

**FEDERAL COMPLAINT NUMBER 98.532
FINDINGS AND RECOMMENDATIONS**

I. PRELIMINARY MATTERS

- A. A complaint was received by the Federal complaints Coordinator, Colorado Department of Education (“CDE”), on December 17, 1998.
- B. The complaint was filed by Ms. [parent] on behalf of her son [student], against the Poudre R-1 School District, Dr. Don E. Unger, Superintendent, and Dr. Joe Hendrickson, Director of Special Education (“the District”).
- C. The timeline within which to investigate and resolve this expires on February 19, 1999.
- D. The process for receipt, investigation and resolution of the complaint is established pursuant to the authority of the Individuals With Disabilities Act 20 U.S.C. 1401 et.seq., (“the Act”), and its implementing regulations concerning state level complaint procedures, 34 C.F.R. 300.660-300.662, and Colorado State Board of Education Policy No. 1280.0.
- H. The complaint was brought against the District as a recipient of federal funds under the Act. It is undisputed that the District is a program participant and receive federal funds for the purpose of providing a free appropriate public education (“FAPE”) to eligible students with disabilities under the Act.
- I. The complaint was accepted for investigation based upon a determination that CDE had jurisdiction over one of the allegations contained in the complaint pertaining to violations of federal law and rules in a federally funded program administered by CDE.
- J. [Student] is a student with disabilities eligible for services from the District under the Act.
- K. The investigation of the complaint included a review of the documents submitted by the parties; interviews with persons named in those documents or who had information relevant to the complaints; and consideration of relevant case law and federal agency opinion letters.

II. ISSUE

A. STATEMENT OF THE ISSUE:

Whether or not the District has violated the provisions of the Act by failing to provide [student] with a FAPE as a result of the teacher of hearing impaired’s alleged failure to facilitate informal networking with the parent and hearing impaired community.

B. RELEVANT STATUTORY AND REGULATORY CITATIONS

20 U.S.C. 1401 (a)(16), (17), (18), (20), and 1414,

34 C.F.R. 300.2, 300.5, 300.6, 300.7, 300.8, 300.11, 300.14, 300.16, 300.17, 300.18, 300.121, 300.130, 300.180, 300.235, 300.300, 300.340, 300.346, 300.347, 300.533, and

Fiscal Years 1995-97 State Plan Under Part B of the Act

C. FINDINGS

1. At all times relevant to the complaint, the District was receiving funds under the Act pursuant to an approved application for funding.
2. The funds were paid to the District, in part, based on the assurances contained within its application.
3. One of the assurances made by the District is that in accordance with the Act, it will provide a FAPE, including special education and related services, to each eligible student with disabilities within its jurisdiction to meet the unique needs of that child.
4. [Student] is an eighteen year old student with multiple disabilities as listed on an IEP dated 9/15/98. That IEP is 36 pages in length, containing approximately 70 strengths and 50 concerns relative to "present level of functioning, achievement, and performance"; 40 needs, 6 goals, 30 objectives, 11 specific supports, 12 "adaptations/modifications/accommodations" with a total of 60 and $\frac{3}{4}$ hours of special education and related services to be provided per week. It also includes special transportation and assistive technology as well as services beyond the regular school year. This IEP is to be in effect from 2/26/98 to 2/26/99.
5. Part of the above IEP is an "IEP Addendum: The Communication Plan". That plan states that the "teacher of hearing impaired will facilitate informal networking with parent and hearing impaired community".
6. The complainant alleges that the District has failed to provide the related services necessary to allow [student] to communicate with his teachers, support personnel and people in the community. She alleges that [student]'s communication plan states that a teacher of the hearing impaired will facilitate informal networking with the parent and hearing impaired community; however these services have been denied to [student]. She alleges that, as a result, he cannot and hasn't benefited from his educational program.
7. The District, in its response to this allegation, states the following:

There have been a number of activities in place over the last ten years specifically related to supporting Ms. [parent] in establishing a relationship with the hearing impaired community. In the last three years, she has brought four knowledgeable people from the hearing impaired community to [student]'s IEP meetings.

In early December of 1998, at the request of Ms. [parent] arrangements were made for [student] to attend and audit an American Sign Language class at Front Range Community College, at school district expense, Ms. [parent] however, ultimately decided not to have [student] attend the class.

A district staff person, arranged for a Ms. M.C., who is deaf and teaches at both UNC and Front Range, to meet with [student] in January, which did occur.

A list of organizations within the state which might be helpful was given to Ms. [parent].

The name and number of a person who runs a sign language club for individuals of all ages and abilities was given to Ms. [parent].

8. The law is clear in that those services listed on an IEP must be provided. Thus, the teacher of hearing impaired was obligated to facilitate informal networking with the parent and hearing impaired community sometime between 2/26/98 and 2/26/99. Although some of the information was not provided until January, it was provided during the timeframe of the IEP.

III. DISCUSSION

The IEP for [student] is one of the most expansive IEPs viewed in this office. Descriptions of functioning, needs, goals and objectives and services are very complete in this 36 page IEP, and services are numerous. Even if this allegation were true and not networking was provided, this would not rise to the level of non-provision of a FAPE. It would be very difficult to conclude, as has the complainant, that the lack of networking contacts caused [student] to not benefit from his educational program of more than 60 hours of special education and related services per week. Nonetheless, the networking was provided.

IV. CONCLUSIONS

The District did not violate the provisions of the Act by failing to provide [student] with a FAPE as a result of the teacher of hearing impaired's alleged failure to facilitate informal networking with the parent and hearing impaired community. The teacher did facilitate informal networking within the IEP period.

Dated this 15th day of February, 1999

Carol Amon, Federal Complaints Investigator