



OKLAHOMA STATE
DEPARTMENT of EDUCATION

State-Level Complaint 19-19
Tulsa Public Schools

DECISION

INTRODUCTION

This state-level complaint was opened on January 15, [REDACTED] (Complainant) on behalf of all special education students at Edison Preparatory High School (the "Site"), children with a disability under the Individuals with Disabilities Education Act (IDEA), but was opened as a result of and based on findings from a previous Complaint filed by Complainant (Complaint #19-08) concerning an individual student (State-Level Complaint 19-08 is hereinafter referred to as "Complaint #1"). Stated otherwise, whereas the gravamen of Complaint #1 was based on an individual student, Complaint #1 also contained allegations relating to all students at the Site. Specifically, relating to all students, Complaint #1 alleged that "*all students in this high school may have the same goals in the same areas – like all reading goals are the same for all students. All math goals may be the same for all students etc.*" See State Complaint #1. In an effort to respond to, investigate, and make determinations within required timelines, and before proceeding to a complaint relating to all students, the matters in Complaint #1 were investigated first and result in findings issued on or near December 11, 2018.

During the course of investigating the allegations in Complaint #1, an interview with the teacher of record of the student at issue in that complaint was held on December 6, 2018. During this interview, when asked how student individualized education program (IEP) goals are determined, [REDACTED] advised, "*I use EdPlan goals because content is more rigorous. From year to year, goals are pretty much the same. Math is specific to the class. English and Reading goals are the same for all four years. Every IEP I do has those goals.*" Furthermore, portions of IEPs for all of the Site's 181 special education students were provided by District, and OK EdPlan was also accessed to review information relating to these students. During the investigation process, all current IEP goals addressing reading and written expression were reviewed. With this information in mind, and because Complaint #1 included allegations relating to all special education students at the Site, this second complaint (the "Complaint") has been opened with a new timeline. The Oklahoma State Department of Education Special Education Services division (OSDE-SES) has determined that the Complaint identified one allegation subject to the jurisdiction of the Complaint process under the IDEA and its implementing regulations at 34 CFR §§ 300.151 through 300.153. The OSDE-SES has jurisdiction to resolve the Complaint pursuant to the aforementioned regulations.

Further pursuant to 34 C.F.R. §300.153(c), OSDE-SES has the authority to investigate alleged violations of IDEA that occurred not more than one year from the date the Complaint was filed. Accordingly, this investigation will be limited to the period of time from January 15, 2018, through this investigation, to determine whether a violation of the IDEA occurred. Additional information beyond this time period may be considered to fully investigate all allegations accepted for

investigation. Findings of noncompliance, if any, shall be limited to one year prior to the date of the Complaint.

The principal issue in the Complaint is whether Tulsa Public Schools (the "District"), as the local education agency in which the Site operates, violated IDEA regulations, at 34 C.F.R. § 300.320 (2)(i)(A)(B), concerning the definition of IEP. These regulations provide:

(2)(i) A statement of measurable annual goals, including academic and functional goals designed to-

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability;

FINDINGS OF FACT

After thorough and careful analysis of the allegations in the Complaint, the OSDE-SES determined the following:

1) On February 26, 2019, OSDE-SES attempted to reach out to 5 special education teachers employed at the Site in order to conduct interviews. One response later that day stated that these teachers were directed not to answer at the request of the Site Principal and District Exceptional Student Services Coordinator. Two teachers replied on February 28, 2019.

2) [REDACTED] responded:

Q: How do you determine the educational needs of your students?

A: *"Determining the educational needs of my students happens by gathering a multitude of data, interviewing the student, teachers and parent. I review the current MEEGS to see what category the student is eligible for and what identified strengths and weaknesses the student has. I look at previous OSTP test data, current MAP data if available and student grades/attendance/behavior. If it is a student who I have personally had in class, I use my experience with them as their teacher to help guide me in determining their educational needs."*

Q: How do you ensure those needs are addressed in their IEP?

