

SPECIAL EDUCATION AND TITLE SERVICES

REPORT OF COMPLAINT
FILED AGAINST
UNIFIED SCHOOL DISTRICT #203
ON DECEMBER 21, 2021

DATE OF REPORT: JANUARY 19, 2022

This report is in response to a complaint filed with our office by _____, on behalf of her son, _____. For the remainder of this report, _____ will be referred to as "the student." Ms. _____ will be referred to as "the student's mother," "the parent," or the "the complainant."

Investigation of Complaint

Diana Durkin, Complaint Investigator, spoke by telephone with the parent on December 31, 2021 and January 7, 2022. On January 4, 7, and 14, 2022, the investigator spoke via telephone with Dr. JaKyta Lawrie, Executive Director of the Wyandotte Comprehensive Special Education Cooperative.

In completing this investigation, the complaint investigator reviewed the following materials:

- IEP for this student dated October 6, 2021
- Amended IEP for this student dated January 5, 2022
- Choice Novels Final Project: Project Options
- General Rubric for All Projects
- Modified Choice Novels Final Project
- English final completed by the student
- Grade report for the student for the first semester of the 2021-22 school year

Background Information

This investigation involves a 17-year-old boy who is enrolled in the twelfth grade in his neighborhood high school. The student has been diagnosed with ADHD.

At the time this complaint was filed, the student was receiving 70 minutes of special education services twice a week in a special education setting and 210 minutes of special education support twice a week in the general education classroom.

Issue

In her complaint, the parent alleges the following:

The student's high school is not following the IEP Plan that has been agreed upon by both the school and the parents.

Applicable Statutes and Regulations

Federal regulations, at 34 C.F.R. 300.101(a), require that a student who has been determined eligible for, and in need of, special education services, and whose parents have provided written consent for the provision of those services, be provided with a FAPE (Free Appropriate Public Education). 34 C.F.R. 300.17(d) states that FAPE means, in part, special education and related services provided in conformity with an individualized education program (IEP) that meets the requirements of 34 C.F.R. 300.320 through 300.324. A district must implement a student's IEP as written.

Parent's Position

The parent alleges that the district's failure to provide the student with the accommodations specified in his IEP resulted in the student being unable to independently complete a class final in English. The student told the parent that he had not received any help on the final from his special education teacher, his English teacher, or a paraeducator.

According to the parent, she guided the student through the assessment which the student completed and submitted online. However, the student's teacher believed that the student had plagiarized his work and referred the student for disciplinary action. It is the position of the parent that had the student been provided with the accommodations specified in his IEP, this situation could have been avoided.

District's Position

It is the position of the district that the student's IEP was implemented as written.

Investigative Findings

According to the section of the student's October 6, 2021 IEP entitled "Present Levels of Academic Achievement and Functional Performance," the student is "delayed in processing information provided by his class teachers" and is "unable to process multi-level instructions and follow them. Instead, instructions need to be provided in small blocks, one at a time."

In the same section of the student's October 6, 2021 IEP, the student is described as being "unable to take initiation in completing assignments on an independent basis" and has difficulty in identifying the main idea and answering inference and cause and effect questions at the 11th and 12th grade reading level.

The "Program Modifications, Accommodations, and Supplementary Aids and Services" portion of the student's October 6, 2021 IEP specifies that the student be provided with the following accommodations/modifications:

- Allowed the use of a calculator;
- Computer use with voice to text abilities;
- Extended time up to 1.5 times;
- Five minute breaks during a regular scheduled class period;
- Preferential seating near teacher to reduce off task behavior;
- Separate smaller, quiet setting for large/lengthy assignments and assessments;
- Shortened assignments when deemed appropriate by the general education and special education teacher;
- Teacher notes provided; and
- Transcribe allowed on lengthy writing assignments.

On December 14, 2021, the student's English 4 teacher assigned an in-class semester final assignment related to The Lord of the Flies. The students in the class were to select from among five response style options:

- Essay
- Slides
- Art Analysis Display
- Playlist
- Diss Track

The student selected the Slides option. According to the district, modifications would have been available to the student had he selected the Essay, Art Analysis Display, or Playlist option because the general requirements under these options included more writing. The Slides and Diss Track option requirements did not have the same level of written response, so no further modifications were offered to the student.

