

REPORT OF FINDINGS
OFFICE OF SPECIAL EDUCATION AND EARLY LEARNING
MANAGEMENT AUDIT REPORT
MENIFEE COUNTY SCHOOL DISTRICT

INTRODUCTION AND PURPOSE OF THE REVIEW:

In September 2018, a special education management audit was conducted in Menifee County. The audit was initiated due to the three-year review timeline for districts under state management.

The former Division of Learning Services (DLS) was added to the KDE audit team because of its expertise with positive behavior supports, discipline strategies and requirements for students with IEPs.

A review of district-level data prior to the onsite visit did not show concerns in any particular eligibility category. The purpose of this visit was to review the district's implementation of the Individuals with Disabilities Education Act (IDEA).

After the visit, the DLS was reorganized into the Office of Special Education and Early Learning (OSEEL).

EVIDENCE CONSIDERED:

OSEEL staff conducted on-site visits to the Menifee County central office. The following investigative activities were conducted:

- Formal interviews with Menifee County Staff consisting of:
 - school employees
 - the director of special education
- a review of the following data conducted prior to the visit:
 - district special education policies and procedures
 - 2016-17 and 2017-18 district calendars (including days missed and days in session)
 - 2017-18 IDEA Child Count Data
 - 2017-18 discipline data for students with disabilities, including in-school and out-of school removals
 - 2017-18 IDEA finance data
 - 2017-18 alternate assessment data
- randomly chosen due process file record reviews for 20 individual students with IEPs

EXECUTIVE SUMMARY:

Based on an analysis of data, the OSEEL has substantiated systemic findings of noncompliance under the IDEA. The data included a review of all requested information, a study of trends in the school district's specific categories of student discipline, including out-of-school removals and the evaluation and identification of students with disabilities.

Just as the KDE has general supervision responsibility under the IDEA to ensure all school districts within the state comply with the IDEA, so does Menifee County have the responsibility to require its schools to fulfill the requirements of the IDEA. The special education administrator was found by the OSEEL to be supportive of the compliance requirements for students with disabilities. While systemic errors were found, the errors were procedural in nature and did not impact the provision of services to students with disabilities.

Some areas of strength identified during the onsite visit included:

- Related service provider data usage, particularly occupational and physical therapists, was consistent and clear. Reports aligned to the data included in student due process files.
- Organization of student due process files facilitated compliance and allowed access to historical documents if needed.
- Specially designed instruction and supplemental aids and services were individualized
- Evidence of systemic efforts to fade accommodations for statewide testing was found

Opportunities for growth identified during the onsite visit included:

- Some adverse effect statements contain the word “may” or “likely” which are inconclusive statements and do not support evidence of an adverse effect.
- Progress monitoring was not readily available within student due process files, but was available later upon request.
- Documentation of ARC discussion on placement was not clearly written and lacked individualization.
- Co-teaching was identified as a special education delivery model in many student due process files. However, staff were not able to demonstrate an understanding of the co-teaching model.

However, because OSEEL discovered procedural IDEA violations, an IDEA Corrective Action Plan (CAP) is required pursuant to 707 KAR 1:380, Section 1. The district and the OSEEL will work together to develop a CAP to set out activities that address the root causes of the noncompliance at the systems level.

FINDINGS OF FACT

ISSUES	CITATIONS
<u>Issue #1:</u> Individual Education Program (IEP)	707 KAR 1:320, Section 1 (1) 707 KAR 1:320, Section 5 (2) (a) 707 KAR 1:320, Section 5 (7) (a) 707 KAR 1:320, Section 5 (9)

FINDINGS ISSUE #1: *Individual Education Program (IEP)*

1. Tables outlining all student- specific findings from the Compliance Record Review Document are included in Appendix A at the end of this report.
2. Overall, compliance with special education requirements was noted to be a strength in the district.
3. However, due process file reviews revealed the following systemic noncompliance:
 - a. Present levels of academic and functional performance (hereafter referred to as present levels) document an adverse effect in the area of social-emotional. However, consideration of special factors does not indicate behavior impedes learning for multiple students.
 - b. Adverse effect statements regarding how the student’s disability affects involvement and progress in the general curriculum are inconclusive statements. Many statements include “may adversely effect” or “will likely effect” and do not consistently demonstrate evidence of the adverse effect on performance in the general education curriculum.
 - c. Present levels lacked clear data related to areas of concern and the strengths of the student.
 - d. ARC decisions regarding least restrictive environment were sometimes unclear or not documented.

