

UP Approach to Special Education

Transformative teaching that leads to a love of learning and strong sense of intellectual independence

Rigor for All We believe all students can and must meet high academic expectations. We allow every student to grapple with rich, grade-level concepts, ideas and tasks and be a full member of our academic community. It is the role of teachers to ensure all students are able to master grade-level content. We do this through extraordinary core instruction, effective supports and interventions where needed.

Embrace the Struggle Struggling to make sense of ideas, rather than being given solutions, is how humans learn. The process of learning through debate and inquiry is as important as the knowledge gained. We build classroom cultures in which struggle is celebrated, not feared. We reduce and remove learning scaffolds over time, seeking creative thinking and problem solving abilities in all students.

Inclusion Whenever Possible We design and provide behavioral and instructional supports in least restrictive environments because the ultimate goal is for students to operate in inclusion with the supports they need to succeed. We adapt our inclusive spaces to fit every student because all students have a right to be educated alongside their peers in the general education environment.

Grade-Level Mastery for Every Student Every student can be taught to think critically and can learn grade-level content when held to rigorous standards. We teach the skills students need and fill learning gaps that exist. We figure out how each student learns and devise individual pathways to achieve grade-level and IEP goal mastery with urgency.

Individual Paths to Independence We help students build an understanding of how they learn and the supports they need. We help them learn to monitor their own thinking, transfer ownership of accommodations to students over time, and empower students to ask for supports and help they need to be successful. Each student graduates with self-advocacy skills to think and act independently.



Education Network

UP Academy Boston
Special Education Handbook

2019 - 2020

Mission

The UP Education Network will ensure its students acquire the knowledge, skills, and strength of character necessary to succeed on the path to college and achieve their full potential.

UP is committed to providing an excellent, individualized education to all students with disabilities.

All students receiving special education in any UP school, regardless of placement, shall have an equal opportunity to participate in and, if appropriate, receive credit for the vocational, supportive, or remedial services that may be available as part of the general education program as well as the non-academic and extracurricular programs of the school.

What We Believe

- We believe that all students can meet their full potential given high expectations, rigorous curriculum based on state standards, and the right support.
- We believe in providing students with opportunities to be included with their general education peers.
- We believe in using data to track student progress and inform our instructional decisions.
- We believe in ongoing collaboration between general educators and special educators, so that students have access to a rigorous academic program based on state standards.
- We believe in designing individualized educational programs on a continuum of services that minimize the impact of a student's disability and meet the educational needs of each student. We do not believe in labels.

Description of the Handbook

This handbook serves as a resource for the families of students attending UP Academy Boston. It is designed to provide families with the information they need to understand programming available for students with disabilities that is in compliance with state and federal law. The policies and procedures in this handbook are aligned with:

- Individuals with Disabilities Education Act of 2004 and its regulations 34 CFR 300 et seq.
- Massachusetts General Laws ch. 71, et seq. and its regulations 603 CMR 28.00 et seq.
- Section 504 of the Rehabilitation Act of 1973, as amended
- UP Education Network's Protocols

Our Staffing Structure

UP Academy Boston's Special Education Department is led by a Dean of Special Education, who is supported by a Special Education Coordinator, special education teachers, and related service providers.

Dean of Special Education

Under the guidance of the Network's Director of Student Supports, and UP Academy's Principal, the Dean of Special Education oversees programming, monitors the implementation of policies, supports and coaches the other special education team members, and oversees the Special Education Coordinator in compliance-related tasks. The Dean also works with other members of UP Academy Boston's leadership team to ensure that students with disabilities are integrated within the school and have the same opportunities as their peers who do not have disabilities.

Special Education Coordinator

The Special Education Coordinator is responsible for ensuring that the special education program complies with state and federal special education law. The Special Education Coordinator leads IEP meetings and IEP Evaluations.

Special Education Teachers

All special education teachers are assigned to manage caseloads of students in special education and teach them according to their IEPs. As described in more detail below, students with disabilities at UP Academy Boston learn in a variety of settings, including co-taught general education classrooms, small pull-out groups, and substantially-separate classrooms. Generally, special education teachers teach in one of those settings.

Related Service Providers

Related services help students with disabilities benefit from their special education by providing support in non-academic areas of need, such as speaking, moving, and socializing. They collect data on the progress of their students and conduct formal evaluations as appropriate. The IEP team uses that data to determine what related services, if any, the child needs in order to progress academically and socially or to access the curriculum.

Related services can include, but are not limited to, any of the following:

Counseling

Students who receive counseling at UP Academy Boston either need to have counseling written into their IEPs or have been recommended for services through the Multi-Tiered System of Supports (MTSS) process, because a team has determined that the service is required. More information about this process can be found below. Sessions may be group or individual. School-based counseling focuses on helping students develop social-emotional skills necessary to promote academic and social success in the school setting.

Speech-Language Therapy

Speech language pathologists (SLPs) work with students on a range of issues, including developmental delays, expressive and receptive language delays, Apraxia, stuttering, phonological processing, auditory processing disorders, articulation disorders, Autism, neurological based disorders, ADD/ADHD, social/pragmatic delays, traumatic brain injuries, and other language based learning disabilities. The SLP works with teachers to collaborate on strategies that enable the student to access the general education curriculum in a way that promotes the most progress. Students may receive speech and language services in individual or small group sessions, as well as within classrooms, in a co-teaching/inclusion model. The SLP and teachers work together to integrate the students' speech and language goals with academic outcomes and functional performance.

Occupational Therapy

School-based occupational therapy might include addressing fine motor skills, working on handwriting, typing, improving ability to receive and process visual stimuli, improving visual motor skills (putting motor and visual perception together i.e. handwriting and copying from the board), and addressing sensory needs. Students may either receive occupational therapy in individual or small group sessions. Through consultation, an occupational therapist might suggest strategies for a student to use and accommodations for a teacher to implement in the classroom.

Physical Therapy

School-based physical therapy focuses on a child's ability to move as independently as possible in the school environment. Interventions are designed to enable the student to travel throughout the school environment; participate in classroom activities; maintain and change positions in the classroom; and increase ability to manage stairs, restrooms, and the cafeteria. Students may either receive physical therapy in individual or small group sessions. Through consultation, a physical therapist might suggest strategies for a student to use and accommodations for a teacher to implement in the classroom.

