



State of Arizona
Department of Education

- Rowe -
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OCT 18 2011

October 17, 2011

Mr. Kelvin Strozier, Administrator
Arizona Academy of Leadership, Inc.
5660 S. 12th Avenue
Tucson, AZ 85706

RE: Arizona Academy of Leadership, Inc.: Reference Number 2260

Dear Mr. Strozier:

On August 18, 2011, our office received a formal state administrative complaint from Ms. Kirsten Conroy, *et al.* (Complainants), alleging that Arizona Academy of Leadership, Inc. (School) is in noncompliance in special education matters relating to various special education students (Students). As required by 34 C.F.R. §§ 300.151-300.153 and the Arizona Administrative Code R7-2-405.01, our office conducted an investigation into this matter. This investigation included contact with the following: Ms. Kirsten Conroy, Complainant; Ms. Meri Visnic-Greco, Complainant; Ms. Jennifer Chambers (formerly Harmon), Complainant; Ms. Tonya Strozier, your president; Ms. Michele Felix, your principal; Ms. Amy Peck, your special education teacher; Ms. Erica McClain, your special education technician, Mrs. Carol Veninga, parent; Mr. and Mrs. Fabian Gomez; parents; Ms. Alicia Tapia-Cramer, parent; Mr. Matthew Horton, parent; and Ms. Mary Finley, your contracted speech language pathologist. In addition, the Students' records maintained by your school were reviewed, as were documents provided by the Complainants.

Enclosed please find our Letter of Findings in this matter. In accordance with 34 C.F.R. § 300.152(a), this written decision addresses each allegation in the complaint and includes our findings of fact, conclusions of law, and the reasons for our final decision. A copy of the Letter of Findings has also been sent to the Complainants.

We appreciated the cooperation of your staff during this process. Please do not hesitate to contact the Arizona Department of Education/Exceptional Student Services (ADE/ESS) Education Program Specialist assigned to your School, or me, if our office can be of further assistance to you. If you have any questions regarding the corrective action, please contact Shannon Chavez, the Corrective Action Compliance Monitor at 602-364-2447.

Sincerely,

Leanna DeKing
Complaint Investigator
ADE/Dispute Resolution
Phone: 602-542-1109
Fax: 602-364-0641

Charmaine Scott
Complaint Investigator
ADE/Dispute Resolution
Phone: 602-542-1109
Fax: 602-364-0641

Kacey Gregson
Director of Dispute Resolution
Phone: 602-364-4011
Fax: 602-364-0641

cc: Ms. Michele Felix, Special Education Director, Arizona Academy of Leadership, Inc.
Ms. DeAnna Rowe, Executive Director, Arizona State Board for Charter Schools
ADE File

ec: Travis Sherbourne, Education Program Specialist, Exceptional Student Services, ADE

Complainants: Kristen Conroy, *et al.*
Public Education Agency: Arizona Academy of Leadership, Inc.
Reference Number: 2260
Investigators: Leanna DeKing and Charmaine Scott
Date Issued: October 17, 2011

LETTER OF FINDINGS

Introduction

Several former teachers from the School (referred to in this Letter of Findings collectively as (Complainants) filed a complaint on behalf of all special education students that attended the School for the 2010–2011 school year. The investigators conducted a two-day site visit and reviewed 41 total student files. Throughout this Letter of Findings, the students are generally referred to collectively as “Students,” but are sometimes referred to individually as “Student A” through “Student FF.”

Issues and Findings

1. Whether the School met its Child Find obligation during the 2010–2011 school year.

The Complainants allege that the School failed to identify, locate, and evaluate students suspected of having a disability during the 2010–2011 school year. More specifically, the Complainants allege the School ignored general education teachers’ concerns, documented on 45-day screening forms, regarding numerous students. The Complainants allege that instead of following up on documented concerns, the School had a policy or practice of ignoring the information, refusing to conduct evaluations, and choosing to simply “monitor” the students.

