

July 11, 2002

Mr. Kurt Eddy, Chairperson
Pembina Special Education Cooperative
P.O. Box 238
Cavalier, ND 58220-0238

Dear Mr. Eddy,

The North Dakota Department of Public Instruction (NDDPI) Office of Special Education conducted a Verification Review in the Pembina Special Education Cooperative during May 7-10, 2002, 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 Pembina Special Education Cooperative, parents, and stakeholders.

In conducting its review of the Pembina Special Education Cooperative, 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 Pembina Special Education Cooperative should ensure that all improvement strategies are consistent with the new 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. NDDPI 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 Pembina Special Education Cooperative staff and Self-Assessment team members during our review. Throughout the course of the review, Mr. Tom Cummings, Director of Special Education, was responsive to requests for information and assistance from NDDPI personnel.

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 Pembina Special Education Cooperative to continue to improve the lives of individuals with disabilities.

Sincerely,

Robert C. Rutten
Director of Special Education

Cc: Mr. Tom Cummings

Enclosure

EXECUTIVE SUMMARY PEMBINA SPECIAL EDUCATION COOPERATIVE

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 Pembina Special Education Cooperative during the 2001-2002 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 Pembina Special Education Cooperative, 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 Pembina Special Education Cooperative 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 Steering Committee comprised of administrators, special education personnel, and the parent of a child with a disability. The Steering Committee completed the file review process and conducted the surveys. The self-assessment process included a synthesis of the data collected to address the six principles of IDEA and resulted in the completion of a unit *improvement plan*.

Six Self-Assessment activities were completed by the Steering Committee as part of the Collaborative Review Process:

1. Parents, students with disabilities, general education teachers, special education personnel, paraeducators and administrators were surveyed regarding their satisfaction with services provided by the Pembina Special Education Cooperative. Sample survey forms recommended by NDDPI were revised and used.
2. A sample of approximately 38% of all special education student files (84 files) were partially reviewed for compliance with the IDEA regulations, utilizing the form provided in the NDDPI document *Special Education Monitoring Manual: Collaborative Review Process*.
3. Compliance worksheets were completed and the results were analyzed.
4. Data from the Pembina Special Education Cooperative was analyzed to compare the local school districts to the statewide averages on the *State Performance Indicators*. This included number of students served in special education, Least Restrictive Learning Environment settings, ethnic diversity, dropout rate, and transition follow-up outcomes.
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 other agencies serving students with disabilities for additional insight into planning improvement strategies.

The *Verification Review* conducted by the NDDPI included an on-site meeting with members from the Pembina Special Education Cooperative Self-Assessment Steering Committee and the North Dakota Department of Public Instruction (NDDPI) staff. Interviews with school administrators, general educators, special educators, related service providers, and paraeducators

were conducted during the verification review site visitation on May 7-10, 2002. Focused special education file reviews were conducted on the special education records of 27 students following the compliance issues reported by the Pembina Special Education Cooperative's Steering Committee in their Self-Assessment report. The *1996 Pembina Special Education Cooperative P.L. 101-476 Compliance Monitoring Report and Three-Year Plan* was reviewed for comparison purposes with the current verification review. The *Pembina Special Education Cooperative Policies and Procedures Manual* was reviewed 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 Mr. Tom Cummings, Director, and the members of the Pembina Special Education Cooperative Self-Assessment Team in an exit meeting conducted on May 10, 2002.

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 Pembina Special Education Cooperative 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) verified several strengths identified in the *Pembina Special Education Cooperative Self-Assessment Report*. The strengths observed by the NDDPI monitoring team are listed below:

- The quality of the professional staff employed by the schools districts comprising the Pembina Special Education Cooperative represent a significant strength. The teachers and other special education personnel were described by the NDDPI monitoring team as “wonderfully innovative”, “demonstrating a passion for their work”, “love to experiment with promising best-practices” and “committed and experienced”.
- The Pembina Special Education Cooperative has developed excellent rapport with other agencies in the three counties served by the Cooperative and is participating in productive interagency collaboration.
- The consistency in using the state recommended forms in the areas of record locator, access listing, and record of inspection forms was observed to be a strength. The commitment to the NDDPI standards for maintaining student confidentiality was evidenced in all files reviewed.
- The Pembina Special Education Cooperative has developed excellent procedures for addressing several aspects of the Individualized Education Program (IEP) planning process. Commendations were made for the provisions for addressing progress reporting to parents, documenting the present levels of educational performances, and writing behavioral objectives.
- The Pembina Special Education Cooperative has developed exemplary procedures for addressing the Assistive Technology needs of students with disabilities. There is a consistent understanding of the requirement across staff members with empowerment to secure the needed assistive technology for students with disabilities.
- The value placed on providing meaningful and effective inservice training to the staff was very obvious and appreciated by the staff. The administrative support for the inservice training component must be commended and has no doubt, been partially responsible for the previously noted strength in the area of personnel. The morale of the staff was also viewed by the NDDPI monitors as being very positive, again attributable to the administrative support and value placed on personnel preparation. The value placed on inservice training was also observed relative to the training of parents and paraeducators.

Areas of Noncompliance

NDDPI observed the following areas of noncompliance:

- The Least Restrictive Environment (LRE) decision-making process for students with disabilities does not acknowledge a full continuum of options. This is an area that was also identified as a need in prior state monitoring activities. The concerns involve some children not being given an opportunity to be educated in their home school district. In those cases where students are served in another district, administrators from the resident school districts are not being invited to the IEP meetings for their students. Copies of the documentation maintained in the serving school district are not being sent to the resident

district. The appropriate decision-making documented in the LRE sections of the IEP was also a concern for those students who are being placed in another school district for the sole reason of receiving their special education services.

- There was a concern with the consistency across special education teachers with IDEA standards for the Evaluation, IEP, Transition Planning Process, and Procedural Safeguards. Although the quality of the documents produced by many of the casemanagers was excellent, there was not uniformity in quality across all casemanagers.
- The quality of services being received in some schools by students with Emotional Disturbances (ED) was questioned.

PEMBINA SPECIAL EDUCATION COOPERATIVE MONITORING REPORT
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INTRODUCTION

Background, Administrative Structures, and Children Served: The Pembina Special Education Cooperative is an independent special education administrative unit located in the northeastern part of the state. The Unit serves seven school districts including Pembina, Cavalier, Valley, Drayton, Walhalla, St. Thomas, and Neche. Special education students make up approximately 12% of the districts' total student population as of December 2000. The total district ADM population was 1,805 and the total special education population was 221.

The Pembina Special Education Cooperative has a staff of 7 professionals supervised by the director. The staff consists of the Director, a Business Manager, an Occupational Therapist, a Physical Therapist, a Psychologist, 2 Speech and Language Consultants, and an Adaptive Physical Education Consultant. The school districts employ 20 special education teachers and 26 paraeducators.

Verification Review and Data Collection: The Pembina Special Education Cooperative began the Collaborative Review process in September 2000 after attending the statewide training. The self-assessment team conducted the self-assessment processes throughout the 2000-2001 academic year and submitted the Self-Assessment Report to NDDPI in August 2001. The Self-Assessment Report included the data analysis of student record reviews, survey information, and program quality indicators.