A: *"I ensure that the student individual needs and unique weaknesses are addressed in the IEP through the objective statement, annual goals, related/transition services and supplementary aids/accommodations."*

Q: How do you determine student goals?

A: *"I determine student goals based on areas of weakness that are indicated in the MEEGS,*

my own review of data, input from student, teachers and parents and any other person working with that student in the building or a related service provider.”

Q: What process do you follow to determine how goals are updated?

A: *“I follow the district protocol as to how often goals are reported to the parent by providing progress reports. At Edison, we send reports of progress once per semester. We also hold Parent/Teacher conferences twice a year to review student progress with the parent if they elect to attend. Annually we hold an IEP meeting to address overall goal for the upcoming IEP year.”*

3) [REDACTED] the teacher of record of the student for which Complaint #1 was opened, replied:

Q: How do you determine the educational needs of your students?

A: *“Review previous IEP, REDs, MEEGS, have a one-on-one conference with the student to discuss their progress, struggles and determine ways to overcome difficulties in class. Also, review any district testing such as MAP and look at weaknesses shown. Also, conference with parents and teachers and gather information.”*

Q: How do you ensure those needs are addressed in their IEP?

A: *“Writing a goal specific to identified weaknesses per the evaluation results for the student. Then ensure the student has the accommodations needed to be successful, whether they come from the selection on EdPlan or a customized goal. I follow up by monitoring each student for progress.”*

Q: How do you determine student goals?

A: *“Using information that identifies the student weakness, goals are written to support the student in those weak areas. I also use MAP scores or most recent assessment information in order to write an attainable yet challenging goal for the student.”*

Q: What process do you follow to determine how goals are updated?

A: *“I review data that includes grades, attendance, discipline and any new test scores. I provide progress reports to parents at the same time they receive report cards from the district. Progress on IEP goals is documented and if student masters goal, team may meet to revise the IEP. The IEP is revised no less than annually.”*

4) The Site employee who advised that staff were directed to not respond advised as follows:

A: Staff were directed to remove information from student IEPs after the IEP had been signed by appropriate parties, including the student’s parent/guardian;

B: IEP meetings were held without Administrator or General Education teacher and,

C: Site Staff utilized a copy and paste document for developing student IEPs, changing general information pertaining to the student but using the same goal.

Reading Goals:

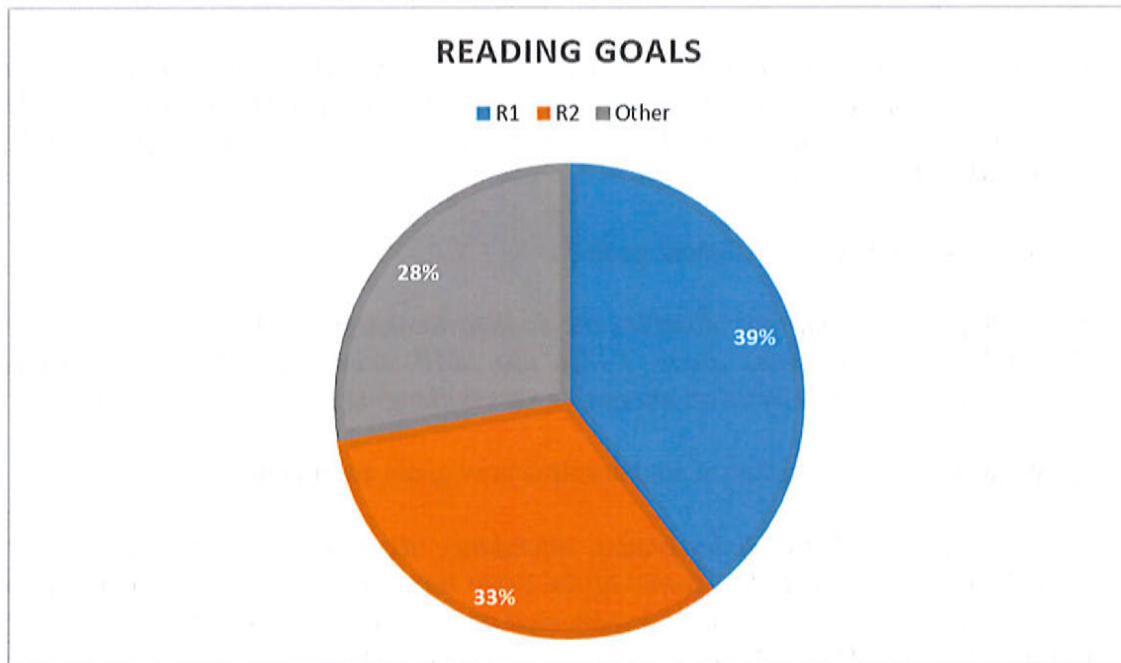
5) In assessing the reading goals of students receiving special education services, 152 reading goals were written into IEPs of students enrolled at the Site.

