

CALIFORNIA DEPARTMENT OF EDUCATION
Investigation Report
Case S-0332-15/16

Public Agency Robert Haley, Superintendent Cotati-Rohnert Park Unified School District 7165 Burton Avenue Rohnert Park, CA 94928	Complainant Sally Kirk 66 Vendola Drive San Rafael, CA 94903
Special Education Director Vanessa Riggs, Director, Special Education Cotati-Rohnert Park Unified School District	Parent [REDACTED]
Special Education Local Plan Area (SELPA) Catherine Conrado, Director Sonoma County SELPA 5340 Skylane Boulevard Santa Rosa, CA 95403-1082	Student [REDACTED]
Complaint Received November 13, 2015	Report Mailed January 12, 2016

INVESTIGATION PROCEDURES

The investigation and conclusions are based on the investigator's review of materials and documents provided by the Complainant and the District, as well as telephone contacts with the Complainant on November 17, 2015. E-mails were exchanged with the District on December 17 and 22, 2015.

SUMMARY OF ALLEGATION ONE

The Complainant alleges the District failed to implement the student's October 28, 2014, individualized education program (IEP), in violation of California *Education Code (EC)* Section 56043(i). Specifically, the Complainant alleges the student has not received language and speech (LAS) services as required in the student's October 28, 2014, IEP since the start of the 2015–16 school year, as the District does not have a speech language pathologist (SLP) to provide the services.

APPLICABLE CITATION

EC Section 56043(i) states, "A pupil's [IEP] shall be implemented as soon as possible following the [IEP] team meeting, pursuant to Section 300.323(c)(2) of Title 34 of the Code of Federal Regulations and in accordance with Section 56344."

FINDINGS OF FACT

1. The student is to receive individual LAS services for 45 sessions of 25 minutes each, totaling 1,125 minutes a year, as evidenced by the October 28, 2014, annual IEP.
2. The student is to receive individual LAS services for 45 sessions of 25 minutes each, totaling 1,125 minutes a year, as evidenced by the October 22, 2015, annual IEP.
3. The District has not provided LAS to the student, in the 2015–16 school year. The District is attempting to recruit a SLP and will provide compensatory services for all LAS services missed, as evidenced by the District's December 4, 2015, complaint response.
4. Thirty-one other students have not received LAS at the student's school site, in the 2015–16 school year, as evidenced by the District's December 22, 2015, e-mail.

CONCLUSION

The District failed to meet the requirements of *EC* Section 56043(i). The District has not provided LAS to the student and the 31 other students at the school site, based on not having a SLP available to provide the services. **The District is out of compliance.**

SUMMARY OF ALLEGATION TWO

The Complainant alleges the District failed to include all required team members in the IEP meeting, in violation of *Code of Federal Regulations*, Title 34 (34 *CFR*), Section 300.321 (a). Specifically, the Complainant alleges that a SLP was not at the October 22, 2015, IEP meeting, therefore, the student's language and communication needs were not adequately addressed.

APPLICABLE CITATION

34 *CFR* Section 300.321 (a) requires, "The public agency must ensure that the IEP Team for each child with a disability includes . . . (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;"

FINDINGS OF FACT

5. The IEP team includes a participant who functioned as the student's case manager and education specialist, as evidenced by the October 22, 2015, annual IEP.
6. Although the October 22, 2015, IEP team includes a special education teacher, there is no evidence in the IEP to address the student's current speech progress. The

October 22, 2015, IEP present level for the student's communication development is a duplication of the October 28, 2014, IEP present level for the student's communication development.

CONCLUSION

The District failed to meet the requirements of 34 *CFR* Section 300.321(a). The student's 2014 and 2015 IEP require LAS services. However, the team did not include a team member, at the October 22, 2015, IEP, who could address the student's current speech progress and needs. **The District is out of compliance.**

SUMMARY OF ALLEGATION THREE

The Complainant alleges the District failed to provide the parent with a copy of the IEP, in violation of 34 *CFR* Section 300.322(f). Specifically, the Complainant alleges the District did not provide the parents with a copy of the 2015, IEP in a timely manner.