The North Dakota Department of Public Instruction (NDDPI) visited the Pembina Special Education Cooperative on May 7-10, 2002, for the purpose of validating the information provided through the Collaborative Review process. This included a review of the new requirements under the IDEA, Amendments of 1997, and compliance to findings from the *1996 Pembina Special Education Cooperative State Monitoring Report*. On May 8, 2002, NDDPI staff members met with Tom Cummings, Director of the Pembina Special Education Cooperative, and the Self-Assessment Steering Committee to review and discuss the Self-Assessment Report. NDDPI visited the majority of the public school districts served by the Pembina Special Education Cooperative on May 8-9, 2002. Student record reviews, including Individualized Education Programs (IEPs) and Integrated Written Assessment Reports (IWARs), were reviewed for 27 students. Interviews were conducted with 19 special education staff, general education teachers who teach children with disabilities in their classrooms, paraeducators, and administrators. Preliminary results and findings of the Verification Review Visit were presented to administrators and staff members of the Pembina Special Education Cooperative in a summary meeting at the end of the site visit, on May 10, 2002.

Improvement Planning: In response to this report, the Pembina Special Education Cooperative 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 Pembina Special Education Cooperative 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.

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 students with disabilities ages 3-21. As reported in the *Pembina Special Education Cooperative Eligibility Document*, the unit participates in ongoing efforts to identify, evaluate, and serve children with disabilities. *Project Child Find* is conducted each September at the state and local levels. The Pembina Special Education Cooperative works in cooperation with a variety of state agencies and local Early Childhood Programs on their Child Find efforts.

The Pembina Special Education Cooperative Self-assessment Team concluded in the August 2002 Self-Assessment Report that:

“All eligible students are receiving appropriate services in programs of the same length as non-disabled peers. Services are provided at no cost to parents. Transitions from other services into early childhood special education are occurring. Transitions to adults services are also occurring for older students.”

The review of the Zero-Reject Performance Indicators by the Pembina Special Education Cooperative Self-Assessment team indicated 100% compliance with each of the following indicators:

- All eligible children with disabilities are receiving appropriate services.
- All children with disabilities have a daily program available equal in length to that available for children without disabilities.
- All services relative to a free and appropriate public education are available to children with disabilities at no cost to parents.
- Appropriate transitions, including continuous services, occur for children exiting *birth through 2* services and entering early childhood special education services.
- The local education agency maintains an active and continuing Child Find program designed to identify, locate, and evaluate those children from birth to 21, inclusive, residing within its geographic boundaries, who are in need of special education and related services, including written procedures for collecting, reviewing, and maintaining data pertaining to child identification.

In surveys conducted as part of the Self-Assessment process, general and special education professionals were asked if they felt their school had sufficient pre-referral interventions and services available to support at-risk students within general education programs. From the general education and special education teachers responding to the survey, 62% agreed with this statement. The administrators responded with 100% agreement.

The Pembina Special Education Cooperative has a designated building-level support team in each school building. The teams were reported to be functional and operational in all of the school districts. During the interviews conducted by NDDPI as part of the Verification Review, respondents were asked to “Describe the BLST activities in your school”. Further probes

included questions regarding consistency of team membership, team function, and the adequacy of pre-referral interventions and support services to maintain at-risk students in the general education program. The interviewees provided an adequate description of Building Level Support Team activities in the school buildings in all 19 cases (100%). This indicated that in all cases, the BLST was viewed as an effective mechanism for providing school-wide supports for students who are at-risk for eventual placement in special education. Although a few of the professionals interviewed expressed a concern that the BLST served as an obstacle for a timely referral to special education, the majority of professionals expressed very positive outcomes as a result of the BLST in their school. A review of the Zero-Reject Performance Indicators by the Pembina Special Education Cooperative Self-Assessment Team indicated that a formal child study committee was available in only 11 of the applicable 19 files reviewed, resulting in 58% compliance.

IDEA Part B Child Find obligations extend until students graduate from high school. Therefore, it is the responsibility of the special education administrative unit to promote effective strategies to identify any school-age child who has a disability and may require special education and related services. This includes students who are at risk for dropping out of school. As part of the *Program Quality Indicators* section of the Pembina Special Education Cooperative Self-Assessment report it was noted that suspension/interim alternative educational setting procedures as required by law and regulations have been followed. The data submitted with the Pembina Special Education Cooperative's Self-Assessment Report indicated that there were no students suspended for more than ten days or expelled from school during the 1999-2000 school year. Two students had been suspended the previous academic year. One student was suspended in May of 2000 for five school days. This student did not return to finish out the school year and was presumed to be a dropout. The second student was suspended in October of 1998 for ten school days for having a "weapon-like" device in school. His IEP team met and revised his IEP. He was served through an interim alternative educational setting for 45 days. When the 45 days were over, the IEP team decided to continue his educational course work at the Cooperative Office, the interim education setting. The student completed a GED through those arrangements and is now enrolled in an independent computer-training course for technicians.

Principals who were interviewed about the *Discipline Amendments, IDEA 1997 Reauthorization*, expressed some confusion about the requirements. There was universal agreement that they would call Mr. Cummings to review procedures to be followed if a long-term suspension (more than 10 days) or expulsion was being considered for a student with a disability. As part of the *Pembina Special Education Cooperative Eligibility Requirements document*, the district was asked to provide current policies and procedures relating to suspension and expulsion of students with disabilities. The Pembina Special Education Cooperative uses the state recommended practices for *Suspension and Expulsion* of students with disabilities. The unit's policies and procedures manual has been updated to include the necessary considerations for discipline contained within the 1997 Reauthorization of IDEA. Training has been provided to the administrators and teachers in the cooperating school districts.

A review of the Performance Indicators for Behavior Plans indicated that a total of 15 plans were reviewed. The plans reviewed specified techniques to de-escalate student disruption before

confrontations occur. The plans were reported to address either academic refusal or oppositional behavior.

The number of students who dropped out of school during the 1999-2000 school year was reported in the Self-Assessment report as 7 students, 3 of who were enrolled in special education. Two of these students were being served under specific learning disabilities and one under mental retardation. Although the percentage of students dropping out of school who were enrolled in special education appears higher than the percentage of general education students, this was not found to be a discrepancy with the Pembina Special Education Cooperative Self-Assessment team. They cited in the Self-Assessment report: "The data indicates special education students aren't leaving school at any rate different than regular education; in fact the rate may be lower". This assumption may well be true, considering the underreporting of dropouts from general education that occurs statewide. The Self-Assessment report also states that all dropouts are followed, with services offered to try to help the former students complete their education. At-risk students who are in special education services are given several vocational options including specialized training at a region vocational high school program, in order to entice them to stay. Other, non-special education, at-risk students are referred by school counselors or Building Level Support Teams for a record review and assessment if appropriate. The Pembina Special Education Cooperative continues to support correspondence study, alternative educational placements, extended school year opportunities, vocational placements and referrals, and interagency planning for the at-risk and dropout students.

