

Branches School of the Berkshires

**Branches School of the Berkshires Day Program**

Program Review Report

## Week of Onsite Visit: October 28, 2024 Draft Report Issued: December 05, 2024

**Final Report Issued: December 14, 2024 Corrective Action Plan Due:**

**Department of Elementary and Secondary Education Onsite Team Members: Lynda Womack, Chairperson**

**Joanne Morris, Team Member**



# Russell D. Johnston, Ph.D. Acting Commissioner

Approval for special education day and residential school programs operating in Massachusetts is contingent upon meeting the requirements of 603 CMR 28.09, “Approval of Public and Private Day and Residential Special Education School Programs,” 603 CMR 18.00, “Program and Safety Standards for Approved Public or Private Day and Residential Special Education School Programs,” and 603 CMR 46.00 “Prevention of Physical Restraint and Requirements, If Used.” Approval by the Department does not relieve special education day and residential school programs of their obligation to comply with other applicable state or federal statutory or regulatory requirements or with requirements set forth in their contracts with referral sources. The Department may change the approval status at any point during this three-year period if circumstances arise that warrant such a change.

For special education day and residential school programs that do not meet all requirements for Full Approval, the Department may issue a Provisional Approval effective for a period not to exceed 6 months, provided that the Department has determined that the health and safety of the students are protected and the program demonstrates the ability to implement the goals and objectives of each enrolled student’s IEP. During this period, the special education day or residential school program must submit progress reports that addresses the issues that did not meet approval requirements.

For a special education day or residential school programs that substantially meets all requirements evaluated during the review the Department will issue a Full Approval. Full Approval will remain in effect for three school years and will expire on August 31st of the third school year.

# Branches School of the Berkshires Day Program

## Provisional Approval

Expires: June 13, 2025

### MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION APPROVED SPECIAL EDUCATION SCHOOL PROGRAM REVIEW REPORT OVERVIEW OF REVIEW PROCEDURES

**INTRODUCTION**

The Massachusetts Department of Elementary and Secondary Education (“Department”) is required under M.G.L. c. 71B, §10 to review special education programs in approved special education schools that serve publicly funded students under the provisions of Board of Elementary and Secondary Education Regulations 603 CMR 18.00, 28.09 and 46.00. Each year, the Department's Office of Approved Special Education Schools (OASES) conducts onsite visits to selected approved special education school programs to verify the implementation of these programs In the Spring of the previous school year, the schools participating in the review cycle were notified of the dates of the onsite visits and were required to conduct a Data Collection before the onsite portion of the review using the Department's Communication Hub and Monitoring Portal (CHAMP).

The statewide six-year Approved Special Education School Program Review cycle together with the Department’s Mid-cycle monitoring schedule is posted on the Department’s

Website at [http://www.doe.mass.edu/oases/ps-cpr/6yrcycle.html.](http://www.doe.mass.edu/oases/ps-cpr/6yrcycle.html)

#### Approved Special Education School Program Review Elements

**Criteria:** The Program Review criteria encompass key elements drawn from 603 CMR 18.00, 28.09, 46.00 and the approved special education school program’s application for approval. They also include those required by the federal Office for Special Education Programs (OSEP) and revised requirements of the Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq. (IDEA-2004) as described in the Department's Special Education Advisories. Through the Desk Review the OASES chairperson examines the Data Collection submission and determines which criteria will be followed up on through onsite verification activities. The Data Collection and Desk Review are both described below.

**Data Collection Phase:** This is a requirement for all agencies being monitored. It is completed for the onsite review and covers all of the Department selected criteria. The agency is responsible for completing the Self- Assessment for each individually approved program being reviewed, which consists of:

 Agency review of policies and procedures,

 Agency review student documentation including a sample of student records,

 Agency review staff documentation including a sample of staff records, if applicable, and  Agency review of facilities, buildings, and grounds.

Upon completion of these portions, the agency submits the Data Collection to the Department for review.

**Desk Review Phase:** The OASES chairperson assigned to each agency reviews the responses by the approved special education school regarding the critical elements for appropriate policies, procedures, and practices, as well as actual documents and data submitted for each criterion. The OASES chairperson also reviews student record data, staff record data, and explanatory comments. The outcome of this review, along with 3-year trend data from the Problem Resolution System, restraint reports, restraint injuries, serious incidents and notification or prior approval from the Department through its notification system is used to determine the scope and nature of the onsite activities.

**Onsite Verification Phase:**

This includes activities selected from the following:

 Interviews with administrative, instructional, and other staff consistent with those criteria selected for verification.  Telephone interviews as requested by parents, guardians or members of the general public.

