



December 6, 2019

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Office of Dispute Resolution and Administrative Services
Virginia Department of Education
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**Re: York County Public Schools/Brandon Turkatte
LEA Response to State Complaint**

Dear Ms. Gross:

York County School Division (“YCS D”) submits this correspondence in response to the complaint filed with the Virginia Department of Education (“VDOE”), alleging that YCS D violated the Individuals with Disabilities Education Act (“IDEA”) and its implementing state and federal regulations. According to the Notice of Complaint dated November 12, 2019, Ms. Larisa Turkatte (“Parent”) alleges that YCS D has failed to provide Brandon a free appropriate public education (“FAPE”) by failing to implement the Student’s individualized education program (“IEP”). Specifically, among other allegations, the Parent asserts that YCS D failed to make available 20 hours of ESY services proposed by Brandon’s IEP team “from approximately June 24, 2019 to August 21, 2019.

As explained in greater detail below, the Parent’s allegations are factually inaccurate. YCS D remains in compliance with the applicable regulations, and therefore the Parent’s Complaint should be dismissed.

Issue 1: IEP Implementation.

The Parent inaccurately alleges that YCS D violated special education regulations. The November 12, 2019 Notice of Complaint (“Notice of Complaint”) lists eight bullet points:

1. At the June 12, 2019 IEP meeting, the IEP team agreed and approved Student for 20 hours of ESY;
2. Ms. Gina Rondinelli, a Special Education teacher would be providing 20 hours of ESY Homebound services “from approximately June 24, 2019 to August 21, 2019”;
3. Due to frequent cancellations, Student “received no more than 5.5 hours of ESY direct instruction”;
4. Ms. Rondinelli failed to provide regular schedule of her arrivals to provide services. (She would show up whenever, she would ask to come and work with Brandon 6 (six) hours prior”);
5. Ms. Rondinelli would cancel consistently her sessions and tried to push/move the date to the next time”;

6. Ms. Rondinelli cheated on her hours. If she worked for one hour, she would report to YCSD as 2 hours”;
7. Ms. Rondinelli accepted signature from my Father when I could not, who is not a legal guardian of my son”;
8. “Ms. Gina Rondinelli had my Father sign several days of hours in one day without dates and times (signatures were placed not one day at the time but all in one day in the whole period of ESY).”

Each of the Parent’s eight allegations in the Notice of Complaint above are either factually inaccurate and/or fail to state a complaint under the IDEA and its implementing state and federal regulations.

The Virginia Regulations require that all individuals with disabilities, from age 2 to 21 inclusive, residing in Virginia, shall have available special education and related services that, among other things, are provided in conformity with an IEP that meets applicable regulatory requirements. See 8 VAC 20-81-10, 100. As described in greater detail below, YCSD remains in compliance with the cited regulations.

First, the Parent’s allegation related to the June 12, 2019 IEP meeting is not accurate and fails to state a violation of the IDEA. An IEP meeting occurred on April 15, 2019, at which time the IEP team proposed to make available 20 hours of ESY services between June 17, 2019 and August 30, 2019. See April 26, 2019 Prior Written Notice. The Parent provided consent to the implementation of the ESY services on April 15, 2019.

The second allegation related to Ms. Rondinelli does not state a violation of the IDEA, and does not correctly cite the IEP. Although the Student’s IEP does not require Ms. Rondinelli, Ms. Rondinelli was the special education teacher who provided services to the Student between July 2, 2019 and July 25, 2019.

The Parent’s third allegation, that YCSD made available only 5.5 hours of ESY instruction, is factually inaccurate. On April 15, 2019, the Student’s IEP team proposed to make available 20 hours of ESY services for the Student between June 17, 2019 and August 30, 2019. See April 26, 2019 Prior Written Notice, attached as Exhibit A. Ms. Gina Rondinelli, a special education teacher at Yorktown Middle School, made 16 hours of ESY services available to the Student between July 2, 2019 and July 25, 2019. Ms. Rondinelli’s Log Sheet of the services she made available to the Student is attached as Exhibit B. Ms. Rondinelli’s Log Sheet was signed by Ms. Turkatte. The allegation that Ms. Turkatte’s father signed the time sheet is not accurate.

Unfortunately, due to a family emergency, Ms. Rondinelli was not able to make ESY services available to the Student after July 25, 2019. YCSD immediately began searching for an additional special education teacher qualified to make services available to Brandon in his home.

Recognizing that it was required to make additional services available to the Student, and in light of the Parent’s concerns, on October 5, 2019, Dr. Elaine Gould informed the Parent that YCSD would make available a total of five hours of additional ESY services to the Student, or one additional hour more than required to compensate for the hours Ms. Rondinelli was unable to complete.



Beginning September 16, 2019, Ms. Hannah Violet, an elementary special education teacher at YCSD, began providing homebound educational services to the Student. On September 16, 17, and 18, Ms. Violet provided a total of 3.75 hours of compensatory instruction to the Student.

On September 19, 2019, the Student's IEP team met, considered a homebound certification, and proposed that the Student receive 5 hours of homebased instruction per week from September 19, 2019 through November 4, 2019. The Parent signed the proposed IEP granting consent to the proposed homebound services.

Ms. Violet has continued meeting with the Student in his home throughout the fall. Between September 21, 2019 and November 16, 2019, Ms. Violet provided an additional 38.75 hours of instruction for the Student. September 19, 2019 through November 4, 2019 is six weeks plus two days. Therefore, at 5 hours per week, YCSD was required to provide 32 hours of homebound services. YCSD provided 38.75. Therefore, YCSD made available all necessary homebound hours and provided the five hours of compensatory services that Dr. Gould offered on October 5, 2019.¹

The Parent's fourth and fifth assertions in the Notice of Complaint relate to scheduling. In addition to being subjective comments with which YCSD does not agree, these assertions do not state a violation of the IDEA or its implementing state or federal regulations.

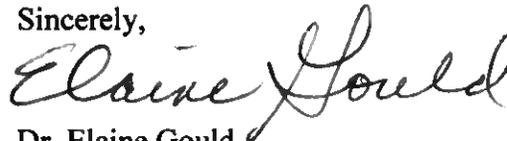
The Parent's sixth allegation is factually inaccurate. Ms. Rondinelli made available 16 hours of ESY services to the Student, for which the Parent signed the Log Sheet. The Parent's allegation that Ms. Rondinelli "cheated" on her hours is not accurate. The Parent signed the time sheet indicating the appropriate hours were made available.

The seventh and eighth allegations in the complaint assert that Ms. Turkatte's father signed the Log Sheet. These allegations are not accurate. Ms. Turkatte signed the Log Sheet for all 16 hours. Moreover, YCSD understands that Ms. Turkatte's father does not speak English, and Ms. Rondinelli did not communicate with him during the time period in which she made ESY services available to the Student.

Conclusion

For the foregoing reasons, and the reasons stated in the documentation submitted contemporaneously herewith, York County School Division respectfully requests that the Virginia Department of Education dismiss the Parent's November 12, 2019 Complaint.

Sincerely,



Dr. Elaine Gould

Director of Student Services

Accountability & Instructional Services

¹ In the event that the VDOE somehow finds YCSD in noncompliance on Issue 1, the VDOE should find that YCSD has self-corrected any areas in which the VDOE may have had concerns.