cannot vary the 5 years
    - Can look at various sources for non-compliance
      * Complaints
    - Focused monitoring process
      * Results of ILCD
      * Policy and procedures review
      * Forms review
      * Due process/compliant reports
      * Data review
      * Pre-selected regulations/standards
    - File review
      * Prefer to conduct a review that involves teachers, administrators, etc.
      * Learning experience
      * Must make sure everyone is looking at same standards and data
      * Currently have found some variance in that, so we want to make sure we are all on the same page
    - On-site visit
      * NDE staff are responsible for conducting the file review
      * Whenever possible will have 2 NDE staff there
        + An insurance process for everyone – to ensure that there is consistency
      * Will review a sample of files prior to the visit – desk audit
        + This will give us a good idea of how your IEP’s are put together and how the files are arranged
      * The electronic version has helped quickly look through the data
      * For conducting this process NDE is responsible
      * File review – final decision is with NDE – if there is disagreement
      * File review needs to be done within 2 weeks or sooner if possible
      * Districts will receive notification regarding the compliance status of the district electronically
      * You are in compliance until you are notified you are out of compliance, and you are out of compliance until you are told that you are in compliance
    - Monitoring Steps
      * Step 1
        + NDE Regional Consultant will meet with the school district to develop the plan and the timeline for completing the monitoring process

Schedule time for the desk audit

Schedule the on-site review

Other activities as determined necessary

* + - * Step 2
        + NDE will conduct a desk audit

Forms

Policies and procedures

February – will discuss

Need to have for our district

How they look will be the district decision

If too scanty – we will review to see if they can make sure that everyone knows how to implement them

Selected student files

If we see forms not completed properly

If not typically we see, we will see if they are appropriate

Complaints and due process hearings

Whether or not we have had and the outcomes

* + - * Step 3
        + On-site file review (conducted at the district unless there is a reason to conduct at ESU)

NDE will lead the review

Results will be recorded using the districts’ secure ILCD website

The review must be finalized as soon as possible

Expecting to make some changes to part B – will go to version 4 but for now will be on version 3

* + - * Step 4
        + Corrective action plan
        + Will submit action plan on-line
        + NDE will approve
      * Step 5
        + District must submit documentation that the corrective action plan is completed

All individual files have been corrected

District is now fully implementing the requirements of the regulations

Will complete a checklist that will be issued after completion of the activities and back into compliance of the monitoring year

* + - REVIEW PINK SHEET – LETTER FROM FEDS REGARDING NON-COMPLAINCE
      * Need to look to see if the compliance is corrected for individual student file
        + Correcting file if can
        + Whatever missed has been completed
      * Look at additional files to ensure that all of them are back in compliance
      * Don’t want repeat or continually have non-compliance – will look at files from the recent timeframe
    - Systemic – 80% or less is in compliance
    - If single file, corrective action will be less than if systemic
    - District gets to choose the files for the desk audit, but they must be representative. We will ask to see the whole file.

