

December 4, 2003

Mr. Gaillard Peltier, Superintendent
Ft. Totten Public School
PO Box 239
Ft. Totten, ND 58335-0239

Dear Mr. Peltier,

The North Dakota Department of Public Instruction (NDDPI) Office of Special Education conducted a Verification Review in the Ft. Totten, District 30, Special Education Unit during September 17-19, 2003, for the purpose of assessing compliance in the implementation of the Individuals with Disabilities Education Act (IDEA) and assisting your Unit in developing strategies to improve results for children with disabilities. The IDEA Amendments of 1997 focus on “access to services” as well as “improving results for children and youth with disabilities.” In the same way, the Continuous Improvement Monitoring Process implemented by NDDPI is designed to focus federal, state, and local resources on improved results for children with disabilities and their families through a working partnership among NDDPI, the Ft. Totten District 30 Special Education Unit, parents, and stakeholders.

In conducting its review of the Ft. Totten Special Education Unit, NDDPI applied the standards set forth in the IDEA ‘97 statute and Part B regulations (34 CFR Part 300), as they were in effect at the time of the review. On March 12, 1999, the United States Department of Education published new final Part B regulations that took effect on May 11, 1999. In planning and implementing improvement strategies to address the findings in this report, the Ft. Totten Special Education Unit should ensure that all improvement strategies are consistent with the final regulations.

The enclosed report addresses strengths noted during the review, areas that require corrective action because they represent noncompliance with the requirements of the IDEA, and suggestions for improvements that will lead to best practice. Enclosed you will find an *Executive Summary* of the Report, an *Introduction* including background information, and a *description* of issues and findings. The NDDPI special education regional coordinator assigned to your area will work with you to develop corrective actions and improvement strategies to ensure improved results for children with disabilities.

Thank you for the assistance and cooperation provided by the Ft. Totten Special Education staff and Local Review Committee members during our review. Throughout the course of the review, the administrators were responsive to requests for information and assistance from NDDPI personnel. Mrs. Bonnie Benson, Business Manager was extremely helpful in assisting the

NDDPI during the Verification Review process. All administrators and educators interviewed were very cooperative and welcomed the NDDPI to their school.

Thank you for the continued efforts toward the goal of achieving better results for children and youth with disabilities in North Dakota. Since the enactment of IDEA and its predecessor, the Education of All Handicapped Children Act, one of the basic goals of the law, ensuring that children with disabilities are not excluded from school, has largely been achieved. Today, families can have a positive vision for their child's future.

While schools have made great progress, significant challenges remain. Now that children with disabilities are receiving services, the critical issue is to place greater emphasis on attaining better results. To that end, we look forward to working in partnership with the Ft. Totten Special Education Unit to continue to improve the lives of individuals with disabilities.

Sincerely,

Robert C. Rutten
Director of Special Education

Cc: Darren Albrecht, Elementary Principal
Emma Jean Blue Earth, Education Line Officer, Bureau of Indian Affairs

Enclosure

EXECUTIVE SUMMARY
FT. TOTTEN, DISTRICT 30 SPECIAL EDUCATION UNIT

The attached report contains results of the Collaborative Review and Verification Review phases of the North Dakota Continuous Improvement Monitoring of the *Individuals with Disabilities Education Act (IDEA), Part B*, implemented in the Ft. Totten Special Education Unit during the 2002 – 2003 school year. The process is designed to focus resources on improving results for children with disabilities and their families through enhanced partnerships between the North Dakota Department of Public Instruction (NDDPI), the Ft. Totten Special Education Unit, parents, and stakeholders.

Monitoring Activities

Several means were used in the monitoring process to gather data, review procedures, and determine the extent to which the Ft. Totten Special Education Unit is in compliance with federal and state regulations. The Collaborative Review phase of the monitoring process included the completion of a *Self-Assessment* by a Local Review Committee. The Local Review Committee analyzed the file review process and survey responses. The Self-Assessment process included a synthesis of the data collected to address the six principles of IDEA and resulted in recommendations and ongoing action steps for improvement planning.

The following Self-Assessment activities were completed by the Local Review Committee as part of the Collaborative Review Process:

1. Review of data contained in previous compliance documents including the 1997 State Monitoring Report.
2. Students with disabilities, special education personnel, administrators, parents, and regular educators were surveyed regarding their satisfaction with services provided by the Ft. Totten Special Education Unit. Sample survey forms recommended by NDDPI were used.
3. A sample of approximately one-third of all special education student files were reviewed for compliance with the IDEA regulation, utilizing the form provided in the NDDPI document *Special Education Monitoring Manual: Collaborative Review Process*.
4. Compliance worksheets were completed and the results were analyzed by the Local Review Committee.
5. Programmatic issues were analyzed to ensure that comprehensive and accurate information was used to identify issues necessary for the design of the unit improvement plan.
6. Interviews were conducted with representatives from four other agencies serving students and families in the region for additional insight into planning improvement strategies.

