

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

State-Level Complaint 2021:540
St. Vrain Valley School District RE-1J

DECISION

INTRODUCTION

On December 17, 2021, the parent (“Parent”) of a student (“Student”) identified as a child with a disability under the Individuals with Disabilities Education Act (“IDEA”)¹ filed a state-level complaint (“Complaint”) against St. Vrain Valley School District RE-1J (“District”). The State Complaints Officer (“SCO”) determined that the Complaint identified one allegation subject to the jurisdiction of the state-level complaint process under the IDEA and its implementing regulations at 34 C.F.R. §§ 300.151 through 300.153. Therefore, the SCO has jurisdiction to resolve the Complaint.

RELEVANT TIME PERIOD

Pursuant to 34 C.F.R. § 300.153(c), the Colorado Department of Education (“CDE”) has the authority to investigate alleged violations that occurred not more than one year from the date the original complaint was filed. Accordingly, this investigation will be limited to the period of time from December 17, 2020 through December 17, 2021 for the purpose of determining if a violation of IDEA occurred. Additional information beyond this time period may be considered to fully investigate all allegations. Findings of noncompliance, if any, shall be limited to one year prior to the date of the complaint.

SUMMARY OF COMPLAINT ALLEGATIONS

Whether the District violated the IDEA and denied Student a free appropriate public education (“FAPE”) because the District:

1. Failed to provide Parent a copy of Student’s IEP following the IEP Team meeting in November 2021, in violation of 34 C.F.R. § 300.322(f).

¹ The IDEA is codified at 20 U.S.C. § 1400, *et seq.* The corresponding IDEA regulations are found at 34 C.F.R. § 300.1, *et seq.* The Exceptional Children’s Education Act (“ECEA”) governs IDEA implementation in Colorado.

FINDINGS OF FACT

After thorough and careful analysis of the entire record,² the SCO makes the following FINDINGS OF FACT (“FF”):

1. Student attends twelfth grade at a District high school (“School”). *Exhibit A*, p. 1.
2. Student is eligible for special education and related services under the Multiple Disabilities category. *Id.*
3. The District reevaluated Student during Fall 2021. *See Exhibit F*, pp. 8-21.
4. Case Manager sent Parent a copy of Student’s evaluation report and a draft IEP on October 28, 2021. *Id.* at p. 6.
5. On November 3, 2021, a multidisciplinary team (“MDT”) met to review Student’s reevaluation and complete her eligibility determination. *Exhibit A*, pp. 75-77. The MDT found Student remained eligible for special education and related services under the Multiple Disabilities category. *Id.*
6. Immediately afterwards, Student’s IEP Team convened to develop her IEP. *Id.* at pp. 1-25. Parent attended the IEP Team meeting. *Interview with Parent*. That IEP Team meeting resulted in the IEP dated November 3, 2021 (“IEP”). *See Exhibit A*, pp. 1-25.
7. Following the meeting, Case Manager failed to provide the finalized IEP to Parent. *Interview with Executive Director of Special Education (“Executive Director”); Response*, p. 1.
8. The District issued a prior written notice (“PWN”) on November 15, regarding the decisions made by the IEP Team during the November 3 meeting. *Exhibit 3*, pp. 1-2; *Exhibit D*, pp. 1-2. Parent received this PWN. *See Exhibit 3*, pp. 1-2.
9. On December 30, 2021—shortly after this Complaint was accepted for investigation—Case Manager sent the IEP to Parent via email. *Exhibit H*, p. 1. In his email, Case Manager noted: “I realized you did not receive a copy of the last IEP, please find it attached.” *Id.*
10. The District does not have a written policy that specifies who provides IEPs to parents. *Interview with Executive Director*. Instead, staff at each school determine who is responsible for sending IEPs to parents. *Id.* At School, case managers send finalized IEPs to parents via email. *Id.* During a reevaluation year, School Psychologist sends the finalized evaluation report to parents. *Id.*

² The appendix, attached and incorporated by reference, details the entire record.