**Part B Frequently Asked Questions During File Reviews Power Point:**

* Student Assistance Teams
  + Looking for documentation that all viable general education options have been tried prior to referral for sped evaluation
  + There is no specific format for the documentation, but results must be documented
  + Common questions
    - How long – no set time line
    - If the child has an obvious disability, must the SAT meet
      * Yes, but it might be shorter
    - If child is receiving sped and moves in do you have to do SAT
      * No
    - Is a SAT required to meet for a child that no longer qualifies
      * Yes
    - Won’t go back more than 4 years
    - You won’t be held out of compliance if you don’t have the paperwork if the child has moved into your district
  + Prior written notice
    - District responsibility
    - Is required whenever the district proposes or refuses to initiate or change the identification evaluation, educational placement or provision of FAPE
    - Intended to fully inform parent regarding the proposed activity
    - Best advice – when in doubt, provide the prior written notice
    - 009.005
    - Questions
      * What is a reasonable time
        + 10 days or other issues
      * If no other factors can we put NA on that section – yes
      * Written notice must be provided in the native language – cannot be translated by an interpreter (It may have to be translated is the native language is not a written language, or it is unreasonable to get it translated into a particular dialect)
      * Does graduation constitute a change of placement requiring prior written notice – yes
      * Can prior written notice be given the same time parental consent is sought - yes
  + Informed Consent
    - The purpose of consent is to ensure that the parent has been fully informed (in writing) OF ALL RELEVANT INFOMRATION REGARDING THE ACTIVITY FOR WHICH CONSENT IS SOUGHT AND
    - THE PARENT CONSENTS IN WRITING TO THE CARRYING OUT OF THE ACTIVITY
    - CONSENT MAY BE REVOKED BY THE PARENT AT ANY TIME
    - Questions
      * Sometimes we see agree and consent – agree is not consent, they are not the same thing. Parent can agree to a particular service being provided in the IEP, but they MUST CONSENT (in writing) to the provision of special education and related services. (Consent to INITIAL PLACEMENT in Special Education).
        + Consent triggers all of the above
      * What happens if the parent revokes services at a later time?
        + Services are cancelled going forward, but you cannot cancel what has already been provided prior to the revocation of services.
      * What if the parent refuses to consent – do you have to do the IEP – NO
      * Looking for a signed consent for reevaluation or documentation that the school district made reasonable efforts to obtain consent and the child’s parent failed to respond
  + MDT
    - Purpose is to determine eligibility and determine student’s needs
    - There are no requirements for team members except parents – except SLD
    - Verification criteria has moved from Rule 51 to the Verification Guidelines TA Document.
    - **AN MDT MEETING is NOT required**
    - What about secondary disabilities – not a requirement – but can be documented.
    - The MDT must include a section on educational needs
    - What is the timeline for sending the report to the parent – no more than 45 days (calendar) from completion of the evaluation (FERPA requirement)
    - Parent (as a team member) signs the MDT report to indicate their agreement or disagreement with the MDT’s conclusions:
      * Can disagree – but need to add a report regarding their disagreement
      * They are a member of the team, they are part of the decision making process
      * If they disagree, the district can say they feel the child verifies
      * If not get signature returned, document attempts
    - An MDT meeting is NOT required
    - Whatever you do for staff you must do for parents
    - Timeline starts on the date the consent for initial evaluation (signed by the parent(s)) is received by the district, district must document when it received the sign consent from the parent.
    - The evaluations need to be completed within the 45 school days timeline.
    - Does the MDT report need to be written within the 45 school days timeline????
    - Why are SLD requirements different – because it is in federal law
    - How is SLD different
      * Behavior observations as relate to the disability
      * Need to rule out
        + Vision
        + Hearing
        + Cultural
        + Environmental
      * Below age in grade level standards
      * Opportunity to participate in research program
      * Medical findings
    - What about RTI
      * 2 districts in NE that have submitted plan
    - Screening is not part of an MDT
      * Does not take place as part of the evaluation
      * Can use the screening info as part of the decision making
  + Re-evaluations
    - Must be conducted when a district determines there is a need or if requested by teacher or parent
    - Must occur every 3 years
    - May not occur more than once in a year
    - Review of existing data
      * Must review existing data to determine if additional data are necessary
      * If no additional data are necessary, must notify the parents of their right to request additional assessment
      * Parent has right to request
    - Questions
      * If due for 3 year reevaluation for a child exiting, should they be reevaluated – yes – can review existing data and determine that no additional evaluation is necessary
      * What type of notification must be provided to the parent that no additional data are required
        + Determination that no additional information was needed, and WHY;
        + Even if parent is part of the process
      * Is a meeting required to review existing data
        + No
      * Is a MDT form required if determine no additional info needed - No
      * Can we send prior written notice if child is graduating and IEP team determines no further evaluation is needed? No consent for review of existing data is required – just notice for evaluations.
  + Parent Participation Notification of IEP Meeting
    - Notification of the IEP meeting is necessary to ensure that the parent has an opportunity to attend and participate in the IEP conference
    - If neither parent can attend, the district must use alternate methods to ensure parent participation
    - A meeting can be held without the parent if the school is unable to convince them they should attend
    - Notification is just telling parent the meeting is going to occur
      * No set time frame
      * Need to ensure that it is proper
      * Needs to be agreed upon time and place
        + Offer numerous/various times
      * Need to include who will attend
    - If neither parent can attend
      * Sent certified
      * Made attempt
      * No number of times required – but 2-3 good
      * How long prior to the meeting should they be notified?
        + Reasonable amount of time, district determines guidelines
      * What if someone can’t attend?
        + Can ask
        + Can put positions down