Adapted Physical Education (APE)

Adapted physical education may be required for students with disabilities when their disability significantly impacts their participation in general physical education. APE provides developmentally appropriate physical education by adapting or modifying the physical education curriculum to meet the individualized needs of students with disabilities.

Our Program Model

At UP Academy Boston we believe in supporting all students to access our rigorous curriculum. We strive to include every child in the general education program to the greatest extent possible. We offer a continuum of services to UP Academy Boston students with disabilities. We provide services both in the general education classroom and in pull-out settings. Some of our students require more intensive services. They receive their academic instruction in one of our three substantially separate classrooms.

Inclusion Services

Successful general education and special education teachers who provide excellent inclusive education know that educating students with disabilities in general education classes requires a team effort. Each student with a disability who is not enrolled in a substantially separate classroom is assigned to a general education cohort with other students at their grade level who do not have disabilities. The general and special educators work together to implement the IEP. Both teachers are responsible for achievement results of students with disabilities. They collaborate to plan lessons and teach classes. General educators plan the content of the lesson and make modifications and accommodations in partnership with the special educator. Special educators are responsible for communicating IEP goals and accommodations to the general educator. Together, they determine accommodations and modifications to lessons and materials to support students' learning needs. When there are two teachers in the room during a class, teachers can design lessons that are student-centered using strategies such as small group instruction and parallel teaching.

Pull-Out Services

For pull-out services, at the student's scheduled service period, the special education teacher works with the student in a separate area, or in a small group in the classroom. Times for pull-out instruction are carefully designed to fit into the flow of the lesson and make sure students are getting services when the services will be most beneficial to the student.

Substantially Separate Classrooms

Teachers in UP Academy Boston's substantially separate classrooms collaborate with general education teachers to develop lessons that are rigorous and standards-based. Substantially separate classrooms teachers align with the curriculum for students with significant cognitive disabilities who take alternate assessments with the curriculum of other students at their grade level. In the substantially separate classrooms, there may be students who still take traditional MCAS and are responsible for mastering grade level standards. Teachers will ensure that these students have access to the appropriate grade level content. Teachers will utilize "entry points," suggested academic outcomes that are aligned with each grade-level learning standard, in designing curriculum and instruction. Entry points are expectations that are below grade-level at varying levels of complexity, difficulty, and sophistication. Students will be expected to master a skill at the most challenging level of complexity to which he or she is capable as s/he progresses towards mastering the grade-level standard. IEP teams may also determine that certain students in these classrooms would benefit from spending portions of their day in inclusion settings. In these situations, students transition from the substantially separate classroom to the general education classroom for a predetermined amount of time, per week, in specific subject areas.

Instructional Grouping Requirements

UP Academy maintains specific student-to-teacher ratios for special education groupings, in accordance with Massachusetts regulations.

Pull-Out Groups

Small pull-out groups are composed solely of students with disabilities and are taught by licensed special education teachers. When students in special education are assigned to

instructional groupings outside of the general education classroom for 60% or less of the students' school schedules, group size does not exceed the following:

- 8 students with a certified special educator, or
- 12 students if the certified special educator is assisted by 1 aide/resident teacher, or
- 16 students if the certified special educator is assisted by 2 aides/resident teachers.

Substantially Separate

Sizes of substantially separate classrooms do not exceed the following:

- 8 students to 1 certified special educator, or
- 12 students to 1 certified special educator and 1 aide/resident teacher.

Increasing the Size of Small Pull-out Groups and Substantially Separate Classrooms

After the school year has begun, UP Academy and the Network might decide to increase the size of pull-out groups or substantially separate classrooms. If instructional groups have already reached maximum size, up to two more students may be added, provided that they have comparable academic needs to the students already in the group. In this situation, the Network Director of Student Supports will provide written notification to DESE and the parents/guardians of all group members. This exception to group size requirements will be in effect only for the current academic year.

Age Requirements for Instructional Groups

The ages of the youngest and oldest students in any instructional grouping must not differ by more than 48 months.

Identification and Evaluation Process

Identifying Concerns

If a child in general education is not progressing as well as the other children, or is exhibiting concerning behavior, UP Academy Boston strives to find out why and address the student's need as early as possible. This often begins when a teacher or parent raises a concern. The first step is to hold a discussion between the teacher, parent, and other relevant school personnel. Participants can share concerns, discuss the students' performance, and discuss strategies that can be used to support the student's learning.

Assisting Students in General Education

UP Academy Boston works hard to support as many students as possible in the general education environment. UP Academy Boston offers a continuum of supports, with a goal of avoiding unnecessary referrals, for special education. UP Academy Boston uses a District Curriculum Accommodation Plan (DCAP) to assist teachers in implementing strategies that will enable students to succeed.

Through the DCAP and a robust Multi-Tiered System of Supports (MTSS) process, UP Academy uses a multi-level prevention system to maximize student achievement and reduce behavioral problems. UP Academy Boston uses data to identify students at risk for poor learning outcomes, monitors student progress, provides evidence-based interventions and

adjusts the intensity and nature of those interventions depending on a student's responsiveness. Within this system, there is a progression of support along three levels: Tier 1, Tier 2, and Tier 3. As students move through the framework's specified levels of prevention, their instructional program becomes more intensive and more individualized to target their specific areas of learning or behavioral need. Tier 1 is implemented through programs already built into the UP Academy Boston schedule which are differentiated for individual student needs. Tier 2 is implemented by teacher cohorts for students they have identified as needing additional support. If needed, teacher cohorts may refer students for Tier 3 interventions. These interventions are more individualized and intensive.

Special Education Referral

For situations in which the MTSS process does not yield expected improvement or when the data suggests an educational disability, the MTSS team may refer a student for a formal evaluation to determine whether he/she has a disability that affects their access to the general education curriculum and qualifies for special education.

Faculty members, parents, or other persons with caregiving capacity may also initiate a referral for evaluation by contacting the Dean of Special Education or the Special Education Coordinator. Once someone initiates a referral, orally or in writing, UP Academy Boston has five (5) school days to notify the parents of the referral and provide them with an evaluation consent form.

Evaluations

To determine whether a student is eligible for special education, UP Academy Boston conducts a comprehensive evaluation in all areas of suspected disability. UP Academy Boston also conducts re-evaluations of students in special education every three years (or sooner if determined by the team) to determine continued eligibility.