The Individuals with Disabilities Education Act (IDEA) and its implementing regulations require that all children with disabilities who are in need of special education and related services, regardless of the severity of their disability, are identified, located, and evaluated. [20 U.S.C. § 1412(a)(3); 34 C.F.R. § 300.111(a)] Arizona State Board of Education rules state that identification (screening for possible disabilities) shall be completed within 45 calendar days after “entry of each preschool or kindergarten student, or any student enrolling without appropriate records of screening, evaluation, and progress in school; or notification to the [school] by parents of concerns regarding developmental or educational progress by their child aged 3 years through 21 years.” [A.A.C. R7–2–401(D)(5)] For a student transferring into the school, the school is required to review enrollment data and educational performance in the previous school and if there is a history of special education for a student not currently eligible, or a history of poor progress, the student’s name must be submitted to a school administrator for a determination if the student needs to be referred for a full and individual evaluation. [A.A.C. R7–2–401(D)(7)] “If a concern about a student is identified through screening procedures or through review of records, the public education agency shall notify the parents of the student of the concern within 10 school days and inform them of the public education agency procedures to follow-up on the student’s needs.” [A.A.C. R7–2–401(D)(8)]

The School denies that it failed to act on concerns noted on the 45-day screenings, and maintains that students with noted concerns were monitored appropriately throughout the year. Ms. Erica McClain, special education technician, explained to these investigators that students were generally monitored for at least a year prior to consideration for an evaluation.

45-day screening forms for all students with noted concerns in the 2010-2011 school year were reviewed by these investigators. Additionally, these investigators also reviewed student forms from the previous school year that noted continuing concerns in the 2010-2011 school year, but where no evaluation for special education services was in process.

The following examples are representative of the 45-day screening forms reviewed throughout this investigation:

- The 45-day screening form for **Student R**, dated September 16, 2011, indicates that the Student was displaying internalizing behaviors as well as difficulty acquiring information, learning very slowly compared to peers, and was below grade level in reading, writing, and math. One of the Complainants, a general education teacher, alerted Ms. McClain on October 18, 2010, that Student R was failing reading, writing, and math. On October 27, 2010, Ms. McClain wrote on the 45-day screening form, "Will continue to monitor, student seems to have home issues will revisit in December."
- The 45-day screening form for **Student S** notes problems on September 16, 2010, in cognitive, academic, motor and communication domains. One of the Complainants, a general education teacher, alerted staff of concerns regarding Student's speech; specifically concerns with a lisp and articulation. Staff informed the Complainant that they felt the Student's difficulty was due to his English Language Learner status. The School did not follow-up on the speech concerns and no progress monitoring was noted.
- The 45-day screening form for **Student T**, dated September 24, 2010, noted that the student was below grade level in reading. On January 12, 2011, one of the Complainants, a general education teacher, alerted staff of continued serious concerns regarding Student T appearing to have a severe language delay, auditory processing issues, and reading, writing, and speaking issues. There is no documented evidence that any follow-up, interventions, screenings, or evaluations were initiated for this Student. On May 26, 2011, Ms. McClain noted on the 45-day screening form, "[Student T] is still struggling with reading. [Student T] has begun enunciating words incorrectly. We will continue to monitor next year."
- The 45-day screening form for **Student U**, dated September 16, 2010, noted concerns with attention difficulties. One of the Complainants, a general education teacher, alerted staff of her continued concerns for Student U in January 2011 and again in May 2011. This Complainant reports that she was told by Ms. Michele Felix, principal/special education director that the parent would need to get an evaluation for Student U on her own. Notes on 45-day screening form evidence awareness of an ongoing concern. On December 15, 2010, Ms. McClain wrote, "In January will schedule a classroom observation." On January 28, 2011, Ms. McClain wrote, "[Student U] is still exhibiting behaviors. The team will do a classroom observation March 3, 2011." Ms. McClain followed up with a note on March 11, 2011, "Mom will be contacting pediatrician to see about evaluating [Student U]." The end of year notation on May 26, 2011 by Ms. McClain indicates, "[Student U] is still exhibiting behaviors. At the beginning of the school year we will check back with mom."
- **Student V**, a 7th grade student, was originally screened upon enrollment in 2007. One of the Complainants, a general education teacher, reported continuing concerns on Student V during the 2010-2011 school year. The School allegedly told this Complainant that Student V would not be evaluated despite concerns because she had been previously evaluated and found not eligible for special education services. The Student's file reveals that she was last evaluated five years earlier when she was in 2nd grade.

