



August 21, 2014

Nathan Kirstein, Esq.
Disability Rights Iowa
400 East Court Avenue, Suite 300
Des Moines, IA 50309

Clarinda Community School District
423 East Nodaway
Clarinda, IA 51632

Clarinda Academy
1820 North 16th St.
Clarinda, IA 51632

Green Hills AEA
P.O. Box 1109
24997 Highway 92
Council Bluffs, IA 51502

*State Complaint # 14-14
Decision*

Dear Parties to this State Complaint:

On June 19, 2014, the Disability Rights Iowa (“DRI”) filed a special education state complaint under the Individuals with Disabilities Education Act (“IDEA”) concerning the Clarinda Academy (“CA”), the Clarinda Community School District (“District”), and the Green Hills Area Education Agency (“AEA”). DRI, a federally funded protection and advocacy system for persons with disabilities, filed this complaint after a series of monitoring visits to CA.

The respondents made a timely reply to the state complaint. While the respondents provided the Department with proposed resolutions, DRI requested the Iowa Department of Education (“DE”) proceed with the state complaint procedures based on alleged systemic issues that DRI considered to remain unresolved.

The complaint alleged systemic policy and procedural issues in the following areas:

1. Lack of individualized supports and services for students with challenging behaviors;
2. Lack of secondary transition planning;
3. Lack of individualization of IEPs to meet the unique educational needs that resulted from a student's disability; and
4. Lack of policies and procedures for ensuring child find.

DRI reported that it began a limited monitoring of the CA in January 2014 as a follow-up on students who were transferred from the Iowa Juvenile Home ("IJH"). The complaint included concerns that students in need of specialized instruction were receiving little to no specialized instruction and not receiving an appropriate education. The District, CA, and AEA filed additional documents in response to the complaint.

The allegations, documents, and responses have been reviewed in light of the governing laws. Each Individualized Education Program ("IEP") and educational documentation for Student 1; Student 2; and Student 3 has been reviewed to determine findings of fact and conclusions of law.

For the most part, the facts are not in dispute. The respondents do not appear to take issue with the factual allegations concerning the three students identified in the state complaint. The primary dispute is the legal conclusion to be drawn from the facts and conclusions of law. After considering the records and the legal arguments presented, the complaint is **CONFIRMED IN PART** and **NOT CONFIRMED IN PART**.

After review of multiple records, it is recommend that this complaint is **CONFIRMED** in the following areas:

1. Lack of individualized supports and services for students with challenging behaviors;
2. Lack of transition planning; and
3. Lack of individualization of Individualized Education Program (IEP).

NOT CONFIRMED is the following area:

4. Lack of policy and procedures for ensuring Child Find.

Specific findings of fact are made in connection with discussion of the particular legal claims made by DRI. Because the complaint is partially confirmed, corrective action is ordered, as described in this decision.

Findings and Conclusions: Jurisdiction and Timelines

The DE has jurisdiction of the parties and jurisdiction of the subject matter. *See* Iowa Admin. Code r. 281—41.153(2) (2014).

The law provides a one-year limitations period for filing state complaints, and DRI filed this complaint in a timely manner. *Id.* r. 281—41.153(3). The DE's deadline to adopt

this decision is extended until today's date because of an unanticipated illness of a DE staff member. *Id.* r. 281—41.152(1).

Findings and Conclusions: Scope of Investigative Review

IDEA regulations and state rules require the Iowa Department of Education to investigate any complaint alleging a public agency violated a provision of the IDEA. Iowa Admin. Code r. 281—41.153(2). The Department is to make an independent assessment of the complaint. Iowa Admin. Code r. 281—41.152(1). The complainant bears the burden of proof. *See, e.g., Shaffer v. Weast*, 546 U.S. 49, 62-63 (2005) (Stevens, J., concurring) (“We should presume that public school officials are properly performing their difficult responsibilities under this important statute.”).

