



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

RICK SNYDER
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STATE SUPERINTENDENT

March 7, 2014

Certified Mail

Elizabeth Kangas

[REDACTED]
Brian Galdes, Superintendent
South Redford School District
26141 Schoolcraft
Redford, Michigan 48239-2791

Case: 14-00007

Dear Ms. Kangas and Mr. Galdes:

Enclosed is a copy of the Final Report in case 14-00007, the complaint filed by Elizabeth Kangas (complainant) against South Redford School District (district).

Pursuant to the State of Michigan Record Retention and Disposal Schedule, the case file in this matter will be destroyed when it has been inactive (closed) for three years.

If you have any questions, please contact the case manager, Robert Hove at (517) 373-1691, and refer to case 14-00007.

Sincerely,

Office of Special Education
Program Accountability

Enclosure (FR)

c: Christopher Wigent
Mary Fayad
Sheila Horbatch
Rose Mendola

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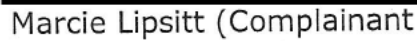

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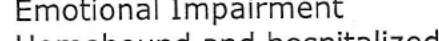
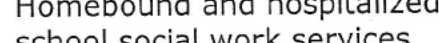
OFFICE OF SPECIAL EDUCATION

FINAL DECISION for State Complaint 14-00007
against the South Redford School District
March 7, 2014

BACKGROUND INFORMATION

Date Filed: January 9, 2014
Wayne Regional Educational Service
Agency (RESA) Investigator: David Soebbing
MDE Case Manager: Robert Hove
Complainant: Elizabeth Kangas (Complainant 1)
Address: 

Telephone: 
Complainant: Marcie Lipsitt (Complainant 2)
Address: 

Telephone: 
Student: 
Date of Birth: 
Grade: Tenth
Eligibility: Emotional Impairment
Program/Service: Homebound and hospitalized services,
school social work services
District: South Redford School District (District)

INDIVIDUALS CONTACTED

1. Complainant 1
2. Complainant 2
3. Sheila Horbatch, Director of Student Services, District
4. Jennifer Sakowski, Teacher Consultant (previous school year), District
5. Brenda Huffman, Teacher Consultant (current), District

DOCUMENTS REVIEWED

1. Physician's statement regarding the need for homebound services dated September 26, 2013
2. Individualized education program (IEP) dated October 11, 2012
3. IEP dated October 16, 2013
4. Attendance records for the 2013-2014 school year.
5. Homebound service log for October and November 2013
6. Transition Plan dated October 10, 2013, completed November 13, 2013
7. RESA Plan for the Delivery of Special Education Programs and Services

8. District website, accessed on January 27, 2014

ALLEGATION AND CONCLUSION

Conclusion	Allegation	
Noncompliant	Allegation 1	Whether the district developed an individualized education program (IEP) on October 16, 2013 that provides the student with a free appropriate public education (FAPE)
Noncompliant	Allegation 2	Whether the district provided supplementary aids and services in the IEP dated October 11, 2012 and the IEP dated October 16, 2013
Compliant	Allegation 3	Whether the district made public its Child Find procedures

OSE FINDINGS OF NONCOMPLIANCE

During the course of an investigation, the OSE found the following noncompliance:

Conclusion	Office of Special Education Finding	
Noncompliant	OSE Finding 1	The district did not review the student's IEP at least annually.

Corrective action and proof of compliance for the district's noncompliance is directed in the attached document entitled **Corrective Action and Proof of Compliance**.

INVESTIGATION

Allegation 1 Whether the district developed an individualized education program (IEP) on October 16, 2013 that provides the student with a FAPE

Legal Requirement for Allegation 1:

Consistent with 34 CFR § 300.17 of the final regulations implementing the Individuals with Disabilities Education Act (IDEA) a FAPE means special education and related services that are provided in conformity with an IEP that meets the requirements of 34 CFR §§ 300.320 through 300.324.

Consistent with 34 CFR § 300.101(a) A FAPE must be available for all students with disabilities residing in the district who meet the age requirements.

Consistent with 34 CFR § 300.320(a)(2)(i) an IEP is a written statement that must include a statement of measurable annual goals and supplementary aids and services.

Consistent with R 340.1721e(1) of the Michigan Administrative Rules for Special Education (MARSE) an IEP shall include a statement of measurable annual goals including measurable short-term objectives.

