



TEXAS EDUCATION AGENCY

1701 North Congress Ave. • Austin, Texas 78701-1494 • 512.463-9734 • 512.463-9838 FAX • www.tea.state.tx.us

Michael L. Williams
Disability Rights Texas

JUN 8 - 2014

**Special Education Complaint Investigative Report
May 30, 2014**

Sarah Beebe
Complainant
1500 McGowen Suite 100
Houston, TX 77004

Terry Grier
Superintendent
Houston ISD
4400 West 18th Street
Houston, TX 77092

Sowmya Kumar
Special Education Director
Houston ISD
4400 West 18th Street
Houston, TX 77092

Houston ISD Co-Dist: 101-912
FY: 2013-14
Complaint: 20149490

To the Individuals Addressed:

The attached report is the written decision of the Texas Education Agency (TEA) regarding the above-referenced complaint.

Allegations, Conclusions, and Reasons for TEA's Decision

TEA investigated the following allegations.

Allegation 1: Did the LEA ensure that, if students' parents were unable to speak English, and Spanish is their native language, the parents were provided with a copy of their students' individualized education programs (IEPs) translated into Spanish in accordance with required procedures? [TEC §29.005] [34 CFR §300.322]

Allegation 2: Did the LEA ensure that prior written notices were provided to the students' parents in the parents' native language(s) unless it was clearly not feasible to do so? [34 CFR §300.503]

The following noncompliance was determined.

1. The LEA does not always ensure that parents whose native language is Spanish are provided with a copy of their student's IEPs in their native language. [TEC §29.005]
2. The LEA does not always ensure that prior written notices are provided in the parents' native language(s) unless it is clearly not feasible to do so. [34 CFR §300.503]

Corrective actions are required.

While the complainant expressed concerns in the letter of complaint related to the level of proficiency of the translators who participated in admission, review, and dismissal committee (ARDC) meetings as generally mediocre, the concerns were not investigated because the facts in the letter of complaint showed that the translators attended the ARDC meetings as required by IDEA. Therefore, this issue was not investigated.

If a party to a complaint believes that TEA's written report includes an error that is material to the determination in the report, the party may submit a written request for reconsideration to TEA within 15 calendar days of the date of the report. The party's reconsideration request shall identify the asserted error and include any documentation to support the claim. The party filing a reconsideration request must forward a copy of the request to the other party at the same time that the request is filed with TEA. The other party may respond within five calendar days of the date on which TEA received the request. TEA will consider the request and provide a written response to the parties within 45 calendar days of receipt of the request. The filing of a reconsideration request shall not delay the LEA's implementation of any corrective actions required by TEA.

This concludes TEA's investigation. The attached investigative report is TEA's final written decision. Questions regarding this letter or the attached report may be directed to Ron Roberts or to me at (512) 463-9414.

Respectfully,



Cindy Swain
Manager of Support Services
Division of Federal and State Education Policy

CS: RR

Enclosure: satisfaction survey

This report is the written decision of the Texas Education Agency (TEA) regarding the complaint filed on behalf of multiple students in the Houston Independent School District (ISD), herein referred to as the local educational agency (LEA). For the purposes of confidentiality, student gender pronouns are made neutral. The complaint alleged violations of federal and state special education requirements in the Individuals with Disabilities Education Act (IDEA), Texas Education Code (TEC), and/or Texas Administrative Code (TAC).

The two specific allegations and TEA's findings of fact and conclusions, together with the reasons for TEA's final decision, are as follows.

Allegation 1

Did the LEA ensure that, if students' parents were unable to speak English, and Spanish is their native language, the parents were provided with a copy of their students' individualized education programs (IEPs) translated into Spanish in accordance with required procedures? [TEC §29.005]

Statement of the Complaint for Allegation 1

The complainant alleges that for the three students subject to the complaint, their parents were not provided with a copy in their native language of their respective student's IEPs developed during the 2013-14 school year.

Allegation 2

Did the LEA ensure that prior written notices were provided to the students' parents in the parents' native language(s) unless it was clearly not feasible to do so? [34 CFR §300.503]

Statement of the Complaint for Allegation 2

The complainant contends that at least five school days before either proposing or refusing to change the students' IEPs the district must give written notice to the students' parents. According to the complainant, prior written notice was never provided to the parents in Spanish, which, she claims, is the parents' native language.

