



**child  
development  
services**

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\* Ammended 3/11/08

\* Amended 9/26/07

July 9, 2007

Debra Hannigan  
State Director  
Child Development Services  
Penobscot Board of Directors Chairperson  
Maine Department of Education  
146 State House Station  
Augusta, Maine 04333

Dear Ms. Hannigan:

Over a period of two weeks from May 2<sup>nd</sup> – the 16<sup>th</sup>, a program monitoring team conducted an on-site visit to assess the Penobscot CDS site's current status in meeting regulatory requirements. This letter will outline the base line data gathered during this review.

First I would like to express my sincere appreciation to the site director, the board of directors, the staff and providers for the effort that was extended to accommodate this process. Where as the monitoring process introduced to the Penobscot site was new, the staff did not have much preparation prior to the on-site visit by the Department of Education CDS staff but took the lead in providing vital feedback to the process and the forms that will be used during future monitoring of all of the other CDs sites across the state. The involvement of staff in this process is beneficial to all. Please express my gratitude to all of the staff for helping with the review, taking part in the interview process and answering our paperwork questions.

As I shared with the site director and staff at our exit interview on May 24, 2007, this process is designed to promote continuous improvement in compliance and service provision to children in your service area.

## **1. The Process:**

The collection of base line data and information regarding the provision of special education services at the Penobscot CDS site was based on the following activities:

- 21 Interviews with staff, providers, board members and community
- Review of State Entitlement plan

- Review of last corrective action plan on file at the DOE
- Review of parent questionnaires
- Review of:
  - 12 Part C files
  - 15 Part B initial referral files
  - 12 Part B files
- On-site visit and interviews at the Learning Tree special education program
- Review of Penobscot self-review plan

## **2. Themes from Interviews:**

### **A. Staff:**

#### ***Services and Programs***

The staff and specialists that work at the Penobscot site reported that despite an enormous amount of negative community and political pressure being placed upon the site, the staff feels very positive about the services and programs that are being provided for the children they serve. They reported that over the last year, there has been a tremendous effort put into the building of highly qualified evaluation teams and a clear and consistent eligibility process in both the Part C and Part B sections of IDEA.

#### ***Leadership***

The staff reported that they feel the leadership of the site is very supportive and has a high level of knowledge of special education and the law. They reported that the site director is very supportive both professionally and personally but raised concerns with communication skills and availability of the site director on a daily basis. They recognized her local and state involvement in the CDS system. They would like to have the site director available to deal with daily oversight of the office without interfering with the need for involvement in larger state wide initiatives.

#### ***Communication***

Throughout the interviews, the staff expressed the desire to be able to overcome some of the issues with community providers so they can begin to work together in meeting all of the needs of the children within the Penobscot region. The staff also expressed the concern with how disagreements and concerns from parents are currently being handled. Currently when there is a disagreement about services or eligibility for services, parents, advocates and providers do not access due process through the Department of Education. They go directly to the legislature, the Commissioner and the Governor's office to seek services for their children. They feel that Due Process proceedings should be encouraged when consensus cannot be reached or if a parent is dissatisfied with the services being provided to their child.

#### ***Professional Development***

The staff expressed a desire for an increase in technology capacity and computers for the staff to use. In addition, they feel training is needed in confidentiality, updated regulation changes, determination of eligibility for services, IFSP and IEP forms and Child Outcome process.

## **B. Community Providers:**

### *Services and Programs*

The providers expressed concern with the eligibility and service determinations made at the Penobscot site. They felt that the current regulations in place, Chapter 180, are not being followed and that the proposed chapter 101 special education regulations were being followed before they have been passed in the legislature.

*During the on-site interviews and audit of records, this perception was found to be true in some but not all cases.*

They expressed that some of the children are not receiving appropriate levels of services to meet their needs. They also expressed concerns with the length of time the referral process takes from initiation to the determination of eligibility.

*In this instance, the perception of children not receiving appropriate level of services was only found during the determination of extended school year services for newly identified children. The monitoring team confirmed the providers concerns regarding the length of the timeline from referral to determination of eligibility. The length of time from referral to determination of eligibility was found to be significantly long and severely out of compliance.*

### *Communication*

They also expressed the desire to collaborate with the site during the screening process and or evaluation process to avoid duplication of efforts and expedite the process of identification and provision of services.

They expressed that both oral and written communication from the site has increased.

## **C. Board of Directors:**

The board of directors expressed that they would like to see an outreach to the community and respected professionals to increase involvement on the Penobscot board of Directors. They expressed the last year has been a transition in going from a governing board to an advisory board and understanding how the roles and responsibilities have changed. They expressed the desire for continued support from the State in further training in this area. The training that Debra Hannigan has provided was expressed as helpful in the transition. They shared concerns about perceptions in the field that there are problems with site communication with public schools and providers, service provision and eligibility practices at the site. They expressed that site director and the board are working together to look at improving all of these areas.

### **3. Review of Site's program, The Learning Tree:**

During the visit to the Penobscot CDS site, three of the members of the site-review team had the opportunity to visit the Learning Tree program for children with autism and or severe and profound needs. The program is located less than a few miles from the CDS office and is housed in a newly renovated Victorian home. During the visit we interviewed staff and observed some of the students attending the program.

