

CALIFORNIA DEPARTMENT OF EDUCATION
Investigation Report
Case S-0907-22/23

Public Agency Jeff Harris, Superintendent Del Norte County Unified School District 301 West Washington Boulevard Crescent City, CA 95531	Complainant Linda Vang 1335 Harrold Street Crescent City, CA 95531
Special Education Director Thomas Kissinger, Assistant Superintendent, Educational Services Del Norte County Unified School District	Parent Linda Vang
Special Education Local Plan Area (SELPA) Heather Quigley-Cook, Director Humboldt-Del Norte SELPA 624 Harris Street Eureka, CA 95503	Student Andrew Deen
Complaint Received April 6, 2023	Report Mailed May 24, 2023

INVESTIGATION PROCEDURES

The investigation and conclusions are based on the investigator's review of materials and documents provided by the Complainant and the District, as well as telephone contact with the Complainant on April 18, 2023. Email contact with the District occurred on April 19 and May 3, 5, and 8, 2023.

SUMMARY OF THE ALLEGATION

The Complainant alleges the District failed to comply with individualized education program (IEP) requirements set forth in *Code of Federal Regulations*, Title 34 (34 *CFR*), Section 300.323(c)(2), when the District did not provide special education and related services due to the student not having a one-to-one (1:1) aide from February 28 to April 6, 2023.

APPLICABLE CITATION

34 *CFR* Section 300.323(c)(2) requires, "Each public agency must ensure that . . . (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP."

FINDINGS OF FACT

1. The student's February 21, 2023, IEP requires the student to receive specialized academic instruction (SAI) for 1,131 minutes weekly with five periods of life skills special education classes and one period of general education physical education, intensive individual services (IIS) with a 1:1 aide for 1,875 minutes weekly, behavior intervention services (BIS) for 30 minutes monthly, and career awareness for 30 minutes monthly. Evidence for this finding is based on the February 21, 2023, IEP.
2. On February 27, 2023, there was an incident with the student, and the 1:1 aide was unable to return. From February 28 to April 6, 2023, the date the complaint was received by the California Department of Education (CDE), there was a period of five weeks. The District was unable to find a 1:1 aide so that the student could return to school. During this time, the student did not receive SAI for 5,655 minutes, IIS for 9,375 minutes, BIS for 30 minutes, and career awareness for 30 minutes. Evidence for this finding is based on a behavior response report; the District's May 5, 2023, response to the CDE; the student's attendance record; and the 2022–23 school calendar.
3. The student is passing all academic classes. Evidence for this finding is based on the student's grade report.
4. On April 7, 2023, the student returned to school and started receiving special education and related services. Evidence for this finding is based on the May 8, 2023, District email.

CONCLUSION

The District failed to meet the requirements of 34 *CFR* Section 300.323(c)(2). The District did not provide special education and related services due to the District not having a 1:1 aide to support the student as required by the student's February 21, 2023, IEP from February 28 to April 6, 2023. **The District is out of compliance.**

REQUIRED CORRECTIVE ACTIONS

1. On or before July 1, 2023, the District shall provide evidence that it has provided a memorandum to all staff and administrators involved in this case related to the requirements of 34 *CFR* Section 300.323(c)(2), and the findings of noncompliance in this case, with a directive to comply with the law. Acceptable evidence should include a copy of the memorandum and the distribution list, including staff names, titles, and signatures of the recipients.

2. On or before March 1, 2024, the District shall provide evidence it has provided 94 hours of compensatory SAI services to the student. The compensatory SAI services shall focus on supporting the student's areas of need. Acceptable evidence should include a copy of the service logs or other documentation showing the date(s) of services, the amount of time services was provided, and the name(s) of the service provider(s).
3. On or before September 1, 2023, the District shall provide evidence that it has provided 30 minutes of BIS services to the student. Acceptable evidence should include a copy of the service logs or other documentation showing the date(s) of services, the amount of time services was provided, and the name(s) of the service provider(s).
4. On or before September 1, 2023, the District shall provide evidence that it has provided 30 minutes of career awareness services to the student. Acceptable evidence should include a copy of the service logs or other documentation showing the date(s) of services, the amount of time services was provided, and the name(s) of the service provider(s).

RECONSIDERATION NOTICE

The findings in this investigation report are specific to this case. While general rules are cited, findings in other investigations may differ due to the facts and issues in each case.

Within 30 days of the "Report Mailed" date on this CDE report, either party may request reconsideration [*California Code of Regulations*, Title 5, Section 3204]. The request for reconsideration must state and explain the reason for the request based on one or more of the following:

1. The report lacks material findings of fact
2. The material findings of fact in the report are unsupported
3. The legal conclusion in the report is inconsistent with the law
4. The corrective actions in the report fail to provide proper remedy

Pending the Superintendent's reconsideration, the Department report, including corrective actions remains in effect and enforceable.

A request for reconsideration of the CDE's Investigation Report must be postmarked within 30 days of the "Report Mailed" date on the CDE report and sent to:

**Ana Marsh, Education Administrator II
Complaint Resolution Unit
speceducation@cde.ca.gov Email
or
916-327-8878 Fax
or
California Department of Education
Complaint Resolution Unit
1430 N Street, Suite 2401
Sacramento, CA 95814**

Evidence of required corrective actions or questions regarding corrective actions shall be directed to:

**Corrective Actions
Complaint Resolution Unit
California Department of Education
1430 N Street, Suite 2401
Sacramento, CA 95814 or
916-327-8878 Fax or Email:
SEDCorrectiveAction@cde.ca.gov**

When submitting evidence please make sure to include the case number.

If compliance is determined in this investigation and no corrective actions are required, consider this case closed.

Ana Marsh
Education Administrator II
Complaint Resolution Unit

Jane Canty
Education Administrator I
Complaint Investigation Unit II

Melissa Branson
Education Administrator I
Complaint Investigation Unit I

California Department of Education
Special Education Division