Best to put names down – but understand may have positions

* + - * + Where you run into problems is at the secondary level

This occurs with the curricular area

* + IEP Participation
    - The regulations specify a list of IEP team members and their qualifications
    - The district must document who is filling which role on the IEP
    - Questions
      * What if notice doesn’t match the persons listed on the notice
        + Can reschedule
        + Can ask if can hold anyway
        + Can have notice adjusted and sign off
      * What if divorced and both want to participate
        + Okay
      * Is it enough to document Part C person was invited – Yes
      * If more than one person fits the definition of “parent” which person would be selected to be the parent for the IEP meeting – **biological trumps all others**
      * For the purpose of special education – the age of majority is 21
      * May a parent exclude a member if they don’t want them there – No
      * Can attorneys participate in the IEP meeting – Yes
  + IEP Attendance – Excusals
    - Should not routinely or unilaterally excuse
      * Difference between agreement and consent
        + Consent – parent must be informed – must be in writing
    - If area is not being discussed or modified – does not have to be there but parent and district must agree (in writing);
    - If area is being discussed or modified – must submit report (in writing) prior to the meeting and the parent(s) and district consents (in writing) to the excusal, if this does not happen meeting will need to be rescheduled.
    - How long for notice – no set time limits, should be reasonable
    - What should be included in the agreement – no required content
    - What if parent initially excuses and then wants them to participate – reconvene
    - Most mistakes occur here
      * 1. Required people
      * 2. If on notice and not in attendance – must have prior written notice
      * 3. Have 2 general education teachers listed, but only one shows up
        + will look to see if you have talked to the parent (and documented) – then okay
        + if not – out of compliance
        + invitation should match attendance list
    - Do you have to have a general education teacher there if age 3-5 if attending preschool – yes
      * If not attending a preschool – then yes, still need to have a teacher – if dual endorsed, can fulfill both roles
    - If not participating in general education and do not expect the child to attend, then you do not need to have a general education teacher present
    - Need to check: If the student is 20 and left school and is in a community college and graduated, can the parent have access to records or does the child need to get them
  + IEP Development
    - PLAAFP
      * Involvement in and progress in gen ed curriculum
      * How affects child in appropriate activities for Pre-K
      * May include strengths of the child and concerns of parents
      * May include information for transition planning
      * How much info is needed
        + May include evaluations
        + Should support annual goals developed for the child
    - Measurable annual goals
      * Must be measureable
      * Includes academic and functional goals
      * Meets each of the educational needs
      * Involved in and make progress in the gen ed curriculum
      * Common questions
        + Are goals built from the info in the present levels – yes
        + If the goal is not measurable and the short term objectives are, is that okay?

Yes – only if strong reference in goals

If neither one has measurement – NO

* + - * + Can goals be longer than one year?

Yes, but you still need to review within the next year

* + - * + Should ESY services be included in the annual goals?

