

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

Federal Complaint 2005:520

El Paso County SD 11

Decision

I. INTRODUCTION

This Complaint was dated October 11, 2005, postmarked December 8, 2005, and received December 12, 2005. The school district's response was dated January 13, 2005, with a faxed copy received that same date, and the original received by Federal Express mail on January 17, 2005. The school district had been granted an extension of time to file a response due to school district staff necessary to be consulted about a response being unavailable due to the holiday season.

The complainants received a copy of the school district's response, by separate certified mailings, on January 20, 2005, with a cover letter from the Federal Complaints Officer giving them ten (10) calendar days from their receipt of the certified mailing to submit a written response to the school district's response to their Complaint. This response was due on Monday, January 30, 2006. No response was received and the Federal Complaints Officer called the complainant mother and the complainant father on Tuesday, January 31, 2006. The complainant mother stated that she did not intend to submit a written response to the school district's response to her Complaint. The complainant father stated that he had mailed a written response to the Federal Complaints Officer "two or three days ago".

As of Thursday, February 2, 2006, the Federal Complaints Officer had not received a written response from the complainant father. On February 2, 2006, the Federal Complaints Officer left a voice mail message for the complainant father stating that if the Federal Complaints Officer had not received a written response from the complainant father by noon of that day, either by fax or regular mail, he would proceed to a Decision without a written response from the complainant father. The Federal Complaints Officer received no such response and closed the record. The Federal Complaints Officer has received no such response as of the date of this Decision. Due to the extensions of time granted to the parties for submitting respective responses, the Federal Complaints Officer finds exceptional circumstances for extending the time period for deciding this Complaint.

II. COMPLAINANTS' ALLEGATIONS

The complainants listed twelve items containing allegations against the school district. However, the Federal Complaints Officer determined that only the first two of those items stated allegations subject to the jurisdiction of the Federal Complaint process. Those allegations were, as stated by the complainants:

1. In [our son's] IEP, Nueva Ventura agreed to provide [our son] with 30 hours a week of academic study. At the time of the intervention, he was receiving only 4 1/2 hours a week, or 1 1/2 hours per day, 3 days a week of academic study.
2. The school agreed to provide [our son] with 8 hours per week of "vocational" training. At the time of intervention, he was working 6 hours per day as a janitor at an elementary school for \$3.00 per hour. The school secured this job for [our son] and called this "vocational training".

Complainants' Complaint letter at page 1. Quotation marks in original.

III. SCHOOL DISTRICT'S RESPONSE

The school district's response to allegations numbered 1 and 2 was, in relevant part:

1. [The Student's] February 2005 IEP provided for 30 hours per week of a "[s]tructured environment for affective *and* academic needs to include accommodations and modifications to ability level (emphasis added). Despite Complainants' allegations, it is clear from this language that the District was *not* required to provide [the student] with 30 hours per week of academic instruction. Consistent with the IEP, the District provided [the student] with 30 hours per week of a structured environment that met both [the student's] affective (*i.e.*, behavioral) and academic needs. School district's response at page 3. Emphases, quotation marks, and italics in original.
2. [The student's] February 2005 IEP requires the District to provide 8 hours per week of "instruction in vocational exploration to include obtaining and maintaining a job and a checking account." The District complied with this requirement, providing a minimum of 8 hours of vocational exploration per week. This included [the student's] participation in the Alternative Cooperative Education Curriculum, job shadowing, and activities at work site. School district's response at page 4. Quotation marks in original.

IV. FINDINGS AND DISCUSSION

The Federal Complaints Officer finds no violations by the school district. In so finding the Federal Complaints Officer finds that the IEP requirements are as stated by the school district and that the school district has met those IEP requirements.

The appropriate educational spokesperson(s) for this student were entitled, and may still be entitled, to a due process hearing to resolve the issues raised in this Complaint. Also, even though allegation items three (3) through twelve (12) were rejected as a part of this Complaint, the Federal Complaints Officer communicated to the complainants, by letter dated January 17, and received by the complainants on January 20, that he would speak to the complainants, or their appropriately authorized representative, about the rejected items. This offer had been previously communicated to the student's paternal grandfather when he spoke with the Federal Complaints Officer's colleague and fellow Federal Complaints Officer, Ms. Laura L. Freppel, on December 20, 2005.

The Federal Complaints Officer has not been contacted by the complainants, or by an appropriately authorized representative of the complainants, about these rejected items. The complainants, or an appropriately authorized representative, are still entitled to timely contact the Federal Complaints Officer about these rejected items for further explanation of their rejection. A copy of this Decision is being provided to the Exceptional Student Services Unit (ESSU) Continuous Improvement Monitoring Process (CIMP) Coordinator.

V. 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 today, February 14, 2006.

Charles M. Masner, Esq.
Federal Complaints Officer