The Performance Indicator "The LEA carries out early identification efforts to locate students who are at-risk of dropping out of school" was rated as not being in compliance in 10 out of 15 applicable cases (66%) for which this standard was reviewed. The Performance Indicator "The LEA utilizes effective dropout diversion initiatives" was rated as being in compliance in nine out of 14 cases, or 64% compliance.

An analysis of the percentages of students served under each disability category indicated that the Pembina Special Education Cooperative is consistent with the state and national averages in terms of total number of students served in special education. The Pembina Special Education Cooperative was higher than the state average in the categories of Other Health Impaired (OHI), Mental Retardation (MR), Emotionally Disturbed (ED), Orthopedically Impaired (OI) Traumatic Brain Injured (TBI), and Deaf/Blind.

NDDPI reviewed and analyzed the data and identified the following strengths and suggestions for improvement:

STRENGTHS

The Pembina Special Education Cooperative has demonstrated a strong commitment to providing comprehensive follow-up services to students with disabilities who attempt to dropout of school or who are at-risk for dropping out of school. Every attempt is being made to provide the needed assessments and referrals for more meaningful vocational training, enhanced curricular options, and learning environments that accommodate for the individual needs of the students.

Strengths are also observed in the attempts being made to utilize the general education classroom curriculum as a source of instruction prior to referral to special education. During file reviews conducted as part of the Pembina Special Education Cooperative Self-Assessment Process, 32 files were reviewed to determine if they included documentation that prior to initial referral, instruction was provided appropriate to age and ability level. This included evidence that the building level support team documented the interventions. It was determined by the Pembina Special Education Cooperative Self-Assessment team that this regulation was in compliance in 30 out of 32 files, resulting in 94% compliance. Files monitored by the NDDPI monitors indicated that building-level support team activities were documented in 100% of the applicable cases. Documentation that the disability was not due to lack of instruction was documented in 4 out of 4 applicable files, resulting in 100% compliance.

SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

The Pembina Special Education Cooperative Self-Assessment team identified an area of concern in the area of *Zero Reject*, or providing FAPE to all eligible students. The Self-Assessment Team recommended the initiation of Building Level Support Team activities in all Cooperative schools. The Self-Assessment team felt that the informal referrals and parent/student-initiated referrals “did not provide for the student needs” and had the potential of undermining the BLST procedures in place to address this provision of the IDEA. This concern was validated by the NDDPI monitoring team.

The surveys used by the Pembina Special Education Cooperative Self-Assessment team asked the following question: “My school has sufficient pre-referral interventions and support services available to maintain at-risk students within the general education program”. Sixty two percent (62%) of the teachers agreed with this statement and 17% disagreed. Of the parents who were surveyed, 66% agreed with this statement and 8% disagreed. All administrators surveyed (100%) agreed with this statement.

A concern was also identified by the NDDPI monitoring team about the Child Find provisions for young children with disabilities. Uniformity across school districts in terms of the quality of the referral process, the selective screening procedures, and access to comprehensive evaluation services is an issue. Parents are expected to bring their children to Cavalier for selective screening and evaluations. The number of parents who avail themselves of this service appears to be less than what would be expected if all of the services were provided at the local school district in the child’s home community. Although the Early Childhood Special Education Program in Cavalier was reported to be engaging in meaningful interagency collaboration with Head start and Public Health, the emphasis of the interagency focus is limited to a site-based program.

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.

File reviews of the records of 83 students conducted by the Pembina Special Education Cooperative showed 85% or higher compliance in 12 of the 18 Procedural Requirements/Assessment items monitored. The areas of compliance consisted of:

- Current assessment in file (98% compliance).
- Consent for evaluation found in file (94% compliance).
- Evaluation completed prior to placement (95% compliance).
- Reevaluation or verification that no additional assessment data is needed every three years (96% compliance).
- Student assessed in all areas of suspected disability (96% compliance).
- File includes integrated written assessment report (90% compliance).
- File includes documentation that an assessment was conducted prior to determining that the student is no longer a child with a disability (98% compliance).
- Prior to referral for initial assessment, instruction provided was appropriate to age and ability level (94% compliance).
- Observation in classroom (85% compliance).
- Relationship between observation and academic functioning (85% compliance).
- Discrepancy not attributable to other causes (97% compliance).
- Addresses effects of disadvantage (97% compliance).

The Pembina Special Education Cooperative Self-Assessment team concluded from a review of the data that the Cooperative “has done an excellent job of meeting federal/state requirements for assessments”. The report stated that the tests used were technically sound, properly administered, culturally and racially appropriate and administered through a multi-disciplinary team process. The team concluded that the documentation of the assessment planning process indicated a need for more student profile data, as well as documentation of parental participation. The team also recommended that the written assessment summaries for learning disabled students need to include specific elements currently not contained in the reports.

In surveys conducted as part of the Pembina Special Education Cooperative Self-Assessment report, 82% of the education personnel agreed that student assessment information is reflective of student progress and is valid and meaningful for planning student instruction. The Pembina Special Education Cooperative director has assured NDDPI that state recommended *Guidelines: Evaluation Process (8/1/99)* has been adopted by the unit and is being used by special education staff members. Training to all special education staff on the use of the state guidelines has been provided.

During interviews conducted by NDDPI as part of the Verification Review, respondents were asked to “Describe the evaluation planning process.” Further probes included questions regarding: a) access to information for assisting in determining nondiscriminatory assessment; b) documentation that the disability is not due to a lack of instruction in math and reading; c) for students 16 years and older, whether student interests were discussed; and d) if children were

assessed in all areas relating to the disability. In addition, respondents were asked about the process followed when the team determines that no additional data is needed and the process followed when a student is dismissed from special education prior to graduation. Individuals involved in the completion of assessments for SLD students were also asked to describe how additional SLD requirements are addressed in the IWAR. Copies of assessment plans and the IWAR were reviewed during the student record review process. Out of a total of 19 interviews conducted, all 19 of the responses (100%) were rated as being in compliance when describing the evaluation planning process. The results of the Pembina Special Education Cooperative's file review indicated that an assessment was conducted prior to determining the student is no longer a child with a disability in 46 out of 47 (98%) of the applicable files.

NDDPI reviewed and analyzed the data from the unit's Self-Assessment file review, and the NDDPI file review, and identified the following areas of strength, noncompliance, and suggestions for improvement:

STRENGTHS

The Pembina Special Education Cooperative is consistently using the state recommended assessment-planning process for initial evaluations and three-year reevaluations. The commitment to the NDDPI standards for conducting student evaluations and reevaluations was documented in 95% of the files reviewed, validating the 98% findings of the Pembina Special Education Cooperative. In addition to having a current assessment in place, the student profiles were completed adequately in 17 out of 19 cases (89%) and Integrated Written Assessment Summaries (IWAR) were documented in 19 out of 19 cases, or 100% compliance. Multi-disciplinary team members that were consistently present at all assessment meetings consisted of a general education teacher (91%), special education teacher (91%), and an administrator (91%).