The school will send home a consent form explaining the reasons for the proposed evaluation and which areas will be tested. Testing will not occur unless and until the parent/guardian signs a consent form.

Areas in which the student might be evaluated are listed below. The student's areas of difficulty will determine which assessments are appropriate.

The evaluation will include the following required assessments:

- Assessments in all areas related to the suspected disability;
- An educational assessment;
- A history of the student's educational progress in the general curriculum;
- A narrative description of the student's educational / developmental status; and
- A classroom observation.

The evaluation might also include some or all of the following optional assessments:

- Specialist Assessment(s) - Speech/Language, Occupational Therapy, Physical Therapy, Functional Behavioral Assessment (and others);
- Psychological Assessment;

- Academic Assessment;
- Home Assessment; and
- Health Assessment

Receipt of the signed consent form triggers a set of deadlines mandated by federal and state regulations. The steps must be completed within 45 school days of receipt of the signed consent are described in more detail below.

Before the expiration of the 45 school day period, the school must:

- Conduct the testing;
- Prepare written reports;
- Hold a meeting with the student's parents/guardians, teachers, and the individuals who conducted the evaluations. At this meeting the team will determine whether the student (1) has a disability, (2) is making progress in school, (3) is failing to make progress because of the disability, and (4) needs specialized services to make progress; and
- If the answer to all of the above questions is "YES," the student will qualify for special education and the team will write an Individualized Education Plan (IEP).

IEP Creation and Placement Recommendation

General

Once a child is found to be eligible, and at least annually after that, the team must develop an IEP. The team is guided by evaluation data and current classroom performance to develop goals and benchmarks and to recommend service levels. The IEP helps educators and parents to understand the student and how best to work with that student. The IEP should describe how the student learns, how the student best demonstrates that learning, and how the school staff and student will work together to help the student learn better. It must be tailored to the individual student needs as determined through the evaluation process.

The IEP serves as a contract between the school and parent(s). It should reflect the decisions made at the team meeting that clearly communicate to parents the needs of their child, the steps the school will take to address these needs and the progress their child is expected to make during the IEP period.

Team Composition

The following roles must be filled at Team meetings:

- Parent/guardian(s) of the student;
- The student, when appropriate;
- Not less than one general education teacher (if the child is, or may be, participating in the regular education environment);
- Not less than one special education teacher;
- Related service providers who provide service to the student or who have evaluated the student; and
- A representative of the school who will facilitate the meeting and guide the Team in making decisions.

- A representative of the Local Education Agency (LEA) who has the authority to commit resources. In most cases this is the Special Education Coordinator;
- An individual who can interpret evaluation results; and
- At the parent or agency's discretion, other individuals who have knowledge of the student.

FAPE and LRE

Two primary concepts – FAPE and LRE – frame the process.

- *Free Appropriate Education (FAPE)*: A student who is eligible for special education services is entitled by federal law to receive a Free Appropriate Public Education (FAPE). FAPE ensures that all students with disabilities receive an appropriate public education at no expense to the family. FAPE differs for each student because each student has unique needs. FAPE specifies that needed services must be provided without cost to the family. FAPE also means that students receiving special education services have access to and make meaningful progress in the general curriculum (i.e. the same curriculum as students without disabilities) and the right to be full participants in the life of the school. The student is not only entitled to access the academic portion of school, but also to participate in extracurricular and other activities sponsored by the school. Full participation means that students with disabilities are entitled to the aids and services needed to assist them in participating in all areas of school life.
- *Least Restrictive Environment (LRE)*: Federal law mandates that students with disabilities must be educated with their non-disabled peers to the maximum extent appropriate based on the student's needs. The team (including the parent) determines the placement that the student needs to provide the services on the student's IEP and the team must choose the least restrictive environment able to provide those services. This means that the student should attend the school he or she would attend if non-disabled, unless the team determines that the nature of the student's disability will not allow that student to have a successful educational experience.

Transition Planning

The Individuals with Disabilities Education Act (IDEA) requires that transition planning be part of the Individual Education Program (IEP). In order for students with disabilities to realize a successful transition from high school to adult life, it is important that this process start early. Beginning no later than when the student is 14 years of age, the team must consider the student's need for transition services and document the discussion when developing an IEP. The school ensures that students are invited to, and encouraged to attend, part or all of team meetings at which transition services are discussed or proposed. Effective transition planning is based upon the student's goals and vision. IDEA requires that, beginning at age 14, planning for the transition to adult living must be part of the IEP. The student should be invited to attend team meetings. For students who may be receiving services from adult service agencies, representatives of these agencies should also be invited to the team meeting when transition is being discussed. When the student is age 16, the team discussion of Vision should include a post-school vision statement designed to reflect the individual interests, preferences, and needs of your child in adult life. Transition planning and services should be reflected in the Other Educational Needs section of the IEP and can include

preparation for post-secondary education, vocational training, employment, and independent living. The team must consider the student's need for transition services and document the discussion when developing an eligible student's IEP. The discussion will be documented on the Transition Planning Form (TPF) and this form must be maintained with the IEP. Transition planning includes, but is not limited to, exploring college options, employment options, exploring additional educational opportunities, and connecting with adult service agencies that provide services for post-IEP individuals.

Placement

As the Team discusses placement, the least restrictive environment will be selected as it correlates with the student's needs. To the extent possible, students with disabilities will be educated with their non-disabled peers. Teams should consider in-district settings as they relate to the student's needs. These settings include, the general education classroom, a learning center/resource room or separate classroom. If a student's needs cannot be met within the public school setting, an out-of-district placement may be explored.

IEP Implementation and Ongoing Compliance

Implementation of the IEP

When the IEP has been accepted in whole, or in part, by that student's parent/guardian, UP Academy Boston will provide the mutually agreed upon services without delay.

The Special Education Coordinator will ensure:

- Each teacher and provider described in the IEP is informed of his or her specific responsibilities (related to the implementation of the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student under it);
- There is not a delay in implementation of the IEP due to lack of classroom space or personnel;
- IEP academic services and related services are delivered with fidelity and are in accordance with IEPs; and
- Instructional group sizes and age-range requirements comply with federal and state law, running reports at least quarterly.

Progress Reports

Parents of students in special education receive progress reports that explain the student's progress towards meeting his/her IEP goals and whether he/she is likely to meet those goals by the end of the IEP period. The school must send these written reports at least as often as they inform parents of all students of progress in the general curriculum. This is often done every marking period at the time that report cards are sent home.