Findings of Fact for Allegations 1 and 2

Regarding Student 1 (S1)

1. Two admission, review, and dismissal committees (ARDCs) meetings were held for S1 during the timeframe of the complaint.
2. The November 12, 2013 ARDC report shows that an interpreter was needed and was used to assist in conducting the meeting for the parents whose native language was Spanish.
3. The November 12, 2013 ARDC report indicates that the parents would be provided with a copy of the IEP translated into Spanish.
4. TEA reviewed an audio of the November 12, 2013 ARDC report. The audio reflects an ARDC meeting being conducted in English and Spanish.
5. The November 12, 2013 ARDC report indicates that the report, written in English, was provided to the parent and that a copy of the report was to be mailed to the parent on December 9, 2013.

6. The signature page of the November 2013 ARDC report shows that the parent was in disagreement with the ARDC's determinations.
7. Neither a written nor Spanish version of the student's November 12, 2013 IEP was provided to TEA by the LEA or by the complainant.
8. The February 4, 2014 ARDC report shows that an interpreter was needed and was used to assist in conducting the meeting for the parents whose native language was Spanish.
9. The February 4, 2014 ARDC report indicates that the parents were to be provided with a copy of the IEP translated into Spanish.
10. TEA reviewed an audio of both ARDC reports. The audios reflect that a Spanish translation of the meeting was being provided as it was being conducted.
11. Neither a written nor audio Spanish version of the February 4, 2014 IEP was provided to TEA by either party to the complaint.
12. Prior written notices in English were included with each of the ARDC reports specific to S1. A Spanish version of the prior written notices, with regard to the two ARDC meetings conducted for S1, were not provided to TEA by either party to the complaint.

Regarding Student 2 (S2)

13. Two ARDC meetings were held for S2 during the timeframe of the complaint.
14. The October 10, 2013 ARDC report shows that the parent was in attendance and that an interpreter was needed and was used to assist in conducting the meeting for the parents, whose native language is Spanish. The report also indicates that the parent was to be provided with an audiotaped copy of the IEP report translated into Spanish.
15. The October 10, 2013 ARDC report is in English. Neither a written nor audio Spanish version of the October 10, 2013 IEP was provided to TEA by either party to the complaint.
16. The October 10, 2013 ARDC report includes a prior written notice of proposal or refusal in English. A Spanish version of the prior written notice was not included in the record.
17. The January 27, 2014 ARDC report is in English. The report shows that an interpreter was needed and was used in conducting the meeting. The report also indicates that a copy of the audio of IEP was to be provided to the parents.
18. Neither a written nor audio Spanish version of the January 2014 IEP report, was provided to TEA by either party to the complaint.
19. A document titled *Record of Communication with Parent(s), Adult Student(s) or Guardian(s)* shows the following in pertinent part,

Date	Content of Communication
1/22/2014	Sent [parent] ARD invitation to be signed and returned
2/12/2014	Sent home copy of CD to parent from ARD on 1/27/14
1/27/2014	Parent attended ARD and was given a copy of ARD

20. The LEA's response reads in part,

They explained that [LEA staff], teaching assistant and interpreter, contacted the parent to schedule the IEP meeting. [LEA staff] spoke with [], parent, in Spanish. She confirmed the IEP date and

then explained to her that she would write a letter in Spanish in her daughter's/son's communication notebook explaining the date and time of the IEP meeting and indicating where she could sign if she agreed with the IEP date.

21. The LEA submitted a handwritten document in Spanish that discusses a meeting on Friday at 10 am. The document is dated January 22, 2014. The meeting was originally scheduled for January 24 and was changed at the parent's request. The bulk of the document discusses information pertinent to S2.
22. The January 22, 2014 ARDC report includes a prior written notice in English. No Spanish version of the prior written notice was provided to TEA by either party to the complaint.