The Department assesses the actions taken by the public agencies from the vantage point of when the public agencies acted. The Department evaluates IEPs in light of information available to IEP teams at the time; they are not judged with the benefit of hindsight. *K.E. v. Independent Sch. Dist. No. 15*, 647 F.3d 795 (8th Cir. 2011). An IEP “is a snapshot, not a retrospective.” *Adams v. Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999) (quoting *Fuhrmann v. East Hanover Bd. of Educ.*, 993 F.2d 1031, 1041 (3d Cir. 1993)). An IEP must be evaluated in terms of what was objectively reasonable when it was developed. *Id.*

To determine whether a child's IEP meets the requirements of the law, the Department follows the standard articulated in *Board of Education v. Rowley*, 458 U.S. 176 (1982). The Department will inquire (1) whether the respondents followed the IDEA's procedural requirements, and (2) whether the IEP drafted was “reasonably calculated” to confer educational benefit to the child at issue. “‘Some educational benefit’ is sufficient; a school need not ‘maximize a student’s potential or provide the best possible education at public expense.’” *Park Hill Sch. Dist. v. Dass*, 655 F.3d 762, 766 (8th Cir. 2012) (quoting *Lathrop R-II Sch. Dist. v. Gray*, 611 F.3d 419, 427 (8th Cir. 2010)). “Reasonably calculated” will vary based on the needs of each individual child. A service that might be benefit-maximizing for one child, and therefore not required, might be absolutely necessary for another child to receive a FAPE. In investigating this state complaint, we have viewed the allegations with the *Rowley* standard in mind. The standard applied is not “optimal,” “preferred,” “best practice,” or “recommended.” The standard applied is compliance with the law's basic requirements.

Findings and Conclusions: Specific Allegations Made By Disability Rights Iowa

Complainants alleged the respondents violated provisions of law concerning the following: Behavior supports and services for students with challenging behaviors; transition planning; IEPs and child find. We consider these in turn, from the standpoint of “compliance,” not “perfection.” *See Dass*, 655 F.3d at 766. In each of the subparts that follow, we make specific findings of fact and conclusions of law.

1. Lack of individualized supports and services for students with challenging behaviors

All IEPs reviewed contained boilerplate descriptions of goals, services, and supports provided, especially in the area of behavior. While one of these IEPs, if viewed in isolation, might appear to be individualized, when they are viewed together, such individualization is merely an illusion. These cut-and-paste descriptions and goals reflect no attempt to individualize programs or services to respond to each child's needs and present levels of performance.

For example, nearly all IEPs contain the following text, or some variant on this theme:

Clarinda Academy works to change negative behaviors through a positive peer culture and through a system of seven levels of intervention. The students are required to work on personal behaviors as well as those of others in hopes of an easier transition back home as a result of what is learned at Clarinda Academy. Students are expected to follow the following four core norms:

- Intervene all negative behavior;
- Reinforce all positive behavior;
- Support all intervention; and,
- Treat others with respect.

Additionally, to enforce the four core norms, CA's school-wide behavior intervention plan uses seven levels of intervention. CA reported that all students are subject to this behavior plan, regardless of IEP behavioral goals, that incorporate the following seven interventions:

Level 1: Student is prompted to discontinue a negative behavior with a friendly nonverbal prompt.

Level 2: Student is prompted using a more serious nonverbal prompt.

Level 3: Student is asked to discontinue a negative behavior with a friendly verbal prompt.

Level 4: The student is asked to discontinue a negative behavior with a more serious verbal prompt.

Level 5: Support is asked from other students to help resolve the conflict.

Level 6: Staff members become involved to help the student make a positive decision.

Level 7: The staff uses a crisis intervention technique which assists the student regain self-control. This is only used when students engage in behaviors that could harm themselves or others.

This boilerplate language has several conceptual problems. First, the description of what all students are customarily offered at CA, which might be appropriate background information in an IEP, becomes a constraint on the services offered. CA makes the

legally impermissible leap from “all students receive these services” to “students only receive these services.” Second, if the identical services are available to all students and identical expectations are imposed on all students, they are general education. One would not expect them to be described in any IEPs. *Letter to Montano*, 18 IDELR 1232 (OSEP 1992) (services that are not special education are not required to be described in an IEP). However, the four core norms and the seven levels of intervention are centerpieces of the IEPs reviewed.

