



July 3, 2012

Dr. Gene Harris
Columbus City School District
270 E State St
Columbus, OH 43215

RE: CP 0073-2012; Letter of Findings

Dear Dr. Gene Harris:

After reviewing the information regarding the complaint concerning _____, (hereinafter the "student") that was filed by Kimberly Brooks Tandy Esq., Executive Director, and Angela Chang, Attorney, Children's Law Center of Kentucky (hereinafter "the attorneys") against the Columbus City School District (hereinafter "CCSD"), the Office for Exceptional Children (OEC) has made the following findings:

Issue 1

Whether CCSD complied with the requirements of the OAC 3301-51-01(A) (2) (a) (School district of residence), OAC 3301-51-01(A) (3) (b) (School district other than school district of residence) and the Individuals with Disabilities Education Improvement Act (IDEA) and its implementing regulation at 34 C.F.R. §300.323 (When IEPs must be in effect) during the 2011-2012 school year.

The attorneys for the student allege that the CCSD failed to ensure that the student's IEP was implemented when the student was residing in the Franklin County Correctional Center II, Jackson Pike Facility (hereinafter "FCCC II").

The attorneys for the student allege that CCSD failed to ensure that the student was provided with the services specified in his IEP during the timeframe that the student was detained in FCCC II.

The attorneys for the student allege that prior to the student's detainment in FCCC II, the student was "on track to graduate" in June 2012, and the community school's failure to ensure that the student received the services specified in the student's IEP caused the student to fail to make progress towards the expected graduation.

The attorneys for the student further allege that either the Columbus City School District and/or Focus Learning Academy of Southwest Columbus failed to work together to ensure that services were provided to the student in conformity with the requirements of the Operating Standards and the IDEA.

Although the attorneys on behalf of the student allege a history of violations of the IDEA and the Operating Standards with respect to the implementation of the IEP and the provision of services, dating from the 2004 school year and ongoing, per the requirements of the IDEA at 34 C.F.R. §300.153, the complaint will be limited to one year prior to the date that the complaint was received by the Ohio Department of Education, Office for Exceptional Children. Since the

complaint was received in this office on April 4, 2012, the timeframe of the complaint investigation will be from April 4, 2011 through the date of the receipt of the complaint in this office.

Facts

- Both the attorneys for the student and CCSD provided information regarding this complaint;
- Both the attorneys for the student and Columbus City School District are hereby informed that this office will be making the findings of fact and issuing a letter of findings based on the timeframe from April 4, 2011 through the date of the receipt of the complaint in this office per the requirements of the IDEA;
- In addition, pursuant to this complaint investigation, the consultant assigned to this complaint also obtained information from the Focus Learning Academy of Southwest Columbus, (hereinafter "the community school"), FCCC II, Columbus City School District, (hereinafter "CCSD"), the Correctional Center Reception Center, the Hilliard City School District, Madison Correctional Institution, the Ohio Department of Rehabilitation and Correction, the Ohio Central School System and the Ohio Department of Youth Services;
- The attorneys who filed this complaint described it as an individual and systemic complaint (which was captioned by the attorneys as an individual and "class administrative complaint") against the community school and/or CCSD;
- After the complaint was received in this office, it was separated into six complaints which consisted of four individual complaints and two systemic complaints;
- Two of the individual complaints were against the community school and two individual complaints were against CCSD, the remaining two complaints were assigned as follows: a systemic complaint against the community school and a systemic complaint against the CCSD;
- All of the individual complaints were regarding the same two individual students;
- The attorneys who filed the complaint provided some identifying information regarding those two students; however they did not provide any identifying information regarding the students who may be part of the systemic complaints other than to state that those students were similarly situated as the two individual students;
- Due to the nature of how the allegations were raised, prior to issuing the letter of allegations and the letter of findings, an investigation had to be conducted to determine where the student in the above captioned complaint was residing and which district or entity was responsible for ensuring that he was provided special education and related services under the IDEA as a student with a disability;
- Although the formal written complaint makes references to actions that involve alleged violations by the CCSD and /or the community school, the community school is a separate entity;
- As part of the complaint investigation, it has been determined that CCSD is a school district located in Columbus, Ohio that serves a student population of over 50,000 students which has no jurisdiction or sponsorship of the community school;
- As part of the complaint investigation, it has been determined that the community school operates under Chapter 3314 of the Ohio Revised Code and the community school has no jurisdiction over CCSD;