The program follows the ABLLS and the Carolina curriculum as guidelines for programming and progress monitoring. Specialists provide therapy on site for OT, PT and S/L for the children requiring such services. The placement of students in this program is made by the Early Childhood Team meetings as a placement for children needing an intensive, non-mainstream, program due to autism and or other disabilities. The children in this program have been in other programs that were deemed unsuccessful due to the children's high level of intervention needs.

The building and program were seen as welcoming and warm to us as we visited. The rooms were brightly lit with a lot of natural sunlight and brightly decorated with artwork and visual cues for the children. The staff was observed to be enthusiastic about their work and with the interactions with the children. The space was well organized and very clean.

The director of the program indicated the expansion and addition of a typically developing preschool being located on the second floor was going to be a welcome opportunity for mainstreaming for some of her children. The addition of this program will greatly enhance the programs for the children within the Learning Tree Special education program.

The overall impression left after the visit was very positive and the staff who visited felt it was a high caliber program meeting the needs of low incidence - high needs population of pre-school children.

### **4. Record Audit:**

An integral part of this process involved the participation of the Penobscot site staff in the auditing of children's records. Thank you for the effort and time extended to allow for this participation.

During our on site visit, the program monitoring team examined the following areas of both Part C and Part B:

- Referral, screening procedures and timelines;
- Parent notices and consents;
- Procedures involving evaluations and Early Childhood Team (ECT) Meetings;
- Individual Family Service Plans (IFSP) and Individual Education Plans (IEP);
- Extended School Year Services
- Communication with Parents

These areas were reviewed in a comprehensive audit of the children's records.

**Attached are the compiled results of the record audit. Any section receiving a “Needs Corrective Action” rate of compliance is identified as an area of concern. Identified areas of concern on the record audit form are followed by comments as to why the item did not meet the regulation standard.**

**In reviewing 12 files, the following areas in Part C met compliance:**

- Documentation of providing Parents with Procedural Rights and Safeguards
- Receipt of Consent for Initial Evaluation
- Development of the initial IFSP at the Early Childhood meeting.
- The ECT meeting notices and membership by required staff
- The use of a variety of assessment tools and strategies during the evaluation and eligibility process
- Consideration of the child’s strengths, concerns of the parents, most recent evaluations, academic developmental and functional needs, communication needs, during the development of the IFSP.
- **All aspects of the IFSP met compliance.**

**The following areas did not meet compliance:**

- Documentation of all necessary components of the initial referral form
- Prior written notice was either not found in the files or portions were blank
- Evidence of completing initial screening
- Documentation of input from the IFSP team to determine evaluation needs
  - There is a Child Study Team process that determines necessary evaluations based on screening information but the team does not include parental input and the determination is not done during an ECT meeting.
- Documentation of appropriate referrals for evaluations were not found in files
- Completion of evaluations and ECT meetings held to review to determine eligibility within 45 days from the regional site board’s receipt of referral.
  - Nine out of the twelve files reviewed were in compliance
  - The remaining three were within days of meeting the required timeline.
- Attaining parental voluntary consent for initial placement and provision of services
- Transition planning for children entering Part B at least 90 days before the child’s third birthday.
- Documentation of evaluation reports provided to the parent within a reasonable time prior to the IFSP meeting at which the evaluation is discussed.
- Documentation of IFSP being provided to the parent within 21 days after the meeting
- Documentation of consent to evaluate and informed written consent to release records
- Consideration of assistive technology and special factors ( including behavior, blind / visually impairment and limited English proficiency) when developing the IFSP

**In reviewing 27 files, the following areas in Part B met compliance:**

- Initial referral form documentation
- Receipt of Consent for Initial Evaluation
- Documentation of Appropriate Referrals for evaluations
- Development of the initial IFSP / IEP at the Early Childhood meeting attaining parental voluntary consent for initial placement and provision of services.
- Parental written notice of IFSP meeting with at least seven days notice

**The following areas did not meet compliance:**

- Prior Written notice of Initial referral either not found on file or not filled out completely
- Documentation of providing Parents with Procedural Rights and Safeguards
- Evidence of completing initial screening
- Documentation of input from the IFSP / IEP team to determine evaluation needs
  - There is a Child Study Team process that determines necessary evaluations based on screening information but the team does not include parental input and the determination is not done during an ECT meeting.
- Meeting the 60 day time line from the receipt of consent to evaluate to a meeting being held to determine eligibility for special education services.
- Conducting transition meetings in conjunction with the public school in the spring of the year the child is eligible.
- Documentation of evaluations provided to parents within a reasonable time prior to the IFSP / IEP.
- Documentation of meeting minutes and IFSP/ IEP provided to the parents within 21 days
- Receipt of Consent for any further evaluation needs determined by the team
- IFSP /IEP did not include consideration of special factors (behavior, blind / visual impairment needs, and limited English proficiency), statement of child's present level of functional performance, statement of measurable annual goals, statement of how parents will be regularly informed of their child's progress toward goals, and the person responsible for service delivery.
- Team considerations in developing the IFSP/ IEP did not include a statement of parental concerns, assistive technology needs, and communication needs.
- The location of service delivery was not consistently listed on IFSP/IEPs.
- Statement of an explanation of the extent, if any, to which the child will not participate with non-disabled children
- Consideration of modifications and accommodations to the child's program in order to attain the goals of the IFSP/ IEP.
- Extended School Year services documentation and process.