An additional strength was noted in the area of evaluations for students with specific learning disabilities. All three of the files reviewed contained documentation of the Building Level Support Team documentation, documentation that the disability was not due to lack of instruction, and documentation of an observation of the student in the general education classroom that was conducted by someone other than the classroom teacher.

AREAS OF NONCOMPLIANCE

Evaluation Process

NDDPI *Guidelines: Evaluation Process* (8/1/99) includes suggested procedures and forms that meet requirements of the assessment planning process and the development of the Integrated Written Assessment Reports (IWAR). The results of the Pembina Special Education Cooperative Self-Assessment Study indicated the need to provide training and enhance the student profile component of the student assessment plans. Although the NDDPI found no evidence of noncompliance with the state recommended process, the recommendation of the Self-Assessment team was validated.

Specific components of CFR 300.531-300.543 that were not in compliance consisted of:

34 CFR 300.534 (c)(1), A public agency must evaluate a child with a disability in accordance with CFR 300.532 and 300.533 before determining that the child is no longer a child with a disability.

Four files for children recently dismissed from special education services were reviewed for this standard. Two of these files did not contain an assessment or evidence that the need for an assessment had been considered, indicating 50% compliance. This did not validate the findings by the Pembina Special Education Cooperatives Self-Assessment report that documented this standard in 46 out of 47 files, or 98% compliance. Several of these files were reviewed during the site visit. In many cases, the dismissal was documented on an Integrated Written Assessment Summary form, and signed by members of the Individualized Education Program (IEP). This practice does not meet the intent of the requirement if it is not completed within the context of the assessment planning process. Documentation of the conclusion of the team members about whether or not the student requires special education services without objective evaluation data negates the value articulated in the requirement to base the decision on objective evaluation data. A careful examination of the *Pembina Special Education Cooperative's Policies and Procedures Manual* reveals that the IEP teams are directed to dismiss students if they no longer demonstrate a need for special education services. However, the manual does not address the provisions of 300.532 and 300.533 in making the determination.

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 child with specific learning disabilities.

Review of IWARs by the Pembina Special Education Cooperative Self-Assessment team indicated that the IWAR did not identify the student as having a learning disability in one of seven areas in 27 out of 34 files, indicating 79% compliance. Documentation of the basis for the determination of the learning disability was found in only 23 out of 33 files, indicating 70% compliance. Documenting the discrepancy between ability and achievement was documented in 19 out of 34 files, indicating 56% compliance and addressing educationally relevant medical findings in 20 out of 34 files, evidencing 59% compliance.

NDDPI monitors reviewed the files for three students identified as having specific learning disabilities and validated the findings of the Pembina Special Education Cooperative's Self-Assessment team. The NDDPI monitoring team found that the files contained documentation that there was a severe discrepancy between achievement and intellectual ability in one of seven areas in only two out of three files, indicating 66% compliance. A statement that the team found that the discrepancy was not due to a visual, hearing, or motor disability or mental retardation, emotional disturbance was documented in 2 out of 3 files, also indicating 66% compliance. Documentation that the specific learning disability was not the result of environmental, cultural, or economic deprivation was documented in 2 out of 3 files (66% compliance). Documentation of educationally relevant medical findings and that the discrepancy was not attributable to any other cause was documented in only 1 out of 3 files, indicating 33% compliance.

SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

The Pembina Special Education Cooperative Self Assessment team recommended additional training for all special education personnel on conducting the assessment planning process utilizing the student profile, generating questions, and planning assessment strategies. Additional training was recommended for the teachers of students with Specific Learning Disabilities in the areas of a) the additional requirements for documenting a specific learning disability, and b) documenting in the assessment procedure and written integrated assessment summaries the additional requirements for a specific learning disability. The NDDPI monitoring team concurs with these recommendations.

The *Pembina Special Education Cooperative Policies and Procedures Manual* should be revised to acknowledge the provisions of 34 CFR 300.534 (c)(1), CFR 300.532 and 300.533. The directions to the IEP team members requiring dismissal begin on page 15 under the section entitled *Student Policies, I Placement Criteria*. In several sections, under the subtitle *Criteria for Exit From Services*, the following language is used:

“The team, through the IEP process, determines that the student no longer requires special education services. The student may exit from language services when speech-language goals and objectives are met and language skills no longer adversely affect educational progress and classroom interactions as evidenced by the student’s ability to maintain appropriate communication and academic skills. It may be appropriate for the speech-language pathologist or building level support team to provide ongoing support to the classroom teacher”. (Page 25)

Each of these sections should be revised to address the provision that an evaluation be considered and/or conducted prior to the determination by the IEP team that “services are no longer required”.

III. FREE APPROPRIATE PUBLIC EDUCATION

CFR 300.344 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 Pembina Special Education Cooperative Self-Assessment team determined that all eligible students are receiving appropriate services in programs of the same length as non-disabled peers. Services are provided at no cost to the parents. Transition from other services into early childhood special education is occurring consistent with the state recommended Early Childhood Transition Agreement. Transition to adult services is occurring for older students.

The Pembina Special Education Cooperative Self-Assessment Report states that:

“Individualized Education Program (IEP) teams are developing programs which involve regular classroom services as the basis of the child’s program documentation of regular education participation is evolving. Programs are developed uniquely for each child and reflect individual needs. Transition

services for older students are expanding and there are more vocational options available than ever before. Extended School Year services are considered for all students and offered for eligible students, usually at their home school and in accordance with parent request for service time.”

Surveys conducted by the Pembina Special Education Cooperative Self-Assessment Team contained the statement “Teachers set challenging goals and have high expectations for my child”. Parents responding to this item agreed in 84% of the cases, with only 6% disagreeing and the remainder expressing uncertainty. Students agreed with this statement 75% of the time, with 11% disagreeing. Educational personnel agreed with the statement that “I have high expectations for students with disabilities and expect them to achieve commensurate with their ability in 93% of the cases,” with only 4% disagreeing.

File reviews conducted by the Pembina Special Education Cooperative personnel showed 85% or more compliance in 21 of the 22 areas monitored. Twelve areas were rated as being in 100% compliance for the 84 student files reviewed. These twelve areas consisted of:

- Effective dates of IEP.
- Primary disability listed.
- Post school outcomes, ages 14-16.
- Present levels of education performance.
- Statement of transition services needed, ages 14-21.
- Statement of needed transition services, ages 16-21.
- Annual goals.
- Agency coordination and responsibilities, ages 16-21.
- Adaptations of educational services.
- Positive behavior interventions and strategies.
- Participation in academic and non-academic activities.
- Special education and related services.

Additional components determined to be at 85% compliance or higher consisted of:

<u>Compliance level</u>	<u>Component</u>
87%	Parent Prior Notice
94%	Parent present at meeting
98%	Short-term instructional objectives
89%	Characteristics of services, including participation in general education
98%	Progress reporting to parents
99%	Participation in district-wide and statewide assessments
99%	Physical education
99%	LRE justification
99%	Extended school year.

One of the components, “including all team members”, was determined to be in compliance in 75% of the 56 files reviewed for that requirement.