An IEP must contain statements of the specially designed instruction and support and related services required by each particular child. Iowa Admin. Code rr. 281—41.22, 281—41.320. The specially designed instruction described in the IEP must “address the unique needs of the child that result from the child’s disability.” *Id.* r. 281—41.39(3)“c”. Cut-and-paste, one-size-fits-all IEP goals or services do not meet this definition. Services provided to, or available to, all children, such as universal instruction or universal interventions, are the general curriculum, *see id.* r. 281—41.51(7), are not special education, *see id.* r. 281—41.39(3)“c”, and are, as a general rule, not appropriate uses of special education funds, *see* Iowa Code § 256B.9(1).

The CA has developed numerous IEPs that contain the following boilerplate for student’s present abilities, behavioral goal and specially designed instruction:

- [Student’s] behaviors have warranted that [possessive pronoun] be placed at Clarinda Academy, a residential placement, by a court order.
- Peers typically are not court ordered to attend school in a residential place.
- [Student] is a new student at Clarinda Academy and is rated positive (3 on a scale of 1-3).
- In 36 weeks, when presented with a decision making situation, [Student] will follow the four core norms to earn a positive (3 on a scale of 1-3) rating, 100% of the time.
- [Student’s] progress will be monitored through weekly rating (positive 3, neutral 2, or negative 1) reports generated by skill development staff and education staff. Instructional strategies will be changed using the 4 Point Decision-Making Rule: If 4 consecutive data points fall above or below the goal line, instructional changes will be considered.
- [Student] will receive specially designed instruction in the area of behavior. Skills to be taught include: following classroom directions, complying with school norms, demonstrating positive traits, seeking attention appropriately from teachers, seeking attention appropriately from fellow students, and using appropriate communication. Collaboration with Special Education Teacher will be ongoing.

The IEPs reviewed set a goal of a rating of 3 on a scale of 1-3, whether the student’s present levels of performance would indicate an area of need. Three students have a goal

of obtaining a rating of three on a scale when each of the student's present level of performance is a three at baseline: these IEPs called for absolutely no growth. There is no evidence in the records that would support a conclusion that the IEPs reviewed calling for no growth would meet the *Rowley* standard for some "educational benefit." *Dass*, 655 F.3d at 766. The IEPs reviewed are not individualized based on the student's present levels of academic achievement and functional performance, provided to enable the students to advance appropriately toward attaining annual goals, or make progress in the general education curriculum. Iowa Admin. Code r. 281—41.320. This is a textbook example of shoehorning children into goals. If an entity develops look-a-like goals and the same specially designed instruction in the area of behavior for all children with behaviors as identified areas of concern, that entity is not providing individualized special education services. *See generally Gagliardo v. Arlington C. Sch. Dist.*, 489 F.3d 105 (2nd Cir. 2007). That is exactly what has transpired here.

Furthermore, there is no evidence that the behavioral goals were based on appropriate assessments of behavior, such as a functional behavioral assessment.

Because IEPs reviewed conclusively demonstrate a systematic failure to provide specially designed instruction in the area of behavior, when viewed using the snapshot rule, *see K.E.*, 647 F.3d 795, and a compliance lens, this allegation is confirmed. Corrective action will be ordered.

2. Lack of transition planning

The complainant alleges that CA failed to provide appropriate transition planning. The record compels a finding and conclusion that this allegation is confirmed.