6) Reading goals seek to address needs in areas of Basic Reading Skills, Reading Comprehension, and Reading Fluency.

7) The following goal appeared sixty (60) times, and accounted for thirty-nine percent (39%) of all reading goals: “*Students will read and comprehend increasingly complex literary and informational texts* (See Figure 1, R1).”

8) The following goal appeared fifty (50) times, and accounted for thirty-three percent (33%) of all reading goals: “*Students will comprehend interpret, evaluate, and respond to a variety of complex texts of all literary and informational genres from a variety of historical, cultural, ethnic, and global perspectives* (See Figure 1, R2).”

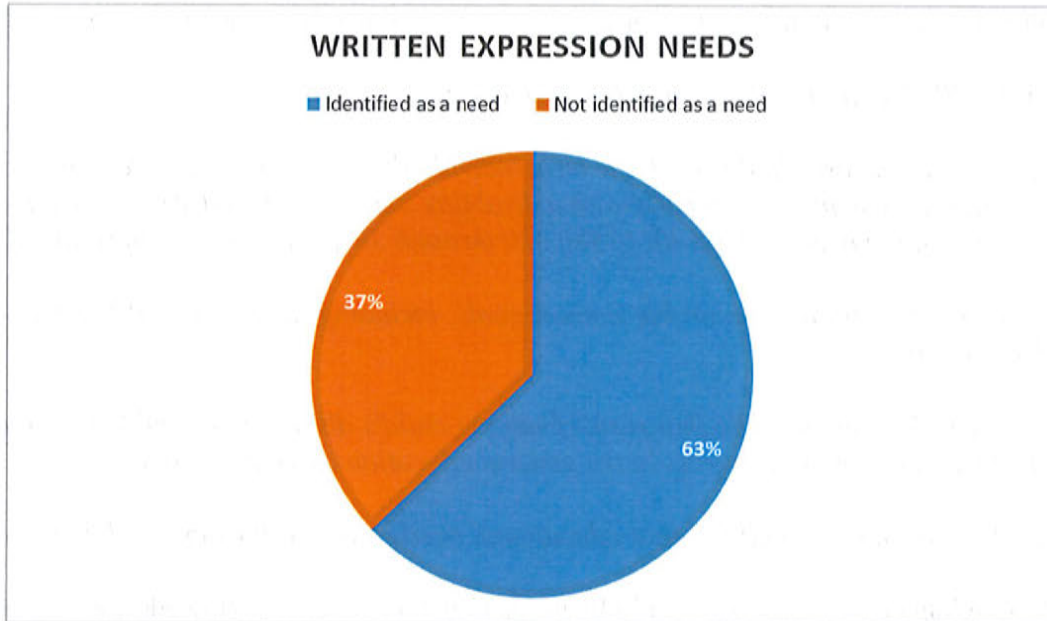
Figure 1



Written Expression Goals:

9) 113 IEPs included written expression goals. Of these, forty-two (42), or thirty-seven percent (37%), did not identify written expression as an academic need (See Figure 2). Seventy-one (71), or sixty-three percent (63%) of the IEPs identified written expression as an academic need. *Id.*