The Pembina Special Education Cooperative director has assured NDDPI that state recommended *Guidelines: Individualized Education Program Planning Process (8/1/99)* was

adopted by the Unit and is being used by special education staff members. During interviews conducted by NDDPI as part of the Verification Review, respondents were asked to describe the IEP development process, including specific questions related to:

- IEP team members
- Development of annual goals and objectives
- Progress reports for parents
- Development of characteristics of services
- Determining need for assistive technology devices and services
- Student involvement in extracurricular activities
- Availability of curriculum and materials for students with limited English proficiency
- Participation in statewide assessments
- Intervention and strategies used to support students with emotional, behavioral or discipline problems
- Transition planning activities for students 14 years and older.

Out of a total of 19 interviews conducted with special education teachers, 100% responded to the questions in a manner that indicated no concerns with the IEP process. All of the teachers were familiar with the team member composition, disability categories, requirements for the present levels of educational performance, and the procedures for deriving goals, objectives, and characteristics of service.

The NDDPI monitors reviewed 27 files for students currently enrolled in the Pembina Special Education Cooperative. Current IEPs were found in 24 out of the 27 files, indicating 88% compliance with the regulation *CFR 300.346*. The IEPs had been reviewed within 12 months (*300.343*) in 21 out of 24 of the files for which this regulation was applicable, indicating 87% compliance. The requirement for the meeting participants at the IEP meetings (*300.344*) were generally found to be in compliance with the special education teacher present in 100% of the cases, the parent in 88% of the cases, the general education teachers in 81% of the cases, and an administrator from the LEA present in 85% of the cases. Other agency personnel were included in all four of the transition age (16 years and older) IEPs reviewed, indicating 100% compliance.

Since the determination of need for, and the provision of, extended school year services is an issue for schools across North Dakota, and has also been identified as an area of concern by federal monitors during their most recent visit, this issue was emphasized during interviews with school personnel. Student file reviews completed by NDDPI staff also included the IEP components indicated above. Documenting the need for extended school year services was rated by the NDDPI monitoring team as adequate in 26 out of 27 files, indicating 96% compliance. This validated the 99% compliance determined by the Pembina Special Education Cooperative Self-Assessment Team. Concerns were evident during the interviews, however, about the criteria used in the decision making process.

NDDPI monitors reviewed and analyzed data and identified the following areas of strength, noncompliance and suggestions for improvement.

STRENGTHS

A strength relative to the development of IEPs was the consistency with which the staff was able to document the students' *present levels of educational performance* (PLEP). The review of 27 files by the NDDPI Verification Team noted consistency across teachers in the development of PLEP components that were well written and rated as understandable to parents and general education teachers in all 27 cases, indicating 100% compliance. All 27 IEPs reviewed contained present levels of educational performance that included 90% or more of all required components including: cognitive functioning (90%), academic performance (92%), communication status (96%), motor ability (96%), sensory status (92%), health/physical status (96%), social-emotional-behavioral-ecological (92%), and functional skills (92%). The present level of performance described patterns of functioning in 24 out of 27 of the files (89%) and described how the disability affects the child's involvement and progress in the general education curriculum in 25 out of 27 of the files (92%).

Documenting the method for reporting progress to parents as often as the general education progress is reported was determined to be adequate in all 27 files reviewed. Of the parents surveyed as a part of the Self-Assessment process, 97% stated that they were provided with updates of their child's progress through report cards and parent teacher conferences similar to updates provided to parents of nondisabled students. Only 5% of the education personnel surveyed disagreed with the statement that "the same methods used to inform parents of progress of nondisabled students are used to inform parents of students with disabilities". This indicates that 95% either agreed or were unfamiliar with the reporting procedures. The Pembina Special Education Cooperative Self-Assessment report noted that in 98% of the 84 files reviewed, progress reporting to parents was documented appropriately. The NDDPI monitors verified the finding at a 100% compliance level, finding that progress reports and/or indication of planned progress reporting times to the parents was documented appropriately on all 27 IEP forms.

Another strength relative to documenting the planning of the IEP was the design of behavioral objectives that were well written and included the required components. All 27 IEPs included criteria for attainment of all behavioral objectives, indicating 100% compliance. Twenty-six (26) out of 27 IEPs documented behavioral objectives that contained specific behaviors for all outcomes (96% compliance) and 24 out of 27 (89%) contained conditions or circumstances under which the behavior was to be performed. Schedules for determining if objectives were met were contained in 25 out of 27 IEPs, indicating 93% compliance. All behavioral objectives (100%) were sequential, when required, and 22 out of 27 (81%) contained an evaluation procedure. The adaptations to educational services section, discussing how the student will be provided access to the general education curriculum, was determined to be adequate in 25 out of 27 IEPs, indicating 93% compliance.

Documentation of nonacademic and extracurricular activities was reported to be in compliance in all 84 files reviewed by the Pembina Special Education Cooperative Self-Assessment Team, indicating 100% compliance. The NDDPI monitoring team validated a similar level by finding that this section was adequate in 25 out of 27 files, indicating 93% compliance. When educational personnel were asked if "Students with disabilities have the opportunity to participate in all school activities including trips, clubs, internships, athletics and assemblies,"

over 90 percent agreed. Parents agreed with this statement 82% of the time, with only 5% disagreeing (the remainder reported uncertainty). When students were surveyed, 87% of them reported that they have received the information necessary to be involved in extracurricular activities.

The participation of students in statewide and district wide assessment was found to be adequate in all 25 out of 27 files reviewed, indicating 93% compliance. This validated the Pembina Special Education Cooperative Self-Assessment teams finding of 99% compliance in this area.

AREAS OF NONCOMPLIANCE

IEP Team Members

34 CFR 300.344 describes the required IEP team membership: parents, regular education teacher, special education teacher, representative of the public agency, a person who can interpret evaluation results, and, if appropriate, the child.

The Pembina Special Education Cooperative Self-Assessment report noted that all required members were documented as present in 75% of the IEPs reviewed. Seventy-eight percent (78%) of the students in grades 6-12 reported that they had been invited to attend their IEP meeting. The NDDPI monitors verified this finding through the identification of 22 out of 27 IEPs reviewed (81%) that contained the required team members. Team members that were most frequently absent included general education teachers (81%) and administrators (85%). Parents were present at 88% of the meetings and students, aged 14-21, were present at 42% of the IEPs.

Present Level of Educational Performance

34 CFR 300.347(1) requires that the Present Level of Educational Performance address all areas of functioning. 34CFR 300.347 (a) (1) (i) requires that the IEP for each child with a disability must include a statement of the child's PLEP, including how the child's disability affects the child's involvement and progress in the general curriculum.

Although documenting the students' present levels of educational performance was an overall strength for the Pembina Special Education Cooperative's teachers, one component was not in compliance. Including information that reflected parent input was found in only 16 out of 27 files indicating 59% compliance.