- According to the information from the attorneys for the student, CCSD and the community school were responsible for providing both special education services and regular education services to the student;
- According to the information provided by the attorneys for the student when they filed this complaint, the student was enrolled in the community school at the time of his detention in FCCC II, which made the community school the student's district of residence;
- The attorneys for the student when they filed this complaint also stated that FCCC II is located within CCSD which they asserted made CCSD the district of service;
- As part of the complaint investigation, some facts about the student were established;
 - The student was _____ and has attended several different schools during his academic career;
 - The student had attained the age of majority prior to this complaint being filed;
 - The student was over eighteen years of age when he was arrested in November 18, 2011 and detained in FCCC II;
 - The student was detained from November 18, 2011 until February 9, 2012;
 - The student has attended Hilliard City School District, Columbus Public School District, Buckeye United School District (which is operated by DYS) and the aforementioned community school;
 - The student also has a history of being involved in the juvenile justice system due to the offenses that he has committed;
 - Per the results of the student's November 30, 2010 (the most recent) evaluation team report (hereinafter "ETR"), the student was eligible for special education services under the disability category of emotional disturbance;
- The community school conducted the ETR and developed an IEP to address the identified needs in the ETR;
- During the time that the student attended the community school, the staff implemented the student's IEP;
- A review of the information that was provided by the community school to this office showed that the student had a history of failing to attend school;
- Prior to the student being detained in FCCC II, the community school had sent the student a number of warning letters about his failure to attend;
- Prior to the student attaining his majority, the warning letters were sent to the parent;
- After the student attained his majority, the letters were sent to the student;
- The community school documented their efforts to warn the student about his attendance and made attempts to contact the student;
- As part of this complaint investigation, the community school staff was interviewed;
- A letter offering an interview was sent to the student at his last known address, but the student did not respond;
- During the interview, the community school staff stated that during the course of the student's enrollment at the community school, the student was sent several warning letters due to the student's refusal to attend school;
- Prior to the student's detainment in FCCC II, the dates of the warning letters range from January 20, 2009 through December 13, 2011;
- The community school also provided details about their outreach regarding attendance, part of which involves telephone calls to the student and the parents to explain about the

consequences of failing to attend school, and to warn the parent and the student about truancy;

- The community school provided information to show that there was usually no response from the parent or the student and the student was withdrawn on the following dates: March 11, 2009, June 15, 2010, May 26, 2011, December 13, 2011 and May 24, 2012;
- After these withdrawal letters were sent, the student usually re-enrolled in the community school at a date subsequent to the letters being sent;
- The community school sent the student two warning letters on November 28, 2011 and December 5, 2011;
- A review of the community school's documentation showed that they sent a withdrawal letter to the student on December 13, 2011; which is stated the following, in pertinent part, "This letter is official notification that you have been withdrawn from Focus Learning Academy. The effective date of withdrawal is December 13, 2011. According to House Bill 66, the community school is withdrawing you from our school effective immediately. This withdrawal is based on unexcused absences that exceed _____ hours of classroom instruction. State guidelines mandate this withdrawal. Focus Learning Academy is concerned with your success and is willing to work with you on a schedule that will fit your needs. We can all work together to address any situation that might keep you from coming to school. Please call the school or stop by the school to re-enroll;"
- During the time frame that the student was detained in FCCC II, the student had been withdrawn from the community school;
- The community school verified with this office that prior to the student's withdrawal, the community school was the district of residence;
- The community school also stated that they had not contacted CCSD about providing services to the student when he was detained in FCCCII, because the neither student nor anyone acting on the student's behalf had contacted the community school to inform them that the student was in need of services;
- There was no evidence obtained through this investigation to support that anyone from the community or FCCC II had contacted CCSD to inform CCSD that the student was in need of the services specified by the IEP;
- There was no evidence obtained through this investigation to support that FCCC II had information to support that the student was in need of IEP services;
- There was no evidence obtained through this investigation to support that FCCC II notified CCSD that the student was in need of the services specified by the IEP;
- The student had attained the age of majority prior to the student being detained in FCCC II, and there was no information obtained through this investigation to show that he had contacted either the community or CCSD in order to request services;
- There was no information obtained through this investigation to support that anyone acting on behalf of the student contacted either CCSD or the community school to request services for the student;
- After the student was released from FCCC II, the student re-enrolled in the community school;
- The community school met with the student to determine if the student had any additional needs that resulted from the period that the student was not in attendance at the community school;