11. Here, Case Manager mistakenly thought School Psychologist was providing both the evaluation report and the IEP to Parent. *Id.*

CONCLUSIONS OF LAW

Based on the Findings of Fact above, the SCO enters the following CONCLUSIONS OF LAW:

Conclusion to Allegation No. 1: The District did not provide Parent a copy of Student’s IEP, in violation of 34 C.F.R. § 300.322(f). This violation did not result in a denial of FAPE.

The sole allegation in this investigation concerns whether the District provided Parent a copy of Student’s IEP.

The IDEA requires school districts to provide parents a copy of their child’s IEP at no cost. 34 C.F.R. 300.322(f). The IDEA does specify a timeframe in which the IEP must be provided. *See id.*

Here, the District conceded that it failed to provide Parent a copy of the IEP. (FF # 7.) Parent only received a copy on December 30, 2021 after she filed this Complaint. (FF #s 7, 9.) Even though the IDEA does not require the IEP to be provided within a specific timeframe, the District’s two-month delay in sending the IEP is unacceptable in the context of a nine-month school year. For these reasons, the SCO finds and concludes that the District failed to provide Parent a copy of Student’s IEP, resulting in a procedural violation of 34 C.F.R. § 300.322(f).

A procedural violation causes a denial of FAPE where it “(1) impeded the child’s right to a FAPE; (2) significantly impeded the parent’s opportunity to participate in the decision-making process regarding the provision of a FAPE to the parent’s child; or (3) caused a deprivation of educational benefit.” 34 C.F.R. § 300.513(a)(2).

Here, the SCO finds and concludes that the District’s failure did not result in a denial of FAPE. Parent received a copy of the draft IEP before the IEP Team meeting, and Parent attended the IEP Team meeting. (FF #s 4, 6.) Nothing in the record suggests that Parent was unaware of the content of Student’s IEP. Indeed, Parent received the PWN issued after the IEP Team meeting. (FF # 8.) Even though Parent did not receive a copy of the IEP, there is no indication that procedural error deprived Student of any educational benefit.

In remedying the District’s violation, the SCO must consider action already taken by the District. After Parent’s Complaint was accepted for investigation, Case Manager sent Parent a copy of the IEP. (FF # 9.) Parent now has the document which she had previously been denied. Given the procedural nature of the violation and the steps taken by the District, the SCO finds and concludes that no further remedy is necessary here.

Systemic IDEA Violation

Pursuant to its general supervisory authority, CDE must also consider and ensure the appropriate future provision of services for all IDEA-eligible students in the district. 34 C.F.R. § 300.151(b)(2). Indeed, the U.S. Department of Education has emphasized that the State Complaint Procedures are “critical” to the SEA’s “exercise of its general supervision responsibilities” and serve as a “powerful tool to identify and correct noncompliance with Part B.” *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities*, 71 Fed. Reg. 46601 (Aug. 14, 2006).

The evidence in the record does not indicate that the District’s violation resulted from improper procedure or a lack of knowledge by District or School staff. Instead, this violation was the result of an error by Case Manager. For these reasons, the SCO finds and concludes that the violation is not systemic.

REMEDIES

The procedural violation of 34 C.F.R. § 300.322(f) consisted of one documented instance of non-compliance with established District procedure. Given the remedial action already taken by the District, no further remedy is ordered.

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. If either party disagrees with this Decision, their remedy is to file a Due Process Complaint, provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. See 34 C.F.R. § 300.507(a) and *Analysis of Comments and Changes to the 2006 Part B Regulations*, 71 Fed. Reg. 156, 46607 (August 14, 2006).

This Decision shall become final as dated by the signature of the undersigned SCO.

Dated this 15th day of February, 2022.



Ashley E. Schubert
State Complaints Officer

Appendix

Complaint, pages 1-10

- Exhibit 1: Email Correspondence
- Exhibit 2: Email Correspondence
- Exhibit 3: Prior Written Notice
- Exhibit 4: Correspondence

Response, page 1

- Exhibit A: IEP, Evaluation Report, Eligibility Determination
- Exhibit B: Notice of Meeting
- Exhibit C: None
- Exhibit D: Prior Written Notice
- Exhibit E: None
- Exhibit F: Email Correspondence
- Exhibit G: None
- Exhibit H: Email Correspondence

Telephonic Interviews with:

- Executive Director of Special Education: January 31, 2022
- Parent: February 1, 2022