CONCLUSIONS (ISSUE #1): *Individual Education Program (IEP)*

- A. While the district demonstrated understanding of most special education requirements, four systemic noncompliant practices were noted.
- B. Of the noncompliance noted, three of the four were related to present levels.
- C. The district fails to sufficiently document present levels, particularly in the areas of social-emotional performance and adverse effect.
- D. The district fails to align present levels with the remainder of the IEP, particularly in the area of behavior.

E. The district failed to properly document decisions related to least restrictive environment.

CORRECTIVE ACTION PLAN (CAP):

Deficiencies specified in this report shall be the basis for the district and the KDE to jointly develop a corrective action plan for review and approval by the KDE pursuant to 707 KAR 1:380, Section 1. Prior to the development of the CAP, the district shall have the opportunity to submit additional information to verify or clarify issues related to this report. Each CAP shall be monitored and enforced by the KDE.

A CAP shall be submitted to the KDE no later than thirty business days after the district receives the report of noncompliance. The CAP shall include:

- a) A statement of the matter to be corrected; and
- b) The steps the district shall take to correct the problem and document compliance.

Within thirty business days of receiving the CAP, the KDE shall notify the district of the status of the CAP. If the KDE rejects the CAP, the district shall have fifteen business days to submit a new CAP.

A CAP approved by the KDE shall be monitored and shall be an official document requiring the district to meet the specified activities set forth therein. The KDE shall not initiate further sanctions for non-compliance addressed in the CAP during the time period specified in the CAP unless requested by the district.

Any noncompliance verified by monitoring shall be corrected as soon as possible, but in no case longer than within twelve months from the date of the initial notification to the district of the noncompliance.

APPENDIX A

STUDENT #1		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels of academic and functional performance (hereafter referred to as present levels) in the area of social-emotional indicates adverse effect related to staying focused and completing tasks. An annual goal was developed to address following directions. This is inconsistent with the present levels.	Convene an ARC to determine if the student’s behavior impedes learning. The present levels and annual goals must be in alignment.
STUDENT #2		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels in the area of social-emotional documents adverse effect. An annual goal was developed to address on-task behavior. Behavior was determined not a concern in special factors. This is inconsistent with the present levels.	Convene an ARC to determine if the student’s behavior impedes learning. The present levels and annual goals must be in alignment.
STUDENT #3		
Student file is in compliance with IEP requirements.		
STUDENT #4		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)

43a. An explanation of the extent, if any, to which the student will not participate with nondisabled students in regular education classes.	Documentation was unclear as to why the student is in a full-time special education environment.	Convene an ARC to document the reasons why the student is not able to participate with nondisabled students in regular education classes.
43c. Documentation shows that removal of the student from the regular educational environment occurs only if education in the regular education environment with the use of supplementary aids and services cannot be satisfactorily achieved due to the nature or severity of the disability.	Documentation did not support the removal of the student from the regular education environment was due to the nature or severity of the disability.	Convene an ARC to determine the student's LRE

STUDENT #5

Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
33i. The student's Present Levels, including how the disability affects involvement and progress in the general curriculum. (Adverse Effect)	Adverse effect statement was inconclusive and did not provide evidence of an adverse effect. Academic performance stated, "can be adversely effected." General intelligence stated it "will have" an adverse effect.	Convene an ARC to determine if an adverse effect is present.
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels stated an adverse effect was present in social-emotional. Special factors stated the student's behavior did not affect learning. This was not consistent with the present levels.	Convene an ARC to determine if the student's behavior impedes learning. The present levels and annual goals must be in alignment.

43a-c. Least restrictive environment (LRE)	LRE section was missing from the Conference Summary Report.	Convene an ARC to determine LRE and make placement decisions.
STUDENT #6		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels stated an adverse effect was present in social-emotional. Special factors stated the student's behavior did not affect learning. This was not consistent with the present levels.	Convene an ARC to determine if the student's behavior impedes learning. The present levels and annual goals must be in alignment.
43c. Documentation shows that removal of the student from the regular educational environment occurs only if education in the regular education environment with the use of supplementary aids and services cannot be satisfactorily achieved due to the nature or severity of the disability.	Documentation did not support the removal of the student from the regular education environment was due to the nature or severity of the disability.	Convene an ARC to determine the student's LRE
STUDENT #7		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels stated an adverse effect was present in social-emotional. An annual goal for behavior was present. Special factors stated the student's behavior did not affect learning. This was not	Convene an ARC to determine if the student's behavior impedes learning. The present levels and annual goals must be in alignment. ARC to determine if SES has an adverse effect.

	consistent with the present levels.	
STUDENT #8		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
33i. The student's Present Levels, including how the disability affects involvement and progress in the general curriculum. (Adverse Effect)	Adverse effect statement was inconclusive and did not provide evidence of an adverse effect. All sections stated they "may adversely effect."	Convene an ARC to determine if an adverse effect is present.
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels stated an adverse effect was present in social-emotional. Special factors stated the student's behavior did not affect learning. This was not consistent with the present levels.	Convene an ARC to determine if the student's behavior impedes learning. The present levels and annual goals must be in alignment.
STUDENT #9		
Student file is in compliance with IEP requirements.		
STUDENT #10		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels stated an adverse effect was present in social-emotional. Special factors stated the student's behavior did not affect learning. This was not consistent with the present levels.	Convene an ARC to determine if the student's behavior impedes learning. The present levels and annual goals must be in alignment.