Will be pinpointed in the ESY section – may or may not be included there

* + - Benchmarks & short term objectives
      * Goal page of the IEP
      * Children who take alternative assessments must have them, but others may or may not have them
    - Progress in Achieving goals – how measured and when reported
      * Goal page of the IEP
      * Measurement of progress on goals is needed to ensure that the goals are met by the end of the year
      * Description of how child’s progress will be measured
      * Description of when
      * Can there be more than one method for measuring
        + Only if \_\_\_\_ and \_\_\_\_ NOT \_\_\_\_ or \_\_\_\_
      * What needs to be measured and reported – progress
      * Need to be very clear on what we are sending to parents
      * You can have different methods and timeline for each goals
      * Should progress reports be attached to the IEP? They need to be in the file. They should be available for review. You do not need to have them printed and in the file. You just need to be able to produce them.
    - Services
      * Enable child to advance appropriately toward attaining goals
      * Questions
        + What does the start date for services indicated – when you will start the services – can be different dates
        + What does “follows the school calendar” mean – indicates not over breaks, snow days, etc.
        + Where is the statement of nonparticipation with nondisabled peers -
        + What should be reflected in the Locations column on the services page –
    - Assessment
      * Special considerations page of IEP
      * All students must be assessed
      * Must state if and why taking alternative assessment
        + Team must make the determination of whether or not taking alternate
        + What should be included in the why statement and where can it be found - at <http://www.education.ne.gov/sped/assessment.html>
        + Make sure you follow the guidelines
        + Stressed by federal level
        + No longer sufficient to state – because child is below grade level, parent doesn’t want, child becomes frustrated – should be reflective of what is in the guidelines – go back to the guideline and give that information and the supporting information for that particular student
    - Secondary Transition
      * Looking for documentation that it is not later than when the IEP in effect child turns 16 or earlier if determined appropriate by team
      * Questions
        + If child turns 16 in the current IEP year - need to add transition
        + Are there required age appropriate assessments that must be used while developing measurable postsecondary goals – need to have appropriate assessments, but not required to use specific ones
        + Make sure you document – doing them well, but not documenting as well as we should
        + If you determine to start it younger than 16, you must include all components!
    - Special Considerations
      * Documentation IEP includes strengths
      * Initial evaluation or most recent ones in IEP
      * For accountability with each of the special considerations, what type of information should be recorded in each of the items reviewed and considered
        + “this child is not visually impaired, so it is not necessary” – cannot just say N/A
    - Procedural Timelines
      * 45 school days starts when we receive consent back
      * What are the 30 days for the IEP development – calendar
* File Review
  + Can we look at paper and electronic for a file review – Yes. We just need to see that it is finalized. We do not have to have a printed finalized document in the file.
  + If student last name does not match parent last name, then we may be asked how that person fulfills the role.
  + If using other folks to fulfill the role of district rep, make sure you can explain how they can meet the qualifications.
  + Only need to have consent of a service agency attendance if the child is of transition age and they may be providing services at a later date.
  + If you have someone who can take over a role for someone else (due to some absence), then need to mark on the notice – that would be okay.
  + For transition age students, we should highlight the student should be in attendance.
  + If reviewing MDT and holding IEP at the same time, need to have both documented on the notice.
  + Be aware of wanting to attend versus doesn’t want to participate – document what you have tried on the participation. Make sure you do different things when you try to contact parents for attendance.
  + For each IEP meeting – you put together who you want to participate. If parents have invited someone the previous year, you are not required to invite them again next year.
  + On progress report section on the goals – cannot use the word “or” it will make it out of compliance. Can state multiple ways we will report to parents, but must use the word “and”.
  + Need to have an explanation as to why the child is outside the general education classroom – cannot just have the percentages. Need to have the statement of explanation! Could be found in the present levels depending on how well you have explained it there. You just need to be very clear on where the information is located.
  + On the assessment section, you cannot give an out of level assessment. The accommodations should be approved accommodations. They need to match those in the accommodations section of the IEP as well.
  + Don’t use N/A’s in the sections for special considerations.
  + Prior written notice is prior written notice no matter what. Don’t worry about what notice you use for what. It is particularly true no matter what. Remember that when a parent removes a child from special education and related services, it is not what the district is proposing it is what the parent is requiring. The district should use a prior written notice when a parent revokes consent.
  + Use a prior written notice when you are **proposing to do something or refusing to do something.**
  + Prior written notice is your opportunity to make your case. They are looking at reasons as to why you are refusing. The more you can build in there to make your case the better. You want to make sure you include all the things you considered in the process.
  + Put in a statement that has an effective date in the IEP for a date it starts and ends. The effective dates of the IEP are from \_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_.
  + What date does the IEP need to be finalized? Needs to be finalized before services can begin. The document should be finalized and sent to the parent. The parent needs to be given a copy of the IEP that is finalized. Timelines will be based on when it was finalized.
  + Can make amendments without an IEP meeting and send to parent that it is agreed upon.
  + Need to give parents a copy of what we have at the IEP meeting.
  + Is there a requirement that the actual IEP document or MDT document in their native language? The overall general rule is that the parents need to participate. You can have an interpreter there. There are some documents that specifically state that it needs to be in writing in their native language. Does not have to have in all documents.
  + Graduation – prior written notice and change of placement form needs to be completed
  + You cannot start services until the IEP is finalized – no matter what. Your services are based upon the provisions in the IEP and you do not have an IEP until it is finalized.

