



October 28, 2022

Sent via US Mail and/or SMFTS

Parent

Superintendent

**THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION**

RE: **FINAL REPORT for In the Matter of \*\*\*\***, 2022-06, Alleged Violations of the Individuals with Disabilities Education Act (IDEA).

This is the Final Report pertaining to the above-referenced state special education complaint (Complaint) filed pursuant to the Administrative Rules of Montana (ARM) 10.16.3662. \*\*\*\* (Parent) filed the Complaint on behalf of her son \*\*\*\* (Student), a sophomore at \*\*\*\* High School in the \*\*\*\* School District (District). Parent alleged the District violated the Individuals with Disabilities Education Improvement Act (IDEA), 20 U.S.C. 1400 et seq., Montana special education laws, Title 20, Ch. 7, Montana Code Annotated (MCA), and corresponding regulation at 34 CFR Part 300 and ARM 10.16.3007 et seq. The District allegedly:

1. Violated the Parent's opportunity to participate by failing to provide notice as required by 34 C.F.R. § 300.322(b)(1)(i); and
2. Failed to include the Parent as a member of the IEP team in violation of 34 C.F.R. § 300.321(a)?

**A. Procedural History**

1. On August 30, 2022, the Parent filed the Complaint on behalf of Student.
2. The Early Assistance Program (EAP) attempted to work with the parties to resolve the dispute.
3. On September 3, 2022, the EAP Director determined the parties were unable to resolve the dispute and notified the Dispute Resolution Office to proceed with the complaint process. ARM 10.16.3660(4).

4. On September 7, 2022, the OPI Dispute Resolution Office sent a Request for District Response/Scope of Proceedings letter to the parties.
5. The Dispute Resolution Office requested in the September 7, 2022, letter that the District prepare and submit its written response to the Complaint to the Dispute Resolution Office and send a copy to the Parent within 10 calendar days of receipt of the letter. ARM 10.16.3662(5).
6. On September 9, 2022, the OPI Dispute Resolution Office appointed a complaint investigator to investigate the Complaint.
7. The Dispute Resolution Office received the District's response on September 19, 2022.
8. Following receipt of the District's response, the Parent had 10 calendar days to submit additional information to the Dispute Resolution Office, either written or orally, about the allegations in the Complaint and the District's written response to the Complaint. ARM 10.16.3662(7). The Parent did not provide additional information to the Dispute Resolution Office.
9. During the course of the investigation of this Complaint, the complaint investigator requested and received additional documents from the District.
10. The Complaint investigator conducted interviews with the Parent and the District's Special Services Director and Special Education Coordinator.

#### **B. Legal Framework**

The OPI is authorized to address alleged violations of the IDEA and Montana special education laws through this special education state complaint process, as outlined in 34 C.F.R. §§ 300.151-153 and ARM 10.16.3662, which occurred within one year prior to the date the OPI receives a complaint. Pursuant to 34 C.F.R. §§ 300.151-153 and ARM 10.16.3662, all relevant information is reviewed and an independent determination is made as to whether a violation of federal or state statute, regulation or rule occurred. Any references to facts outside of the one-year timeframe, August 30, 2021, to August 30, 2022, are included strictly for background information.

#### **C. Findings of Fact**

##### **Background**

1. Parent has standing to file the Complaint pursuant to ARM 10.16.3661.
2. Student was 15 and a sophomore in District's high school during the 2021-2022 school year.
3. Student was on an IEP under the eligibility category of other health impaired (OHI). Student also received English language learner (ELL) services.
4. On June 21, 2022, Parent contacted the District requesting a comprehensive evaluation of Student to be completed as soon as possible.
5. District personnel contacted Parent and indicated that a comprehensive reevaluation would be considered by the IEP team in the fall when staff returned to school.

6. Parent wanted extended school year (ESY) staff to evaluate Student. The District indicated this was not possible and that the IEP team would meet when school started in the fall of 2022 and develop an evaluation plan.
7. Parent responded by email, indicating that District was refusing to evaluate Student and wanted a prior written notice (PWN) stating the District's refusal.
8. The District responded by email that it was not refusing to evaluate Student, the evaluation plan was an IEP team decision, and the IEP team would meet in the fall to discuss the need for an evaluation.
9. During the course of the 2021-2022 school year, seven IEP team meetings were scheduled.
10. The scheduled meetings were September 3, 2021, October 15, 2021, October 27, 2021 (this meeting was cancelled), November 5, 2021, November 12, 2021, January 21, 2022, and March 11, 2022.
11. Parent alleged that of the seven Special Education Meeting Notice forms the District provided to Parent between September 3, 2021, and March 11, 2022, four incorrectly identified the purpose of the meeting and five did not accurately reflect the attendees, which denied Parent's ability to be fully informed, denying parental participation.
12. Student's ELL Coach was a member of the IEP team prior to the 2021-2022 school year.
13. The District acknowledged that OPI's Special Education Meeting Notice forms were not properly completed for all the meetings, and they are training staff on properly completing meeting notice forms.
14. For every scheduled meeting, in addition to the Special Education Meeting Notice form and Google Calendar Invite, the District contacted Parent multiple times by email before any meeting was held to discuss the time, location, purpose and outline who was invited to the meeting.
15. Summary of purposes of meetings and notices provided during the 2021-2022 school year:

<b>Meeting Date</b>	<b>Stated Purpose on Special Education Meeting Notice Form</b>	<b>Additional Notice</b>	<b>Actual Purpose and Topics at Meeting</b>
9/3/21	IEP Team Meeting	-Multiple emails between Parent and District regarding assessments -Google Calendar Invite	IEP Team Meeting to develop an evaluation plan
10/15/21	IEP Team Meeting	-Multiple emails between Parent and District -Google Calendar Invite	IEP Team Meeting to discuss English class and additional supports and services
10/27/21	IEP Team Meeting		Meeting was cancelled
11/5/21	IEP Team Meeting	-Parent was provided a draft of the evaluation report before meeting	Evaluation Report Team Meeting, began the process of determining eligibility

	Evaluation Team Meeting	-Multiple emails discussing purpose of meeting -Google Calendar Invite	
1/12/22	IEP Team Meeting	-Multiple emails between Parent and District about purpose of the meeting -Parent had participated in previous meeting and knew eligibility needed to be finalized -Google Calendar Invite stated the purpose as an Evaluation report team meeting	Evaluation Report Team Meeting to finalize eligibility
1/21/22	IEP Team Meeting	-Multiple emails about scheduling meeting and purpose -Parent provided with draft IEP and Parent proposed changes to IEP prior to meeting -Google Calendar Invite	IEP Team Meeting worked on developing IEP
3/11/22	IEP Team Meeting	-Multiple emails about meeting and request for IEP facilitation -Google Calendar Invite	IEP Team Meeting to continue to develop IEP

16. Summary of invitees to meetings and notices provided for meetings during the 2021-2022 school year:

<b>Date of meeting</b>	<b>Invitees not listed on Special Education Meeting Notice Form that Participated in the Meeting</b>	<b>Additional Notice of Invitees</b>	<b>Information Parent aware of prior to meeting</b>
9/3/21	School Psychologist ELL Coach	-Multiple emails - Google Calendar Invite listed all invitees	-Parent informed via email that psychologist would be there because of discussing assessments -ELL Coach had been long time IEP member
10/15/21	School Psychologist ELL Coach	-Multiple emails - Google Calendar Invite listed all invitees	-Parent informed via email that psychologist would be there because of discussing assessments -ELL Coach had been long time IEP member
10/27/21	Meeting cancelled		
11/5/21	School Psychologist ELL Coach	-Multiple emails	-Parent informed via email that psychologist would be there because of

		- Google Calendar Invite listed all invitees	reviewing assessments and discussing eligibility -ELL Coach had been long time IEP member
1/12/22	School Psychologist ELL Coach	-Multiple emails - Google Calendar Invite listed all invitees	- Parent informed via email that psychologist would be there because of determining eligibility -ELL Coach had been long time IEP member
1/21/22	ELL Coach	-Multiple emails - Google Calendar Invite listed all invitees	ELL Coach had been long time IEP member
3/11/22	ELL Supervisor (note: the ELL Supervisor serves multiple roles within the District, including the Executive Director of Indian Education, SOS Suicide Prevention Program Coordinator, Title III Program Coordinator and Social Worker)	-Multiple emails - Google Calendar Invite listed all invitees	Parent had been informed via email that the ELL Coach was unable to attend and the ELL Supervisor would be attending in her place.

17. For all noticed and convened meetings, Parent participated in discussions and all decisions regarding Student.
18. When appropriate, Parent was provided with draft IEPs or draft evaluation reports prior to the meetings to allow Parent time to review the documents.
19. Parent had the assistance of an advocate at the majority, if not all, meetings held during the 2021-2022 school year.
20. Parties reached an impasse on Student's IEP after several meetings and requested an OPI IEP facilitator for the March 11, 2022 meeting.

**Analysis and Conclusions**

1. Did the District violate the Parent's opportunity to participate by failing to provide notice as required by 34 C.F.R. § 300.322(b)(1)(i)?

The Parent alleged that the District failed to provide proper Special Education Meeting Notice forms for meetings that took place during the 2021-2022 school year. There were seven Special Education Meeting Notice forms provided to Parent during 2021-2022 school year. Six meetings were convened and one was cancelled. Parent alleged that in four of the Special Education Meeting Notice forms the purpose of the meeting was incorrect and in five, the forms failed to list all individuals that were invited to attend the meeting. Under the IDEA, parents are entitled

to receive proper notice of and participate in meetings that concern the identification, evaluation and educational placement of the student and the provision of a free and appropriate public education (FAPE). 34 C.F.R. § 300.501(b). The IDEA notice requirements require the district to take steps to ensure the parent of a child with a disability is present at the meeting or are afforded an opportunity to participate. 34 C.F.R. § 300.322(a). A proper meeting notice must include the time, location, purpose and who will be in attendance for any meeting involving the provision of special education services for a particular student. 34 C.F.R. § 300.322(b)(1)(i). Additionally, parents are to be informed of other individuals the District has invited who have knowledge or special expertise about the child. 34 C.F.R. § 300.322(b)(1)(ii).

