

BEFORE THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

In the Matter of Clackamas Education)
Service District North Clackamas School)
District 12)

ORDER ON RECONSIDERATION
Case No. 18-054-044

I. BACKGROUND

On or about February 12, 2019, the Oregon Department of Education (Department) received a letter requesting reconsideration/clarification of portions of Final Order 18-054-044 from the Clackamas Education Service District (CESD). On March 5, 2019, the Department received a correspondence from the Parent/Complainant (Parent) requesting reconsideration of both Final Order 18-054-044 and a previously issued Final Order 18-054-039.¹ The Department forwarded copies of each respective reconsideration request to the other parties.

The Final Order for Case No. 18-054-044 was issued on January 4, 2019. Within 60 days of the date of an order’s issuance, a party may request reconsideration of a final order. Reconsideration may be granted to review the factual basis of the order and the order’s application of the law.² Both requests for reconsideration were timely.

II. DISCUSSION

CESD’s request for reconsideration focuses on the issue of parent participation. CESD submits that it did not violate the Individuals with Disabilities Education Act (IDEA) with respect to parent participation when it established a communication plan between the Parent and CESD wherein CESD would read only one email per week with a 1,000 word limit—and that correspondence in excess of that word limit would not be considered, regardless of its content.

CESD raises three main themes in support of its communication plan. First, CESD contends that it provided the Parent with sufficient notice of Individualized Education Program (IEP) Team meetings and allowed the Parent broad latitude during those meetings to speak freely on any number of topics, including previous grievances against other programs and school personnel. Second, CESD argues that the 1,000 word weekly limit on correspondence established by CESD adequately provided the Parent with an opportunity to meaningfully participate in the Student’s educational program. Finally,

¹ The Parent sought reconsideration of both final orders 18-054-039 and 18-054-044. However, the substance of the Parent’s reconsideration request narrative focuses on issues raised in Case Number 18-054-039 and the request for reconsideration submitted by the North Clackamas School District in that matter. As such, this Order on Reconsideration addresses only the issues raised by CESD in its February 12, 2019 reconsideration request.

² OAR 581-015-2030.

CESD submits that the IDEA does not give parents license to direct volumes of abusive and inflammatory written correspondence to CESD staff without consequence.

A. Parent Participation Limited to Meetings

The IDEA requires school districts to afford parents with an opportunity to participate in meetings with respect to the identification, evaluation, and educational placement of a child with a disability.³ In passing the IDEA, Congress identified that years of research and experience demonstrate that “the education of children with disabilities can be made more effective by . . . strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home.”⁴ Critical parent-school communication takes place outside of meetings. This includes evaluation requests, input regarding Student academic progress, and sharing of off-campus events in a student’s life that can significantly impact a student’s academic performance. CESD can properly channel the Parent’s extra-meeting communications, as discussed below, but it may not confine the Parent’s involvement in the IEP process to the physical convening of an IEP team meeting.

B. The 1,000 Word Limit

CESD contends that limiting the Parent’s communication to 1,000 words per week “is adequate and does not prevent the Parent from participating in [the Student’s] educational program.”⁵ Indeed, some weeks this may be the case, and some weeks it may not. To illustrate, the Parent’s Monday November 5, 2018 complaint in this matter totaled 4,900 words. Pursuant to the strict confines of CESD’s September 7, 2018 communication plan, after receipt of the complaint, CESD either only read the first 1,000 words of the Parent’s complaint, or did not complete its review of the Parent’s complaint for at least four weeks. Either way, under the communication plan, when the Parent exercised their statutory right to file a complaint against CESD, the Parent was effectively cut off from successfully carrying out other statutory rights (e.g., submitting a written for an IEP team meeting to CESD, submitting a written request for a special education evaluation, filing another complaint, etc.) for the remainder of Monday, November 5, 2018, and the remainder of the week. Such a practice is not enshrined in nor endorsed by the IDEA.

C. Communication Plan to Protect Against Parental Abuse of Staff

Finally, CESD contends that it properly initiated the September 7, 2018 communication plan in response to emails it characterizes as demeaning, abusive, and even violent. Certainly, there are circumstances where school staff is inundated with voluminous,

³ 34 CFR § 300.501; OAR 581-015-2190.

⁴ 20 USC § 1400(c)(5)(B).

⁵ In fact, CESD’s September 7, 2018 communication plan limits the number of emails it would read to one per week, up to 1,000 words per week. A more restrictive but plausible interpretation of this plan is that CESD would not read more than one email per week from the Parent, regardless of length. The Department construes CESD’s plan as broader, allowing for 1,000 words of communication per week. Phone calls for “short and time-sensitive” matters were permitted, but not “to address points of school programming”

irrelevant, and, abusive communications from parents. In such circumstances, a school district may channel parent communications. But such channeling must preserve a parent's right to participate meaningfully in their child's educational program. It has been found permissive for a school district to limit parent communications "relating to IEP changes, curriculum, and implementation" to one email per week, directed to one designated school employee, who would respond within three school days.⁶ The Department does not endorse this particular communication plan, but rather offers it to illustrate the potential for balance between protecting staff while leaving parents with the ongoing ability to timely and completely exercise their rights under IDEA.

III. CONCLUSION

The Department has complied with IDEA's regulations for special education investigations and general supervision requirements in addition to the State's defined investigative procedures for IDEA complaints, which are set forth in OAR 581-015-2030. As such, the Department affirms the Final Order noted above and declines to issue an amended order.

Dated this 9th Day of April 2019

Candace Pelt, Ed.D.

Candace Pelt, Ed.D.
Assistant Superintendent
Office of Student Services

Mailing Date: April 9, 2019

Appeal Rights: Parties may seek judicial review of this Order. Judicial review may be obtained by filing a petition for review within sixty days from the service of this Order with the Marion County Circuit Court or with the Circuit Court for the County in which the party seeking judicial review resides. Judicial review is pursuant to the provisions of ORS § 183.484. (OAR 581-015-2030 (14).)

⁶ *Forest Grove Sch. Dist. v. Student*, 2018 U.S. Dist. LEXIS 201075, *20.