 Review of student records and staff records: The Department selects a sample of student and staff records from those the agency reviewed as part of its data collection to verify the accuracy of the data. The Department also conducts an independent review of a sample of student and staff records that reflect activities conducted since the beginning of the school year. The Department monitoring team will conduct this review using standard Department procedures to determine whether procedural and programmatic requirements have been implemented.

 Observation of classrooms and other facilities: The team observes a sample of classrooms and other school facilities used in the delivery of programs and services to determine general levels of compliance with program requirements.

**Team:** Depending upon the scope of follow-up activities that have been identified based on the Department’s Desk Review of the agency’s Data Collection, a two-to-three-member Department team will conduct a two-to-five-day Program Review.

**Final Report:** A Final Report is then issued via the CHAMP. The Final Report includes findings organized under 4 specified compliance areas. The findings explain the “ratings,” or determinations by the Department about the implementation status of the compliance criteria reviewed within each of these areas. The ratings indicate those criteria that were found by the OASES monitoring team to be “Implemented,” “Implementation in Progress,” “Partially Implemented,” or “Not Implemented.”

**Response:** The approved special education school program must propose to the Department corrective action to bring into compliance with the required statute or regulation in each area found to be not fully “Implemented”. In some instances, the team may have found certain requirements to be fully “Implemented” but made a specific comment on the school program’s implementation methods that also may require response from the approved special education school program. **Under federal Special Education State Performance Plan requirements pursuant to IDEA-2004, public and approved special education school programs serving disabled students must demonstrate effective resolution of noncompliance identified by the Department as soon as possible but in no case later than one year from the issuance of the Department’s Final Program Review Report.**

### REPORT INTRODUCTION

A two-member team conducted a visit to Branches School of the Berkshires during the week of October 28, 2024 to evaluate the implementation of selected compliance criteria under the Massachusetts Board of Elementary and Secondary Education Regulations 603 CMR 18.00 (Program and Safety Standards for Approved Public or Private Day and Residential Special Education School Programs) and 603 CMR 28.09 (Approval of Public or Private Day and Residential Special Education School Programs), 603 CMR 46.00 (Prevention of Physical Restraint and Requirements If Used), M.G.L c. 71B, the federal Individuals with Disabilities Education Act, 20 U.S.C. Section 1400 et seq, as amended in 2004 (IDEA--2004), and civil rights provisions that are pertinent to Approved Special Education School Programs. The team appreciated the opportunity to interview staff, to observe classroom facilities, and to review the program efforts underway.

The Department is submitting the following Approved Special Education School Program Review Report containing findings made pursuant to this onsite visit. In preparing this report the team reviewed extensive documentation regarding the operation of the school programs, together with information gathered by means of the following Department program review methods:

 Interviews of 1 leadership staff;

 Interviews of 2 related services staff;  Interviews of 1 teaching staff; and

 Interviews of 2 direct care staff.

 Student record review: A sample of 4 Massachusetts student records was selected by the Department. Student records were first examined by the school program’s staff and then verified by the OASES monitoring team using standard Department student record review procedures to make determinations regarding the implementation of procedural and programmatic requirements. An additional number of randomly selected student records were also reviewed by the OASES monitoring team to ensure determinations regarding the implementation of procedural and programmatic requirements remain in effect.

 Staff record review: A sample of 4 staff records was selected by the Department. Staff records were first examined by the school program’s staff and then verified by the OASES monitoring team using standard Department staff record review procedures to make determinations regarding the implementation of procedural and programmatic requirements. An additional number of randomly selected staff records were also reviewed by the OASES monitoring team staff to ensure determinations regarding the implementation of procedural and programmatic requirements remain in effect.

 Observation of classrooms and other facilities: A sample of instructional classrooms and other facilities used in the delivery of programs and services was observed to determine general levels of compliance with program requirements.

##### 1. Summary of Compliance Criteria Included In This Report Requiring Corrective Action Plan Development In Response to the Following Program Review Report Findings

**Implemented**

 The requirement is totally or substantially met

##### Implemented Response Required

 The requirement is met, but the Agency is required to provide additional information.

##### Implementation in Progress

 This rating is used for criteria containing new or updated legal requirements and means that the agency has implemented any old requirements contained in the criterion and is training staff or beginning to implement the new requirements in such a way that the onsite team anticipates that the new requirements will be implemented by the end of the school year.

##### Partially Implemented

 The requirement, in one or several important aspects, is not entirely met.

##### Not Implemented

 The requirement is totally or substantially not met.