Eligible individuals of secondary school age are entitled to transition services. Iowa Admin. Code rr. 281—41.43, 281—41.320(2). Transition services are a coordinated set of activities to prepare eligible individuals for life after secondary school, *id.* r. 281—41.43, and must include "measurable postsecondary goals based on age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills," *id.* r. 281—41.320(2). An eligible individual's IEP must contain transition services no later than the first IEP to be in effect when the child turns fourteen years old. *Id.*

The law's requirements for transition services are clear and subject to only one exception, which is not relevant here. *Id.* r. 281—41.324(4)"a"(2). They are designed to advance the congressional purpose of preparing children with disabilities for "further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A); *see also* Iowa Admin. Code r. 281—41.1(1). These requirements are embodied in "Indicator 13," a component of the state's performance plan and annual performance report required by IDEA regulations. *See* 34 C.F.R. §§ 300.601-.602.

The federal measurement required for Indicator 13 is as follows:

Percent of youth with IEPs aged 16 and above with an IEP that includes appropriate measurable postsecondary goals that are annually updated and based upon an age appropriate transition assessment, transition services, including courses of study, that will reasonably enable the student to meet those postsecondary goals, and annual IEP goals related to the student's transition service needs. There must also be evidence that the student was invited to the IEP Team meeting where transition services are to be discussed and evidence that, if appropriate, a representative of any participating agency was invited to the IEP Team meeting with the prior consent of the parent or student who has reached the age of majority.

Iowa has operationalized this measurement by dividing it into six critical elements. These six elements of transition that are "critical" not only because they are educationally meaningful and relevant but because each one of the six critical elements directly corresponds with a legal requirement or requirements imposed by the IDEA. Attainment of each critical element for every child is a requirement of the law, *see* Iowa Admin. Code rr. 281—41.43, 281—41.320(2), 281—41.321(2), and a component of FAPE, *see id.* r. 281—41.17. Since transition requirements are primarily housed in the law's provisions on IEPs, noncompliance with these requirements strikes directly and deeply at the IDEA's core entitlement. They are manifestly more than "compliance hoops" or "paperwork." The law is uncompromising, and compels the following conclusion: failure to do transition well enough to satisfy the Indicator 13 standard is a failure to do special education at all.

The following three Critical Elements were not evident in any of the IEPs reviewed:

Critical Element 3: Post-secondary Expectations. A statement for each post-secondary area of living, learning, and working is observable, based on assessment information and projects beyond high school.

Critical Element 5: Annual Goals. All goals must support pursuit of the student's post-secondary expectations, be well-written and all areas of post-secondary expectations must have a goal or service/activity or the assessment information must clearly indicate there is no need for services in that post-secondary area.

Critical Element 6: Services, supports, and activities. Statements must specifically describe the services, supports and activities necessary to meet the needs identified through the transition assessment. Evidence that adult agencies and community organizations were involved as appropriate must also be present.

The following boilerplate appears in numerous IEPs, despite a student's present levels of academic achievement and functional performance or information essential for the development of the IEP for students transitioning:

- [Student] has been placed at Clarinda Academy, a residential foster care facility for troubled teens. Clarinda Academy works to change negative behaviors through a positive peer culture and through a system of seven levels of intervention. [Student] will be required to work on personal behaviors as well as those of others. It is the hope of Clarinda Academy that [Student] will easily transition back home as a result of what is learned here.
- [Student's] behavior in the classroom prior to coming to Clarinda Academy, a high structured environment, had an impact on [possessive pronoun] ability to maintain steady progress academically. [Student's] behavior in school could possibly indicate difficulty in [Student] holding a job and developing a secure or safe home environment beyond high school. Academic progress and current level of achievement in the area of **reading, writing, and math** may make it difficult for [possessive pronoun] to be successful beyond high school without continued services to increase [possessive pronoun] performance and understanding.
- [Student] will complete core required classes at Clarinda Academy. Once those are completed, [Student] will work on courses of interest to pursue post-secondary goals such as [areas of interest]. Since students attend Clarinda Academy for 6-12 months, they will return to their home school to complete most of their graduation requirements which will include courses for their post-secondary goals. At this time [Possessive pronoun] can apply for Vocational Rehabilitation services. [Possessive pronoun] can also research different jobs in [area].