Regarding Student (S3)

23. The LEA conducted four ARDC meetings for S3 during the timeframe of the complaint.
24. S3's September 3, 2013 ARDC report is written in English. The report shows that the parents' native language is Spanish and that an interpreter was needed to assist in conducting the meeting for the parents.
25. The September 3, 2013 ARDC report includes a prior written notice that is written in English.
26. S3's November 26, 2013 ARDC report is written English. The report shows that the parent's native language is Spanish and that an interpreter was needed to assist in conducting the meeting for the parents.
27. The November 11, 2013 ARDC report includes a prior written notice. The document is written in English.
28. S3's December 11, 2013 ARDC report is written in English. The report shows that the parents' native language is Spanish and that an interpreter was needed to assist in conducting the meeting for the parents.
29. The December 11, 2013 ARDC report includes a prior written notice that is written in English.
30. S3's April 8, 2014 ARDC report is written in English. The report shows that the parents' native language is Spanish and that an interpreter was needed to assist in conducting the meeting for the parents.
31. The April 8, 2014 ARDC report included prior written notice that is written English.
32. The LEA provided recordings of the 2013-14 school year ARDC meetings.
33. The LEA's response reads in part,

The campus requested an official interpreter from the Multicultural Alliance for the ARDs dated 9/3/2013, 11/26/2013, and 12/11/2013. The interpreter was not in attendance for the ARD on 9/3/2013; however, an [LEA] Pathologist served as the interpreter for that ARD. Subsequent ARDs had a representative from the Multicultural Alliance to interpret during the meeting, including the student's individualized education program.

34. The LEA did not provide documentation indicating that it was not feasible to provide prior written notice to the parents of S1, S2, or S3 in the parents' native language.
35. TEA reviewed the audio recordings of the 2013-14 school year ARDC meetings provided by the LEA. The recordings do not indicate that all required elements of the students' IEPs were translated into Spanish.

Conclusions and Reasons for TEA's Final Decision for Allegation 1

Authority: TEC §29.005

Provisions at TEC §29.005 require that, if a student's parent is unable to speak English, the LEA must provide the parent with a written or audiotaped copy of the student's IEP translated into Spanish, if Spanish is the parent's native language; or if the parent's native language is a language other than Spanish, the LEA must make a good faith effort to provide the parent with a written or audiotaped copy of the student's IEP translated into the parent's native language.

Based on the record, TEA concludes that the LEA did not ensure that, if the students' parents were unable to speak English and Spanish is their native language, the parents were provided with a copy of their respective student's IEPs translated into Spanish. Specifically, with regard to the record of S1, S2, and S3, TEA found no evidence to show that the parents were provided with a copy, either in written or audio format, of a Spanish translation of the students' IEPs. While the records shows that an audio of the ARDC meeting was provided to the parents, this did not meet the regulatory requirement, as the discussions noted in the ARDC meetings do not reflect all of the required components of an IEP. Therefore, Allegation 1 is substantiated.

Conclusions and Reasons for TEA's Final Decision for Allegation 2

Authority: 34 CFR §300.503

Provisions at 34 CFR §300.503 require that written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a student with a disability a reasonable time before the LEA proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The notice required under paragraph (a) of this section must include a description of the action proposed or refused by the agency, an explanation of why the agency proposes or refuses to take the action, a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action, a statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained, sources for parents to contact to obtain assistance in understanding the provisions of this part, a description of other options that the IEP Team considered and the reasons why those options were rejected, and a description of other factors that are relevant to the agency's proposal or refusal. The notice required under paragraph (a) of this section must be written in language understandable to the general public and be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. If the native language or other mode of communication of the parent is

not a written language, the LEA must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication and that the parent understands the content of the notice and that there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

Based on the record, TEA concludes that the LEA did not ensure that prior written notices were provided to the students' parents in the parents' native language unless it was clearly not feasible to do so. Specifically, the record reflects only English versions of the prior written notices were provided to the students' parents. The LEA did not provide data to show it was unfeasible to have had the notices translated into the parents' native language. Therefore, Allegation 2 is substantiated.

Identified Noncompliance

Based on the evidence and current state and federal requirements, the following incidents of noncompliance was cited.

1. The LEA does not always ensure that parents whose native language is Spanish are provided with a copy of their student's IEPs in their native language. [TEC §29.005]
2. The LEA does not always ensure that prior written notices are provided in parents native language(s) unless it is clearly not feasible to do so. [34 CFR §300.503]

I. Required Corrective Actions

In accordance with 34 CFR §300.151, TEA must address: (1) how to remediate the denial of those services based on the needs of the student and (2) appropriate future provision of services for all students with disabilities when resolving a complaint in which appropriate services were not provided.

Corrective actions to achieve compliance are required of the LEA as follows.

