

03/25/2022

California Department of Education
Special Education Department
Procedural Safeguards and Referral Services
1430 N Street, Suite 2401
Sacramento, CA 95841

Sent via email: speceducation@cde.ca.gov

**RE: Special Education Student [REDACTED] (DOB: [REDACTED])
Violation of Free Appropriate Public Education (“FAPE”)**

COMPLAINT FILED BY:

Parent/Holder of Education Rights: [REDACTED]
Address: [REDACTED]
Fresno, CA, 93727
Phone: [REDACTED]

ON BEHALF OF:

Student: [REDACTED]
Address: Student resides with parent at the above address

COMPLAINT AGAINST:

Clovis Unified School District
1450 Herndon Ave.
Clovis, CA 93611
Phone: 559-327-9000
Fax: 559-327-9109

I. INTRODUCTION

This compliance complaint is filed on behalf of [REDACTED] (“[REDACTED]”) pursuant to CAL. EDUC. CODE § 56500.2 (Deering 2018), 34 C.F.R. §§ 300.151–153 (2018), and CAL. CODE REGS. tit. 5 § 4650(a)(7)(D) and (E) (2018). [REDACTED] resides with his parents at the above address and is a special education student in Clovis Unified School District (“CUSD”). CUSD is out of compliance with federal and state education laws with respect to my [REDACTED].

II. FACTS

On September 1, 2021 an IEP meeting was held at my request to discuss concerns regarding ██████'s physical and mental health and returning to on-campus instruction at this time. **(Attachment A)** The team discussed Clovis Online school, the District's Independent Study Program ("ISP"), and determined that independent work was not appropriate for ██████. I did not sign the IEP Amendment as I was unwilling to send ██████ to on-campus learning at this time. On September 9, 2021, the District sent me Prior Written Notice (PWN) regarding their refusal to enroll ██████ in their ISP. **(Attachment B)** The District did not mention Home Hospital Instruction ("HHI") or home-based instruction as placement alternatives at the IEP meeting. The sole placement offer made was the placement reflected in the last agreed upon IEP dated 2/12/2021; signed while ██████ was participating in distance learning. **(Exhibit C)**

On September 22, 2021, I sent the District an email requesting that ██████ be temporarily placed on HHI until I was comfortable with the COVID-19 levels and how those levels may affect ██████'s health. **(Exhibit D)** In this letter, I conditionally agreed to waive my right to an IEP meeting if the District would amend the IEP to reflect HHI as a temporary placement. However, I *specifically requested that an IEP meeting be held* within 30 days if the District denied this request. This email was sent to ██████ and Cc'd to ██████, ██████, ██████, ██████, and ██████.

The only response I received was an email sent on October 24, 2021 from ██████ stating that "the team denied any amendments to the current IEP" at the 9/1/2021 IEP meeting. **(Exhibit E)** More than 30 days have transpired since I requested the IEP meeting to discuss HHI placement. No meeting has been scheduled and no PWN has been sent regarding HHI or home placement.

██████ has been available for distance learning, HHI, and/or home-based instructions for all days of the 2021-2022 school year thus far. However, ██████ has not received academic instruction or special educational services of any kind since the 2021-2022 school year began

III. REQUEST FOR STATE INTERVENTION

This complaint involves issues that call for direct California Department of Education intervention pursuant to Title 5 of the California Code of Regulations section 4650(a)(7)(D) and (E). As such, we have not filed with the local agency but instead request direct state intervention to resolve the aforementioned matters.

IV. SPECIFIC ISSUES OF NON-COMPLIANCE

- 1) The District has failed to comply with Cal. Ed. Code Sec. 56343.5 by failing to hold an IEP meeting within 30 days of receipt of parent's written request.
- 2) The District has failed to comply with 34 CFR Sec. 300.503 and 20 USC Sec. 1415(b)(3) by failing to provide Prior Written Notice of their refusal to change Student's placement within a reasonable time.

- 3) The District has failed to comply with 34 CFR Sec. 300.115 and Cal Ed. Code Sec. 56360-56361 by failing to ensure that a continuum of program options were made available to [REDACTED] during the pandemic spread of COVID-19.
- 4) The District has failed to comply with all parts of the 2/12/2021 IEP; the last agreed upon IEP.

V. REQUESTED CORRECTIVE ACTION

I request the following corrective actions:

- (1) Order the District to change the child's placement to HHI or temporary home-based instruction pending an IEP meeting.
- (2) Order the District to convene an appropriate IEP meeting to discuss the requested change of placement to HHI or temporary home-based instruction.
- (3) Order the District to provide training regarding the continuum of alternative placements that should be discussed at IEP meetings and, as appropriate, made available, to students with IEPs.
- (4) Order the District to provide compensatory services to make up for lost services from September 1, 2021, according to proof.

Sincerely,

[REDACTED]
[REDACTED]
[REDACTED]

Enclosures:

Attachment A: 9/1/2021 Amendment IEP

Attachment B: 9/9/2021 PWN

Attachment C: 2/12/2021 IEP

Attachment D: 9/22/2021 Parent Email to CUSD and 10/24/2021 CUSD Response

CC: Dr. Eimear O'Farrell, Superintendent of Clovis Unified School District;
eimearofarrell@clovisusd.k12.ca.us