Based on the information reviewed on the IEPs, this allegation is confirmed, using a compliance standard. Corrective action will be ordered, as described below.

3. Lack of individualization of IEPs

The specially designed instruction, transition services, and behavioral interventions contained in the IEPs reviewed are not individualized. This was demonstrated based on the findings and conclusions in the previous findings described in items one and two, above.

The following boilerplate for so-called "Specially Designed Instruction" appears in numerous IEPs, regardless of a student's present levels of academic achievement and functional performance or information essential for the development of the IEP for

students:

SPECIALLY DESIGNED INSTRUCTION: (Behavior) [Student] will receive specially designed instruction in the area of behavior. Skills to be taught include: following classroom directions, complying with school norms, demonstrating positive traits, seeking attention appropriately from teachers, seeking attention appropriately from fellow students, and using appropriate communication. Collaboration with Special Education Teacher will be ongoing.

The cut-and-paste nature of these IEPs is further proven by the common error in student names and gender-specific pronouns. This lack of individualization is concerning. By CA's own report, these students have significant need. The fact that a largely cut-and-paste IEP is used to address varied types of behavior suggests that it is not being used to address specific student needs and targeted behaviors of concern. A boilerplate description of services that attempts to be all things to all students, in the end, will do nothing of consequence for any student.

This allegation is confirmed. Corrective action will be ordered, as described below.

4. Lack of policy and procedures for ensuring Child Find.

The complainant alleges that CA failed to provide appropriate child find activities. This allegation is not confirmed.

The law requires all public agencies to find children who might be children with disabilities, *see* Iowa Admin. Code r. 281—41.111, and seek to evaluate them. There is no evidence that this requirement of the IDEA is not being followed. This allegation does not rise above mere conjecture. It is not the basis for a finding of noncompliance or a requirement for corrective action.

The complainant failed to carry its burden of proof on this allegation, *see Shaffer*, 546 U.S. at 62-63, and it is not confirmed.

Corrective Action

Because the Department found violations of the IDEA, it must order corrective action. Iowa Admin. Code r. 281—41.151(2). This includes “corrective action appropriate to address the needs of the child, such as compensatory services or monetary reimbursement.” *Id.* Corrective action may also include technical assistance activities and negotiations. *Id.* r. 281—41.152(2).

What is required corrective action depends on the facts of each case. Since this state complaint identified systemic areas of noncompliance, the ordered corrective action must be simultaneously broader (must provide systemic remedies) and narrower (must allow for child-specific correction). A blanket approach to child-specific corrective action

would not be supported by the law, which requires that child-specific remedies be child-tailored. *Id.* r. 281—41.151(2). When considering the nature of corrective action to order for confirmed findings of noncompliance, the Office of Special Education Programs (OSEP) provides the following considerations:

In determining the steps that the LEA or EIS program must take to correct the noncompliance and to document such correction, the State may consider a variety of factors, including: (1) whether the noncompliance was extensive or found only in a small percentage of files; (2) whether the noncompliance showed a denial of a basic right under the IDEA (e.g., a long delay in initial evaluation beyond applicable timelines with a corresponding delay in the child’s receipt of FAPE or EI services; and (3) whether the noncompliance represented an isolated incident in the LEA or EIS program, or reflects a long-standing failure to meet IDEA requirements.

United States Dep’t of Educ., *Frequently Asked Questions Regarding Identification and Correction of Noncompliance and Reporting on Correction in the State Performance Plan (SPP)/Annual Performance Report (APR)*, September 3, 2008, at 2. When those factors are considered, substantial corrective action is required.

DRI proposed a resolution to this complaint. Iowa Admin. Code r. 281—41.152(2). The respondents proposed corrective action in their July 9, 2014, response to this complaint. By rule, the respondents are entitled to propose a resolution. *Id.* r. 281—41.152(1)“c”(1). The DE has independently considered the proposed resolution in light of the confirmed violations. The DE finds and concludes that the proposed corrective action is, with three exceptions noted below, appropriate.