Students who selected the Sides option were required to include the following:

- An introduction to the novel, author, and selected character;
- Character description, type and character archetype;
- An explanation of the character's situation archetype and its connection to a theme in the novel;
- An analysis of how the character's archetype/identity shaped or influenced their situation archetype throughout the novel;
- The answer to the question "How does identity dictate life?" based on the project; and
- The inclusion of some visual elements (images, videos, etc.) that add to the presented information.

Most students were required to complete the assessment in class on December 14, 2021. However, this student was given until the end of class on December 17, 2021 to complete the assessment, thereby allowing him three additional school days.

On December 14, 2021, the student received support on this assessment from a classroom paraeducator. The paraeducator pulled the student from the English classroom and took him to another smaller, quiet room (216) where he was seated next to the student. The paraeducator provided the student with a teacher-developed model/example to assist the student in completing the assessment.

On December 15, 2021, the student's special education teacher reviewed the assessment requirements with the student during the student's direct studies course, explaining the instructions and outlining what was needed for each slide. The special education teacher scribed responses for the student and asked him clarifying questions as the student worked on the assessment.

The student was allowed to take 5-minute breaks during the time he worked on the assessment with the paraeducator and the special education teacher.

In completing the assessment, the student was allowed to use his Chromebook which has built-in voice to text capabilities.

The student earned an 89% on his completed final assessment and an overall grade of B in his English class.

On January 5, 2022, a meeting was held to review the student's IEP and to address the concerns raised by the parent in this complaint. In addition to staff members from the student's school, the meeting was attended by the executive director of the special education cooperative, the parent, the student, and the student's grandmother. The executive director told the investigator that, during the meeting, the student acknowledged that he had received assistance from district staff on his English final though he resisted that help at first because he did not think it was fair for him to have someone scribe for him and didn't want to be embarrassed.

Summary and Conclusions

For the semester final assessment in his English class, the student was given 5 response style options from which to choose. The student opted to complete his final using a "Slides" option. Because that option required a shorter written response than some of the other response options, the assessment was not further modified for the student. Had the student chosen the "Essay," "Art Analysis Display," or "Playlist" option, he would have been provided with assessment modifications.

The student was given extended time (three days) to complete the assessment. General education students in the classroom were required to complete the assessment on the same day it was presented.

The student had access to voice to text capabilities on his Chromebook when completing the assessment. On the day that the assessment was first presented to the class, the student was taken by a paraeducator to a separate smaller, quiet location where the paraeducator sat next to the student to break the assessment down page-by-page to talk about what the student needed to do to complete the assessment. The following day, the special education teacher also reviewed the requirements of the assessment, scribing responses and asking clarifying questions. The student was provided with a teacher-made model to assist him with completing the task.

In an IEP team meeting on January 5, 2022, the student acknowledged that he had been provided support in completing his English final. The student earned an 89% on the assessment.

Because the district provided the accommodations specified in his October 6, 2021 IEP, a violation of special education statutes and regulations is not substantiated.

Corrective Action

Information gathered in the course of this investigation has *not* identified any areas of noncompliance with special education statutes and regulations. Therefore, no corrective actions are required.

Right to Appeal

Either party may appeal the findings or conclusions in this report by filing a written notice of appeal in accordance with K.A.R. 91-40-51(f)(1). The written notice of appeal may either be emailed to formalcomplaints@ksde.org or mailed to Special Education and Title Services, 900 SW Jackson St, Ste. 602, Topeka, KS, 66612. Such notice of appeal must be delivered within 10 calendar days from the date of this report.

For further description of the appeals process, see Kansas Administrative Regulations 91-40-51(f), which can be found at the end of this report.



Diana Durkin
Complaint Investigator

K.A.R. 91-40-51(f) Appeals.

(1) Any agency or complainant may appeal any of the findings or conclusions of a compliance report prepared by the special education section of the department by filing a written notice of appeal with the state commissioner of education. Each notice shall be filed within 10 days from the date of the report. Each notice shall provide a detailed statement of the basis for alleging that the report is incorrect.

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or

others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

- (A) The issuance of an accreditation deficiency advisement;
- (B) the withholding of state or federal funds otherwise available to the agency;
- (C) the award of monetary reimbursement to the complainant; or
- (D) any combination of the actions specified in paragraph (f)(2)