Another area of weakness relative to documenting the students' PLEP was found in the area of transition planning. Although the transition plans included this section in 13 out of 14 files, indicating 92% compliance, the NDDPI monitoring team rated over 50% of the sections as incomplete. The components found to be inadequate in terms of meaningful outcomes for students consisted of: a) Jobs and job training, b) Recreation and leisure, c) Home and independent living, d) Community participation, e) Post-secondary training and learning, and f) Related services. The PLEP was rated as adequate for considering and documenting student transition needs in only 9 out of 14 IEPs (64%) and documenting student preferences and interests in only 9 out of 14 IEPs (64%). When students were asked, on the Pembina Special Education Cooperative's Self-Assessment survey, "I understand what is discussed at my IEP

meeting(s) and feel comfortable asking questions”, only 64% of the students responding agreed with this statement.

Annual Goals and Short-term Objectives

34 CFR 300.347 requires that goals be measurable and include short-term objectives intended to meet the child’s educational needs resulting from the child’s disability.

The Pembina Special Education Cooperative’s review indicated that the IEPs reviewed contained annual goals in 100% of the files and short-term behavioral objectives in 98% of the files that contained all components. The NDDPI monitors verified this level of compliance at 93% (average across 6 variables) for the behavioral objectives. The 100% compliance with writing annual goals was not verified, however. The NDDPI monitoring team determined an average compliance of 67% across the 5 variables examined. Goals contained a behavior or skill in 20 out of 27 IEPs (74%), an intent or purpose in 21 out of 27 IEPs (77%), and a desired ending level of achievement in 13 out of 27 IEPs (48%). Twenty-four (24) out of 27 IEPs (89%) were rated by the monitors as having a basis in the PLEP but only 13 out of 27 (48%) were rated as being reasonable and attainable within 1 year.

Characteristics of Services (COS)

34 CFR 300.347(a)(2) states that IEPs must include short-term objectives related to how the child will be involved in and progress in the general curriculum. The COS discussion considers where and how the services will be delivered.

The NDDPI monitoring team reviewed 27 IEPs and found that 70% of the IEPs contained an adequate characteristics of service section. This was not consistent with the 85% compliance level noted in the Pembina Special Education Cooperative’s Self-Assessment Report. The components examined consisted of:

- Stating *where* each goal/objective will be carried out was documented in 23 out of 27 files, indicating 85% compliance,
- Stating *who will carry out* each goal/objective was documented in 16 out of 27 files, indicating 59% compliance, and
- Stating *who will monitor* progress for each goal/objective was documented in 18 out of 27 files, indicating 66% compliance.

Transition

34 CFR 300.29 (a) (1)(2) states that transition services is a coordinated set of activities for a student with a disability that is designed within an outcome-oriented process, that promotes movement from school to post-school activities and is based on the individual student’s needs, taking into account the student’s preferences and interests. The Post School Outcomes section of the Transition IEP is designed to identify post school outcomes so the team can determine what supports and services will be required as well as to adequately prepare the student for their identified goals.

Surveys conducted as part of the Pembina Special Education Cooperative’s Self-Assessment process indicated that 33% of the parents surveyed agreed that both they and their child had been involved in planning for transition to post-school experiences. Forty-four percent (44%) of

education personnel agreed that staff members in their building participate in the development and implementation of the transition plan for students with disabilities ages 14 and older. Sixty nine percent (69%) of the students in grades 9-12 reported they have been involved in planning for transition experiences.

A review of the data from the Pembina Special Education Cooperative's Self-Assessment Report indicated the following weaknesses on the DPI Transition Requirements checklist.

- Item 1. 68% of the teachers reported that the LEA invited the students.
- Item 3a. 73% of the students needed outside agency representation.
- Item 3b. 50% of the teachers reported inviting an agency representative.
- Item 3c. 59% reported taking other steps to get agency participation if the agency representative didn't attend.
- Item 4. 66% indicated that parent notice included inviting the students.
- Item 7a. 80% indicated daily living was addressed as an issue.
- Item 10. 81% report the IEP has a section on transfer of rights.
- Item 12. There was no report of FAPE termination to graduating seniors on any of the IEPs.

Several critical components were missing in many of the transition IEPs reviewed by the NDDPI monitoring team. Documentation of the participation of representatives from other agencies that are likely to be responsible for providing or paying for transition services was contained in only 3 out of the 6 applicable files reviewed, indicating 50% compliance. Historically, we know that almost all students with disabilities will benefit from some form of agency involvement or intervention following high school. As verified in the Self-Assessment Report, information was noted on the prior notice inviting other agency representatives to the IEP meetings in only 50% of the files and only 59% reported that other steps are taken if they did not attend. In those cases where the student did not attend his or her IEP meeting, there was very limited documentation that the student's preferences or interests were considered or that the IEP was reviewed with the student.

The transition goals that were identified included employment opportunities in 71% of the cases, recreation and leisure in 28% of the cases, community participation in 28% of the cases, post secondary learning in 35% of the cases, and independent living in 42% of the cases. A complete course of study through the 12th grade was included in only 7% of the applicable files reviewed. The graduation data and course work leading to the post school outcome goals were identified in 71% of the files.

Extended School Year

Interviews conducted with the special education personnel and administrators indicated inconsistent knowledge of the application of the guidelines for determining the need for ESY services. Out of 19 interviews conducted, 7 of the teachers' responses (63% compliance) were rated as inadequate. Teacher responses appeared to indicate that the decision is made based on the category of disability or the severity of disability rather than on an individual basis. Examples of descriptors used to define ESY eligibility criteria included "younger kids need it", "we don't have one (ESY)", "if they want to go to Cavalier", "for the TMH", "all severely disabled get it", and "not at the secondary level". A review of the *Pembina Special Education Cooperative's*

Policies and Procedures Manual indicated that it is using the NDDPI document *Extended School Year Services for Students with Disabilities*.

SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

Although the Pembina Special Education Cooperative was observed to be making progress in integrating students with disabilities into the general education programs, only 63% of the educational personnel surveyed reported that they have received adequate training. Included in this item was adequate information and material and personnel supports that allow them to implement each student's IEP. When asked if they have time available during the school week to complete necessary collaboration, only 41% agreed with this statement. Although 80% reported that they have an opportunity to participate in staff development and training activities which are provided jointly to general education and special education staff, only 65% reported that they have input into the identification of staff development needs and the planning of training activities related to students with disabilities.

It is recommended that the Pembina Special Education Cooperative expand the unit's internal monitoring process in the area of IEP review to include qualitative aspects of the documentation of the IEP process.

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.

The Pembina Special Education Cooperative Self-Assessment Report found that 99% of the files reviewed provided a complete and adequate LRE justification statement. During interviews conducted by the NDDPI monitoring team, respondents were asked to "Describe the process for determining LRE." Further probes included questions regarding: documentation of LRE decisions, determination of placement and harmful effect, the continuum of educational services available at their school, and the process used to access the general curriculum. Student file reviews included a check of documentation of LRE decisions, discussion of harmful effect and participation in general education.

The summary of survey information included in the Pembina Special Education Cooperative Self-Assessment Report indicated no concerns with LRE for students served in the cooperating schools. Eighty-five percent (85%) of the educational personnel surveyed agreed that they had meaningful input into the student's IEP. Eighty-eight percent (88%) reported ongoing communication with other staff involved. When asked if they had received adequate training, information, and both material and personnel supports that allowed them to implement each student's IEP, only 17% of the educational personnel agreed with this statement.

