

On February 1, 2005 Dr. and Mrs. XXXXXXXX (“Parents”) filed a complaint on behalf of their son (“Student”) against the Caesar Rodney School District (“District”). The complaint alleges that the District has violated state and federal laws relating to children with disabilities. Parents state that the District/school: (1) did not phone Parents prior to disciplining Student by requiring him to serve a detention; (2) did not provide e-mails on Fridays to Parents to inform them that Student had missed assignments; (3) did not provide Student work that would be missed due to being out of school for more than one day; and, (4) failed to make certain that all staff were aware of the IEP and/or certain aspects of the IEP.

Investigation of the complaint has been conducted, as required by the Individuals with Disabilities Education Act (IDEA) Regulations at 34 C.F.R. § 300.660 to 300.662, and according to the Department of Education’s regulations and procedures, including Sections 15.12 to 15.14 of the *Administrative Manual for Special Education Services* (“AMSES”). Specifically, the investigation included interviews with Dr. XXXXX and Mrs. XXXXXXXXXX (Parents), Mr. XXXXXXXXXX (Student), Ms. Janella Newman (District Special Education Director), Ms. XXXXXXXXXX (Caesar Rodney High School Assistant Principal), Ms. XXXXXXXX (homeroom teacher), Mr. XXXXXXXXXX (POD, Economics & Government teacher), and Ms. XXXXXXXXXXXXXXXX (English teacher). Documents reviewed included IEPs, IEP minutes, report cards, Parent notes, and e-mail correspondence between home and school.

Findings

1. Student is currently in eleventh grade receiving special education services in his local high school.

“Violation #1” (Notification Prior to Discipline)

2. IEP states, “Parents request to be phoned prior to [Student] receiving disciplinary action”.
3. There are 3 incidents regarding this violation. Incidents #1 and #2 occurred prior to the Complaint, and incident #3 occurred after the Complaint had been filed.
4. Incident #1 – “Student late to class”:
 - Student states the regular education English teacher gave him notice of this detention for being late for English class. He states he did receive written notice and signed the form for this detention; however, student states that school administrator later told him that he did not have to serve this detention.
 - School indicated to Parents in an e-mail that this detention was a mistake and that Student did not need to serve this detention. School administrator spoke to teacher who gave Student detention, and an e-mail was sent to the homeroom teacher (October 18) to remind them that, per Student’s IEP, he could not be disciplined without first notifying parents.
 - During interview (3/24/05), Parent states that she wished to remove the incident concerning “being late to class”, as this was resolved with school.
5. Incident #2 – “Survey Card not returned”:
 - Student states this incident was due to not turning in his Federal Survey Card. Student states that homeroom teacher told him verbally he had this detention. He did not receive written notice of this detention or sign a form that he had received this detention. Student states that homeroom teacher told him the date and what day of the week the detention would occur.

- Student states that he went to the detention for the survey card on the wrong day. After attendance was called for this detention, he informed the administrator that his name was not called (Student states there were several students' names that were not called). The administrator told Student that he could leave and that he would mark his name down as attending for the following week for detention.
- Parent states in correspondence with school that Student went to detention on the wrong day (November 3) and that school told Student that he was not on the list to serve detention that day. Parent states that student was told that his name would be marked as present for November 18.
- School states that survey cards are distributed to students and that there are times that teachers will tell the students that, if they do not return them, they will receive a detention in order to get students to return the cards.
- School and homeroom teacher state that student did not receive a detention due to failure to return the survey card. School states that, when a student receives a detention, the student signs a form. Homeroom teacher did not recall if she "threatened" a detention for Student if he did not return the card.
- School states in correspondence with District that student was not given a detention. When Student arrived for detention, School determined his name was not on the list, and he was asked to leave. School states that it was not able to inform parent of the detention, as they had no knowledge of it.

| 5. Incident #3 – "Student late to class":

- Student states this detention was for being late to class (this detention occurred after this complaint was filed). He states he did receive written notice and sign the form for this detention.
- School and Parents agree that the proper procedures were followed in notifying Parents prior to this detention.

← - - - - Formatted: Bullets and Numbering

"Violation #2" (Missed Assignments)

| 6. IEP states, "Teachers are requested to email parents (both email addresses) on Fridays, only if there are any missing assignments for the week. [Student] will use the weekends to catch up on missing assignments, and hand in all missing assignments on Monday for full-credit."

| 7. Student informed Parents on Sunday, November 14, that he was missing assignments. Parents state that this was the first time they had knowledge of this, and they sent an e-mail to all teachers at school reminding them of the requirements in the IEP.

| 8. Biology teacher replied to Parents via e-mail on Tuesday, November 16, with three missing assignments. This e-mail reply was only sent to home e-mail address.

| 9. A response from Parent indicates that both e-mail addresses must be used. The teacher response indicated that he was not sure if the e-mail responses worked and asked to let him know if this was the case.

| 10. Parent states that student missed a quiz in December.