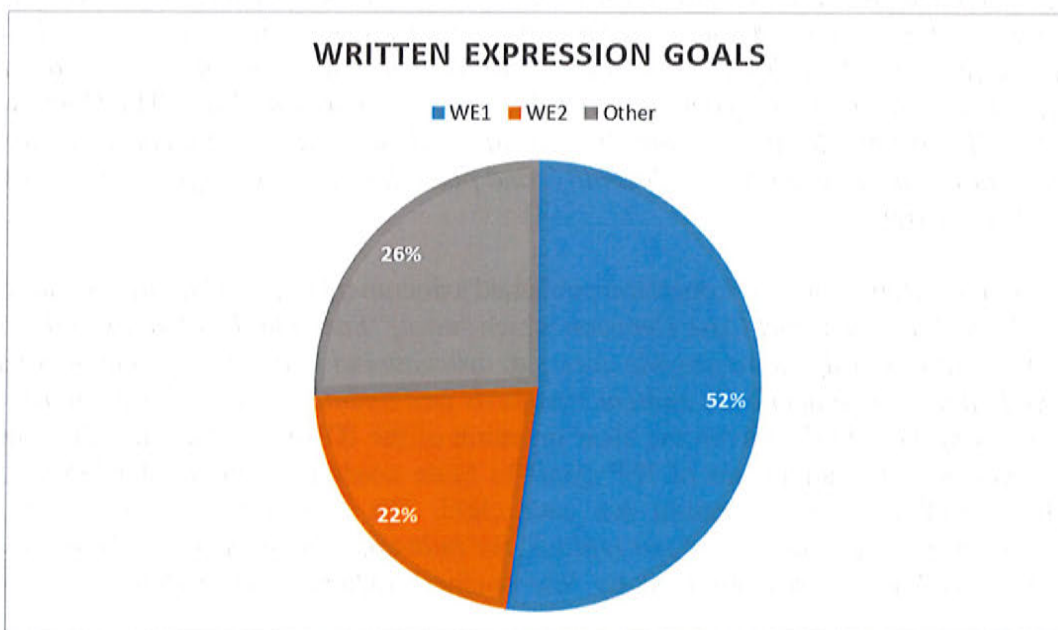
Figure 2



10) The following goal appeared fifty-nine (59) times, comprising fifty-two percent (52%) of written expression goals: *“Students will develop and strengthen writing by engaging in a process that includes prewriting, drafting, revising, editing, and publishing (See Figure 3, WE1).”*

11) Appearing twenty-five (25) times, comprising twenty-two percent (22%): *“Students will write for varied purposes and audiences in all modes, using fully developed ideas, strong organization, well-chosen words, fluent sentences, and appropriate voice (See Figure 3, WE2).”*

Figure 3



CONCLUSIONS

1) District is found to be in noncompliance of 34 C.F.R. § 300.320 (2)(i)(A)(B), which states:

§300.320 Definition of individualized education program.

(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include—

(2)(i) A statement of measurable annual goals, including academic and functional goals designed to—

(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(B) Meet each of the child's other educational needs that result from the child's disability.

Compelling evidence was not found to indicate that students' individual needs were considered. Seventy-two percent (72%) of students with a reading goal and seventy-four percent (74%) of students with a written expression goal shared 1 of 2 goals in each respective area, and thirty-seven percent (37%) of students with a written expression goal did not have an identified educational need in written expression. Further, the statement of the Site Department Chair that, "I follow the district protocol as to how often goals are reported to the parent by providing progress reports. At Edison, we send reports of progress once per semester," indicates that the frequency of reporting regarding progress toward meeting annual goals is predetermined.

The IDEA seeks to serve students by way of an IEP that is based on each student's unique needs. In *Endrew F. v. Douglas County School District Re-1*, the United States Supreme Court held, "The progress contemplated by the IEP must be appropriate in light of the child's circumstances. It should come as no surprise. A focus on the particular child is at the core of the IDEA. The instruction offered must be "specially designed" to meet a child's "unique needs" through "[i]ndividualized education program." §§ 1401(29), (14) (emphasis added)." The Court went on to state, "An IEP is not a form document. It is constructed only after careful consideration of the child's present levels of achievement, disability, and potential for growth. §§ 1414(d)(1)(A)(i)(IV), (d)(3)(A) (i)-(iv)."

