

Colorado Department of Education
Decision of the Federal Complaints Officer
Under the Individuals with Disabilities Education Act (IDEA)

Federal Complaint 2003:507

Valley School District RE-1

Decision

INTRODUCTION

This Complaint was dated 02/24/03 and filed on 02/27/03. The response of Valley School District RE-1 (District) to the Complaint was dated 03/05/03 and received on 03/14/03. The Complainants' response to the District's response was dated 03/25/03 and received on 03/28/03. The Federal Complaints Officer contacted the District's special education director by telephone on 04/02/03 for additional information. The Federal Complaints Officer contacted the student's mother on 04/03/03 by telephone for additional information. The Federal Complaints Officer then closed the record.

The Complainants are the parents of a child who has been identified as having a categorical educational disability that, in Colorado, is called significant limited intellectual capacity (SLIC).

COMPLAINANTS' ALLEGATIONS

- 1) The District has failed to implement [Student's] IEP with respect to Objectives 3 and 4 of his annual goal, which states "[Student] will expand his knowledge of career opportunities" -- presumably¹ in violation of 34 C.F.R. § 300.350(a)(1).² This annual goal is contained in [Student's] 03/21/02 IEP. According to the Complainants, "this service is not, and was never, provided."
- 2) The District has failed to make good faith efforts to assist the student in achieving Objectives 3 and 4 of his annual goal, which states "[Student] will expand his knowledge of career opportunities" -- presumably in violation of § 300.350(a)(2). "RE-1 Valley School District administration and [High School] administration have interfered with [Student's] involvement with the School to Career Program."
- 3) The student was to have nine months of service, to cover four school quarters equally, and he has lost 6.5 months of this service.

¹ The Complaint did not contain any cites to statutory authority in support of the allegations.

² Hereafter the IDEA regulations will be cited by section number only, i.e., § 300.350(a)(1).

- 4) The District did not allow the student to participate in the School to Career program as was required by the student's IEP -- presumably in violation of § 300.350(a)(1).

THE DISTRICT'S RESPONSE

In its response to the Complaint, the District has denied all allegations. The District also attached documentation demonstrating that [Student] has achieved the short-term objectives at issue.

COMPLAINANTS' RESPONSE TO THE DISTRICT'S RESPONSE

In their response to the District's response, the Complainants state that "[t]he core of our CDE Federal Complaint is that '...coordination with the School to Career Program...is not and was never provided...We believe the focus of the RE-1 Valley School District Response is not the same as the focus of our...Federal Complaint...To authenticate our ...Federal Complaint it is now appropriate to give CDE a more thorough explanation of our complaint with documentation.'"³

The Complainants set forth in their response letter certain alleged conversations that the student's mother had with both the student's special education teacher and the School to Work Program coordinator. The alleged conversations indicate that that the school principal, the school assistant principal and the Head of the Special Education Department at the school prevented the student from participating in the regular education program. "[Special Education Teacher] stated that she tried to get her students (WES⁴ students and [Student]), in the School to Career Program but she was told to stop by [School Principal] and [Assistant School Principal]...these two administrators stated that 'putting the WES kids in (School to Career Program) would take away from the program'...and [Special Education Teacher] was told [by these two administrators] 'not to plug WES kids in because they wouldn't follow through, and it would burn [School to Career Coordinator's] connections.'"

³ Had the Complainants included in the initial complaint **all** pertinent information known to them at the time that they filed the complaint, their core concern/issue of alleged discrimination by the District would have been identified at the outset, as well as the Federal Complaint Officer's lack of jurisdiction over Section 504 claims of discrimination. See, Discussion, below. This is not to say that a complainant is charged with understanding the differences between special education laws and disability civil rights laws. This is only to say that a complainant should include all relevant underlying facts known to him or her in the original complaint in order to allow the Federal Complaints Officer to determine early on whether she or he has jurisdiction over the complaint and to provide the school district with fair and adequate notice of the complainant's claims.

⁴ "WES" is the acronym for the Work Experience Study program, a program for SLIC students offered in a resource room setting at the student's school.

In the conclusion of the response, the Complainants state that “[t]he goals and objectives of [Student’s] IEP were accomplished, but in a segregated environment within the confines or one classroom designated as the ‘WES room in the South West corner of the high school building’, with the Special Education WES Instructor being the only provider and deliverer of the ‘borrowed items’ from the School to Career program...[i]n summary, the intent of the assembled IEP team of 3/21/02, was to have [Student] be a participant in the School to Career program, as fully as possible, as any typical non-disabled high school student, since the program was offered to all high school students. And because of [Student’s] disability, the WES Instructor was only to be a support for the School to Career program coordinator and her employees, along with providing the flexibility of the use of a paraprofessional and transportation, as written in [Student’s] IEP.” (Emphasis supplied by the Complainants).

FINDINGS OF FACT AND CONCLUSIONS

Allegation 1. The District has failed to implement [Student’s] IEP with respect to Objectives 3 and 4 of his annual goal, which states “[Student] will expand his knowledge of career opportunities” -- presumably in violation of § 300.350(a)(1). This annual goal is contained in [Student’s] 03/21/02 IEP. According to the Complainants, “this service is not, and was never, provided.”

§ 300. 350(a)(1) requires each school district to provide special education and related services to a child with disabilities in accordance the child’s IEP.