- Student had an excused absence on Monday, December 6.
- Parent e-mailed English teacher on Friday, December 10, requesting further information about a low interim grade report that was sent home.
- English teacher responded to home e-mail on Monday, December 13, listing various scores on assignments and quizzes. No missed assignments or quizzes were reported in this e-mail.
- Parent responded on Monday, December 13, that Student informed Parents during weekend that he had missed a quiz while absent on Monday, December 6.

← - - - - Formatted: Bullets and Numbering

- No response to this e-mail was found; however, on December 21 (4:04 pm) Parent e-mailed teacher inquiring about missed exam. Parent sent an “addendum e-mail” on December 22 (12:06 am) with further information. Teacher responded to home e-mail address on December 23 that student is “all caught up”.

11. In e-mail correspondence that Parent supplied after the Complaint was filed, there have been at least three other incidents of Parent not receiving e-mails concerning missed assignments during the week. Although, some e-mails indicate that Parent **did** receive missed assignments by Friday.

Formatted: Bullets and Numbering

Violation #3 (Missed Work for Being Out of School)

12. IEP states, “In the event that [Student] will be out of school for more than one (1) day, teachers are requested to email the parents assignments before he leaves. [Student] will need to notify his teachers in advance using the ‘prior approval trip form.’ ”

Formatted: Bullets and Numbering

13. Monday and Tuesday, January 24 and 25, District was closed due to inclement weather.

14. Student brought “prior approval trip form” for teacher signature on Wednesday, January 26, concerning an absence for January 27 and 28. One teacher (Government) did not see this, due to his absence from school on this day.

15. Student states that one teacher told him he would give Student assignments when he returned the following Monday.

16. School states that typically 48 hours notice is given prior to a student using the “prior approval trip form”. Form states at the bottom, “This form must be returned to the attendance office 48 hours prior to the trip.”

17. Parent e-mailed Student’s teachers on January 26 at 3:57 p.m. regarding her concern that e-mails had not been sent to her with classroom assignments.

18. All teachers, except for Government, sent classroom assignments by 7:35 a.m. on January 27. All replies to the e-mail were to the home e-mail address only.

19. The Government teacher attempted to send an e-mail to Parent home email address. First e-mail was returned undeliverable. With second attempt, no e-mail was returned informing him that it was undeliverable.

20. Friday, January 28, Parent called the Government teacher to inform him that they needed Student’s assignments. He explained problem with e-mail and told her the work that was missed.

21. Student was able to complete all work (with one exception due to a worksheet that he did not bring home) by Monday, January 31.

“Violation #4” (Staff Awareness of IEP)

22. IEP states, “A team consisting of [Student’s] 11th grade teachers, counselor, and his administrator will meet to review [Student’s] 11th grade IEP by September 3, 2004.”

Formatted: Bullets and Numbering

23. Parent states in complaint that District/school did not fulfill administrative responsibility to ensure compliance with the IEP. Complaint also states that teachers “were unaware of certain aspects of the IEP.”

24. Parent stated in information provided to DOE that Parents felt there was a need in IEP to “identify the local education agency representative responsible for informing all of Evan’s teachers ... his/her responsibilities outlined in the IEP, within the IEP, and that this person ensures compliance.”

25. The IEP does not mention a specific administrator that will ensure compliance with the IEP.

26. A meeting was held on August 30, 2004, with the Student’s teachers. School states that all teachers were in attendance. Homeroom teacher stated during interview that she did not remember going to this meeting. During this meeting, the IEP was reviewed, as well as

information concerning what to do in the event of behavior incidents. A sign-in sheet was not used during this meeting, and there was no correspondence with Parents to inform them that the meeting had taken place.

- | 27. On November 17, Parent e-mail was sent to school administrator stating concerns about IEP procedures not being followed. Parent states, "Please allow us to avoid litigation by your affirming the contents of [Student's] IEP with his teachers..."
- | 28. A meeting with Student's teachers was held on November 19, 2004, to review the IEP as well as review a new document created to summarize the accommodations section of the IEP. All teachers were in attendance according to school during interview. A sign-in sheet was not used during this meeting, and there was no correspondence with Parents to inform them that the meeting had taken place.
- | 29. During interviews, each teacher was clear on expectations of IEP in terms of their responsibility to inform parents of missing assignments.