The *Verification Review* conducted by NDDPI included an on-site meeting with members from the Ft. Totten Special Education Unit Self-Assessment Local Review Committee and the North Dakota Department of Public Instruction (NDDPI) staff. Interviews with school administrators, general educators, and special educators were conducted during the Verification Review Site

Visitation on September 17-19, 2003. Focused special education file reviews were conducted on the special education records of 6 students following the compliance issues reported by the Ft. Totten Special Education Unit Local Review Committee in their Self-Assessment Report. Additionally, the NDDPI reviewed the unit's Special Education Policies and Procedures in February 2001, to ensure that the revisions contained within the *1997 Reauthorization of the IDEA* were addressed in the unit's policy. Information obtained from these data sources was shared with the principal and other members of the Ft. Totten Special Education Unit Self-Assessment Local Review Committee in an exit meeting conducted on September 19, 2003. In addition, improvement planning, options, and action steps developed by the Unit were discussed at the exit meeting.

The NDDPI staff members express their appreciation to the administrators, special education teachers, general education personnel, students and parents, office manager, and other agency personnel in the Ft. Totten Special Education Unit who participated in the monitoring activities. Their efforts represent a commitment of time and energy without which the multipurpose task of monitoring could not be completed.

This report contains a description of the process utilized to collect data and to determine strengths, areas of noncompliance with the IDEA, and suggestions for improvements for fully realizing the six basic principles of the Individuals with Disabilities Education Act.

Education of Children and Youth with Disabilities
Part B of IDEA

Strengths

The North Dakota Department of Public Instruction (NDDPI) is typically able to verify several strengths highlighted by the local special education unit's self-assessment committee. The Fort Totten Special Education Unit Self-Assessment Report, submitted to NDDPI in May 2003, did not include a specific section identifying unit strengths. Embedded in the Unit's self-assessment report, however, there were a number of strengths identified by the Local Review Committee:

- Fort Totten Special Education Unit offers a full continuum of services for students ages 3-5 and for grades 9-12 up through the age of 21. This allows students to be placed in an environment with non-disabled peers where they can be successful.
- There is support staff to assist students in the regular classroom.
- Students in grades 9-12 "are integrated with regular education programming to the greatest extent as determined by the IEP team."
- The "general education curriculum is the basis for the provision of services."
- "All planning begins with the regular education classroom as being the primary location of service delivery."
- "Overall, parents indicated a high level of satisfaction (86%) with the special education program at Fort Totten."
- "The unit takes part in a monthly family night program, which is for families of students in grades K-12. This program has been highly successful and has been awarded a national best practice award. "
- 100% of the students served by this unit participated in the statewide assessment.

The Ft. Totten Special Education Unit Local Review Committee also identified *Areas of Improvement*. Some of the areas identified included:

- The Building Level Support Team (BLST) “process is in place, but the use of the process is in need of improvement.” “Referrals are not made in a timely manner and often the student is having severe problems before he/she gets referred.” “Time for meetings is limited and teachers are not available to serve on the committee.”
- Curriculum modifications and creative instructional approaches, such as team teaching, collaborative planning and cooperative learning, “are used minimally. Additional training would be useful in relation to special education and the disability areas.”
- “More emphasis should be placed on general education’s involvement in the student assessment and determining supports necessary for student integration and success in general education settings.” The general education teachers do not seem to have a clear understanding of their role in educating students with disabilities.
- Transition services, courses in the areas of vocational planning and self-help skills, job coaches and job sites are needed.
- “More training is needed (for regular and special education staff) for behavior plan development and implementation.”
- Staff shortages are a significant area of concern.
- There is insufficient understanding of the special education process and there are comparatively low expectations for students with disabilities.
- Proper inclusion of students with disabilities is a concern raised by some teachers.

The NDDPI made a concerted effort to verify the findings identified by the Fort Totten Special Education Unit Local Review Committee. In addition to the regulatory items reviewed by NDDPI during its onsite verification visit, a number of personnel from the school identified related issues that seem to be affecting compliance. Because these issues are not similar to those typically included in a NDDPI verification visit report, but because of their impact on compliance with the federal Individuals with Disabilities Education Act (IDEA), NDDPI has concluded that local education policymakers should seriously review the following issues:

1. Currently there is no local director of special education for the unit, and there are other identified instructional personnel shortages. There is no one in an administrative position coordinating overall special education services, including IDEA grant management, internal compliance activities, staff development, promoting collaboration between regular educators and special educators, recruitment of personnel, and collaboration with other agencies.
2. There are separate governing bodies for preschool services, the elementary school and the high school; this seems to be causing inconsistency and confusion for parents and staff

regarding the delivery of special education services as students transition from one system to the other.

