

March 10, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement Individualized Education Program (IEP) and Behavior Intervention Plan (BIP)/crisis plan.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require the Individualized Education Program (IEP), including the Behavior Intervention Plan (BIP), be implemented as written. In this case, requested and received a break. However, when he did not get what he wanted during the break, he became physically aggressive. District personnel attempted to move him to the focus room, but due to escalating behaviors he could not safely be moved to the focus room. When behaviors became manageable, district personnel were able to escort him to the focus room. The IEP and BIP were implemented as written. Therefore, the School District is found not out of compliance.

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to consider parent's requests during the January 15, 2010 Individualized Education Program (IEP) meeting.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require that input be considered from all Individualized Education Program (IEP) team members when developing a student's IEP and the district take steps to ensure parents are present and given an opportunity to participate. Considering input and allowing participation does not require the team to include all the input in the student's IEP. In this case, documentation reflects the IEP team incorporated many of Ms. ' requests. Therefore, the School District is found not out of compliance.

March 10, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to timely complete an initial evaluation for special education for .

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require school districts to respond to a parent request for an evaluation for special education within thirty (30) days of the date of referral. In this case, the request for an initial evaluation for special education for was made on September 17, 2009, and the district did not respond within 30 days with either a Notice of Action refusing to evaluate or a Notice of Action for consent to evaluate. The district offered no acceptable reason for the delay. Therefore, the School District is found out of compliance.

Within 45 days of this decision, the School District shall submit to the Department of Elementary and Secondary Education, Division of Special Education, Attention: Compliance Section, an Assurance Statement assuring the School District will respond to parent requests for evaluations for special education in a timely manner, and in no case, more than 30 days from the date of the request.

March 10, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), developed a reading goal that is not designed to teach to read.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require all Individualized Education Programs (IEPs) contain a statement of measurable annual goals, including academic and functional goals designed to meet the student's need to enable the student to make progress in the general education curriculum. In this case, the IEP team developed goals based on the evaluation of cognitive ability and academic achievement. The purpose of the Dolch word list is to assist students with reading. Based on the foregoing, the School District is found not out of compliance.

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), refused the parent request to utilize an evidence based reading program.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require a student's special education and related services be determined by the Individualized Education Program (IEP) team. Parents are a part of the team and their views must be considered. However, the team does not have to include every request or preference of the parent in the IEP. Districts are required to provide written notice to parents when a request to change a provision of a free appropriate public education (FAPE) is refused. In this case, the

IEP team determined the reading program requested by the parent was not appropriate and issued a notice of action refused. Therefore, the School District is found not out of compliance.

March 10, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement Individualized Education Program (IEP) for the provision of the accommodations/modifications for extended time for completion of work, placement in an alternative setting and reading math and communication arts assignments to him.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require school districts to implement the Individualized Education Program (IEP) as written. IEP does not require classroom accommodations/modifications for additional time on assignments, assignments read to him, or placement in an alternative setting for make-up work. The IEP was implemented as written. Therefore, the School District is found not out of compliance.

March 30, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to consider documentation and data provided by the family during the eligibility determination meeting.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require that during eligibility determination meetings qualified professionals and the parents carefully consider all information from a variety of sources. In this case, and attended the eligibility meeting and the district considered all data and comments from the family and relevant documentation regarding eligibility prior to and during the determination meeting. The questions concerning the etiology of hearing loss was outside the scope of the eligibility determination. Therefore, the School District is found not out of compliance.

March 31, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to consider parent input into health/behavior issues related to the Behavior Intervention Plan (BIP).

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require parents be provided an opportunity to provide parental input in the educational program planning of their child during an Individualized Education Program (IEP) meeting. In this case, the School District allowed opportunity to provide parental input at several meetings. The IEP team did not agree with request and determined that a behavior intervention plan (BIP) related to eating and drinking was not needed. Failure to include the parent's request in an IEP does not mean the request was not considered. Therefore, the School District is found not out of compliance.

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), refused to consider revising Individualized Education Program (IEP) goals in the Least Restrictive Environment (LRE).

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require parents be provided an opportunity to provide parental input in the educational program planning for their child during an Individualized Education Program (IEP) meeting. Students with disabilities are to be placed in the least restrictive environment (LRE) appropriate for that student. The LRE is determined by the IEP team with parent participation. In this case, participated in the IEP meeting and requested be placed in a general education classroom for science. IEP team considered the request and determined the best place for to receive science instruction was in the self-contained special education classroom. Therefore, the School District is found not out of compliance.

Note: Parents who are not satisfied with a student's placement can file a due process complaint to have the issue resolved by a hearing panel.

April 8, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to follow the IDEA transfer procedures when was enrolled in the district.

Decision:

State and federal regulations implementing the Individuals with Disabilities Act (IDEA) require that when a student transfers from one school district to another school district in Missouri, the receiving school shall take reasonable steps to promptly obtain the student's records, including the IEP and any other records relating to the provision of special education or related services to the child from the sending school. The new district must provide a free and appropriate public education (FAPE) to the student until the district adopts the IEP from the prior district or develops and implements a new IEP. If there is any delay in deciding whether to accept the IEP, the district, in consultation with the parent, shall provide services comparable to those the student received in the previous school. In this case, the School District failed to follow proper transfer procedures by not allowing to attend school until the district received all previous school records instead of providing comparable services upon receipt of the completed registration packet. Therefore, the School District is found out of compliance.