Consistent with 34 CFR § 300.320(b) beginning with the first IEP to be in effect when the student turns 16, the IEP must include appropriate measurable postsecondary goals and the transition services needed to assist the student in reaching those goals.

Findings of Fact for Allegation 1:

A review of the annual goals and short term objectives in the IEP dated October 16, 2013 indicates that that most are not measurable. The district acknowledged this noncompliance.

The supplementary aids and services section of the IEP dated October 16, 2013 contains the following service: "Tests read to student when needed in the homebound setting". "When needed" is not sufficiently specific to describe the conditions under which this service will be provided.

The complainants indicated that the IEP dated October 16, 2013 did not include a transition plan. Although the teacher consultant began developing a transition plan with the student on October 11, 2013, the teacher consultant had a difficult time getting the student to participate and was not able to complete it until November 13, 2013; the transition plan checkmark on the IEP was meant to be an indication that the development of the transition plan was in progress.

The IEP dated October 16, 2013 indicates that one of the purposes for the IEP team meeting was to develop a transition plan. The student's birthdate indicates that this IEP will be the first IEP in effect when the student turns 16. The IEP does not contain a transition plan.

The complainants raised several issues related to this allegation in which the district was either compliant, or were not issues that are potential violations of the IDEA or the MARSE:

- *No general education teacher present.* The IEP team meeting was held over the course of two days, October 10, 2013 and October 16, 2013, with the offer of a FAPE made on October 16. The district indicated that the student's English teacher was scheduled to be present on the first day but had a medical emergency precluding attending, and the parent indicated at that time the wish to proceed with the team meeting. The English teacher was present for the team meeting on October 16, 2013. A general education teacher participated in the development of the IEP prior to the district's offer of a FAPE.

- *The district presented the parents with a predetermined IEP.* Districts can prepare and present a draft IEP, provided they make it clear to the parents at the outset of the IEP team meeting that the services proposed are only recommendations for review and discussion with the parents. Districts are prohibited from presenting a completed IEP to parents at the commencement of an IEP team meeting. Both complainants and district indicate that there was considerable discussion about the elements of the IEP. The district indicated that it made it clear that all elements of the IEP were open to discussion. Districts are not required to agree with parents on the content of an IEP. The Notice for the Provision of Programs and Services dated October 16, 2013 indicated other options that were considered by the IEP team including those raised by the parent, and the reasons for rejecting them.
- *Eighty percent of the annual goals and short term objectives are the same in the October 12, 2012 IEP and in the October 16, 2013 IEP.* The development of the October 12, 2012 IEP is beyond the one year timeline of the state complaint process. Districts are required to periodically review and if necessary revise the IEP, per 34 CFR § 300.324(b). The district indicated that most of the annual goals and short term objectives continued to be relevant. The services in the IEP were revised to reflect a homebound placement due to a medical condition identified by a physician.
- *The Present Level of Academic Achievement and Functional Performance are identical in the October 12, 2012 IEP and in the October 16, 2013 IEP.* The district noted that while much of the previous Present Level of Academic Achievement and Functional Performance continued to be appropriate, it also added information from the student's doctor regarding the need for homebound services and eliminated language regarding the need for an alternative location for tests and assignments, the need for copies of class notes, and the need to be excused from tardy policies. A review of both IEPs indicated that this was so.
- *There was no consideration of extended school year services.* The complainants asserted that there was no consideration of this in the October 12, 2012 IEP and in the October 16, 2013 IEP. The development of the October 12, 2012 IEP is beyond the one year timeline of the state complaint process. The district indicated that the need for extended school year services was reviewed at the IEP team meeting for the October 16, 2013 IEP. The IEP documents that this task was completed.
- *The Supplementary Aids and Services in the October 12, 2012 IEP and in the October 16, 2013 IEP include modified assignments for a student on the diploma track.* There is no rule or regulation in the MARSE or the IDEA that addresses this issue. The development of the October 12, 2012 IEP is beyond the one year timeline of the state complaint process.
- *The Present Level of Academic Achievement and Functional Performance in the October 16, 2013 IEP indicated that the student was failing most content classes but there was no further consideration in the supplementary aids and services section of the IEP.* There is no rule or regulation in the MARSE or the IDEA that addresses this issue. The IEP addressed the student's difficulties in progressing in the general curriculum as well as the student's disabilities.