In addition to the more traditional regulatory compliance issues identified by the Local Review Committee, and verified by the NDDPI, it is strongly recommended that:

1. The Ft. Totten Public School District # 30 should immediately explore the feasibility of membership in an adjacent multi-district special education cooperative unit. As a single district special education unit the Ft. Totten Special Education Unit is at-risk for compliance with the IDEA whenever children with disabilities are in need of services. This is especially true for providing special education and related services to students who have low-incidence disabilities. Low-incidence disabilities include vision impairment, traumatic brain injury, deafness and hearing impairment, autism, and deaf-blindness. Membership in a multi-district cooperative special education unit would offer the Ft. Totten Public School District advantages such as:
 - special education administrative guidance and program support,
 - shared appropriately qualified personnel in providing related services and special education to students who have low-incidence disabilities,
 - participation in regional planning and staff development,
 - ease of records management and continuity of special education services when students transfer to and from neighboring districts,
 - coordination of compliance activities,
 - peer support for staff who may be working in comparative isolation, and
 - access to expertise in assistive technology, secondary transition and other specialized resources, e.g., lending library for staff and parents.
2. It is also strongly recommended that the governing body for education in this community consider the consequences of its current administrative structure in the provision of special education to students with disabilities. A number of individuals interviewed during the onsite verification visit expressed concern about the lack of coordination between the preschool services, the elementary school, and the high school. The separation of authority between the public school district and the tribal school under the auspices of the Bureau of Indian Affairs in this small community seems to be causing unnecessary confusion. Since the elementary and secondary education programs in this community share one modern facility, it is difficult to understand why they have separate school boards, separate policies and procedures for special education, separate school improvement and staff development activities, and separate IDEA compliance activities.

These two overarching issues ---- the provision of free and appropriate public special education and related services in a single small school district in the absence of a fully qualified special education administrator paired with the lack of coordination between the public school and the tribal school ---- should be very carefully reconsidered by the Ft. Totten Public School District # 30. The NDDPI in no way implies that other issues identified related to compliance with the IDEA are insignificant. However, these two overarching issues seem to be resulting in areas of noncompliance with the IDEA that were identified by both the Local Review Committee and the NDDPI. The NDDPI strongly advises the Ft. Totten Public School District #30 to discuss these recommendations and the conclusions of this report with those authorities in your community who oversee educational services.

NDDPI Observed the Following Areas of Noncompliance

- Determination of eligibility is not completed appropriately through the required assessment process.
- Integrated Written Assessment Reports are not integrated and are not written in a way that parents can easily understand.
- For students with specific learning disabilities, the integrated written assessment report did not include documentation of relevant behavior noted during observation, or discussion concerning effects of environmental, cultural, or economic disadvantage.
- Parent participation in IEP meetings is weak or nonexistent. Documentation of progress reporting to parents is absent from student files.
- IEP team meetings do not always include qualified special education personnel.
- Discussion of Extended School Year (ESY), justification for removal from general education setting, and transition services are not documented in IEPs.
- Appropriate services are not always provided in the Least Restrictive Environment.
- The parent prior notice form does not contain all of the required components.

FORT TOTTEN SPECIAL EDUCATION UNIT MONITORING REPORT
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INTRODUCTION

Background, Administrative Structures, and Children Served: The Fort Totten Special Education Unit's May 2003 Self-Assessment Report contained the following description of their unit:

“The Four Winds Community School is located on the far western end of Fort Totten. ...The school serves as both the Tate Topa Elementary School and Middle School, a BIA Tribal Grant School with around 400-500 students. The Fort Totten Public School is also housed in the same building and serves around 200 students. Together, Fort Totten District # 30 and the Tate Topa Elementary and Middle School have 1 superintendent, 3 principals, 60-70 professional staff, and about 60 support staff. Each school has a separate school board. Students are 100% Native American. Fort Totten Public #30 has a special education unit with a director/principal. Tate Topa School is under the direction of the BIA regional coordinator.”

“Fort Totten Special Education serves the students in the Fort Totten Public School #30 and the Headstart 3-5 Program. Fort Totten Special Education Unit offers a full continuum of special education services for students ages 3 to 21. The delivery of service ranges from consultative services with the general education teachers to resource room services. Fort Totten Special Education Unit philosophically adheres to the six principles identified in IDEA '97.”

“Fort Totten Special Education Unit provides services to students, families, and staff across the disability categories identified in the federal law. Current staff includes:

.25 FTE	Learning Disabilities
1.00 FTE	Emotionally Disturbed (contracted consultation)
1.5 FTE	Mentally Handicapped
1.00 FTE	Clinical Psychologist
1.00 FTE	Physical Therapist (contracted consultation)
1.00 FTE	Occupational Therapist (contracted consultation)
2.00 FTE	Paraprofessionals
.25 FTE	Director

The following table was also included in the Unit's Self-Assessment Report and reflects the Unit schools' 2002 child count and percent of total enrollment for the 2002-03 school year.”