## **5. Corrective Action Plan Development:**

### **MAJOR AREAS OF CONCERN:**

**As part of the concerns listed above, the following areas need to be addressed immediately. A summary of progress in addressing these concerns must be received back to the Child Development Services office no later than 30 days of receipt of this letter.**

#### **A. Initial Referral for Services:**

The major area of concern noted during this portion of the file review was the extensive amount of time it is taking from the receipt of the initial referral to the screening completion and the prior written notice being sent home requesting consent to go forward with an evaluation. Attached to this report is a confidential chart indicating timelines for the fifteen files reviewed. I will contact you with the names of the children's files reviewed.

- In reviewing 15 initial referrals from 8/06 – 3/07 :
  - Nine of files were found to be significantly beyond the 60 day timeline from the receipt of consent to a meeting being held to determine eligibility. All nine, at the time of the on-site review, had no documentation of a meeting scheduled to determine eligibility.
  - Two of the files were due for a meeting to determine eligibility by 5/27/07, yet no notices or evaluations were noted to be in the child's files necessary to meet the timeline at the time of the on-site review.
  - Four of the files were in the process of completion and were due to be complete by 6/25/07

It is important to note that due to the significant delay in your ability to meet the timelines set forth in the regulations, children and families from the Penobscot area are being denied services that they may have been eligible to receive if the timelines had been met.

#### **B. The Child Study Team (CST):**

A great amount of effort and resources have been committed to the Child Study Team process at your site and a commendation needs to be given to the level of professionalism and expertise your team can give to the process of evaluations and determination of the needs of children with disabilities.

With this said, the CST is determining the evaluations needed based on the screening information WITHOUT documentation of parental input. This process needs to stop immediately. The site must develop a plan to include parental input and decisions in the determination of appropriate evaluations as part of the initial referral process.

This can be done by:

- The implementation of an ECT meeting as soon as referral is made to the Penobscot site to discuss any available information about the child and determine the need to go forward with screening and or evaluations.

OR

- To develop a plan to document parental involvement in the decision making process of necessary evaluations to determine eligibility.

### **C. Extended School Year Services:**

During the interview process with staff and providers as well as the record audit review, the process in which Extended School Year Services surfaced as a concern. There were concerns noted with the eligibility process in determining ESY services as well as the provision of ESY services to children newly identified for services during the spring.

The Penobscot site needs to ensure that the determination of the provision of Extended School Year services meets the requirements of Chapter 180 Section IX.3.

#### **In summary:**

- 1.) **The Site will have one year from the date of this report to correct all areas of non-compliance that indicated a “Needs Corrective Action” during the record audit which were noted in Section 4. A corrective action plan must be submitted to the Department of Education, Child Development Services Department within 45 days of the receipt of this report.**
- 2.) **The Site will have 30 days from the date of this report to submit a summary of progress in addressing the major areas of concerns of Initial Referral for Services, The Child Study Team and Extended School Year Services as outlined previously in Section 5 of this report.**

The site Director has submitted goals on the Site’s self review plan that can be incorporated into the corrective action plan with additional goals for the concerns and deficiencies noted within this report. The information you included is extremely helpful in increasing our awareness of concerns and issues within your site so we can provide necessary technical assistance to you and your staff.

The Department of Education conducted a survey of parents of children with disabilities within your region. The results of this survey are attached. As CDS sites continue to improve services for all children, parent input is critical. These results can serve as additional information to be used in the planning and evaluation of services and programs for children and are used during the annual State Performance Plan to the federal government.

In accordance with the Freedom of Access Act, all letters related to the Special Education Program Monitoring are public record and shall be made available to parents and other members of the public upon request.

On behalf of the CDS monitoring team, I would like to thank you, the site Director, the staff and all other persons that took part in this review, for the thoughtful courtesy extended to my team and the flexibility and cooperation afforded us during the visit.

Sincerely,

Erica Thompson, Distinguished Educator  
Child Development Services Program Monitoring and Technical Assistance

Copies sent to:

Susan A Gendron, Commissioner  
David Noble Stockford, Policy and Team Leader  
Maribeth Barney, Penobscot Child Development Services Director

Enclosures:

Part C Child Record Audit Form Summary  
Part B Child Record Audit Form Summary  
Part B Initial Referral Child Record Audit Form

\*\* This report was amended on September 26, 2007 to reflect the decisions of the letter to Debra Hannigan September 25, 2007 regarding Penobscot CDS' response to the original letter of findings of July 9, 2007\*\*

Ammended 3/11/08\* The Penobscot County Child Development Services letter of findings was amended to reflect OSEP reporting requirements removing a threshold percentage in measuring compliance under the record audit section. The previous report dated September 26, 2007 used 80% accuracy as a measure of meeting compliance standards. We must now use 100%.