STUDENT #11		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
33d. The student’s Present Levels, including how the disability affects involvement and progress in the general curriculum. (Social and Emotional Status)	Present levels in the area of social-emotional status did not contain the student’s strengths or baseline data related to areas of concern.	Convene an ARC to document the student’s strengths and to establish baseline performance.
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels stated an adverse effect was present in social-emotional. Special factors stated the student’s behavior did not affect learning. This was not consistent with the present levels.	Convene an ARC to determine if the student’s behavior impedes learning. The present levels and annual goals must be in alignment.
STUDENT #12		
Student file is in compliance with IEP requirements.		
STUDENT #13		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
33d. The student’s Present Levels, including how the disability affects involvement and progress in the general curriculum. (Social and Emotional Status)	Present levels in the area of social-emotional status did not contain data related to areas of concern.	Convene an ARC to establish baseline performance for the student.
STUDENT #14		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)

33b. The student’s Present Levels, including how the disability affects involvement and progress in the general curriculum. (Academic Performance)	Present levels in the area of academic performance status did not contain data related to areas of concern.	Convene an ARC to establish baseline performance for the student.
33d. The student’s Present Levels, including how the disability affects involvement and progress in the general curriculum. (Social and Emotional Status)	Present levels in the area of social-emotional status did not contain the student’s strengths.	Convene an ARC to document the student’s strengths.
33i. The student’s Present Levels, including how the disability affects involvement and progress in the general curriculum. (Adverse Effect)	Adverse effect statement was inconclusive and did not provide evidence of an adverse effect. Communication stated it “may adversely effect” performance. Health/vision/ hearing/motor did not have an adverse effect.	Convene an ARC to determine if an adverse effect is present.

STUDENT #15

Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
33d. The student’s Present Levels, including how the disability affects involvement and progress in the general curriculum. (Social and Emotional Status)	Present levels in the area of social-emotional status did not contain data related to areas of concern.	Convene an ARC to establish baseline performance for the student.
33i. The student’s Present Levels, including how the disability affects involvement and progress in the general curriculum. (Adverse Effect)	Both social-emotional and health/vision/hearing/motor were missing an adverse effect statement.	Convene an ARC to determine if an adverse effect is present.

34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels stated an adverse effect was present in social-emotional. Special factors stated the student's behavior did not affect learning. This was not consistent with the present levels.	Convene an ARC to determine if the student's behavior impedes learning. The present levels and annual goals must be in alignment.
43c. Documentation shows that removal of the student from the regular educational environment occurs only if education in the regular education environment with the use of supplementary aids and services cannot be satisfactorily achieved due to the nature or severity of the disability.	Documentation did not support the removal of the student from the regular education environment was due to the nature or severity of the disability.	Convene an ARC to determine the student's LRE
STUDENT #16		
Student file is in compliance with IEP requirements.		
STUDENT #17		
Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
33e. The student's Present Levels, including how the disability affects involvement and progress in the general curriculum. (General Intelligence)	Present levels in the area of general intelligence social-emotional status did not contain data related to areas of concern.	Convene an ARC to establish baseline performance for the student.
STUDENT #18		
Student file is in compliance with IEP requirements.		

STUDENT #19

Student file is in compliance with IEP requirements.

STUDENT #20

Record Review Item	Identified Issue(s)	Required Student-Specific Correction(s)
34a. Consideration of Special Factors are completed for the following areas and are consistent with information provided in the Present Levels. (Behavior)	Present levels stated an adverse effect was present in social-emotional. Special factors stated the student's behavior did not affect learning. This was not consistent with the present levels.	Convene an ARC to determine if the student's behavior impedes learning. The present levels and annual goals must be in alignment.
43c. Documentation shows that removal of the student from the regular educational environment occurs only if education in the regular education environment with the use of supplementary aids and services cannot be satisfactorily achieved due to the nature or severity of the disability.	LRE section was missing from the Conference Summary Report.	Convene an ARC to determine the student's LRE