	Number on Child Count	% of Total Enrollment on IEP's
Four Winds School	33	16%
Headstart 3-5 Program	14	15%

During the time from the submission of the Ft. Totten Special Education Unit Self-Assessment Report in May 2003 and the NDDPI verification visit, the part-time special education unit director had resigned her position. During the September, 2003 NDDPI verification visit, there was no director who had been employed for the unit. Coordination of the NDDPI onsite verification visit was handled primarily by Bonnie Benson, the unit's business manager.

Verification Review and Data Collection: The Ft. Totten Special Education Unit began the Collaborative Review process in October 2001 after attending training provided by the North Dakota Department of Public Instruction. The Local Review Committee conducted the Self-Assessment process throughout the 2002-2003 academic year and submitted the Self-Assessment Report to the NDDPI on May 6, 2003. The Self-Assessment Report included the data analysis of student record reviews, survey information, local interviews, and program quality indicators. The report also included an improvement plan.

The North Dakota Department of Public Instruction verification visit occurred on September 17 – 19, 2003, for the purpose of validating the information provided through the Collaborative Review process. On September 17, the NDDPI representative met with the unit business manager and also with the district Superintendent to discuss the scope and details of the visit and the issue of conducting a verification visit in the absence of an employed unit special education director. Student records, including Individualized Education Programs (IEPs) and Integrated Written Assessment Reports (IWARs), were reviewed for five students attending school in Ft. Totten and for one student who is currently placed out of district. The records for these six students represent approximately 13% of the Unit's special education files. (In its self-assessment report it was noted that "the unit completed record reviews of 14 student files and 3 transition IEPs.") Interviews were conducted with nine individuals including general and special educators and administrators. Additionally, a telephone conference was held with two education administrators from the Bureau of Indian Affairs regarding special education services in Ft. Totten. Preliminary findings and recommendations were presented to staff members of the Ft. Totten Special Education Unit at the end of the site visit on September 19, 2003.

Improvement Planning: In response to this report, the Ft. Totten Special Education Unit will develop an action plan including specific *Improvement Strategies* addressing areas identified as noncompliant, within 60 days of receipt of this report. The NDDPI Special Education Regional Coordinator assigned to the Ft. Totten Special Education Unit will serve as a resource for improvement planning purposes, and will respond in writing to indicate approval of Improvement Strategies submitted by the Unit. If needed, the regional coordinator may be contacted for suggested formats to be used for the development and documentation of the Improvement Strategies.

It should be noted that, as a general rule, noncompliance would be cited when a violation is found in fifteen percent or more of the student files or other data reviewed. However, some violations are considered so serious as to be cited if even one incident is noted. Violations of this nature include, for example, not conducting an assessment before placement, lack of evidence of parent consent, or other critical information that must be maintained in a student's file.

Suggestions for improved results for children do not require a formal response from the Unit. However, the NDDPI encourages the Ft. Totten Special Education Unit to consider the suggestions for further study and improvement planning as a means of strengthening the system of services to children with disabilities.

The Unit's Self-Assessment Report contained some improvement strategies that were based on interpretation of data collected by the Local Review Committee. These are not comprehensive but could be included in the Unit's response to the NDDPI. The unit is encouraged to continue refinement of improvement planning strategies and action steps as a logical next step in the Continuous Improvement Monitoring Process.

Report Organization

The remainder of this report presents information in each of six areas, which reflect the six principles of the Individuals with Disabilities Education Act (IDEA). They are zero reject, nondiscriminatory evaluation, free appropriate public education, least restrictive environment, parent involvement, and procedural safeguards. Each section describes strengths and concerns identified in the Ft. Totten Special Education Unit Self-Assessment Report, areas of strength identified by the NDDPI Verification Review through interviews and student file reviews, and other sources; areas of noncompliance; and suggestions for improved results for children.

Because of the unique circumstances already identified regarding the Ft. Totten Special Education Unit ---- no currently employed unit director, and split authority for K-12 education between the Bureau of Indian Affairs and the public school district ---- when compared to other special education units in the state, the NDDPI recognizes that preparation of an improvement plan in response to this report will also be somewhat unique. Therefore the NDDPI has decided to focus the remainder of this report on those most critical issues that must be addressed by the unit. In light of improvement strategies that may involve unit reorganization involving either the Bureau of Indian Affairs or an adjacent special education multi-district cooperative, the details of how the unit complies with approved policies and procedures may be altered if the unit organization changes. Throughout the improvement planning process, the Ft. Totten School District #30 is strongly encouraged to collaborate with the NDDPI Special Education Regional Coordinator assigned to your unit.

I. ZERO REJECT

All children with disabilities must be provided with a free appropriate public education (FAPE). All children with disabilities, and who are in need of special education and related services, must be identified, located, and evaluated.