- The 45-day screening form for **Student W**, dated September 16, 2010, noted the following concerns: "learns slowly compared to peers; attention problems; below grade level in reading, writing, and math; difficulty acquiring and retaining information; poor social skills; poor ability to understand directions, communicate needs and express ideas; and lack of school coping behaviors." Ms. McClain noted on January 27, 2011, "After reviewing records we feel it is more behavioral than academic." One of the Complainants, a general education teacher, alerted staff on October 18, 2010, of concerns that Student W was failing reading, writing, and math. The Complainant further evidenced her concerns with specific examples of the Student's behavior that she felt were affecting the Student's academic success. There is no evidence that the School followed-up on these concerns.
- **Student AA's** file included noted concerns that he was below grade level in core academic areas, that he displayed internalizing behavior, that he was learning very slowly compared to peers, and had difficulty acquiring information. One of the Complainants, a general education teacher, reports that she discussed with Student AA's parent the need for an evaluation for special education services and the parent agreed that an evaluation should be initiated. An interview with the parent confirms that this conversation took place. The Complainant reports that Ms. Felix, principal, berated her for talking to the parent about the special education process and suggesting an evaluation be completed. The parent reports that she repeatedly asked the School administration to evaluate her son and was repeatedly turned down. No documentation of follow-up, screenings, interventions, or evaluations was found in the student's file. Notations by Ms. McClain on 45-day screening form on October 27, 2010 and January 28, 2011 state, "will continue to monitor." Her final notation on May 26, 2011 states, "[Student AA] continues to show behavioral and academic issues. We will continue to monitor him next year and determine if further testing needs to take place."
- The 45-day screening form for **Student BB**, dated January 7, 2011, notes concerns in all areas with the exception of vision and hearing. There is no documentation of follow-up throughout year. A notation by Ms. McClain dated May 26, 2011 on the form states, "We will continue to monitor [Student BB] next school year."
- The 45-day screening form for **Student CC**, dated October 30, 2009, notes extensive concerns in all areas with the exception of vision. There is no documentation evidencing any type of follow-up. Notations on March 26, 2010 and October 21, 2010, indicate that the School is still monitoring the student. No follow-up was initiated despite noted concerns during the entire 2009-2010 school year and continuing six months into the 2010-2011 school year.
- The 45-day screening form for **Student DD**, dated September 24, 2010, notes difficulties with attention span, learning very slowly compared to peers, below grade level in reading, writing and math and difficulty acquiring, retaining, recalling or manipulating information. Notation on October 21, 2010 states, "Student DD shows minimal improvement. Will revisit in January."
- The 45-day screening form for **Student EE** noted concerns identified throughout the 2009-2010 school year. Concerns continued to be noted throughout the 2010-2011 school year. Notation on September 10, 2009 states the School "will continue to monitor." Student was referred to Title I after school tutoring on October 21, 2010. A year-end notation on May 26, 2011, notes that Student EE would continue to be monitored in the next school year.
- The 45-day screening form for **Student FF**, dated September 16, 2010, noted behavioral concerns. Notations by Ms. McClain that Student FF would continue to be monitored were dated September 16, 2010, October 21, 2010, January 28, 2011, and May 26, 2011. The final notation of the 2010-2011 school year stated, "[Student FF] is continuing to have behavioral issues, we will continue to monitor him next year."

Although each 45-day screening form reflects concerns about each of the Students, and in some cases, the concerns of general education staff are noted repeatedly, there is no evidence that the School followed-up on any of the concerns. Instead, there is overwhelming evidence that the School had a policy or practice of simply "monitoring" the Students year after year. Indeed, Ms. McClain acknowledged that the School routinely monitors students for a year before considering a referral for a special education evaluation. Moreover, in all of the files reviewed, parents were either notified of noted academic and/or behavioral concerns well beyond the 10-day timeline, or were not notified at all. These investigators found overwhelming evidence of a systemic failure on the part of the School to identify, locate, and evaluate children with disabilities who are in need of special education and related services. Based on the foregoing, the School is in noncompliance regarding this issue.

2. Whether the School ensured parental participation when conducting individualized education program (IEP) team and/or multidisciplinary evaluation team (MET) meetings.