Amendments

Between annual IEP meetings the district and parent may agree to make changes to a student's IEP, documented in writing, without convening a meeting of the team. This is called an amendment to the IEP. An amendment can be requested if a student is not making

adequate progress on reaching his/her IEP goals, or if the accommodations and modifications are not found to be useful or adequate to the student's progress in the school's curriculum.

Dispute Resolution

A student's parent or guardian has the ability to dispute a proposed evaluation, IEP, or placement. There is a continuum of options available to resolve these disputes.

These disputes can often be resolved within the school team. Individuals with questions or concerns should contact the student's case manager or the Special Education Coordinator. However, there are other options available through the Bureau of Special Education Appeals (BSEA). The BSEA is a state body that conducts mediations, provides advisory opinions, and holds hearings to resolve disputes among parent/guardian, school districts, private schools, and state agencies concerning eligibility, evaluation, placement, IEPs, special education services, and procedural protections for students with disabilities.

- Mediation – Mediation is a voluntary and confidential dispute resolution process available at no cost through the BSEA. Either school personnel or parents/guardians may request mediation. Within thirty (30) days of a request, the mediator will schedule a mediation session. The impartial mediator from BSEA helps schools and parents clarify issues, discuss options, and collaborate to resolve some or all of the issues. The mediator will work together with the IEP team to document the agreement in writing. All discussions during mediation are confidential and may not be used as evidence in a hearing.
- BSEA Due Process Hearing – A parent or school may request a hearing at any time on most matters concerning eligibility, evaluation, placement, or provision of services. Requests must be made in writing. Within five (5) days of receiving a hearing request, the BSEA will notify the parties of the appointment of a hearing officer and will set a hearing date. The decision of the BSEA hearing officer must be implemented immediately. It may be appealed to a court of competent jurisdiction.

State Testing

The Massachusetts Comprehensive Assessment System (MCAS) is the statewide assessment program for students educated with public funds. It is taken annually by all students, including those with disabilities. The IEP Team will designate how each student will participate and, if necessary, provide an alternate assessment. Students with significant disabilities, who are unable to take the standard MCAS test, even with accommodations, must take the MCAS Alternate Assessment (MCAS-Alt). The accommodations used on MCAS must be ones that the student uses routinely and ones that are required in order for the student to participate in the statewide testing.

Section 504 of the Rehabilitation Act

Section 504 of the Americans with Disabilities Act is a civil rights law that prohibits discrimination against individuals with disabilities. Section 504 ensures that a student with a disability has equal access to an education. For students with disabilities who do not require specially designed instruction but need assurance that they receive equal access to public education, a document called a 504 Plan is created to outline their specific access requirements. A 504 Plan lists accommodations related to the child's disability and required so that he or she may participate in the general classroom setting. A referral for Section 504 eligibility determination may be initiated by a parent/guardian or a professional of the school system. The school must obtain written consent from the parents/guardians before an evaluation can be started.

Examples of impairments and disabilities that may qualify for a 504 include, but are not limited to, diabetes, epilepsy, allergies, low vision, poor hearing, chronic health conditions, attention deficit hyperactive disorder (ADHD), communicable diseases, blood disorders, certain mental health conditions, obesity, birth defects, arthritis, and asthma.

Eligibility

In order to be found eligible for a 504 plan, the team must answer "yes" to the following questions:

1. Does the student qualify as an individual with a disability under Section 504? Has the student's impairment been documented in writing by an appropriately licensed educational, medical and/or mental health professional?
2. Does the impairment substantially limit one or more major life activities or major bodily functions?
3. Are services or accommodations necessary to provide the student with FAPE? Does the student require accommodations and/or services to meet his or her individual education needs as adequately as students without disabilities meet their needs?

When determining what accommodations and/or services are necessary to provide FAPE, the district should not consider the impact of mitigating measures (e.g., medications, assistive technology, and/or prosthetics, etc.).

A temporary disability may provide 504 eligibility for students if the disability limits a major life activity.

Discipline of Students with Disabilities

Students Identified as Having a Disability

IDEA and related regulations provide eligible students with certain procedural rights and protections in the context of student discipline. In general, students with disabilities may be suspended from school, just as students without disabilities may be, for up to ten (10) school days per school year. If a student has been suspended for ten (10) days or more, schools must

provide educational services that qualify as FAPE. For students with disabilities, this includes special education services and some related services.

Once a student with disabilities has been suspended for ten (10) consecutive or cumulative school days in a school year, it is considered a change of placement. Prior to any disciplinary removal of a student with disabilities that constitutes a change in placement, the school must consider whether or not the behavior that forms the basis for the student's disciplinary removal is related to his or her disability. This is called a "manifestation determination."

Students Who Have Not Yet Been Identified as Having a Disability

If, prior to the disciplinary action, the school had knowledge that the student may be a student with a disability, then the school must make all protections available to the student until and unless the student is subsequently determined not to be eligible. The school may be considered to have prior knowledge if any of the following is true:

- The parent/guardian expressed concern in writing;
- The parent/guardian requested an evaluation; or
- District staff expressed directly to the special education director or other supervisory personnel specific concerns about a pattern of behavior demonstrated by the student.

The school may not be considered to have had prior knowledge if the parent/guardian has not consented to evaluation of the student or has refused special education services, or if an evaluation of the student has resulted in a determination of ineligibility.

If the school has no reason to consider the student disabled, and the parent/guardian requests an evaluation subsequent to the disciplinary action, the Special Education Coordinator takes steps to conduct an expedited evaluation to determine eligibility. If the student is found eligible, then he/she receives all procedural protections subsequent to the finding of eligibility.

Manifestation Determination

A Manifestation Determination Review (MDR) is a process to determine if a student's behavior was or was not a manifestation of the student's disability. This means the relevant members of the student's IEP team will meet to discuss the following two questions:

- Was the conduct in question caused by, or did it have a direct and substantial relationship to, the student's disability?
- Was the conduct in question the direct result of the school's failure to implement the student's IEP?

If the answer to either or both of those questions is "YES," then the conduct is determined to be a manifestation of the student's disability. In that case the school may not suspend the student and the student must return to his/her existing placement unless the parent/guardian and the school agree to change the placement or special circumstances exist. If the conduct is due to failure to implement an IEP, the district must remedy those deficiencies. In either case, the school must conduct/update a functional behavioral assessment (FBA) and implement or modify a behavior intervention plan (BIP).

