

On August 24, 2004, XXXXXXXXXXXXXXXXXXXX (“Parent”) filed a complaint on behalf of her daughter (“Student”) against the Smyrna School District (“District”). The complaint alleges that the District has violated state and federal laws relating to children with disabilities. Specifically, Parent states that she does not want Student in the public separate school, and is requesting a different placement and program.

Investigation of the complaint has been conducted as required by the *Individuals with Disabilities Education Act* (IDEA) Regulations at 34 C.F.R. § 300.660 to 300.662, and according to the Department of Education’s regulations and procedures, including Sections 15.12 to 15.14 of the *Administrative Manual for Special Education Services* (“AMSES”). Specifically, the investigation included interviews with XXXXXXXXXXXXXXXXXXXX Parent, and Mr. Don Bates, Special Education Supervisor, Smyrna School District. Documents reviewed included a current IEP and documents received when Student moved from out-of-state into the District in the spring of 2004, including an IEP, Evaluation Report, Social History update, and Speech Language report. A written narrative submitted by the District of phone calls and meetings was also reviewed.

Findings of Fact

1. Student is nineteen years old and classified as trainable mentally disabled.
2. Student transferred into District in April 2004.
3. Parent signed agreement with a temporary placement in the public separate school on April 26, 2004.
4. Student’s IEP from out of state was implemented from April 2004 until a new IEP was developed with all required participants June 1, 2004.
5. Placement on IEP from out of state was listed as “special class in specialized school.”
6. Placement agreed to in IEP was in a public separate school.
7. Parent signed agreement and Student attended public separate school for the rest of the school year and through the summer.
8. District reports that Parent met with District special education Supervisor August 16, 2004, and stated that she did not want Student returning to the separate school because she was in a class where no one spoke and she was not learning the functional life skills needed.
9. Parent agrees, in an interview, that she contacted first the District Superintendent and then the District special education supervisor in August, 2004 to change Student from her current placement to another school.
10. District reports that, after much discussion, that District special education supervisor stated he would schedule an IEP meeting to “get the program more individualized to meet [Student’s] needs.”
11. District reports that Parent objected to a meeting with many people and just wanted District administrator to move Student out of the school.
12. District administrator reports that he discussed the options with Parent as follows:
 - (1) District high school;
 - (2) Program at local University through the Special School Program.
13. Parent asked about a program in a High School in another District (District B).
14. District supervisor called the District B supervisor and inquired about the program.
15. District B supervisor described the program as one for students in her district who were in a functional life skills curriculum.
16. District supervisor explained that the District B program might be available to Parent through the Choice process for the 2005-2006 school year.

17. District supervisor reports that Parent could not agree to any placement and stated that he told Parent that he would continue to work with the special school staff to resolve the problem.
18. District supervisor reports that Parent stated she would not attend an IEP meeting with the entire team.
19. District supervisor spoke with principal of separate school on August 19, 2004 and arranged for an IEP meeting with District supervisor, principal and Parent.
20. District supervisor stated that he called Parent on August 20, 2004 and discussed vocational training opportunities that could occur at local sheltered workshops.
21. Parent asked if Student would continue to receive individualized therapies and District supervisor indicated they would not continue once Student entered these programs.
22. District supervisor indicates that Parent refused to consider the sheltered workshop programs.
23. District supervisor states that he met with staff at the special school to discuss programming concerns on August 26, 2004.
24. District supervisor states that separate school staff indicated that the program could be individualized to address both vocational training and opportunities for Student to use language skills throughout the day.
25. District supervisor called Parent and left a message on August 26, 2004 to discuss the possible program at separate school and again asked for an IEP meeting.
26. District supervisor left messages for Parent on September 1, 2004, and September 2, 2004, with no response from Parent.
27. District supervisor went to home of Parent on September 3, 2004 and discussed the possible solutions to programming at the separate school.
28. District supervisor proposed a meeting with principal of separate school because Parent stated she did not want to attend a meeting with entire team.
29. Parent agreed to a meeting, and District supervisor left word that meeting would be 9:15 a.m. on September 7, 2004.
30. Parent left a message on September 7, 2004 that she would not attend meeting.
31. In an interview on September 9, 2004, Parent stated she did not want Student in the class at the special school because other students are not verbal.
32. When asked about the program at the local university, an appropriate setting for District to consider, given Student's age, Parent stated she did not believe the program was appropriate for Student.
33. When asked if Parent had requested an IEP meeting when she did not agree with placement, Parent stated no.
34. Parent indicated in the interview that she did not want a big meeting and stated she wanted District supervisor to change schools for Student.
35. Parent stated she wanted a program that will teach Student life skills.
36. District and Parent reached a mediated agreement September 22, 2004.

Conclusions

There were no procedural violations regarding the temporary placement of Student and the IEP developed in June 2004. Up until mid August when Parent called superintendent of District and then the District special education supervisor, District was unaware of Parent's concern about placement or program. District began a series of conversations and attempted to convene meetings including, appropriately, IEP meetings, despite Parent's wish to have District supervisor of special education move Student from the current placement without the IEP team convening. It is important to remember that decisions concerning change of placement are the responsibility of the IEP team and cannot be made outside of the IEP process.

District and Parent have reached a mediated agreement, and there are no violations regarding Student's temporary placement or the IEP developed in June 2004.

The letter of complaint raised concerns that Student's rights were violated under the Americans with Disabilities Act. This investigation is limited to Student's protections under the Individuals with Disabilities Education Act and corresponding state law.

District is complying with state and federal regulations.