A. For the students subject to this complaint: The LEA shall notify the parents within its geographical boundaries who are subject to the provisions at TEC §29.005 of their right with regard to said provision.

B. For all students with disabilities in the LEA:

1. The LEA shall conduct a folder review at the campus subject to the complaint of all students whose home language survey indicates that Spanish is the language spoken in the student's home and that the parents required a translator for an ARDC meeting. In these cases the LEA will ensure that the parents have received translated versions of the students latest IEPs in Spanish. If the LEA finds that a copy of the IEP was not provided to a student's parents in Spanish, the LEA must provide a Spanish translation of the respective student's IEP to the student's parents.
2. Representatives of the LEA's administration who have oversight responsibilities to ensure the provision of a free appropriate public education under 34 CFR §300.101 shall determine whether there is a need to revise the

policies and related guidelines based on TEA's findings. The LEA shall review its policy and related guidelines pertaining to the noncompliance cited in this report.

3. Because the LEA has a corrective action plan (CAP), the LEA shall revise its CAP to include the identified noncompliance and the required corrective action activities.
4. Provide staff development to the individuals who were involved in or contributed to the noncompliance and to the administrators of the campus subject to the complaint to provide guidance to address the noncompliance cited in this report.
5. The LEA must provide written notice of revised policy/guidelines to LEA staff who may be affected by the revisions.
6. By **June 30, 2014**, the LEA must submit a timeline for providing the following documentation to indicate completion of the above corrective actions.
 - A copy of the letter notifying parents of their rights with regard to TEC §29.005.
 - Documentation reflecting the mailing of said notification letter to parents.
 - A spreadsheet listing the students whose folders were reviewed and the action taken by the LEA for each student.
 - The revised portions of special education policies and related guidelines, if any.
 - The LEA's revised CAP.
 - An agenda, including timelines of proposed content/information to present in staff development.
 - A description of the content/information presented in staff development and a listing of the individuals, indicating their positions, who participated in the staff development.
 - Relevant memoranda and/or guidance letters issued to staff.

Further intervention by TEA may result if the LEA does not provide the requested information or respond within the required timeline. In accordance with 34 CFR §300.600(e), TEA must ensure that the LEA corrects identified noncompliance "as soon as possible, and in no case later than one year after the State's identification of the noncompliance." Therefore, all required corrective actions must be completed no later than **May 30, 2015**. Failure to correct the cited noncompliance by this date will result in an additional finding of noncompliance under 34 CFR §300.600(e) and will result in additional sanctions against the LEA as outlined in 19 TAC §89.1076.

This concludes TEA's investigation of the complaint.

SPECIAL EDUCATION COMPLAINT RESOLUTION QUESTIONNAIRE
2013-14 Federal Fiscal Year

As you were recently involved with the Texas Education Agency's (TEA) special education complaint resolution process, we are interested in obtaining feedback from you regarding your experience with the process. While this questionnaire is not required, your response is greatly appreciated. Please answer the following questions and return the survey as promptly as possible in the enclosed self-addressed, postage-paid envelope.

Section I

Directions: Please check the box to indicate your reply to the question.

1. Which best describes your role in relation to this complaint? (Check only one)

- | | |
|--|---|
| <input type="checkbox"/> Parent | <input type="checkbox"/> Student |
| <input type="checkbox"/> Special Education Administrator | <input type="checkbox"/> School Administrator |
| <input type="checkbox"/> Attorney | <input type="checkbox"/> Third-Party Complainant (Non-Attorney) |
| <input type="checkbox"/> Other _____ | |

2. Did the TEA staff conduct the investigation of the complaint in a fair and impartial manner?

- Yes. Please explain. No. Please explain.
-
-

3. Did the information you received in *the Notice of Special Education Complaint and Request for Response* regarding the complaint resolution process help you understand the process and the other options for resolving the dispute?

- Yes. Please explain. No. Please explain.
-
-

4. Were you given an opportunity to explain your views regarding the issues in the complaint?

- Yes. Please explain. No. Please explain.
-
-

Section II

Please answer this section only if an investigative report was issued by TEA.

5. Did the report address all of the special education issues in the complaint?

- Yes. Please explain. No. Please explain.
-
-

6. Did the report clearly explain why the TEA reached its conclusions?

- Yes. Please explain. No. Please explain.
-
-

(Over)