Eighty-two percent (82%) reported that the general education staff modifies and adapts the general education curriculum appropriately. During interviews conducted by NDDPI monitors as part of the Verification Review, respondents were asked to describe how the LRE question is addressed.

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

STRENGTHS

The Pembina Special Education Cooperative has made significant progress in the documentation of the LRE decision-making process when compared to the results of the 1996 State Monitoring. Strengths were noted in several areas including:

34 CFR 300.552 Placements. The NDDPI monitoring team found documentation that “consideration is given” to the child being educated in the neighborhood school unless other arrangements are determined necessary by the IEP team in 22 out of 25 files, indicating 88% compliance. Documentation that the child’s placement was based on the IEP was contained in 23 out of 25 files, indicating 92% compliance.

34 CFR 300.550 General LRE requirements. (1) That to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled. A review of 25 files indicated that documentation was provided that the child was being educated with children who are nondisabled in 24 cases, indicating 96% compliance.

34 CFR 300.550.2 That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Documentation of this requirement was determined adequate by the NDDPI monitoring team in all 25 cases, indicating 100% compliance and validating the same level of compliance determined by the Pembina Special Education Cooperative’s Self-Assessment team.

Regulation 300.551, Continuum of alternative placements. The NDDPI monitoring team determined that there was sufficient documentation in the *Justification of LRE* section of the IEPs in 20 out of 25 files, indicating 80% compliance. The *Reason the LRE options were chosen, and other options rejected*, was determined to be documented in 92% of the files reviewed.

AREAS OF NONCOMPLIANCE

34 CFR 300.551 (a) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. (b) The continuum required in paragraph (a) of this section must- (1) Include the

alternative placements listed in the definition of special education under 300.26 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and (2) make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class.

The NDDPI monitoring team interviewed 19 special education teachers concerning the process used to determine the least restrictive learning environment for students with disabilities.

Questions asked included:

- “What group of students is being served in non district placements?”
- “Describe the process you go through to determine Least Restrictive Environment for those students?”
- “How do you address potential harmful effects for those placements?”
- “How do you determine how close to home a child attends school?”

The NDDPI monitoring team members expressed concerns about the appropriateness of the responses in 8 out of 19 interviews, indicating 58% compliance with this standard. Comments were made by several teachers that caused concern for the monitors about the extent to which the teachers understand the provisions of this regulation. One teacher reported that the mentally handicapped children are bussed to a neighboring school district because that’s where the program is for mentally retarded children. Another teacher reported that the students are kept in their home school district until they get older and then are bussed to a vocational program. Another teacher reported that options are discussed, including programs in neighboring communities, and then the parents make the ultimate decision. One teacher reported that administrators determine which students will be served out-of-district. The discussions that were held indicated that although options are being considered and documented in the IEPs, the final determination is often based on variables other than the needs of the students. Examples of variables often used, as cited in the interviews, consisted of administrative convenience in providing vocational training, parent preferences, and in at least one case, the decision of the school district administrators.

During the file review conducted by the NDDPI monitoring team, the LRE justification sections were almost identical across all IEPs for some teachers that served a high percentage of out-of-district students. This indicated that the rationale for the decision making process is being made based on a category of student, rather than the unique needs of an individual student. Although attempts were made to justify placement in another school district, rather than the student’s home school district, the reasons cited consisted of the need for specialized curriculum and the lack of an appropriate program in the home school district. Limited attention was given to creating options for the student in his or her own school district that would address the educational needs of the student.

Interviews with the personnel from the Early Childhood Special Education Program in Cavalier indicated significant concerns with LRE provisions for young children with disabilities. Only one site-based program is used for the Cooperative and is located in Cavalier. All children are transported to Cavalier to receive special education services. The interviews conducted by the NDDPI monitoring team specifically inquired about other options available for parents who choose not to transport their child. The options, as reported, were very limited, and not of the

same quality as those available if the parents agree to transport their child to Cavalier. Examples of options consist of a weekly home visit or speech and language therapy in the resident school district if the Speech and Language Therapist agrees. Other concerns consisted of limited selective screening and child-find activities in the resident communities, limited integration with students who are not disabled, and not including the administrators from the resident school district in the educational processes for the ECSE students until they are being transitioned into kindergarten.

Interviews conducted with the administrators in the cooperating school districts indicated that they are not involved in the educational process for school age students that are being bussed to a neighboring school district. One administrator reported that he was unsure about the number of students from his district being bussed to another school. A review of the child count data was used to verify the total number and attempts were made to locate documentation that the administrator from the resident school district had been invited to IEP meetings for those students in the neighboring school district. Prior notices or other correspondence inviting members of the resident district to attend the meetings in the receiving school district were not found in the student files maintained in the resident district, verifying the superintendent's statement that he had not been invited to those meetings.

34 CFR 300.552 (d) states that in selecting the LRE, consideration must be given to any potential harmful effect on the child or on the quality of services that he or she needs.

NDDPI reviewed and analyzed the data from the file review and determined that the IEP provided sufficient documentation for potential harmful effects in 21 out of 25 files, indicating 84% compliance. The IEPs for the students placed out of their neighborhood school typically reported, "No" to the IEP question, "Is there a potential harmful effect to the student with this placement?" This response was used even in those cases where students were being bussed to a neighboring community to receive their educational services. There was not adequate documentation of this regulation in the files for students who were placed in a self-contained classroom for 100% of the school day and did not have opportunities to participate in other educational and extracurricular activities with students who did not have disabilities. No provisions were made to identify the potential harmful effects of having to be transported or the special transportation needs that would arise if the student chose to attend activities in either school district.

34 CFR 300.347 (4) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(3) of this section;

The file reviews completed by the NDDPI monitoring team indicated that 19 out of 27 of the IEPs (70% compliance) adequately documented the justification for removal from the general education setting. This did not validate the Pembina Special Education Cooperatives findings of 91% compliance.

Although the Pembina Special Education Cooperative was observed to have made significant progress in improving the methods for documenting the LRE decision-making process, concerns persist about the variables that are used in making those decisions and the continuum of options afforded to students with some categories of disabilities. It appears that centralized locations are used for categories of students including students that are mentally retarded and preschool students. This approach is used for categories of students unless parents refuse, and then other options are pursued. Other categories, such as orthopedically impaired and severely disabled, are routinely served in their home school district.

A review of the results of the Pembina Special Education Cooperative's Self-Assessment Report indicated some interesting data relevant to school climate. Students, when asked if they "felt welcome in their school and were treated respectfully" agreed with this statement in only 78% of the cases. The extent to which the LRE process is impacting the student's feelings of "not belonging" is unknown at this time.

A related concern is the role of limited options for parents with young children requiring Early Childhood Special Education (ECSE) services. Interviews conducted with the ECSE personnel indicated that some parents choose not to enroll their eligible children in services because of the driving distance from their home community to Cavalier. Other parents withhold their child from services until the children are older (4 years or 5 years) and then consent to transporting the children to Cavalier. It was indicated by these interviews that the LRE provisions for preschool children are not uniform across the Cooperative and that the existing policies are impacting the Cooperative's child-find and early identification processes.