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| **Policies & Procedures** | | | | | |
| **Criteria** | **Implemented** | **Implemented Response Required** | **Implementation In Progress** | **Partially Implemented** | **Not Implemented** |
| **1.2 Program & Student Descriptions, Program Capacity** | All |  |  |  |  |
| **3.1(d) Evacuation and Emergency Procedures** | All |  |  |  |  |
| **4.4 Advance Notice of Proposed Program/Facility Change** | All |  |  |  |  |
| **4.5 Immediate Notification** | All |  |  |  |  |
| **6.1 Daily Instructional Hours/6.4 School Days Per Year** | All |  |  |  |  |
| **8.4 Program Modifications and Support Services for English** | All |  |  |  |  |
| **9.1(a) Student Separation Resulting from Behavior Support** | All |  |  |  |  |
| **9.7 Terminations** | All |  |  |  |  |
| **11.1 Staff Policies and Procedures Manual** | All |  |  |  |  |
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| **11.11 Supervision of Students** | All |  |  |  |  |
| **11.12 Equal Access** | All |  |  |  |  |
| **12.1 New Staff Orientation and Training** | All |  |  |  |  |
| **12.2 In-Service Training Plan and Calendar** | All |  |  |  |  |
| **15.1 Parental Involvement and Parents' Advisory Group** | All |  |  |  |  |
| **15.5 Parent Consent and Required Notification** |  | Branches School of the Berkshires Day Program |  |  |  |
| **15.8 Registering Complaints and Grievances-Parents, Students and Employees** | All |  |  |  |  |

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| **Staff Documentation** | | | | | |
| **Criteria** | **Implemented** | **Implemented Response Required** | **Implementation In Progress** | **Partially Implemented** | **Not Implemented** |
| **10.1 Staffing for Instructional Groupings** | All |  |  |  |  |
| **11.2**  **Administrative Responsibility** | All |  |  |  |  |
| **11.3 Educational Administrator Qualifications** | All |  |  |  |  |
| **11.4 Teachers (Special Education Teachers and General Education Teachers)** | All |  |  |  |  |
| **11.5 Related Services Staff** | All |  |  |  |  |
| **11.6 Staff Roster** | All |  |  |  |  |

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| **Student Documentation** | | | | | |
| **Criteria** | **Implemented** | **Implemented Response Required** | **Implementation In Progress** | **Partially Implemented** | **Not Implemented** |
| **5.2(a) Contracts** | All |  |  |  |  |
| **8.5 Current IEP & Student Roster** | All |  |  |  |  |
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| **8.8 IEP - Progress Reports** | All |  |  |  |  |
| \* **9.4 Physical Restraint** |  | Branches School of the Berkshires Day Program |  |  |  |
| **10.2 Age Range** | All |  |  |  |  |
| **15.3 Information to be Translated into Languages Other Than English** | All |  |  |  |  |
| **16.7 Preventive Health Care** | All |  |  |  |  |
| **16.11 Student Allergies** | All |  |  |  |  |
| **18.1**  **Confidentiality of Student Records** | All |  |  |  |  |
| **19 Anti-Hazing** |  | Branches School of the Berkshires Day Program |  |  |  |

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| **Buildings/Facilities** | | | | | |
| **Criteria** | **Implemented** | **Implemented Response Required** | **Implementation In Progress** | **Partially Implemented** | **Not Implemented** |
| **2.2 Approvals, Licenses, Certificates of Inspection** | All |  |  |  |  |
| **4.2 Public Information and Postings** | All |  |  |  |  |
| \* **13.2 Description of Physical Space** | All |  |  |  |  |

\*Criterion was not previously included in the standard review cycle, but was reviewed during the Onsite visit.

#### Policies & Procedures

**Requirements**

The program shall develop and implement policies and procedures to work with school districts to obtain the following consents:

**Required Annual Consent:**

1. Emergency medical treatment
2. Medication Administration, if applicable

When applicable:

1. Research
2. Experimentation
3. Fundraising
4. Publicity and
5. Observation

**Required Annual Notification:**

* 1. The program’s policies and procedures shall include, when applicable, notification pursuant to Parental Notification Law M.G.L. c. 71, § 32A concerning curriculum that primarily involves human sexual education or human sexuality issues.
  2. Policies and Procedures Manual (Criterion 3.1).
  3. Behavior Support Policy and Procedures (Criterion 9.1).
  4. Physical Restraint Policy and Procedures (Criterion 9.4).
  5. Bullying Prevention and Intervention Plan (Criterion 20).