If the answer to both questions is “NO,” that means the behavior is not a manifestation of the student’s disability. The student may be disciplined in the same manner and for the same duration as a student without a disability. The student may return to the previous placement after the discipline. When removed from his/her current placement, a student has a right to FAPE to enable participation in the general education curriculum and progress toward meeting the goals set out in the student’s IEP. This right exists even if the student is placed in a different setting. When removed, the school must provide, as appropriate, an FBA, a BIP, services, and modifications, designed to address the behavior so it does not reoccur.

Special Circumstances

Special circumstances exist when an incident at school or a school function involves:

- the possession of weapon;
- the possession or use of illegal drugs; or
- infliction of serious bodily injury upon another person.

When special circumstances exist, the school may move a student to an Interim Alternative Education Setting (IAES) for up to 45 days without regard to whether the behavior is determined to be a manifestation of the student’s disability. The team determines the IAES.

Right to Appeal

- A student or a school may appeal the result of a manifestation determination.
- The school may only appeal if it believes that maintaining the current placement is substantially likely to result in injury to the child or others.
- Appeal is to the BSEA. As described earlier in this handbook, the BSEA offers both mediation and hearing processes.

Contact Information

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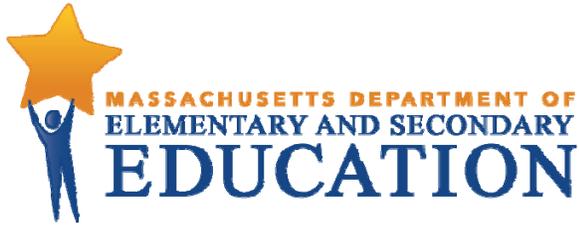
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UP Academy Charter School of Boston

**TIERED FOCUSED MONITORING
REPORT**

**For Group A Universal Standards
Tier Level 3**

Dates of Onsite Visit: November 12 & 13, 2019

Date of Draft Report: December 12, 2019

Date of Final Report: January 14, 2020

Action Plan Due: February 12, 2020

**Department of Elementary and Secondary Education Onsite Team Members:
Erin VandeVeer, Office of Public School Monitoring (PSM), Chairperson
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Jeffrey C. Riley
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**MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
TIERED FOCUSED MONITORING REPORT**

UP Academy Charter School of Boston

SCOPE OF TIERED FOCUSED MONITORING REVIEWS 3
TIERED FOCUSED MONITORING ELEMENTS..... 4
REPORT INTRODUCTION 8
DEFINITION OF COMPLIANCE RATINGS 9
LEGAL STANDARDS, COMPLIANCE RATINGS AND FINDINGS 10
SPECIAL EDUCATION 11

**MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
TIERED FOCUSED MONITORING REPORT**

UP Academy Charter School of Boston

SCOPE OF TIERED FOCUSED MONITORING REVIEWS

As one part of its accountability system, the Department of Elementary and Secondary Education oversees local compliance with education requirements through Tiered Focused Monitoring (TFM). All reviews cover selected requirements in the following areas:

Special Education (SE)

- selected requirements from the federal Individuals with Disabilities Education Act (IDEA-2004); the federal regulations promulgated under that Act at 34 CFR Part 300; M.G.L. c. 71B, and the Massachusetts Board of Education’s Special Education regulations (603 CMR 28.00), as amended effective March 1, 2007.

Civil Rights Methods of Administration and Other General Education Requirements (CR)

- selected federal civil rights requirements, including requirements under Title VI of the Civil Rights Act of 1964; the Equal Educational Opportunities Act of 1974; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and Title II of the Americans with Disabilities Act of 1990, together with selected state requirements under M.G.L. c. 76, Section 5 as amended by Chapter 199 of the Acts of 2011 and M.G.L. c. 269 §§ 17 through 19.
- selected requirements from the Massachusetts Board of Education’s Physical Restraint regulations (603 CMR 46.00).
- selected requirements from the Massachusetts Board of Education’s Student Learning Time regulations (603 CMR 27.00).
- various requirements under other federal and state laws.

TIERED FOCUSED MONITORING ELEMENTS

Team: Depending upon the size of a school district or charter school and the number of programs to be reviewed, a team of one to eight Department staff members conducts onsite activities over one to five days in a school district or charter school.

Timing: Each school district and charter school in the Commonwealth is scheduled to receive a Tiered Focused Monitoring Review every three years. The statewide Tiered Focused Monitoring cycle is posted at <<<http://www.doe.mass.edu/psm/tfm/6yrcycle.html>>>.

Tier Level: Each district/charter school is assigned to one of four tier levels: Tier 1/Self-Directed Improvement; Tier 2/Directed Improvement; Tier 3/Corrective Action; and Tier 4/Cross-unit Support and Corrective Action. The Tiered Focused Monitoring process and subsequent technical assistance varies by monitoring tier. Each district/school is assigned to a monitoring tier based on the district/school's designated DESE Accountability Level along with risk factors, such as Problem Resolution System complaint data and Public School Monitoring report data. Districts/schools in Tiers 1 and 2 have been determined to have no or low risk. Districts/schools in Tiers 3 and 4 have demonstrated greater risk. Agency intervention, additional onsite monitoring, and provision of technical assistance varies based on district/school tier level, allowing the Department to direct resources to those districts requiring the most support.

1. Tier 1/Self-Directed Improvement: Data points indicate no concern on compliance and performance outcomes – meets requirements.
2. Tier 2/Directed Improvement: No demonstrated risk in areas with close link to student outcomes – low risk.
3. Tier 3/Corrective Action: Areas of concern include both compliance and student outcomes – moderate risk.
4. Tier 4/Cross-unit Support and Corrective Action: Areas of concern have a profound effect on student outcomes and ongoing compliance – high risk.

Process: Each school district and charter school undergoes a Tiered Focused Monitoring Review every three years. Regularly monitored standards are divided into two groups, known as Group A Universal Standards and Group B Universal Standards. Districts and charter schools are monitored on an alternate set of Universal Standards every three years. The Department has also reserved a specific set of criteria, collectively known as Targeted Standards, employed if LEA or school level risk assessment data indicate there is a potential issue; the identified Targeted Standards are assessed in addition to the Universal Standards.