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.

The Pembina Special Education Cooperative has demonstrated good-faith efforts in involving parents at all levels in the educational process for their children. As stated on page 17 of the Pembina Special Education Cooperative's Self-Assessment Report:

"Survey data, parental interviews, and staff reporting indicate a very high degree of parental support for special education services. Parents attend meetings or request special considerations so that meetings can be held in their absence, but with their input. Meetings are held from 7:00 in the morning until 9:00 at night. Occasionally weekend meetings are scheduled."

It also states in the *Pembina Special Education Cooperative's IDEA-B Application*, the unit's Family Educator Enhancement Team (FEET) provides opportunities throughout the year for parental involvement. Parents are also involved extensively in inservice training options provided by the Pembina Special Education Cooperative.

As part of the file review of the Pembina Special Education Cooperative Self-Assessment Report, 94% of the files reviewed indicated that parents were present at the IEP meetings. Of the parents surveyed as part of the Self-Assessment Process, 98% reported that they understand what is discussed at the meetings to develop their child's IEP and feel comfortable asking questions and expressing concerns when needed. Ninety-seven percent (97%) of the parents reported feeling welcome in their child's school and treated with respect. Eighty-seven percent (87%) reported they were satisfied with the special education program and services provided to their child. When asked if they had been invited to participate in general and special education parent activities, 68% of the parents surveyed agreed with this statement. When asked if they had been given the chance to work with the school to develop and evaluate policies and programs through participation in local planning committees, 53% of the parents agreed with this statement.

Student file reviews completed by the NDDPI monitoring team included a specific question regarding parent participation in the evaluation and IEP process. Although the parents were present and participated in the meetings 88% of the time, only 14 out of 25 of the IEPs written as a result of those meetings documented the parent input, indicating 58% compliance. Although parents were in attendance at 78% of the assessment planning meetings, documentation of the input of the parents into the assessment planning sessions was evident in only 62% of the assessment planning meetings and meetings to write the integrated assessment results summary.

SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

NDDPI strongly encourages the Pembina Special Education Cooperative to continue to offer information and training opportunities to families of children with disabilities. Parental involvement has long been recognized as an important indicator of a school's success and parent involvement has positive effects on children's attitudes and behavior. Partnerships positively impact achievement, improve parent's attitudes toward the school, and benefit school personnel as well.

It would be beneficial for the special education teachers to receive inservice training on more effective strategies for documenting parent input and parent involvement. It appears that parents are involved far more than is being documented in either the assessment planning process or the IEP process.

VI. PROCEDURAL SAFEGUARDS

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

The Pembina Special Education Cooperative Self-Assessment team monitored 84 student files and determined that the unit was at 83% compliance or greater in the seven targeted areas that were applicable including:

- File found in a secure location- 100% compliance.
- Independent evaluation information considered and included in the integrated written assessment report- 94% compliance.
- Limited Access Notice was posted- 92% compliance.
- Record of Inspection was in the file- 90% compliance.
- Record of Inspection completed correctly- 98% compliance.
- Record locators are in place- 83% compliance.
- File contained information for this child only- 96% compliance.

Twenty-three files were reviewed during the NDDPI Verification Review site-visit for compliance with the Procedural Safeguards. Additionally, special education staff were interviewed for their knowledge of procedural safeguards.

NDDPI reviewed and analyzed the data and identified the following areas of strength, noncompliance and suggestions for improvement.

STRENGTH

The Pembina Special Education Cooperative has made significant progress since the 1996 State Monitoring in maintaining documentation of the procedural safeguards. There was much greater consistency than previously observed.

Parental Consent

34 CFR 300.505 ensures that written parental consent is obtained prior to conducting an initial evaluation or reevaluation; and initial provision of special education and related services to a child with a disability. Consent for initial evaluation may not be construed as consent for initial placement.

The Pembina Special Education Cooperative Self-Assessment Report indicated that 32 out of 34 files (94%) reviewed contained parent consent for evaluations. The NDDPI Verification Review team validated these findings by finding no exceptions in the 27 files reviewed for 100% compliance.

The Record of Inspection form was contained in 90% of the files reviewed by the Pembina Special Education Cooperative's Self-Assessment Team.

AREAS OF NONCOMPLIANCE

Prior Written Notice

34 CFR 300.503 states that written notice must be given to parents of a child with a disability a reasonable time before the public agency either proposes to initiate or change the identification, evaluation, or educational placement of a child or the provision of FAPE to the child, or refuses

to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

The Pembina Special Education Cooperative Self-Assessment Report indicated inconsistencies in documentation of the parent prior notice in student files. This included parent prior notice for assessment in 72% of the cases and for the IEP meetings in 87% of the cases. Ninety three percent (93%) of the parents surveyed felt they had received a written notice, in their preferred language, to attend planning meetings for their child and had also received written explanations of their rights as a parent of a child with a disability.

Student file reviews completed by NDDPI monitors during the Verification Review Process validated these findings. *Prior Written Notices* for the assessment planning meeting were found in 82% of the files and the *Parent Prior Notices* for the most recent IEP meeting, in 86% of the files. The *Prior Written Notice* for the initial referral for evaluation was found in 75% of the files reviewed.

Record Locator

34 CFR 300.565 states that each public agency shall provide parents upon their request, a list of the types and location of education records collected, maintained, and used by the agency.

The Record Locator form was completed correctly in 83% of the files (67 out of 80). Careful examination of *34CFR 300.565* reveals that the standard is applicable to all education records, not just special education records. This would imply that the record locator form be placed in the students cumulative file in the school district in addition to the student's special education record.

Transfer of Rights

34 CFR 300.517 (a) Transfer of parental rights at age of majority. A State may provide that, when a student with a disability reaches the age of majority under State law that applies to all students, 1(i) The public agency shall provide any notice required by this part to both the individual and the parents and (ii) All other rights accorded to parents under Part B of the Act transfer to the student.

The NDDPI monitoring team's review of the files for students aged 17 and older indicated that there were no provisions documented for providing training to the students on the IDEA Procedural Safeguards concurrent with or after their 17th birthday. There was also no evidence that the transfer of rights had occurred or that students had been provided with prior notices to attend their IEP meetings. Students surveyed as a part of the Pembina Special Education Cooperative's Self-Assessment reported that they had been informed of their rights regarding educational services in 69% of the cases.

SUGGESTIONS FOR IMPROVED RESULTS FOR CHILDREN

It is recommended that the Pembina Special Education Cooperative expand the current internal monitoring system in the area of procedural safeguards. This should include a focused

examination of the records for all students receiving special education services for the parent prior notice forms, the record locator forms, and the parent consent forms. It is also recommended that the procedures for maintaining records (file organization) be revised to provide a systematic, sequential logic or method for the organization. It is possible that some of the requirements for this section were located somewhere in the file, but because of disorganization, they were not accessible. A system of file organization would also facilitate the process of internally monitoring compliance.