The Complainants allege that the School routinely conducted IEP and/or MET meetings without parent participation.

The regulations that implement the IDEA require schools to "take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place." [34 C.F.R. § 300.322(a)(1)-(2)] If a school is unable to convince a parent to attend, it can conduct an IEP meeting without parental participation, but some procedural requirements apply. [34 C.F.R. § 300.322(d)] In this instance a school must keep a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits. [*Id.* at subsection (d)(1)-(3)] The IDEA does not require the school to schedule an IEP meeting outside regular school hours to accommodate parents or their experts. [*Letter to Thomas*, 51 IDELR 224 (OSEP 2008)] However, "[i]f neither parent can attend an IEP team meeting, the [school] must use other methods to ensure parent participation, including individual or conference telephone calls." [34 C.F.R. § 300.322(c)]

Of the 18 files reviewed for this specific issue, none included documentation of phone calls, correspondence, or visits to parents' home, or work, to arrange a mutually agreed on time and place for meetings to be held. The investigators' review of files revealed the following type of documentation:

- **Student A's** file includes a meeting notice dated just two days prior to the IEP meeting scheduled for June 3, 2011. A handwritten note on the bottom of IEP cover page indicates, "Mom changed phone number and never showed up to meetings twice. We had this meeting w/o her."
- **Student F's** file includes a signature page for both an October 7, 2010 MET and IEP meeting where all participants, with the exception of the parent, signed the attendance sheet. The parent's signature appears on both documents, but is dated three months later on January 12, 2011. In an interview with these investigators, Student F's parent explained that she was not asked to attend the October 7, 2010 meetings and that the first time she was asked to attend any meeting was on January 12, 2011, at which point she signed the documents. The parent reports that the only other team members in attendance were Ms. Felix, principal/special education director, and Ms. McClain. Student F's June 6, 2011 IEP team meeting was also held without the parent.

The meeting notice, dated just three days prior to meeting, includes a handwritten note in the space reserved for a parent signature on the IEP cover page stating, "parents [*sic*] going out of town said to have meeting w/o her." In an interview with these investigators, the parent denies this statement and reports that Ms. McClain called on June 3 and told her to be at the meeting scheduled for Monday, June 6. The parent explained to these investigators that, during that phone conversation, she told Ms. McClain that the June 6 meeting would not work as the family was going to be out of town and requested that the meeting be rescheduled when they returned. The parent reports that she would never ask the School to hold a meeting without her in attendance.

- **Student I's** file does not include documentation of a meeting notice for a September 2, 2011 meeting. A handwritten note on the bottom of the IEP cover page states, "Parents did not show-up to meeting, we had the meeting to stay in compliance." A second notation underneath the first states, "Parent came in 12/9/10 to go over IEP." Parents' signatures are dated December 9, 2010, while the rest of the participants' signatures are dated September 2, 2010. The file does not include documentation of the School's attempts to include the Student's parent in the September 2, 2010 meeting. Student I's annual IEP meeting for the current school year was held on September 2, 2011. This meeting was also held without the parents in attendance and no meeting notice is evidenced in file.
- **Student N's** file includes a meeting notice for a March 4, 2011 IEP team meeting dated two days prior to the scheduled meeting. A handwritten note in the space designated for a parent signature on the IEP cover page states, "parent did not show-up to meeting, had meeting to stay in compliance." In an interview with these investigators, the parent reported that she was never notified of any scheduled IEP meeting. Parent further reports that she left multiple messages for the School inquiring into the status of Student N's services and IEP, and never received a return phone call.
- **Student O's** file included a meeting notice dated June 3, 2011, for a meeting to be held three days later on June 6, 2011. No parent was in attendance for this IEP meeting. A handwritten note in the space designated for parent signature on the IEP cover page states, "parents [*sic*] going out of town said to have meeting w/o her."
- **Student Q's** file includes a signature page for both an October 7, 2010 MET and IEP meeting where all participants, with the exception of the parent, signed on the meeting date. The parent's signature appears on both documents, but is dated three months later on January 12, 2011. In an interview with these investigators, Student Q's parent explained that she was not asked to attend the October 7, 2010 meetings and that the first time she was asked to attend any meeting was on January 12, 2011, at which point she signed the documents. Student Q's parent reports that the only other team members in attendance were Ms. Felix and Ms. McClain. Student Q's June 6, 2011 IEP team meeting was also held without the parent. The meeting notice, dated just three days prior to meeting, includes a handwritten note in the space designated for parent signature on IEP cover page which states, "parents [*sic*] going out of town said to have meeting w/o her." In an interview with these investigators, the parent denied this statement and reports that Ms. McClain called on June 3 and told her to be at the meeting scheduled for Monday, June 6. During that phone conversation, the parent explained to these investigators that she told Ms. McClain that the June 6 meeting would not work as the family was going to be out of town and requested that the meeting be rescheduled when they returned.