Self-Assessment Phase:

- District/school review of special education and civil rights documentation for required elements including document uploads. Upon completion of this portion of the district/school's self-assessment, it is submitted to the Department for review.
- Depending on which Universal Standard group the district/school is participating in and if there are additional Targeted Standards, the district may review a sample of special

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education student records selected across grade levels, disability categories and level of need.

- If the district/school is participating in a Group A Universal Standards Tiered Focused Monitoring Review, it will submit a review of student records related to the Indicator Data Collection for Indicators 11, 12 and 13 as part of the self-assessment. This Indicator data collection is also part of the State Performance Plan/Annual Performance Report.
- Upon completion of the self-assessment, the district/school submits the data to the Department for review.

On-site Verification Phase (dependent upon Group A or Group B Universal Standards):

- Interviews of administrative, instructional, and support staff consistent with those criteria selected for onsite verification.
- Interviews of parent advisory council (PAC) representatives and other telephone interviews, as requested, by other parents or members of the general public.
- Review of student records for special education: The Department may select a sample of student records from those the district reviewed as part of its self-assessment, as well as records chosen by the Department from the special education student roster. The onsite team will conduct this review, using standard Department procedures, to determine whether procedural and programmatic requirements have been met.
- Surveys of parents of students with disabilities: Parents of students with disabilities are sent a survey that solicits information regarding their experiences with the district's implementation of special education programs, related services, and procedural requirements.
- Observations of classrooms and other facilities: The onsite team may visit a sample of classrooms and other school facilities used in the delivery of programs and services to determine general levels of compliance with program requirements.
- Review of additional documents for special education or civil rights.

Report: For Tier 3 & 4 Tiered Focused Monitoring Reviews

At the end of the onsite visit, the onsite team holds an informal exit meeting to summarize its comments for the superintendent or charter school leader and anyone else he or she chooses. Within approximately 45 business days of the onsite visit, the onsite chairperson forwards to the superintendent or charter school leader a Draft Report containing comments from the Tiered Focused Monitoring Review. The Draft Report comments for special education and civil rights are provided to the district/school on-line through the Web-based Monitoring System (WBMS). Within 10 business days of receipt of the Draft Report, the district/charter school reviews and comments on the report for factual accuracy before the publication of a Final Report with ratings and findings (see below). The Tiered Focused Monitoring Final Report will be issued within approximately 60 business days of the conclusion of the onsite visit and posted on the Department's website at

<<http://www.doe.mass.edu/psm/tfm/reports/>>.

Content of Final Report:

Ratings. In the Final Report, the onsite team gives a rating for each compliance criterion it has reviewed; those ratings are "Commendable," "Implemented," "Implementation in Progress," "Partially Implemented," "Not Implemented," and "Not Applicable."

Findings. The onsite team includes a finding in the Final Report for each criterion that it rates “Commendable,” “Partially Implemented,” “Not Implemented,” or “Implementation in Progress,” explaining the basis for the rating.

Indicator Data. In the Final Report for a district or charter school undergoing a review for Group A Universal Standards, the onsite team includes the results of the review of Indicator data submissions for Indicators 11, 12 and 13. For any Indicator data noncompliance found, the district or charter school must develop and implement corrective action that includes correcting noncompliance for the individual students affected by it, addressing the root cause and underlying reasons for the identified noncompliance, and reviewing additional records as evidence that the issues have been corrected and that requirements are being met. The Office of Special Education Programs (OSEP) requires correction of noncompliance within one year of the finding.

Response: Where criteria are found “Partially Implemented” or “Not Implemented,” the district or charter school must propose corrective action to bring those areas into compliance with the relevant statutes and regulations. This corrective action plan (CAP) will be due to the Department within 20 business days after the issuance of the Final Report and is subject to the Department’s review and approval. Department staff will offer districts and charter schools technical assistance on the content and requirements for developing an approvable CAP.

Department staff will also provide ongoing technical assistance as the school or district is implementing the approved corrective action plan. **School districts and charter schools must demonstrate effective resolution of noncompliance identified by the Department as soon as possible but in no case later than one year from the issuance of the Department’s Final Tiered Focused Monitoring Report.**

SUMMARY OF INDICATOR DATA REVIEW

As part of Tiered Focused Monitoring for Group A Universal Standards, districts and charter schools submit data for Indicators 11, 12 and 13; the results of the Department’s analysis regarding these Indicators are as follows:

	Compliant	Non-Compliant	Not Applicable
Indicator 11 – Initial Evaluation Timelines	X		
Indicator 12 – Early Childhood Transition			X
Indicator 13 – Secondary Transition		X	

INTRODUCTION TO THE FINAL REPORT

The Massachusetts Department of Elementary and Secondary Education conducted a Tiered Focused Monitoring Review of UP Academy Charter School of Boston during the week of November 11, 2019 to evaluate the implementation of Group A Universal Standards in the program areas of special education, civil rights and other related general education requirements. The team appreciated the opportunity to interview staff and parents, to observe classroom facilities and to review the programs underway in the charter school.

The Department is submitting the following Tiered Focused Monitoring Report containing findings made pursuant to this onsite visit. In preparing this report, the team reviewed extensive written documentation regarding the operation of the school's programs, together with information gathered by means of the following Department program review methods:

Interviews of:

- Administrative staff
- Teaching and support services staff
- Special education parent advisory council representative

Surveys:

- Parents of students with disabilities

Review of special education student records

The report includes findings in the program areas reviewed based on the assigned Universal Standard group for this review:

Group A Universal Standards:

- Student identification
- IEP development
- Programming and support services
- Equal opportunity

The Tiered Focused Monitoring Report includes those criteria that were found by the team to be implemented in a "Commendable" manner, as well as criteria receiving a rating of "Partially Implemented," "Not Implemented," and "Implementation in Progress." (Refer to the "Definition of Compliance Ratings" section of the report.) The Tiered Focused Monitoring Reports do not include criteria receiving a rating of "Implemented" or "Not Applicable." This will allow the district/school and the Department to focus their efforts on those areas requiring corrective action. Districts are expected to incorporate the corrective actions into their district and school improvement plans, including their professional development plans.