Procedures are in place for the identification of children with disabilities for the ages served by the Ft. Totten Special Education Unit. As reported in the Ft. Totten Eligibility Document (2000), the unit assures ongoing efforts to identify, evaluate, and serve children with disabilities. The Fort Totten Special Education Unit Self-Assessment Report contains references to other agencies that cooperate in the *Child Find* process, including Maternal and Child Health, Early Childhood Tracking, Indian Health Services, *Kids R Us* in Devils Lake, Head Start, and the WIC Program.

The unit's eligibility document reports that "twice a year in the spring and fall, transition meetings are arranged with the above programs. The referrals are communicated via mail, phone or direct contact with the Special Education Director." Samples of unit *Child Find* materials distributed in the community were included in the unit's Self-Assessment Report.

The Local Review Committee reviewed four students' records specifically for compliance with the procedural requirements for the zero reject principle. The unit report concluded that the district had no students who had been removed from school due to dangerous conduct. It also reported that "Fort Totten Special Education had no special education students suspended or expelled for more than 10 days this school year."

The Local Review Committee concluded "the number of students who dropped out was lower for students on IEPs than for those without disabilities. Of the three students who dropped out, none are known to be continuing school or employment. All three students have been invited to re-enroll in school." During interviews with staff the NDDPI was told "attendance issues are huge out here." One person interviewed said that if a cohort group of 70 students begins high school as freshmen, about 30 would graduate. Students dropping-out from school, mobility, and problems in students' homes were mentioned as serious concerns for the district.

When interviewed by NDDPI staff, local Developmental Disabilities (DD) case management personnel reported concerns about at-risk students who are dropping out. Options for community work placements are extremely limited and postsecondary plans are often not implemented due to lack of agency (VR) funds. Additional barriers are encountered when families are not able to access phone communication or transportation to job sites. DD case management personnel reported that these issues impact at-risk students who end up dropping out of the school system.

In other interviews with Ft. Totten staff members, NDDPI was told that students with disabilities may be unidentified and not receiving special education and related services due to personnel shortages. It was stated that "the special education staff is overwhelmed and they just aren't getting to these kids for evaluations." The Local Review Committee reported "there has been limited success with BLST referrals. Time for meetings is limited and teachers are not available to serve on the committee. Referrals are not made in a timely manner and often the student is having severe problems before he/she gets referred." The Local Review Committee concluded that an appropriate item for local improvement planning involved strengthening the Building Level Support Team (BLST) process in the school.

NDDPI reviewed and analyzed the data and identified the following strengths and areas of noncompliance.

STRENGTHS

The *Child Find* materials included in the unit's self-assessment report reflect appropriate collaboration with the tribal elementary school. The Local Review Committee shared data that suggest that the provision of special education services helps reduce students' chances of dropping out of high school.

AREAS OF NONCOMPLIANCE

Through staff interviews and the review of student files the NDDPI concurs with the Local Review Committee that the school's Building Level Support Team process is not functioning in a consistent manner and that additional training is needed. A reinvigorated Building Level Support Team process in the school will help general education teachers work more effectively with their students and may appropriately reduce referrals for special education evaluations. Although BLST procedures are the responsibility of general education programs, an improved and effective process at the High School will benefit all children, including children with disabilities. NDDPI would strongly encourage staff skill development in this area. Resources include a revised BLST manual (NDDPI, January 2000), used by school districts in the state as they develop local BLST policies and procedures. Based on the exceptionally high drop-out rate reported by the school, the school needs to review strategies for preventing dropouts from occurring. The unit should obtain information from the National Dropout Prevention Center. This center provides "guidance and assistance to schools in designing, implementing and evaluating effective comprehensive dropout prevention programs based on scientifically validated practices." For further information, contact Selete Avoke, 202-205-8157.

II. NONDISCRIMINATORY EVALUATION

Any child with a suspected disability must receive a full, individualized evaluation, which meets specific standards, and includes information from a variety of sources.

The Fort Totten Special Education Unit Local Review Committee determined that "there is a need to improve on the development of the student profile" in the preschool assessment process. Use of the student profile is inconsistent and is not "inclusive of information required." In grades 9-12, the Local Review Committee reported that the staff needs to improve in including student interests in the assessment planning process, training is needed on documenting students' "educational history and instruction prior to placement," and a more detailed plan "for observation and inclusion of observation data is needed for assessments."

The committee's monitoring activities also disclosed that "assessment reports in ages 3-5 did not contain the integration of material. They included test scores, but did little in the way of integrating that data with observation and educational or developmental history." This conclusion was verified by the NDDPI student file review for both the preschool and the high school. There was limited integration of assessment data in a format that would be easy for non-educators to understand. In some student files, evaluations were attached and numerical scores were listed in the report.

Several educators raised questions about the appropriateness of the unit's evaluations. One educator who was interviewed suggested that some students who are receiving special education services may not have disabilities but "just didn't get good reading instruction." This same staff member raised the issue of over-identification of Native American students.