1. *Lack of individualized supports and services for students with challenging behaviors.* Subject to items 4, 5, and 6, below, the corrective action proposed by CA, the District, and the AEA is accepted and is incorporated by this reference. The respondents shall provide a timeline for implementing the corrective action, which shall be completed no later than one year from the date of this decision.
2. *Lack of secondary transition planning.* Subject to items 4, 5, and 6, below, the corrective action proposed by CA, the District, and the AEA is accepted and is incorporated by this reference. The respondents shall provide a timeline for implementing the corrective action, which shall be completed no later than one year from the date of this decision.
3. *Lack of individualization of IEPs to meet the unique educational needs that resulted from a student’s disability.* Subject to items 4, 5, and 6, below, the corrective action proposed by CA, the District, and the AEA is accepted and is incorporated by this reference. The respondents shall provide a timeline for implementing the corrective action, which shall be completed no later than one year from the date of this decision.

4. *Lack of policy and procedures for ensuring Child Find.* To the extent that corrective action is proposed to address child find violations, that corrective action is voluntary and will not be monitored by the DE.
5. *Quarterly Monitoring by the DE.* The request by DRI for quarterly monitoring by the DE for three years is denied. The evidence does not support that request. The evidence suggests that the corrective action ordered in this decision, if performed in a timely manner, will reasonably correct the confirmed violations and prevent future violations of a similar type.
6. *Compensatory Education.* DRI requests calculation of compensatory education for all children who were at CA for over thirty days. The respondents' proposed resolution does not specifically address compensatory education. The DE concludes that compensatory education is required.
 - A. *In General.* The DE orders compensatory education for the confirmed systemic violations identified in items 1, 2, and 3. Compensatory education will be awarded by applying the following common framework to the facts of each individual student's case.
 - B. *Method of Calculation.* The common framework is based on an analysis of the child's specific information to answer the following questions: "What would the child's expected performance have been if the child had received legally compliant special education?" and (2) "What was the child's actual performance?" The measure of compensatory education required is the special education and support and related services reasonably required to close the gap between the answers to the first and second questions.

In initially calculating compensatory education, each child's IEP team shall consider the factors listed in this decision. If the child's IEP team is in agreement with the plan for compensatory education, the respondents shall report the plan to the DE for its review and implement it. If the child's IEP team is in disagreement about compensatory education, the respondents shall refer this matter back to the DE, which shall award compensatory education based on the child's specific facts. The DE retains jurisdiction over all determinations of compensatory education.

Any compensatory education awarded shall be reasonably calculated to place the student in the position she would have occupied but for the respondents' violations. This may be a 1:1 approach to days missed (sixty hours of services where FAPE was denied equals sixty hours of compensatory education), or it may differ based on the child's unique needs (one child may require thirty hours of compensatory education to compensate for a sixty hour FAPE denial, and another child might require 120 hours for a similar denial).

The respondents shall apply this decision to all children who were placed and educated at the CA for more than thirty days, beginning on June 20, 2013, to the date of this decision. For any child in that class, including children who have graduated with a regular high school diploma, the respondents shall convene an IEP team meeting within sixty days of the date of this decision. The respondents and the other members of each child's IEP team, shall examine each child's education in light of this decision to determine whether there were FAPE denials, as described in this decision. If there were denials of FAPE, compensatory education shall be calculated by each child's IEP team.

Compensatory education shall be supplemental to all present or future educational services required to receive a FAPE, and shall not supplant or displace those required services.

- The relevant period is from June 20, 2013, to the date of this decision.
- The measure of the compensatory education will be the difference in expected performance if each child had received a FAPE during the relevant period and the child's actual performance during the relevant period.
- The compensatory services shall be reasonably to close that "gap" between expected and actual performance.
- In the event that there is no "gap" between expected and actual performance, there will be no award of compensatory education.
- A day-for-day approach is one way of calculating the compensatory services, but that approach is not required.
- The services are to be provided in a manner and location determined by the IEP team. The parents or child are not entitled to require services in a particular location or manner, or to request monetary compensation.
- If the child is no longer at the CA, each child's IEP team shall determine a plan for compensatory education that is reasonable in light of the child's current educational environment, if any. That may include providing compensatory education on a contract basis with another school district, school, AEA, or other type of provider relevant to the child's needs.
- The DE is available to provide technical assistance, including assistance in determining whether a particular item or service was compliant.
- If the parties are unable to establish a plan for compensatory education services within one hundred and twenty days of the date of the DE's order, the DE will establish such a plan for each child.