- The community school staff stated to this office that they would not refuse services to any student who was enrolled in the community school and that they had worked with the student in past to ensure that his IEP was implemented;
- The community school also stated that the student's history of sporadic attendance impacted on his education;
- After the student re-enrolled in February 2012, the student again displayed sporadic attendance;
- Although the student could have worked towards graduating in June 2012, the student failed to attend class on a regular basis;
- The community school informed the student of what these absences could mean for his potential high school graduation;
- The community school told the student that they were willing to work with him to address the situation;
- After assessing the situation, the director of student services contacted the student and offered to assist the student so that he could graduate;
- The community school sent two warning letters about the student's lack of attendance;
- After the student failed to respond to the letters or the community school's offers of assistance, the community school sent the student a withdrawal letter dated May 24, 2012;
- As of the date of this letter of findings, there is no evidence that was obtained through this investigation to support that the student contacted the community school to accept the assistance or to re-enroll in school;
- The student has not responded to this office to indicate his willingness to be interviewed;
- The attorneys who filed the complaint on the behalf of the student provided information to show that the student graduated;
- Up until the due date of the letter of findings, the attorneys who filed the complaint offered to locate an individual who could confirm whether the student had graduated or not;
- The community school stated as of June 21, 2012, that the community school had no information that showed that the student had graduated from high school during the time period that he was enrolled at the community school;
- The community school staff stated to the consultant assigned to this complaint, that prior to the student being withdrawn from the community school, the student had the potential to complete his education program and to graduate from high school;
- As part of this investigation, the consultant assigned to this complaint contacted the Chief Deputy of FCCC II to determine if they had a process in place to assist juvenile arrestees who may be in need of special education services;
- He reported that there is a social worker who interviews the juvenile arrestees to assist them in addressing their needs;
- However, he stated that at the time that these complaints were filed, there was no space set aside to provide services under the IDEA to the students;
- He indicated a willingness to meet with staff from this office to assist the facility in complying with the requirements of the IDEA as they pertain to these students;
- He requested that this office met with his staff and himself at a mutually agreed time and date to address these concerns;
- This office has agreed to schedule a meeting at a mutually agreed time and place to address those concerns;

- CCSD and the community school have informed this office that they were more than willing to provide services to students with disabilities and suspected disabilities are detained in FCCC II, if there is a protocol put in place to inform them that the students are there;
- They have also indicated that there is a need to have a space set aside in which to serve the students at FCCC II that would also be in accordance with any security concerns that are required to be addressed;
- The community school acknowledged that the student had been enrolled and then withdrawn prior to being detained in FCCC II;
- No entity, or individual including the student, FCCC II, or the community school had contacted CCSD to inform the CCSD that the student had need of services;
- Prior to the complaint being filed, the student re-enrolled in the community school where his educational needs until the student withdrew because of lack of attendance; and
- Conflicting information regarding whether the student has graduated or not was provided to this office; what can be established is that the student who is an adult chose to stop attending the community school.

Findings

The school district of residence is responsible, in all instances, for ensuring that the requirements of Part B of the IDEA are met for every eligible child in its jurisdiction by making a free appropriate public education (FAPE) available, regardless of whether services are provided by another educational agency, juvenile justice facility, or other facility, agency, department, or entity unless Chapter 3323 of the Revised Code, or a rule adopted by the state board of education specifies that another school district, other educational agency, or other agency, department or entity is responsible for ensuring compliance with Part B of the IDEA.

School districts other than the school district of residence are responsible for serving a child with a disability who is living in its school district, even though the school district is not the district of residence. The child's school district of residence retains responsibility for ensuring the FAPE is made available to the child.

Prior to the student being arrested and detained in FCCC II, the student was withdrawn by the community school because of lack of attendance. If a child is enrolled in a community school, the community school is considered to be "the school district of residence." If the student had been enrolled in the community school during the timeframe that the student was detained in FCCC II, the community school would have been obligated to ensure that the student was provided the services specified in the student's IEP as required by the IDEA.

The community school would have had an obligation to notify CCSD as the district of service that the student was in FCCC II and was in need of services. The evidence obtained through this investigation did not support that any individual, entity or any person acting on behalf of the student notified CCSD that the student was in need of services. The community school did not possess any information that showed that the student was incarcerated. Due to the student's sporadic attendance he was withdrawn.

CCSD did not possess any information that showed that the student was incarcerated.

At the time that the complaint was filed, the student had re-enrolled in the community school. The community school did not provide any data to support that either the community school or CCSD had been contacted by FCCC II to inform them that the student was in need of services during the time that he was detained in FCCC II.

At the current time, there is no space within FCCC II to provide such services. FCCC II has requested to meet with OEC in order to address these concerns and OEC will schedule this meeting to occur within the next two weeks.

CCSD is not in violation of OAC 3301-51-01(A) (2) (a) (School district of residence), OAC 3301-51-01(A) (3) (b) (School district other than school district of residence) and IDEA and its implementing regulation at 34 C.F.R. §300.323 (When IEPs must be in effect) with respect to this issue.

Corrective Action: None required.

We appreciate your cooperation in the investigation of this complaint. We are closing our files on this complaint.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendy Stoica". The signature is stylized and somewhat cursive.

Wendy Stoica, Assistant Director
Office for Exceptional Children

cc: Student
Mary Ey, Special Education Director
Rochelle Rensch, Educational Consultant