Conclusion for Allegation 1:

The IEP dated October 16, 2013 IEP contains annual goals and short term objectives that are mostly not measureable, a supplementary service that lacks specificity and no transition plan. This rises to a level of not providing a FAPE. The district is noncompliant with 34 CFR §§ 300.101(a), 300.320(a)(2)(i), 300.320(b) and R 340.1721e(1).

Allegation 2 Whether the district provided supplementary aids and services in the IEP dated October 11, 2012 and the IEP dated October 16, 2013

Legal Requirement for Allegation 2:

Consistent with R 340.1722(3) the district shall provide special education and related services in accordance with the student's IEP.

Findings of Fact for Allegation 2:

The complainants indicated that the supplementary aids and services in both the IEP dated October 12, 2012 and the IEP dated October 16, 2013 were not provided to the student.

The previous year's teacher consultant indicated that the student's general education teachers were informed of the supplementary aids and services in the IEP dated October 12, 2012 and indicated that they were implemented. However, no documentation of implementation was submitted.

The current teacher consultant indicated that the supplementary aids and services in the IEP dated October 16, 2013 were provided except for "tests read to student". This was not provided because the student had only been available for services for seven of the first 23 scheduled days of instruction, had not yet completed the first two assignments and therefore had not reached a point in instruction where a test was required. The teacher consultant's interpretation of the "tests read to the student" was that when there was a test it would be read to the student. The teacher consultant provided a service log documenting services including supplementary aids and services.

Conclusion for Allegation 2:

The district did not provide documentation that the supplementary aids and services from the IEP dated October 12, 2012 were implemented between January 9, 2013 and October 15, 2013. The district is noncompliant with R 340.1722(3).

Allegation 3 Whether the district made public its Child Find procedures

Legal Requirement for Allegation 3:

Consistent with 34 CFR § 300.111(a)(1) the district must have in effect policies and procedures to ensure that all students with disabilities residing in the district or attending district schools and who are in need of special education and related services are identified, located and evaluated.

Findings of Fact for Allegation 3:

The complainant clarified the allegation to mean that the district does not publicize information to help identify children suspected of having a disability and in need of special education. The complainants further indicated that the informational website maintained by the school district does not contain any information about processes, procedures, or available resources regarding disabilities, including a specific learning disability, and special education programs and services.

The district indicated that the district's website has included special education and disabilities information for a number of years. When the district made revisions to its website this school year the special education section was inadvertently deleted. When this technical error was discovered the information was restored to the website. The district distributes an early childhood newsletter that includes special education child find information. The district also distributes information from the RESA's Plan for the Delivery of Special Education Programs and Services.

The district's website includes a section regarding special education and student services. The section provides district child find contact/referral information, and includes an overview of the district's special education programs and services and the procedures used to determine student eligibility. The website also provides a direct link to the Wayne RESA Plan for the Delivery of Special Education Programs and Services, and highlights a specific link to a section of the Wayne RESA Plan regarding learning disabilities.

The RESA Plan for the Delivery of Special Education Programs and Services indicated that districts and public school academies, along with the Wayne County Parent Advisory Committee and the Early On Infant and Toddler Interagency Coordinating Council all work to promote the awareness of Child Find activities in Wayne County communities. Diagnostic and related services for students with disabilities are the responsibility of RESA's constituent local districts and public school academies.

Conclusion for Allegation 3:

The district publicizes information to help identify students suspected of having a disability and in need of special education. The district is compliant with 34 CFR § 300.111(a)(1).

OSE Allegation 1 The district **did not** review the student's IEP at least annually.

Legal Requirement for OSE Allegation 1:

Consistent with 34 CFR § 300.324(b)(1)(i) the IEP team must review the student's IEP periodically but not less than annually.

Findings of Fact for OSE Allegation 1:

The IEP dated October 12, 2012 was followed by the IEP dated October 16, 2013, more than one year after the prior IEP.

Conclusion for OSE Allegation 1:

The student's IEP team developed the October 16, 2013 IEP more than one year after the previous IEP. The district is noncompliant with 34 CFR § 300.324(b)(1)(i).