The NDDPI agrees with the Local Review Committee that "observation data is present, but not incorporated." Additionally, the review team at the school determined that improvements in the

evaluation process for students suspected of having specific learning disabilities are also needed in “statements regarding the relationship between observation data and academic functioning, the discrepancy between ability and achievement, and that the discrepancy is not attributable to other causes.” The NDDPI commends the unit for its candor and accuracy in analyzing these critical aspects of the special education process.

The Ft. Totten Special Education Unit assured the NDDPI in its unit Eligibility Requirements Document that it adheres to the policy and procedures for evaluation and determination of eligibility with the Department of Public Instruction.

STRENGTHS

The unit concluded that it is accessing appropriately qualified contracted personnel during evaluations. The Local Review Committee reported that a clinical psychologist, physical and occupational therapists are consistently used when needed in conducting student evaluations.

AREAS OF NONCOMPLIANCE

Determination of Eligibility

34 CFR 300.534 indicates that upon completing the administration of tests and other evaluation materials:

- (1) a team of qualified professionals and the parent of the child must determine whether the child is a child with a disability, as defined in Sec. 300.7; and
- (2) the public agency must provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

There was evidence in the assessment reports reviewed by the NDDPI that the Unit does not consistently identify a disability. For purposes of clear communication with parents and all educators involved with a child, and for appropriate determination of eligibility for special education and related services, assessment reports should state whether the child is a child with a disability and what that disability is.

Evaluation Procedures

34 CFR 300.532 includes all of the requirements to ensure appropriate evaluation for determination of eligibility for special education services. NDDPI *Guidelines: Evaluation Process* (8-1-99), direct that “the team will write a report that integrates findings from all sources” and the report “needs to be written in a manner that is understandable to parents and other professionals; it should not reiterate test scores that are not meaningful to parents or others.”

The Unit’s Special Education Policy & Procedures Manual includes appropriate procedures for assuring:

“that a multi-disciplinary evaluation team summary report will be an official summary of all evaluative findings. It will verify that adequate current data have been gathered to enable them to make the necessary decisions regarding meeting criteria for eligibility. The team report will be a summary report consisting of

conclusions from data shared at the evaluation summary meeting. Individual reports which have been prepared by the multidisciplinary team will be utilized to prepare this report and also to share individual assessment finding with the assessment team. The written summary report will confirm or deny the existence of a handicapping condition, and the basis for making that determination. “(p.56)

The Local Review Committee documented that “assessment reports in ages 3-5 did not contain the integration of materials. They included test scores, but did little in the way of integrating that data with observation and educational or developmental history.”

The Integrated Written Assessment Reports (IWARs) reviewed by the NDDPI were not prepared according to the Unit’s written procedures. All of the IWARs seemed to have been written by individuals instead of as summaries of the teams’ conclusions. They often contained professional jargon and test scores. Parental input in the IWARs was generally lacking, and the reports did not seem to be written with parents in mind. This may be reflective of the overall low involvement of parents in the school that was reported to NDDPI during onsite interviews. One staff member stated *“Parents are not a big part of this school. Of 70 students that I had last year only 3 parents came for parent-teacher conferences. I’ve had years when no one shows up. The parents that do come in seem concerned. I’ve called, written letters, and never get any response. Parents are never at IEP meetings. I went to a lot of IEP meetings last year and maybe twice the parents were there. The special education department tries hard to get the parents there, but parents don’t attend.”*

Additional Procedures For Evaluating Children With Specific Learning Disabilities

34 CFR 300.540 – 300.543 describe additional requirements the district must follow when evaluating a student with specific learning disabilities. After review of student file information for several students who have specific learning disabilities, NDDPI confirms the report of the Local Review Committee that observation data is present but is not incorporated into an integrated written assessment report. Relevant behavior noted during observation is required. Also lacking in the integrated written assessment report was a clearly written discussion of the team concerning the effects of environmental, cultural, or economic disadvantage and resulting impact on disability.

This may partially explain why staff members are not following the Unit’s policy of summarizing information, or writing the IWARs in a style geared to parents. However, it could also partially explain why some parents are not participating in these meetings that are so important for their children’s success in school. In its evaluation process for determining the existence of a specific learning disability, the special education unit must ensure that the determination of a multidisciplinary team takes into careful consideration the effects of environmental, cultural, or economic disadvantage.

III. FREE APPROPRIATE PUBLIC EDUCATION

An IEP team, which includes the child's teacher, the child's parent(s), an administrator, and a special education teacher, must develop an educational program tailored to meet the child's unique needs.