DEFINITION OF COMPLIANCE RATINGS

Commendable	Any requirement or aspect of a requirement implemented in an exemplary manner significantly beyond the requirements of law or regulation.
Implemented	The requirement is substantially met in all important aspects.
Implementation in Progress	This rating is used for criteria containing new or updated legal requirements; the district has implemented any old requirements contained in the criterion and is training staff or beginning to implement the new requirements in such a way that the onsite team anticipates that the new requirements will be implemented by the end of the school year.
Partially Implemented	The requirement, in one or several important aspects, is not entirely met.
Not Implemented	The requirement is totally or substantially not met.
Not Applicable	The requirement does not apply to the school district or charter school.

UP Academy Charter School of Boston

SUMMARY OF COMPLIANCE CRITERIA RATINGS

	Universal Standards Special Education	Universal Standards Civil Rights and Other General Education Requirements	Targeted Standards
IMPLEMENTED	SE 1, SE 3A, SE 6, SE 8, SE 9A, SE 10, SE 11, SE 12, SE 13, SE 14, SE 18A, SE 19, SE 20, SE 22, SE 26, SE 29, SE 34, SE 40, SE 41, SE 43, SE 48, SE 49	CR 13, CR 14, CR 18	SE 45, SE 47
PARTIALLY IMPLEMENTED	SE 2, SE 3, SE 9, SE 25		SE 44, SE 46
NOT IMPLEMENTED			
NOT APPLICABLE	SE 7, SE 17, SE 37, SE 38, SE 39, SE 42		

The Tiered Focused Monitoring Toolkit, which includes the regulatory requirements specific to the special education and civil rights criteria referenced in the table above, can be found at <http://www.doe.mass.edu/psm/resources/default.html>.

SPECIAL EDUCATION

**LEGAL STANDARDS,
COMPLIANCE RATINGS AND
FINDINGS**

CRITERION NUMBER		
	Legal Standard	
SE 2	<p>Required and optional assessments</p> <ol style="list-style-type: none"> 1. <u>Required assessments</u>: The following assessments are completed by appropriately credentialed and trained specialists for each referred student: <ol style="list-style-type: none"> a. Assessment(s) in all areas related to the suspected disability(ies) including consideration of any needed assistive technology devices and services and/or instruction in Braille. b. Educational assessment by a representative of the school district, including a history of the student’s educational progress in the general curriculum. c. Assessment by a teacher(s) with current knowledge of the student’s specific abilities in relation to learning standards of the Massachusetts Curriculum Frameworks and the district's general education curriculum, as well as an assessment of the student's attention skills, participation behaviors, communication skills, memory, and social relations with groups, peers, and adults. d. For a student being assessed to determine eligibility for services at age three (3), an observation of the student's interactions in the student's natural environment or early intervention program is strongly encouraged together with the use of current assessments from Early Intervention Teams to avoid duplicate testing. 2. <u>Optional assessments</u>: The administrator of special education may recommend or the parent may request one or more of the following: <ol style="list-style-type: none"> a. A comprehensive health assessment by a physician that identifies medical problems or constraints that may affect the student's education. The school nurse may add additional relevant health information from the student's school health records. b. A psychological assessment by a licensed school psychologist, certified psychologist, or certified educational psychologist, including an individual psychological examination. c. A home assessment that may be conducted by a nurse, psychologist, social worker, guidance or adjustment counselor, or teacher and includes information on pertinent family history and home situation and may include a home visit, with the agreement of the parent. 3. At the re-evaluation of a student, if no additional assessments are needed to determine whether the student continues to be eligible for special education, the school district recommends to the student's parents the following: <ol style="list-style-type: none"> a. that no further assessments are needed and the reasons for this; and b. the right of such parents to request an assessment. 	
	State Requirements	Federal Requirements
	603 CMR 28.04 (1) and (2)	34 CFR 300.304; 300.305; 300.324(a)(2)(v)
	Rating: Partially Implemented	District Response Required: Yes

Department of Elementary and Secondary Education Findings:

A review of student records and staff interviews indicated that the charter school does not consistently complete all required assessments, specifically a history of the student's educational progress in the general curriculum and a teacher's assessment of the student's attention skills, participation behaviors, communication skills, memory and social relations with groups, peers and adults.

CRITERION NUMBER		
	Legal Standard	
SE 3	Special requirements for determination of specific learning disability When a student suspected of having a specific learning disability is evaluated, the Team creates a written determination as to whether or not he or she has a specific learning disability, which is signed by all members of the Team, or if there is disagreement as to the determination, one or more Team members document their disagreement.	
	State Requirements	Federal Requirements
		34 CFR 300.8(c)(10); 300.311
	Rating: Partially Implemented	District Response Required: Yes

Department of Elementary and Secondary Education Findings:

A review of student records indicated that when a student suspected of having a specific learning disability is evaluated, the IEP Team creates a written determination as to whether or not he or she has a specific learning disability. However, not all Team members sign the written determination or, if there is disagreement as to the determination, Team members do not document their disagreement.

Student record review also indicated that the charter school does not consistently complete all four components used to determine a specific learning disability, specifically the observation (SLD 4).

CRITERION NUMBER		
	Legal Standard	
SE 9	Timeline for determination of eligibility Within 45 school working days after receipt of the parent's written consent to an initial evaluation or a re-evaluation, the school district determines whether the student is eligible for special education.	
	State Requirements	Federal Requirements
	603 CMR 28.05(1); 28.06(2)(e)	
	Rating: Partially Implemented	District Response Required: Yes

Department of Elementary and Secondary Education Findings:

A review of student records indicated that within forty-five school working days after receipt of the parent's consent to an initial evaluation or re-evaluation, the charter school does not consistently determine whether the student is eligible for special education and provide to the parent either a proposed IEP and proposed placement or a written explanation of the finding of no eligibility.