**Legal Standards**

[18.05(8); 18.05(9)(f)(1); 18.05 (9)(j)](https://www.doe.mass.edu/lawsregs/603cmr18.html?section=05); [M.G.L. c. 71, § 32A](https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXII/Chapter71/Section32A)

**Confirmed Findings**

**15.5 Parent Consent and Required Notification**

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| **Applies To** | **Rating** | **Response Required** | **Finding Description** |
| Branches School of the Berkshires Day Program | Implemented Response Required | Yes | While a review of student records indicated parent consent forms were sent to the parent/guardian, a review of student records indicated that required parental signed consents for emergency medical treatment and medication administration were not evident in student records. |

**Student Documentation**

**9.4 Physical Restraint**

**Requirements**

The program shall have a written policy on the use of physical restraints and administer physical restraints in accordance with the requirements of 603 CMR 46.00.

The program administers physical restraint only in emergency situations of last resort when needed to protect a student and/or member of the school community from assault or imminent, serious, physical harm and with extreme caution in order to prevent or minimize any harm to the student as a result of the use of physical restraint.

Physical restraint policies and procedures must include the following:

1. Methods for engaging parents and students in discussions about restraint prevention and use;
2. A description and explanation of the method of physical restraint used by the program in an emergency situation;
3. A statement prohibiting seclusion, medication restraint, mechanical restraint and prone restraint unless permitted under 603 CMR 46.03(1)(b);
4. Physical restraint shall be used only in emergency situations of last resort, after other lawful and less intrusive alternatives have failed or been deemed inappropriate;
5. A description of the program’s procedure for conducting periodic review of data and documentation on the program’s use of restraint;
6. A description of the program’s training requirements for all staff;
7. A description of the intensive training for staff who serve as restraint resources for the program;
8. Reporting requirements and follow-up procedures for reports to parents/guardians and to the Department;
9. A procedure for receiving and investigating complaints regarding restraint practices; and
10. The director or his/her designee shall maintain an on-going record of all instances of physical restraint, which shall be made available for review by the Department upon request.

**NOTE**: A residential educational program must comply with DESE restraint requirements under 603 CMR 46.00 during school hours and the EEC restraint requirements contained in 102 CMR 3.00 during residential hours.

**NOTE**: A program within a program or facility subject to M.G.L. c. 123 or Department of Mental Health Regulations must comply with the restraint requirements of M.G.L. c. 123, 104 CMR 27.12 or 104 CMR 28.05, where applicable.

**NOTE**: Physical restraint training must be provided to all program staff within the first month of the school year regarding restraint prevention and the requirements when restraint is used; AND

For employees hired after the school year begins, physical restraint training must be provided and completed within one month of the date of hire of the employee.

##### Legal Standards

[18.05(5)](https://www.doe.mass.edu/lawsregs/603cmr18.html?section=05); [603 CMR 46.00](https://www.doe.mass.edu/lawsregs/603cmr46.html)

**Confirmed Findings**

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| **Applies To** | **Rating** | **Response Required** | **Finding Description** |
| Branches School of the Berkshires Day Program | Implemented Response Required | Yes | While interviews indicated that staff review restraint data regularly, the program review did not maintain documentation of weekly and monthly restraint data review. |

**Requirements**

**19 Anti-Hazing**

1. The principal/education director of each school program serving secondary school age students issues a copy of M.G.L. c. 269 §§ 17 through 19, to every student enrolled full-time, and every student group, student team, or student organization, including every unaffiliated student group, student team, or student organization, as well as a copy of the school program's anti-hazing disciplinary policy approved by the program's Board of Director's.
2. Each school program serving secondary school age students files, at least annually, a report with the Department certifying
   1. Its compliance with its responsibility to inform student groups, teams, or organizations, and every full-time enrolled student, of the provisions of M.G.L. c. 269 §§ 17 through 19;
   2. Its adoption of a disciplinary policy with regard to the organizers and participants of hazing; and
   3. That the hazing policy has been included in the student handbook or other means of communicating school program policies to students.

##### Legal Standards

[M.G.L. c. 269 §§ 17 through 19](https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter269/Section17); [603 CMR 33.00](https://www.mass.gov/regulations/603-CMR-3300-anti-hazing-reporting)

**Confirmed Findings**

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| **Applies To** | **Rating** | **Response Required** | **Finding Description** |
| Branches School of the Berkshires Day Program | Implemented Response Required | Yes | While a review of documentation indicated that the program included the anti-hazing legislation in the student and family handbook, a student record review indicated that all secondary-age students did not receive a copy of the anti-hazing legislation and a copy of the program's  anti-hazing disciplinary code approved by the Board of Directors. |