The Ft. Totten Special Education Unit Local Review Committee's Self-Assessment Report identified the following items related to the provision of a Free and Appropriate Public Education (FAPE) that were in need of improvement:

- consistent use of prior notices
- progress reporting to parents
- extended school year planning
- Individualized Education Program (IEP) present levels of educational performance (PLEP)
- transition services
- student data are not correlated to the general education curriculum
- collaboration between general and special educators in planning for students with disabilities regarding how to adapt materials in order to serve students in general education rooms
- development of behavior plans

Following a review of the unit's Self-Assessment Report and completion of verification visit activities, especially student record reviews and staff interviews, the NDDPI observed these areas of strengths and noncompliance.

STRENGTHS

The unit's policies and procedures for development of IEPs clearly indicate required participants, including parents and special education personnel. The IEP present levels of educational performance generally provide a clear understanding of student functioning. All of the IEPs reviewed by the NDDPI were current.

AREAS OF NONCOMPLIANCE

Individualized Education Programs (IEP)

34 CFR 300.322 – 300.324 describe requirements of the IEP process and content of the IEP. NDDPI verified that the following requirements are currently out of compliance at Ft. Totten Public School.

- 34 CFR 300.345 Parent Participation
- 34 CFR 300.347 (a) (7) Progress Reporting
- 34 CFR 300.309 Extended School Year
- 34 CFR 300.344 IEP Team – Qualified Personnel
- 34 CFR 300.347 (a) (4) Content of IEP: Justification for Removal from General Education Setting

34 CFR 300.347 (b) Transition Services

The involvement of parents in the development of Individualized Education Programs for students with disabilities is a fundamental principle of special education. Although it was noted on several of the IEPs reviewed by the NDDPI that grandmothers were present during the development of IEPs, which is acceptable, the children's parents were not present. Documentation of attempts to contact the parents to re-schedule IEP meetings or to explain why the parents were absent was generally not included. The IEPs did not consistently document parent (or grandparent) input in the development of the present levels of educational performance. The reporting of student progress to parents was weak or missing. Evidence of justification for providing an extended school year to students was also missing from the students' records. One of the IEPs that was reviewed did not include documentation of a qualified special education teacher at the meeting. In the section of the IEPs addressing the characteristics of services (COS) justification for removal from the general education setting was missing on three of the IEPs that were reviewed.

For students age 14 and older, coordinated transition planning appeared to be inconsistent. The involvement of other agency personnel and the *Statement of Transition Service Needs* did not meet standards. Even though it appears that planning for post school outcomes may occur, it does not reflect a comprehensive approach. Transition IEPs reviewed by NDDPI staff indicated incomplete sections including Present Levels of Educational Performance, Post School Outcomes, Statement of Needed Transition Services, Statement of Transition Service Needs, and Agency Collaboration.

IV. LEAST RESTRICTIVE ENVIRONMENT

To the maximum extent appropriate, children with disabilities must be educated with their non-disabled peers. Placement decisions must be based on the goals and objectives in the child's IEP.

STRENGTHS

During the NDDPI verification visit to the Ft. Totten Special Education Unit it was reported that only one student from the district is educated outside the district; all other students with disabilities are educated in their home school district. The Local Review Committee has already identified a model known as *Community for Learning* as a means to increase the successful integration of students with disabilities into regular classrooms.

AREAS OF NONCOMPLIANCE

Least Restrictive Environment

34 CFR 300.550 – 300.553 describes requirements that ensure that, to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled.

The interviews conducted by the NDDPI during the verification visit regarding educating students in the least restrictive environment (LRE) showed evidence of uncertainty and differences of opinion about this requirement of the Individuals with Disabilities Education Act. The high school has had a special education resource room for some time, but the opinion was

expressed that this room has been overused in the past. Both general and special educators are unclear about when students with disabilities should be in the general education classroom or when they should be receiving individualized instruction in another setting.

It was reported to the NDDPI that there is an unwillingness by the general education staff to work closely with the special education staff, and that general educators don't assume ownership and responsibility for students with disabilities. Difficulty in providing accommodations and needed modifications to students with disabilities was cited in a number of interviews. General educators were frustrated at the lack of basic communication between themselves and special educators. Confusion about how to grade students who receive special education services and how to accommodate and serve them in general education classrooms was reported. The staff attributed many of these problems between general educators and special educators to a shortage of qualified personnel and insufficient planning time. These challenges to the district are resulting in unclear communication and insufficient guidance. Successful integration of students with disabilities in the least restrictive environment requires free and open communication between general and special educators and careful planning in order to ensure student success.

V. PARENT INVOLVEMENT

Parents have the right to have access to their child's educational records. Parental consent is required for initial evaluation, reevaluation, and placement. Parents must be included in IEP team decisions, and parents must be notified of their right to appeal.

There is some discrepancy between the Local Review Committee's Self-Assessment Report data regarding parent involvement and the data collected by the NDDPI.

STRENGTHS

The Fort Totten Special Education Unit Self-Assessment Report documented a fairly positive picture of parent participation in the special education process. To quote the local self-assessment report:

“Overall, parents indicated a high level of satisfaction (86%) with the special education program at Fort Totten.