CRITERION NUMBER		
	Legal Standard	
SE 25	<p>Parental consent</p> <ol style="list-style-type: none"> 1. The school district obtains written parental consent before conducting an initial evaluation and before making an initial placement of a student in a special education program. Written parental consent is obtained before conducting a reevaluation and before placing a student in a special education placement subsequent to the initial placement in special education. 2. The school district obtains consent before initiating extended evaluation services. 3. The school district obtains consent to the services proposed on a student's IEP before providing such services. 4. A parent is informed that consent may be revoked at any time. Except for initial evaluation and initial placement, consent may not be required as condition of any benefit to the student. 5. When the participation or consent of the parent is required and the parent fails or refuses to participate, the attempts to secure the consent of the parent are implemented through multiple attempts using a variety of methods which are documented by the district. Such efforts may include letters, written notices sent by certified mail, electronic mail (e-mail), telephone calls, or, if appropriate, TTY communications to the home, and home visits at such time as the parent is likely to be home. Efforts may include seeking assistance from a community service agency to secure parental participation. 6. If, subsequent to initial evaluation and initial placement and after following the procedures required by the regulations, the school district is unable to obtain parental consent to a re-evaluation or to placement in a special education program subsequent to the initial placement, the school district considers with the parent whether such action will result in the denial of a free appropriate public education to the student. If, after consideration, the school district determines that the parent's failure or refusal to consent will result in a denial of a free appropriate public education to the student, it seeks resolution of the dispute through the Bureau of Special Education Appeals (BSEA). 7. If the parent has given consent for special education services and then, at any time following, revokes his/her consent to the student's special education services in writing, the district is obligated to discontinue all special education services and may not use mediation or request a due process hearing to obtain agreement or a ruling requiring the continuation of services, consistent with federal regulation. If a parent revokes consent in writing, the district must act promptly to provide written notice to the parent/guardian of the district's proposal to discontinue services based on the revocation of consent, as well as information on how the parent can obtain a copy of his/her right to procedural safeguards. The district must provide the notice a reasonable time before the district intends to discontinue the services. 	
	State Requirements	Federal Requirements

CRITERION NUMBER		
	Legal Standard	
	603 CMR 28.07(1) This criterion is related to State Performance Plan Indicator 8. (See http://www.doe.mass.edu/sped/spp/ .)	34 CFR 300.300
	Rating: Partially Implemented	District Response Required: Yes

Department of Elementary and Secondary Education Findings:

A review of student records and staff interviews indicated that when parental consent to the services proposed on a student's IEP is required, and the parent fails or refuses to participate, the charter school does not routinely secure consent from the parent through multiple attempts using a variety of methods or consistently document its efforts. Record review demonstrated that in some cases, IEPs were unsigned for as long as six months after the IEP development meeting.

CRITERION NUMBER		
	Legal Standard	
SE 44	Procedure for recording suspensions The district has a procedure to record the number and duration of suspensions from any part of the student's program, including suspensions from special transportation prescribed by the IEP.	
	State Requirements	Federal Requirements
		34 CFR 300.530 IDEA 2004 Final Regulations, Analysis of Comments and Changes, Federal Register 71 (14 August 2006): 46715
	Rating: Partially Implemented	District Response Required: Yes

Department of Elementary and Secondary Education Findings:

A review of student records, documents and staff interviews indicated that although the charter school has a system to record the number and duration of suspensions from any part of the student's program, student suspensions are not accurately reported and recorded, including in-school and out-of-school suspensions and emergency removals.

CRITERION NUMBER		
	Legal Standard	
SE 46	Procedures for suspension of students with disabilities when suspensions exceed 10 consecutive school days or a pattern has developed for suspensions exceeding 10 cumulative days; responsibilities of the Team; responsibilities of the district	

CRITERION NUMBER	
	Legal Standard
	<ol style="list-style-type: none"> 1. A suspension of longer than 10 consecutive days or a series of suspensions that are shorter than 10 consecutive days but constitute a pattern are considered to represent a change in placement. 2. When a suspension constitutes a change in placement of a student with disabilities, district personnel, the parent, and other relevant members of the Team, as determined by the parent and the district, convene within 10 days of the decision to suspend to review all relevant information in the student's file, including the IEP, any teacher observations, and any relevant information from the parents, to determine whether the behavior was caused by or had a direct and substantial relationship to the disability or was the direct result of the district's failure to implement the IEP—"a manifestation determination." 3. If district personnel, the parent, and other relevant members of the Team determine that the behavior is <u>NOT</u> a manifestation of the disability, then the suspension or expulsion may go forward consistent with policies applied to any student without disabilities, except that the district must still offer: <ol style="list-style-type: none"> a. services to enable the student, although in another setting, to continue to participate in the general education curriculum and to progress toward IEP goals; and b. as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, to address the behavior so that it does not recur. 4. <u>Interim alternative educational setting.</u> Regardless of the manifestation determination, the district may place the student in an interim alternative educational setting (as determined by the Team) for up to 45 school days <ol style="list-style-type: none"> a. on its own authority if the behavior involves weapons or illegal drugs or another controlled substance or the infliction of serious bodily injury on another person while at school or a school function or, considered case by case, unique circumstances; or b. on the authority of a hearing officer if the officer orders the alternative placement after the district provides evidence that the student is "substantially likely" to injure him/herself or others. <p><u>Characteristics.</u> In either case, the interim alternative education setting enables the student to continue in the general curriculum and to continue receiving services identified on the IEP, and provides services to address the problem behavior.</p> 5. If district personnel, the parent, and other relevant members of the Team determine that the behavior <u>IS</u> a manifestation of the disability, then the Team completes a functional behavioral assessment and behavioral intervention plan if it has not already done so. If a behavioral intervention plan is already in place, the Team reviews it and modifies it, as necessary, to address the behavior. Except when he or she has been placed in an interim alternative educational setting in accordance with part 4, the student returns to the original placement unless the parents and district agree otherwise or the hearing officer orders a new placement. 6. Not later than the date of the decision to take disciplinary action, the school

CRITERION NUMBER		
	Legal Standard	
	district notifies the parents of that decision and provides them with the written notice of procedural safeguards. If the parent chooses to appeal or the school district requests a hearing because it believes that maintaining the student's current placement is substantially likely to result in injury to the student or others, the student remains in the disciplinary placement, if any, until the decision of the hearing officer or the end of the time period for the disciplinary action, whichever comes first, unless the parent and the school district agree otherwise.	
	State Requirements	Federal Requirements
		34 CFR 300.530-537
	Rating: Partially Implemented	District Response Required: Yes

Department of Elementary and Secondary Education Findings:

A review of student records, documents and staff interviews indicated that the IEP Team does not consistently document the manifestation determination process, including the results of the manifestation determination meeting.

This Tiered Focused Monitoring Final Report is also available at:
<http://www.doe.mass.edu/psm/tfm/default.html>.

Profile information supplied by each charter school and school district, including information for individual schools within districts, is available at
<http://profiles.doe.mass.edu/>.

WBMS Final Report 2020

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Prepared by: EVV/JLE