**Part C Frequently Asked Questions During File Reviews Power Point:**

* + Forms are on the early development network website
  + School district log is not required but is a new form you can use
  + Part C is a year round program, so it applies to summer and school breaks
  + Remember timelines are 45 calendar days
  + What would be an IFSP log
    - Referral date
    - Date and reason for delay in procedural timelines
  + What situations are delays allowed – family driven – make sure you document when you will be able to talk to them again – staffing issues are not in compliance – weather is not a reason to be late
  + Where does the log need to be located?
    - This should be in the district’s file!!
    - The district needs to have their own file with IFSP, MDT, Notices, log
    - District must keep the documentation! – case manager should be the one to monitor this information.
  + MDT Report
    - Do not put age appropriate – needs to be a description in the narrative form where the child is performing
    - Consider medical and court records when looking at documentation for DD
    - Family input – if a child is in a foster home and they haven’t been there long, you should try to get info from both the foster parents and the biological parents
    - Copies of the MDT should go to the team members, family and anyone the family would like to have there
    - The services coordinator is not a required member of the MDT by law. They do not sign as agreeing or disagreeing with the conclusion of the MDT. They may have information about resources that are available for the families
    - NO MDT MEETING IS REQUIRED.
  + IFSP
    - Dated documentation of family’s concerns, priorities, and resources
    - Child’s strengths and abilities
    - Measurable IFSP outcomes
    - Services
    - Team Signatures
    - Transition Plan
    - Informed parental consent
    - What is the services coordinators role in the process
      * What the parent wants to disclose
      * Services coordinator may have additional information in their file, but they don’t have to disclose
      * If the parent declines services coordination
        + The district must assign someone as that role from the district
    - Info may be obtained by Initial visit by SC, evaluation process and IFSP meeting
    - The IFSP must contain present levels in all developmental domains including vision and hearing. This cannot be just scores, needs to be narrative information.
    - Measureable outcomes are based on family concerns and priorities. Evaluation, observation and other pertinent information should also be considered
    - Goals should be priorities of parents.
    - Pre-literacy and language are in the law as requirements
    - Service page
      * Interagency document, so may have additional services other than what the district is providing – this is fine. Does not mean the school district is responsible for the provision or funding of the services
      * Is preschool a service – no it is a setting!! You just put down the services for the setting
      * Is co-visit a service – no it is a delivery style. Who is providing the service?
      * If there is going to be a service provided that is not in the natural environment, then you have to explain why and to what extent
    - Due dates – can be extended for family reasons. You can make it an annual earlier if you would like.
    - IFSPs – must be at a time and place convenient to the family – not the staff
    - IFSP must be sent to the family within 7 days
    - Interpreter at the meeting if native language is different
    - Can have the interpreter go over the document once it is written with the family
    - Periodic review – who must attend – family and service coordinators are the only people required to attend – according to Rule 51
    - If you are increasing or decreasing services, then you should have additional people – providers, etc. there
    - Must an Early Childhood sped teacher be a part of the IFSP
      * No, unless they are providing services
    - Transition must begin at least 90 days prior to the child’s 3rd birthday. You must document it. Even if the child is going to stay until August 31st of their 3rd birthday.
    - How do you document informed consent for the families to stay in Part C instead of moving to Part B – in the notice, indicate that you are holding an IFSP and a transition planning.
    - If in a pre-k program, you will not put in preschool, you will put in the actual services the child is being provided
    - Need to be careful with the narrative. Can be released with a signed release. It may contain HIPPA information which the family must consent for the release.
    - On the notice of evaluation, you need to indicate that you are going to use the data from the screening if that is what you have decided to do.
      * You should have an “x” in every one of the boxes, unless you have explained those assessments in the box #4 on the notice and consent
      * You must evaluate in all developmental domains – you can use a screener for some of them, but then you will add what you need for additional assessments.
    - When you write these reports (MDTs), make sure you clearly define the sections, so it is easily reviewed by anyone
    - Don’t put co-visit – need to identify a service
    - Services should match goals. Need to have a goal to match the service.