The Complainants have conceded that “the goals and objectives of [Student’s] 03/21/02 IEP were accomplished....” The Federal Complaints Officer concludes that the District has not violated § 300.350(a)(1).

Allegation 2. The District has failed to make good faith efforts to assist the student in achieving Objectives 3 and 4 of his annual goal, which states “[Student] will expand his knowledge of career opportunities” -- presumably in violation of § 300.350(a)(2). “RE-1 Valley School District administration and Sterling High School administration have interfered with [Student’s] involvement with the School to Career Program.”

§ 300. 350(a)(2) requires each school district to make good faith efforts to assist the child in achieving the goals and objectives or benchmarks specified by the IEP.

The Complainants concede that “the goals and objectives of [Student’s] 03/21/02 IEP were accomplished....” The Federal Complaints Officer concludes that the District has not violated § 300.350 (a) (2).

Allegation 3. The student was to have nine months of service, to cover four school quarters equally, and he has lost 6.5 months of this service.

The Complainants concede that “the goals and objectives of [Student’s] 03/21/02 IEP were accomplished....” The Federal Complaints Officer concludes that the District has

not violated any provision of the IDEA or its implementing regulations with regard to this allegation.

Allegation 4. The District did not allow the student to participate in the School to Career program as required by the student's IEP – presumably in violation of § 300.350(a)(1).

As is set forth above, § 300.350(a)(1) requires each school district to provide special education and related services to a child with disabilities in accordance the child's IEP.

The Federal Complaints Officer has carefully examined the student's 03/21/02 IEP to determine whether that IEP required the student to participate in the School-to-Career program. Short-term objective 3 of the student's career opportunities goal was "[Student] will participate in one job shadowing experience once per quarter. " The criteria/evaluation measure for Objective 3 was "Special Education Teacher will coordinate jobshadowing with the Career to School (sic) Program at [School]." Short-term objective 4 was "[Student] will complete the requisite "Shadowing Reflections" in response to his job shadowing experience." The criteria/evaluation measure for that objective was "Special Education Teacher will coordinate "Shadowing Reflections" with Career-to-School (sic) Coordinator 100% of job shadowing opportunities." The IEP does not expressly state that the student would participate in the School-to-Career program. The IEP does specify that the student will be in regular education classes for Health, Weight Training, Relationships, Art II, Foods, Speech, and Music in our Culture through an inclusionary model, and that he would take OJT (on-the job training), Math, Reading, and Recreation and Leisure through the WES program.

The parties agree that the student achieved Short-term objectives 3 and 4 of his career opportunities goal. The District has also submitted sufficient and credible documentation showing that the student's special education teacher coordinated and collaborated with the School-to-Work program coordinator to support the student in achieving Short-term objectives 3 and 4 of his career opportunities goal.

The Federal Complaints Office finds that the student's 03/21/02 IEP did not require the student to be a participant in the School-to-Work program. The Federal Complaints Officer concludes that, with regard to this allegation, the District did not violate § 300.350(a)(1).

DISCUSSION

The original Complaint letter asked the Federal Complaints Officer to "accept this letter as a formal complaint for RE-1 Valley School District *violating the IDEA*. (Emphasis supplied by the Federal Complaints Officer).

The Complaint letter identified the underlying reasons for the Complaint, including "[t]he attached current IEP states coordination with the Career-to-School Program at [School], but this service is not, and was never, provided. This service is listed for two objectives

for the school year 2002-2003. Please see page 15, titled Goals and Objectives in [Student's] IEP." (Emphasis supplied by the Complainants).

The Complaint letter also stated: "Of great concern...[District and School] administrators have interfered with [Student's] involvement with the **School to Career Program**" and "[i]mmediate resolution is unlikely since [Student] was to have nine months of service, to cover four school quarters equally, and has lost six½ months of this service." (Emphasis supplied by Complainants).

The Federal Complaints Officer initially understood that the Complainants' allegations were being made pursuant to the IDEA. Accordingly, the Federal Complaints Officer framed the allegations in the context of relevant IDEA regulations. (See, Allegation Nos. 1-3, above). By letter, the Federal Complaints Officer directed the District to respond to the Complainants' allegations as framed by the Federal Complaints Officer, and a copy of that letter was mailed to the Complainants.⁵

However, it became clear from the Complainants' response to the District's response that the Complainants' concerns primarily involved allegations of discrimination against the student by the District under Section 504 of the Rehabilitation Act of 1973 rather than allegations that implicate the IDEA. By way of a telephone conversation on 04/03/03, the student's mother confirmed that her core concern was the segregated manner in which her son achieved the pertinent short-term objectives.

The Federal Complaint Officer does not have jurisdiction over Section 504 allegations. The Office for Civil Rights (OCR) handles Section 504 complaints. The Complainants may file a complaint with Denver Office for Civil Rights by calling (303) 844-5695.

REMEDY

Having found no violations of the IDEA by the District, the Federal Complaints Officer therefore orders no remedy.

⁵ The Federal Complaints Officer added Allegation 4 after receiving the Complainants' response to the District response and obtaining clarifying and additional information by phone from the District's special education director and the student's mother.

CONCLUSION

This Decision shall become final as dated by the signature of the Federal Complaints Officer. A copy of the appeal procedure is attached.

Dated April 3, 2003

Laura L. Freppel
Federal Complaints Officer