

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

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**Federal Complaint 2007:519**

Thompson School District R2-J

**Decision**

**INTRODUCTION**

This Complaint dated November 29, 2007, was filed by Student's mother (hereafter, the "Complainant") and was received in the office of the State Complaints Officer on December 26, 2007. The Complaint attached an undated, one-page Accommodations/Modifications sheet copied from Student's Individualized Education Program ("IEP") in force for the fall semester, 2007. The response of Thompson School District R2-J (hereafter, the "District") was timely received on January 22, 2008. The District's response attached an undated Secondary Adaptations sheet for Student, a one-page Accommodations/Modifications sheet from an IEP developed for Student on December 5, 2007, correspondence related to implementation of Student's IEP in his Fall, 2007 Algebra B class, and information pertaining to his Fall, 2007 grades. The response was transmitted to Complainant on January 25, 2008, but no reply was received prior to the date of this Decision. The record was closed in this matter on February 11, 2008.

**ISSUE**

Whether Student's IEP was properly implemented during the period August 28, 2007, through January 3, 2008.

**CONTENTIONS OF THE PARTIES**

The Complainant alleges that the accommodations and modifications contained in Student's operative IEP were not implemented by his teacher in Algebra B. Specifically, it is alleged Student's math teacher did not offer a review of material to be tested, explain the objectives and expectations for each test, or check for Student's understanding of concepts. Complainant contends that these actions impacted Student's emotional welfare

and academic success. The Complaint makes no reference to any of Student's other classes.

The District's response highlights the flexibility of selected accommodations and modifications and maintains that Student's math teacher understands the responsibility to follow Student's IEP. The District contends that any issue surrounding the proper implementation of the IEP were resolved by the actions of the math teacher, school principal, and special education staff prior to the filing of the response.

### **FINDINGS OF FACT**

1. Student is a [AGE] year-old attending [GRADE] within the District. Student is eligible for special education and related services as a child with a disability in the category of [DISABILITY].<sup>1</sup>
2. Student's IEP in effect on August 28, 2007, and throughout the Fall Semester, included curricular and instructional accommodations and modifications that were to be implemented in his Algebra B course. Three of these provisions are relevant to the resolution of this Complaint:
  - A. "[Student] will have the option of being provided with a test review of the important points of the material being tested."
  - B. "Tell [Student] what the objectives & expectations are for each test."
  - C. "Check for understanding. This may be necessary in regard to social interactions and problem solving as well as academics. (It should not automatically be assumed that [Student's] social interaction skills or problem solving skills will be at a level typical of other his age in all situations—sometimes he may appear to understand more than he actually does."
3. There is no contention in this case that the above accommodations are inappropriate for Student based on his unique educational needs. Accordingly, for purposes of resolving this Complaint, the accommodations shall be deemed appropriate.
4. Student's academic performance in Algebra B was inconsistent during the Fall, 2007 semester. He recorded two failing grades in the first half of October on a core skills assignment and on a unit test. However, on October 15, 2007, he attained a score of

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<sup>1</sup> Although invited to do so by the Complaints Officer, neither party provided a copy of Student's IEP that was in force prior to December 5, 2007. Nor does the record provide much information about the nature of Student's disability or how his unique educational needs dictated the proper manner in which IEP accommodations and/or modifications were implemented. For example, did the nature of Student's disability dictate that the process of "checking for understanding" needed to occur in a particular way?

78.5/100 on a unit test and on October 17, 2007, a score of 100% on a core skills assignment. Student's marks for participation in Algebra B reflect 80% or 100% for each week that a score was recorded during Fall, 2007. As of the date of the District's response, Student had an overall grade of "C" in the algebra class.

5. Student's math teacher was aware of and generally followed the provisions in Student's IEP but believed that he had the discretion to use strategies other than those spelled out in the IEP in an attempt to help Student. There is no information in the record from which to determine that such additional measures were or were not appropriate for Student or consistent with the provisions of his IEP. Given Student's inconsistent performance, however, it was not *per se* unreasonable for the teacher to have sought ways to improve Student's understanding so long as the mandatory requirements of the IEP were implemented.

6. Student was provided with review materials for math tests in that the teacher wrote the concepts to be tested on the board, distributed practice problems and review packets similar to those expected on the tests.<sup>2</sup> To the extent that Student required additional review, that accommodation was clearly written as 'optional.' Thus, Student or his parent could appropriately request an individual review of test concepts.

7. There is no information in the record that Student or his parent requested test reviews above and beyond what the teacher routinely provided prior to a parent-teacher conference on October 24, 2007. At that time, Complainant raised expressed her dissatisfaction with implementation of the accommodations by Student's math teacher.

8. Based on information set forth in Finding of Fact No. 6, Student was informed of the objectives and expectations for his Algebra B tests.

9. Student's teacher posed questions to Student to check for understanding of the material presented. To the extent that understanding was not demonstrated, the teacher provided additional clarification to Student.

10. There is insufficient evidence in the record to establish that the manner in which Student's math teacher implemented IEP accommodations and modifications actually caused emotional or academic harm to Student.

11. Subsequent to the filing of the Complaint the principal at Student's school met with the math teacher and documented their mutual understanding that IEP provisions should be completely and faithfully implemented. Additionally, Student's special education teacher is now monitoring more closely the implementation of accommodations and modifications.

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<sup>2</sup> This information, and that contained in Findings of Fact No. 8 and No. 9, is drawn from Attachment 3 to the District's response. Complainant did not reply to these facts to refute or otherwise comment on them.

## **CONCLUSIONS OF LAW**

It is well established that a school district must provide special education services that comport with a student's IEP as one element of a free appropriate public education. *Board of Educ. Of the Hendrick Hudson Central Sch. Dist. V. Rowley*, 458 U.S. 176 (1982). In the reauthorized Individuals with Disabilities Education Act (2004) the requirement is stated as special education and related services that "are provided in conformity with the individualized education program." 20 U.S.C. §1401(9)(D). Here, Complainant contends that the District did not implement the accommodations set forth in Student's applicable IEP. Examination of the record, however, reveals that Student was provided with reviews, objectives and expectations for upcoming tests, and was questioned to check for understanding by his Algebra B teacher. The IEP clearly specified that additional pre-test review was available to Student at his option. The fact that this 'optional' provision was removed from Student's subsequent IEP suggests that the form of the accommodation itself—rather than how it was implemented during the Fall, 2007—may have played a part in Student's difficulties in the math class. There is also no evidence that Student was adversely affected emotionally or academically by the manner in which the accommodations were implemented. For example, Student experienced significant successes in Algebra B both before and after the issue of accommodations was raised in a parent-teacher conference. While grades are not the sole measure of a successful IEP and the evidence also shows occasional failing grades in the math class, Student demonstrated understanding of the material (in the form of grades on assignments and tests) throughout much of the semester. On the issue presented by the Complaint, there is insufficient evidence to establish that the manner in which the IEP provisions were implemented in Student's math class constituted a violation of his educational rights as a child with a disability.

## **REMEDY**

Complainant failed to establish that the District violated federal or state special education law in its implementation of Student's IEP. In addition, steps taken by the District to communicate to the teacher its expectations regarding IEP implementation and more closely monitor the implementation of Student's IEP effectively respond to the concerns raised by Complainant. Accordingly, no award of relief is appropriate.

**CONCLUSION**

This Decision shall become final as dated by the signature of the Federal Complaints Officer.

Dated this 22nd day of February, 2008.

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Keith J. Kirchubel  
State Complaints Officer