- 100% feel welcome in their child's school
- 86% feel challenging goals are set for their students
- 100% are asked to participate in the IEP process
- 100% feel they understand the discussions at IEP meetings
- 86% feel that they are invited to participate in general and special education parent activities

The results of the records review indicate that throughout the unit, 100% of the meetings include parent participation. This can be compared to data, which indicates a 21% parent participation at the other school on the reservation.”

The data reported by the Local Review Committee are indicative of a good-faith effort by the special education unit to reach out to parents. The Fort Totten Special Education Unit Self-

Assessment Report includes a Family Involvement Policy that includes national standards for parent/family involvement programs. The Unit has policies and procedures for an Advisory Committee that includes a Family/Educator Enhancement Team (FEET) “to address parent involvement as well as any other special education related issues.” However, the Self-Assessment Report included information that “there is not a specific family committee for special education.”

AREAS OF NONCOMPLIANCE

Both the student record reviews and the interviews with personnel conducted by the NDPPI suggest that there is a significant lack of parent participation in the overall provision of special education in the district. The absence of documented parent input in any of the IEP present levels of educational performance reviewed by NDDPI, plus evidence suggesting parents are not attending IEP meetings, and incomplete, weak or missing reports of student progress to parents all reflect a need for improvement in this area. Further discussion of this issue is included in the previous section, Free Appropriate Public Education.

VI. PROCEDURAL SAFEGUARDS

Procedural safeguards include impartial due process hearing, the right to an independent educational evaluation, written notification to parents explaining their rights, parental consent, and appointment of surrogate parents, when needed.

STRENGTHS

The Fort Totten Special Education Unit’s Self-Assessment Report carefully analyzed the unit’s compliance with the procedural safeguards required for compliance with the IDEA. The Unit reported and the NDDPI verified that prior notices were found in all of the student files that were reviewed. The Unit’s Policies and Procedures Manual includes guidance on procedural safeguards (p.30 – 46) and unit procedures that ensure use of procedural safeguards (p.46). The Unit Self-Assessment Report included a proposed improvement strategy to “develop a system of self-assessment and monitoring which will result in a high percentage of compliance in areas of IEP development and review, assessment safeguards and procedures and procedural safeguards in place of all special education files and records.” The NDDPI strongly encourages the Ft. Totten Special Education Unit to incorporate this proposal into its response to this report, and to fully implement it during this school year.

AREAS OF NONCOMPLIANCE

Parent Prior Notice

34 CFR 300.503 describes the requirements for notifying parents, in writing, of any proposed initiation or change to the identification, evaluation, or educational placement or services to the child.

The form used by the Ft. Totten Special Education Unit for Parent Prior Notice lacks required elements. During the review of records completed by the NDDPI it was noted that none of the written prior notices in the student files contained:

- (1) the action proposed or refused by the agency and an explanation of why the agency proposes or refuses to take action;
- (2) a description of any other options considered by the agency and the reasons for rejecting those options,
- (3) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action, and
- (4) a description of any other factors that are relevant to the agency's proposal or refusal;
- (5) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (6) sources for parents to contact to obtain assistance in understanding procedural safeguards.

The NDDPI state recommended forms contains these required elements and could be adopted by the Ft. Totten Special Education Unit.

CONCLUSION

The NDDPI acknowledges that the Ft. Totten Special Education Unit has some very unique challenges at this time. The NDDPI has no precedent for submitting an IDEA compliance report to a special education unit that has no special education director. Nevertheless, that does not eliminate the responsibility of the unit for complying with the requirements of the IDEA if the unit receives federal funding for the purpose of providing special education and related services to students with disabilities. It must comply with the assurances submitted to the NDDPI on October 1, 2000. The NDDPI has the responsibility to ensure that the requirements of IDEA are carried out:

§300.197 (a) *General*. If the SEA, after reasonable notice and an opportunity for a hearing, finds that an LEA or State agency that has been determined to be eligible under this section is failing to comply with any requirements described in §§300.220-300.250, the SEA shall reduce or may not provide any further payments to the LEA or State Agency until the SEA is satisfied that the LEA or State Agency is complying with that requirement.

The NDDPI believes that the Ft. Totten Special Education Unit can demonstrate a careful and thoughtful commitment to full implementation cited previously in this report and repeated here:

1. The Ft. Totten Public School District #30 should immediately explore the feasibility of membership in an adjacent multidistrict special education cooperative unit. (Appendix A to this report contains sections 15.1-33-04 – 15.1-33-10 of the North Dakota Century School Code regarding participation in Multidistrict special education units).
2. It is also strongly recommended that the governing body for education in this community consider the consequences of its current administrative structure in the provision of special education to students with disabilities.

The NDDPI strongly advises the Ft. Totten Public School District #30 to discuss these recommendations and the conclusions of this report with those authorities in your community who oversee educational services.