APPLICABLE CITATION

34 *CFR* Section 300.322(f) states, "The public agency must give the parent a copy of the child's IEP at no cost to the parent."

FINDINGS OF FACT

7. The student's annual IEP was held on October 22, 2015, and the parent participated and signed the IEP on that date. The parent received a copy of the IEP on November 9, 2015, as evidenced by the October 22, 2015, annual IEP and the Complainant's November 11, 2015, complaint letter.
8. The District sent the parent a copy of the final October 22, 2015, after the behavior plan was adjusted to include the IEP changes, as evidenced by the District's December 4, 2015, complaint response.

CONCLUSION

The District met the requirements of 34 *CFR* Section 300.322(f). The District provided a copy of the final October 22, 2015, IEP to the parent within 18 days of the IEP meeting. The law does not indicate a time frame in which the District must provide a copy of the IEP to the parent. **The District is in compliance.**

REQUIRED CORRECTIVE ACTIONS

Allegation One

1. On or before September 1, 2016, the District shall provide evidence it has sent a letter to the Complainant, and each of the parent(s) or guardian(s) of the other 31 students, offering compensatory LAS services based on their IEPs. The District may choose to offer the compensatory services after school hours, during school breaks, at the school site, or another site determined by the District, if mutually agreed upon by the parent or guardian. Acceptable evidence should include a copy of the correspondence sent by the District to the Complainant and each of the other 31 student's parent(s) or guardian(s), that includes documentation of the missed services, an offer of compensatory LAS services based on the student's IEP, and proof of mailing showing the date the District sent the correspondence to the parent(s) or guardian(s).

Allegation Two

2. By March 15, 2016, the District shall submit evidence it has provided a memorandum to all District special education staff (including administrators) involved in the student's individualized education program (IEP), that includes the text and requirements of 34 *CFR* Section 300.321(a) and an explanation of the relationship between the citation, allegation, and conclusion reported in this compliance complaint report. Acceptable evidence would include a copy of the memorandum and the distribution list of the staff, including their names and titles.

RECONSIDERATION NOTICE

The findings in this investigation report are specific to this case. While general rules are cited, findings in other investigations may differ due to the facts and issues in each case.

Pursuant to *California Code of Regulations*, Title 5, Section 4665, either party may request reconsideration:

Within 35 days of receipt of the Department investigation report, either party may request reconsideration by the Superintendent. The request for reconsideration shall designate the finding(s), conclusion(s), or corrective action(s) in the Department's report to be reconsidered and state the specific basis for reconsidering the designated finding(s), conclusion(s) or corrective action(s). The request for reconsideration shall also state whether the findings of fact are incorrect and/or the law is misapplied. . . . Pending the Superintendent's reconsideration, the Department report remains in effect and enforceable.

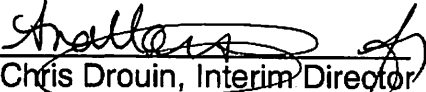
A request for reconsideration must be postmarked 35 days from the receipt of the investigatory report and sent to:

**Ana Marsh, Administrator II
Complaint Resolution Unit
California Department of Education
1430 N Street, Suite 2401
Sacramento, CA 95814
916-445-4623 Phone
916-327-8878 Fax**

Evidence of required corrective actions or questions regarding corrective actions shall be directed to:

**James Johnson, Administrator I
Focused Monitoring and Technical Assistance Unit Three
California Department of Education
1430 N Street, Suite 2401
Sacramento, CA 95814
916-327-6966 Phone
916-327-0843 Fax**

If compliance is determined in this investigation and no corrective actions are required, consider this case closed.


Chris Drouin, Interim Director
Special Education Division