The above examples are representative of what these investigators found throughout the Students files reviewed during the course of this investigation. These investigators found overwhelming evidence of a systemic failure on the part of the School to ensure parental participation in meetings concerning the identification, evaluation, educational placement, and provision of a free appropriate public education (FAPE) to their children, as required by the federal regulations that implement the IDEA. [See 34 C.F.R. § 300.501(b)]

Specifically, these investigators find that MET and/or IEP team meetings were routinely held without a parent in attendance and where meetings were held without parental participation, there was no documented evidence of the School's attempts to arrange a mutually agreed on time and place to hold the meetings. Based on the foregoing, the School is in noncompliance regarding this issue.

3. Whether the School included the required participants in IEP and/or MET meetings.

The Complainants allege that the School held IEP and MET meetings without all the required participants. Complainants specifically allege that, in addition to no parent being in attendance, many IEP and/or MET meetings did not include a regular education teacher. Additionally, during the course of the investigation, these investigators discovered that a special education teacher of the child was not present for any of the IEP or MET meetings throughout the 2010–2011 school year, although the signature of a special education teacher appears on the IEP/MET paperwork, suggesting that she was, in fact, present at the meetings.

These investigators reviewed 18 special education student files for investigation of this particular issue from 2010–2011 school year and all 18 files revealed that meetings were held without required participants. No special education teacher or individual qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities was present for any of the 18 IEP meetings. Seven of the 18 IEP meetings were held without a general education teacher in attendance. In six of those IEP meetings, the principal signed in place of the general education teacher. There was no parent present for seven of the 18 IEP meetings. None of the MET meetings held by the School included a special education teacher, seven out of 10 MET meetings did not include a general education teacher, and two out of 10 MET meetings did not include a parent. One MET meeting was held with only the parent and the School principal present.

The School reports that the certified special education teacher who signed the documents drafted the IEPs and MET reports, consulted with the special education technician, and was available by phone to consult with the general education teachers. In an interview with these investigators, Ms. Amy Peck, itinerant certified special education teacher for the School, clearly stated that she did not actually attend any of the IEP or MET team meetings. She acknowledged that she drafted the documents based on input from staff at the School but never met any of the Students nor did she ever visit the School.

When assembling an IEP team, a school is required by the federal regulations that implement the IDEA to include, at a minimum, a regular education teacher *of the child*, a special education teacher *of the child*, the parent(s), an agency representative who has the authority to commit resources, someone to explain evaluation results, and, when appropriate, the child. [34 C.F.R. § 300.321] However, IEP meetings can be conducted without all the required members being in attendance, but there are specific procedural requirements.

A required participant can be excused "in whole or in part, if the parent of a child with a disability and the [school] agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting." [34 C.F.R. § 300.321(e)(1)] If the required member's area *is* being discussed, then the member can be excused if the school and the parent consent to the excusal, in writing, and if the required member submits, "in writing to the parent and the IEP team, input into the development of the IEP prior to the meeting." [*Id.* at subsection (e)(2)] "The [IDEA] does not specify how far in advance of an IEP Team meeting a parent must be notified of an agency's request to excuse a member from attending an IEP Team meeting or when the parent and [the school] must sign a written agreement or provide consent to excuse an IEP Team member." [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart A-General, *Federal Register*, Vol. 71, No. 156, p. 46676 (August 2006)]

Although the commentary to the IDEA regulations anticipates the excusal of a required IEP team participant when this is known prior to the convening of an IEP team meeting, the regulations specifically address "in whole or in part," therefore indicating that written consent is also required when circumstances arise during a meeting that necessitate a required IEP team participant to leave prior to the conclusion of the meeting.