C. *Refusal of Compensatory Education.* If the respondents offer to calculate compensatory education, and a child's parent (or child who is making her own educational decisions) declines the offer, the respondents shall provide documentation of such to the DE. If the respondents offer to implement an award of compensatory education calculated by a child's IEP team, and that offer is declined, the respondents shall provide documentation of such to the DE.

D. *Matters to Consider in Determining Compensatory Education.* The factors to consider in determining whether compensatory education is necessary are set forth in this decision and summarized in list form here for the convenience of the parties. (In case of unintended actual or perceived conflict, the text of the decision above takes precedence over the list presented below.)

- Was each child's IEP services appropriate?
 - o Was each IEP reasonably calculated to confer benefit?
 - o Were IEP goals and services individualized based on the child's present strengths and needs at the time the IEP was drafted?
 - o Did the IEP improperly describe general education strategies and goals as "specially designed instruction" or other special education services?
 - o Were progress monitoring methods appropriate to the goal or service?
- Did each child of transition age receive appropriate transition services?
 - o Did each IEP comply with each of the six critical elements?
- Did each child receive required behavioral supports and services?
 - o Were the child's behavior supports and services individualized?
 - o Were the child's behavior supports and services based on appropriate assessment data?

E. *Timeline for Completion of Compensatory Education.* Compensatory education shall be completed as soon as possible, but no later than one year from the date of this decision. If there are questions about whether that deadline will be met for a particular child, please contact the Department for further instructions.

Conclusion

For the reasons stated above, this complaint is CONFIRMED IN PART and NOT CONFIRMED IN PART. Corrective action is ordered as described.

Any pending matter or motion is overruled. Any allegation not specifically addressed in this decision is either incorporated into an allegation that is specifically addressed or is overruled. Any legal contention not specifically addressed is either addressed by implication in legal decision contained herein or is deemed to be without merit. Any matter considered a finding of fact that is more appropriately considered a conclusion of law shall be so considered. Any matter considered a conclusion of law that is more appropriately considered a finding of fact shall be so considered. The DE reserves jurisdiction to enter supplemental orders to implement this decision.

There are no fees or costs to be awarded in this matter.

Any party that disagrees with the DE's decision may file a petition for judicial review under section 17A.19 of the Iowa Administrative Procedure Act. That provision gives a party who is "aggrieved or adversely affected by agency action" the right to seek judicial

review by filing a petition for judicial review in the Iowa District Court for Polk County (home of state government) or in the district court in which the party lives or has its primary office.

I offer my assurance that every attempt has been made to address this complaint in a neutral manner, and in compliance with state and federal special education law. I sincerely wish the best for all involved.

Done on the above-stated date in Des Moines, Iowa.

Sincerely,

ELECTRONICALLY SIGNED

Dee Gethmann
Consultant & Complaint Investigator
Bureau of Standards and Curriculum
Division of Learning and Results
Iowa Department of Education
515-281-5502

ELECTRONICALLY SIGNED

Thomas A. Mayes
Attorney & Complaint Officer
Division of Learning and Results
Iowa Department of Education
515-242-5614

Concur,

ELECTRONICALLY SIGNED

Barbara Guy
State Director of Special Education
Learner Strategies & Supports
Division of Learning and Results
Iowa Department of Education
515-281-5265

ELECTRONICALLY SIGNED

W. David Tilly
Deputy Director
Iowa Department of Education
515-281-3333

CC: Shelley Ackermann
Sharon Hawthorne