The United States Department of Education published a document entitled *Questions and Answers (Q&A) on U. S. Supreme Court Case Decision* which states, "Each child with a disability must be offered an IEP that is designed to provide access to instructional strategies and curricula aligned to both challenging State academic content standards and ambitious goals, based on the unique circumstances of that child." Given the clear intention of the IDEA to meet the unique needs of individual students, the alignment of IEP goals to State academic content standards does not outweigh the individual consideration due each child. The document goes on to say, "The alignment, however, must guide, and not replace, the individualized decision-making required by the IEP process." Responses provided by Site teachers indicate that students were afforded

individualized decision-making in theory, but not in practice. Stated otherwise, the OSDE-SES review of student IEPs reveals that intentional consideration of the unique needs of students was not given.

While OK EdPlan has a dropdown menu from which IEP goals may be constructed, users are not restricted to these goals. The use of custom goals is also an option for IEP teams. The guidance of goal templates offered in OK EdPlan should not be taken as license to replicate goals at such a high frequency, and without due consideration of a child's unique disability related needs.

DIRECTIVES

To remedy these violations, District is required to take the following actions:

- 1) All District administrators, special education staff, special education teachers, and special education service providers, shall complete a Qualtrics survey provided to the district by the OSDE-SES. District shall distribute the survey accordingly, and ensure all mentioned parties complete the survey no later than Friday, April 30, 2019, at 4:00 P.M. The OSDE-SES will provide the results of the survey to the District.
- 2) Conduct a review of goals for all students in the district who receive special education and related services, in order to determine the number of times the four goals mentioned above are utilized at each school site in comparison to the number of students with reading and written expression goals, and identified needs in reading and written expression. Submit a report of the findings no later than April 30, 2019.
- 3) Utilize report findings and survey results to develop a plan to be implemented District wide to correct all found instances of noncompliance regarding goals and progress reporting. This plan shall be submitted to the OSDE-SES for approval no later than May 31, 2019.
- 4) District special education administration/staff must conduct training for all District special education staff on the approved plan and the creation of individualized goals. Evidence that such training has occurred must be documented (i.e. training schedule(s), agenda(s), curriculum/training materials, and legible attendee sign-in sheets.). Evidence must be submitted no later than August 30, 2019.
- 5) By May 31, 2019, submit an assurance statement signed by the superintendent and school board members, ensuring that all District IEPs will be developed pursuant to 34 C.F.R. § 300.324, and that the trainings listed in directive 4 will be implemented accordingly.

Please submit the documentation detailed above to the OSDE-SES as follows:

Oklahoma State Department of Education



NOTE: Failure by the District to meet any of the timelines set forth above may adversely affect the District's annual determination under the IDEA and subject the District to enforcement action by the OSDE-SES.

VERIFICATION OF CONTINUOUS COMPLIANCE

Subsequent monitoring activities will be initiated as necessary to ensure the District's compliance is consistent with policies, procedures, and regulations and in accordance with the OSDE-SES' responsibilities required by 34 CFR § 300.149.

The District must ensure that any noncompliance is corrected in accordance with the identified directives. Furthermore, as soon as possible, but in no case more than one year from the date of this letter of findings, the OSDE-SES must ensure that the District has demonstrated systemic compliance for each area of noncompliance that was identified during the complaint investigation.

In ensuring that each area of noncompliance has been corrected, the State does not need to review each child's record in the district where the noncompliance occurred, but rather may review evidence of district policies, and a reasonable sample of files to verify that areas of noncompliance were corrected. The OSDE-SES may request documentation of services, review files, interview teachers, and review schedules.

COMMENTS

The Decision of this office 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 CFR § 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.

Dated this 15th day of March, 2019.

A handwritten signature in blue ink that reads "C. Colin Raley".

C. Colin Raley
Special Education Dispute Resolution Specialist