Within 45 days of this decision, the School District shall submit to the Department of Elementary and Secondary Education, Division of Special Education, Attention: Compliance Section, documentation that the Individualized Education Program (IEP) team has met to determine what, if any, compensatory services are needed to compensate for the three-day delay in providing services. Any compensatory services determined need to be reflected in a revised IEP. The district shall also provide an Assurance Statement to the Department of Elementary and Secondary Education, Division of Special Education, Attention: Compliance Section, that the IDEA transfer procedures will be implemented upon enrollment.

Note: Assignment to an alternative school setting is a decision within the discretion of the school district's administration. Such assignment is not "placement" in a "separate school" but is merely a location for implementation of services.

April 21, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to consider behavior plan when they conducted a manifestation determination.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) provide that when a child with a disability has violated the student code of conduct and the discipline involves a change of placement, a representative of the local educational agency, the parent, and relevant members of a child's Individualized Education Program (IEP) team review all relevant information in the student's file to determine whether the conduct in question was caused by, or had a direct and substantial relationship to the child's disability or whether the conduct in question was the direct result of the LEA's failure to implement the IEP. Documentation provided by the district indicates a representative of the local educational agency, , and relevant IEP team members met and reviewed IEP and behavior plan two different

times and discussed whether the behavior plan had been implemented. Therefore, the School District is found not out of compliance.

May 6, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to consider parent input regarding when compensatory services would be provided to.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require input be considered from all Individualized Education Program (IEP) team members when developing a student's IEP and the district take steps to ensure parents are present and given an opportunity to participate. Considering input and allowing participation does not require the team to include all the input in the student's IEP. In this case, documentation reflects that were given an opportunity to participate as a member of the IEP team and some of their recommendations were included in the revised IEP. Therefore, the School District is found not out of compliance.

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to consider an independent evaluation provided by Children's Mercy Hospital and Clinic when reviewing and revising Individualized Education Program (IEP).

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require Individualized Education Program (IEP) teams to consider the results of an outside evaluation with the respect to the provision of a free and appropriate public education (FAPE). In this case, the outside evaluation from Children's Mercy Hospital and Clinic was considered and the IEP team reviewed and revised occupational therapy (OT) goals based on the information provided in the report. Therefore, based on the aforementioned, the School District is found not out of compliance.

June 1, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement the accommodation/modifications page of Individualized Education Program (IEP).

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require a student's Individualized Education Program (IEP) to be implemented as written. The IEP must include a statement of the program modifications and accommodations that will be provided to enable the child to advance appropriately toward attaining the annual goals. In this case, the School District implemented the accommodations and modifications as listed in the IEP. Therefore, the School District is found not out of compliance.

June 22, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct a manifestation determination hearing for after his accumulated days of suspensions exceeded ten (10).

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require school districts to conduct a manifestation determination meeting for students that have been long-term suspended. A long-term suspension is an exclusion in excess of 10 consecutive days or 10 cumulative days where a series of suspensions create a pattern. was excluded for a portion of the day in January; however, the remaining days in January appear to be absences initiated by his parents and not exclusions initiated by the school. Even if these additional five days were considered exclusions, the cumulative exclusions of 15 days would not have resulted in a pattern that triggered a manifestation determination. parents decided to keep him home from school for five days after the incident. The district was prepared for return to school the next school day. Therefore, the School District is found not out of compliance.

June 30, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to provide the Procedural Safeguards Notice and Prior Written Notice in a parent's native language.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require school districts to provide parents with a copy of the Procedural Safeguards written in their native language if feasible. The IDEA defines native language as the language normally used by the individual. communicated with the district and her husband in English and gave the district no indication that she normally used a language other than English. The district

provided her with the Procedural Safeguards in English. Based on the foregoing, the School District is found not out of compliance.

July 28, 2010

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to conduct a manifestation determination hearing for after his accumulated days of suspensions exceeded ten (10).

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require school districts to conduct a manifestation determination meeting for students that have been long-term suspended. A long-term suspension is exclusion in excess of 10 consecutive days or 10 cumulative days where a series of suspensions create a pattern. The analysis used to determine if a series of suspensions create a pattern include the follow factors: 1. Durations of suspension; 2. Frequency of suspensions; 3. Total exclusion from school resulting from suspensions; and, 4. Conduct or behavior that led to the suspension. Although exclusions exceeded 10 days cumulatively, there was no pattern; therefore, no manifestation determination was required. Therefore, the School District is found not out of compliance.

Allegation:

The School District, in violation of state and federal regulations implementing the Individuals with Disabilities Education Act (IDEA), failed to implement Individualized Education Program (IEP) for the provision of Behavior Intervention Plan (BIP) during the 2009-2010 school year.

Decision:

State and federal regulations implementing the Individuals with Disabilities Education Act (IDEA) require the Individualized Education Program (IEP) including Behavior Intervention Plan (BIP) be implemented as written. Although the district documented that part of the BIP was being followed, the IEP team failed to meet and no addendum was made to IEP when he was not making sufficient progress toward his behavior goal as required by his BIP. Therefore, the School District is found out of compliance.

On or before September 30, 2010, the School District shall submit to the Department of Elementary and Secondary Education, Office of Special Education, Attention: Compliance Section, documentation to show the IEP team reconvened to discuss the failure to progress toward the behavior goal and revisions to the BIP to provide for alternative strategies.