These investigators found no evidence in the School's documentation that there was a discussion of, approval of, or consent for an excusal for any of the required team members. The IDEA states that not less than one special education teacher *of the child* is a required participant at an IEP or MET meeting. Because no special education teacher *of the child* was actually present at any of the IEP or MET meetings, and because various other required team members were frequently absent from IEP and/or MET meetings, the School is in noncompliance regarding this issue.

4. Whether changes to Students' IEPs were made outside of a legally comprised IEP team.

The Complainants allege that the School unilaterally reduced the amount and/or type of services set forth in Students' IEPs, outside of a properly convened IEP team. Specifically, the Complainants allege that the School made decisions to reduce or remove services and/or supports without parental knowledge or input solely for administrative and/or financial reasons so the School could reduce its expenses.

The School denies the allegation, explaining that although Students' IEPs were sometimes revised outside of an IEP team meeting, which is permissible under certain specified circumstances, such changes were always made with parental participation.

The federal regulations that implement the IDEA define an IEP as a written statement for each child with a disability that is developed, reviewed, and revised in a legally comprised IEP team meeting. [34 C.F.R. § 300.320(a)] Schools "must take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate, including notifying parents of the meeting early enough to ensure that they will have an opportunity to attend; and scheduling the meeting at a mutually agreed on time and place." [34 C.F.R. § 300.322(a)(1)-(2)]

In reviewing the files of the School's special education students, these investigators discovered four instances where eligibility determinations were changed and/or special education and related services were decreased or removed altogether from these Students' IEPs outside of a legally comprised IEP team and without parental participation:

- Upon enrollment at the School on August 9, 2010, **Student F** was eligible for special education services as a student with a mild cognitive impairment, a speech and language impairment, and a hearing impairment.¹ Student F's eligibility under the category of hearing impairment (HI) was removed at an October 7, 2010 MET meeting without explanation. The parents were not in attendance at this MET meeting and when they learned of the change in the Student's eligibility made unilaterally by the School (which resulted in the removal of HI services) they voiced their concern to the School that they were strongly opposed to both the change in eligibility and the removal of related services.² In an interview with these investigators, the parent explained that the School told her that the reason the services were being removed was because the School could not afford to provide them.

¹It is noteworthy that "Moderate Cognitive Impairment" is not an actual category of eligibility. These investigators presume the School means "Moderate Mental Retardation," which has recently been renamed "Moderate Intellectual Disability" in accordance with Rosa's Law, signed into law on October 5, 2010.

²HI listening services provided by an HI teacher for 160 minutes/month and 1:1 paraeducator support for writing one hour per day were both removed.

Additionally, Student F's IEP, developed on March 11, 2010, by his previous school, stated that Student F "will use an FM System for all classes daily."³ The Student's IEP was revised in an October 7, 2010 meeting and the FM System (an audiological assistive technology amplification device) was removed. When Ms. McClain was questioned as to why the FM System was not included in the Student's October 7, 2010 IEP written by the School, she responded that they did not know what an FM System was so they left it off. The Student's October 7, 2010 IEP team meeting was held without the parent's knowledge or participation.

- **Student I** enrolled at the School with a current IEP, which included OT services and Life Skills/Functional Skills services. When the School reviewed and revised Student I's IEP on September 2, 2010 at a meeting held without parental participation, OT and Life Skills/Functional Skills services were removed from the IEP. A handwritten note on the bottom of the IEP cover page states, "Parents did not show-up to meeting, we had the meeting to stay in compliance." A second notation underneath the first states, "Parent came in 12/9/10 to go over IEP." The parents' signatures are dated December 9, 2010 while the rest of participants' signatures are dated September 2, 2010. Student I's annual IEP meeting for the current school year was held on September 2, 2011, and the Student's services in reading were reduced from 90 minutes per week to 60 minutes per week. This meeting was held without parental participation.
- **Student O** had an IEP dated October 12, 2010, that included an unspecified number of minutes of OT services that were to be provided in the classroom/resource room by regular education staff/special education staff. The OT services were removed from the Student's IEP at a June 6, 2011 IEP meeting, held without parental participation.
- **Student Q's** September 21, 2010 IEP included 60 minutes per week each in reading, writing, math, and speech. In October 2010, the School held a MET meeting and an IEP meeting. The meeting notice in the Student's file, dated October 15, 2010, states the purpose of the meeting was "Reevaluation Data." There is no indication that this meeting notice was provided to the Student's parent and, in an interview with these investigators, the parent denies knowledge of this meeting. At the October 2010 meeting, Student Q's service minutes in all four areas were reduced from 60 minutes per week to 10 minutes per week. Parent did not learn of this reduction in service until January 12, 2011, at which time she voiced her concern and disagreement.