Conclusions

"Violation #1" (Notification Prior to Discipline)

The IEP states that, "Parents request to be phoned prior to [Student] receiving disciplinary action". In reference to "Incident #1" (Findings #4), Parent states that this was resolved with school and wished this to be removed from the complaint. In reference to "Incident #2" (Findings #5), Student believed he had been given a detention for failure to return the Survey Card. However, there is no evidence that Student was given a detention. It appears that school may have only "threatened" to give Student detention, and Student may have confused this with actually receiving a detention. Student did not sign a form indicating that a detention was given. School could not have notified Parent of this detention, as no detention had been served to Student. In reference to "Incident #3" (Findings #6), although this occurred after the Complaint, proper procedures were followed.

Therefore, I find that District complied with State and Federal regulations with respect to following the accommodations to the IEP specifically related to informing parents prior to a Student receiving disciplinary action.

"Violation #2" (Missed Assignments)

The IEP states that, "Teachers are requested to email parents (both email addresses) on Fridays, only if there are any missing assignments for the week. [Student] will use the weekends to catch up on missing assignments, and hand in all missing assignments on Monday for full-credit." School did not send an e-mail regarding missing assignments in one class in mid-November until after Parent e-mailed that Student had informed them that he was missing some assignments. Student also missed a quiz in December, and Parents were not notified until after they brought the issue up with school. Additionally, when school replied to Parents' e-mail, they did not use both e-mail addresses, as required by the IEP.

Therefore, I find that District did not comply with the IEP accommodations section in regard to this complaint.

"Violation #3" (Missed Work for Being Out of School)

The IEP states that, "In the event that [Student] will be out of school for more than one (1) day, teachers are requested to email the parents assignments before he leaves. [Student] will need to

notify his teachers in advance using the ‘prior approval trip form.’” Because of inclement weather, the student was not able to bring the form to the teachers 48 hours prior to the days that would be missed. All teachers, except for Government, were notified one day before the student was to be absent. All teachers, except for Government, did reply to Parent home e-mail address by 7:35 of the morning the Student would be absent. The Government teacher attempted to send an e-mail to Parent home email address. The first e-mail was returned undeliverable. With the second attempt, no e-mail was returned informing him that it was undeliverable. Parent called this teacher the next day and stated that they had not received an e-mail. This teacher then relayed the missed assignments. Given all the above circumstances, the teachers made every effort to comply with the IEP by responding the next morning. Parent also stated a concern that both e-mail addresses were not used. Although this is not specifically mentioned in this accommodation, it is mentioned in the previous accommodation, and it may be beneficial for District to continue the practice of e-mailing both e-mail addresses in order to ensure communication of assignments.

Therefore, I find that District did comply with the IEP accommodations section in respect to this specific part of the complaint.

“Violation #4” (Staff Awareness of IEP)

There are two parts that the complaint requested be investigated within Violation #4. The first is that staff is notified and aware of their responsibilities in respect to the IEP. The second part is that a specific administrator would ensure that there was compliance with the IEP.

In respect to the first part, school met with teachers of Student on two separate occasions to make certain they were aware of the IEP and its contents. School administration also sent e-mails on numerous occasions to specific staff to remind them of their responsibilities. The exception to this is around the requirement to send e-mail correspondence to both the home and work e-mail addresses. In the e-mail correspondence with home that I read, it appeared that School was replying to the e-mail that Parent had sent, and that this is the reason that it was only sent to one e-mail address; however, school is reminded that the IEP states that both e-mail addresses must be used for missed assignments on Fridays (see Violation #2 above).

In respect to the second part above, the IEP does not mention a specific title or person who must ensure compliance with the IEP.

Therefore, I find that District complied with State and Federal Regulations in regard to ensuring that Staff were aware of their responsibilities as outlined in the IEP; however, it is recommended that District have a sign-in sheet for staff for all future meetings in which the IEP is reviewed.

Corrective Action

Having found a denial of services, the State Department of Education, through its authority at IDEA regulation 34 CFR §300.660(b), must address (1) how to remediate the denial of services including, as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child; and (2) appropriate future provision of services for all children with disabilities.

Within 20 calendar days of the receipt of this letter, the District shall convene a meeting with the teachers of Student to review the content of the IEP and to ensure that all teachers understand their responsibilities regarding missed work and e-mailing parents.

Within one week following this meeting, the District shall submit the following to the Department of Education, Exceptional Children and Early Childhood Education Group:

1. A copy of the minutes from the meeting.
2. A copy of the sign-in sheet from the meeting.

Because there was no impact to FAPE for Student for this violation, there is no Student remedy.