The District acknowledged that they did not check all of the appropriate boxes on the OPI Special Education Meeting Notice forms and asserted that even if the forms were incorrectly completed, the Parent knew the purpose of the meeting and the individuals invited to attend the meetings by the multiple emails between Parent and the District special education staff. The investigation determined that the Special Education Meeting Notice form for the January 12, 2022 meeting, incorrectly stated the purpose of the meeting as an IEP meeting when it was a continuation of the previous evaluation report team meeting. However, the Google Calendar Invite sent to all invitees on January 6, 2022, correctly identified the purpose as an evaluation report team meeting. Additionally, the Parent participated in the evaluation report team meeting on November 5, 2021, and knew that the evaluation report team did not finish the process and had to reconvene. There were numerous emails between the District and Parent after the November 5, 2021 meeting regarding the school psychologist's assessment results and to address any questions the Parent had.

Six of the seven Special Education Meeting Notice forms did not properly include all meeting invitees. For five meetings, this error included the ELL coach who was subsequently invited via the Google Calendar Invites. Student receives ELL services and the ELL Coach attended IEP team meetings prior to the 2021-2022 school year. With regard to the March 11, 2022, IEP meeting, the ELL supervisor sent an email stating she would be in attendance at the meeting because the ELL coach would not be able to attend. In addition, for four meetings (September 3, 2021, October 15, 2021, November 5, 2021, and January 12, 2022, meetings), the school psychologist was not listed on the Special Education Meeting Notice form but attended the meetings. The Google Calendar Invite for all four meetings included the school psychologist, and the Parent had notice that at those meetings assessments were being discussed.

Although the Special Education Meeting Notice forms provided to Parent contained minor errors, there was no evidence that this deprived Parent's right to participation in the meetings and be involved in any decisions made at the meetings. Prior to each of the scheduled meetings, there were multiple email chains between Parent and District about the purpose of the meetings and the invitees to the meetings. Parent was provided all required information under 34 C.F.R. § 300.322(b)(1) for all six of the meetings that took place during the 2021-2022 school year. Parent attended all meetings and fully participated in decisions concerning Student's educational program.

**The District made minor errors on the Special Education Meeting Notice forms; however, those errors were corrected by the District through multiple emails to the Parent. The District provided proper notice to the Parent pursuant to 34 C.F.R. § 300.322 and did not violate IDEA.**

2. Did the District fail to include the Parent as a member of the IEP team in violation of 34 C.F.R. § 300.321(a)?

Parent alleged that the District did not treat Parent as an equal team member because other members had notice of the type of meeting they were coming to and were aware of who was invited. The IDEA requires a district to ensure the IEP team for each student with a disability includes certain mandatory members. 34 C.F.R. § 300.321. The parents of the student are mandatory members of the IEP team. 34 CFR 300.321(a)(1). A district must take steps to ensure that one or both parents of a student with a disability are present or afforded the opportunity to participate in IEP team meetings and any meeting with respect to the identification, evaluation and educational placement of the student and the provision of FAPE. 34 C.F.R. § 300.322(a); 34 C.F.R. § 300.501(b).

As discussed in Issue One, Parent had notice before every meeting of the purpose of each meeting, what topics would be discussed and who was invited. The Google Calendar Invite, which Parent received before every meeting, was the notice for all potential attendees about the meeting, its purpose and who was invited. Additionally, the record shows that Parent was provided with a draft evaluation report, draft IEPs, and submitted input on draft IEPs via email and input on topics to be discussed at IEP meetings. Parent had the assistance of an advocate, and when the parties were unable to reach consensus after multiple meetings, they requested an OPI IEP facilitator to assist with the process. Overall, the District has included Parent as an active, vital member of the IEP team throughout all six meetings held during the 2021-2022 school year. Parent was involved in decisions regarding the identification, evaluation, and educational placement for Student.

**The District did not deprive Parent of the opportunity to be a member of the IEP team and participate in development and decisions regarding the IEP for Student, and therefore the District is not in violation of IDEA.**

**Disposition.**

Since the District did not violate IDEA, there are no actions for the District to complete. There is no right to appeal of this Final Report. ARM 10.16.3662(13).

*JP Williams*

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JP Williams  
State Director of Special Education

c: Mandi Gibbs, Dispute Resolution/EAP Director (MFTS only)  
John Gorton, School Improvement/Compliance Unit Manger (MFTS only)  
\*\*\*\*, Attorney for the District (MFTS only)