The federal regulations that implement the IDEA do allow schools to conduct an IEP meeting without the parent in attendance if the school is unable to convince a parent to attend. [34 C.F.R. § 300.322(d)] However, in this instance a school must keep a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls made or attempted and the results of those calls, copies of correspondence sent to the parents and any responses received, and detailed records of visits made to the parent's home or place of employment and the results of those visits. [*Id.* at subsection (d)(1)-(3)] In the four examples above, the School held IEP meetings and made significant changes to the students' IEPs without the parents in attendance. None of the files included documentation of the School's efforts to convince the parents to attend. Instead, it appears that the parents were not even notified of the meetings. Consequently, these investigators find that the School made changes to the above-noted Students' IEPs outside of a legally comprised IEP team meeting and it is, therefore, in noncompliance regarding this issue.

³A student's IEP team must consider the communication needs of the child and whether the child needs AT devices/services. The federal regulations, at § 300.6(a) through (f), explain the breadth of services required of schools as they provide for the acquisition of assistive technology devices for children with disabilities, including: the selecting, customizing, adapting, maintaining, repairing, or replacing AT devices; training or technical assistance for a child with a disability or, if appropriate, that child's family; and training or technical assistance for professionals who provide services to the child. The United States Department of Education/Office of Special Education Programs (OSEP) has stated that decisions about AT must be made by a student's IEP team on a case-by-case basis, and the specific equipment must be included in the student's IEP. [*Letter to Anonymous*, 24 IDELR 854 (OSEP 1996)]

5. Whether the present levels of academic achievement and functional performance sections of the Students' IEPs in place for the 2010–2011 school year comply with the regulations that implement the IDEA.

The Complainants allege generally that the School did not write compliant IEPs. Specifically, the Complainants allege that students' IEPs did not include current individualized statements of the students' present levels of academic achievement and functional performance (PLAAFP). These investigators reviewed 41 IEPs and discovered significant deficiencies in several areas.

The federal regulations that implement the IDEA require that the IEP of each child with a disability include, among other things, a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum. [34 C.F.R. § 300.320(a)(1)]

The PLAAFP section of a significant number of the IEPs reviewed, during the course of this investigation, did not include relevant details of how the student's disability affected his or her involvement and progress in the general education curriculum. The extent of the general education teachers input and contributions into the development of the PLAAFPs was limited to their brief responses on a questionnaire emailed to them by Ms. McClain. Because the School had no certified special education teacher, input from the special education teacher of the child was not found in any of the Students' IEPs. There is no evidence that current student observations were part of the PLAAFP section of any student's IEP; instead, most IEPs included student information cut and pasted from the student's last evaluation, without regard to the amount of time that had passed since that evaluation had been conducted. The following examples are reflective of the deficiencies noted by these investigators:

- Observation information included in **Student P's** January 10, 2011 IEP was taken directly from the student's February 9, 2009 MET report. This information was not current or representative of the student's present levels of academic achievement or functional performance, but was, instead outdated historical information.
- The present levels in **Student I's** September 2, 2011 IEP includes the following statement, "[Student I] is in the 5th grade at Campo Verde Elementary School. He receives Occupational Therapy. He is in the Life skills class (special education) for approximately 2 hours in the morning and an hour in the afternoon for his academics." Student I is currently a 7th grade student at the School and, therefore, information purporting to be current is actually two years old – when the Student attended a different school. It is important to note that the September 2, 2011 IEP does not have Student I placed in a Life Skills class, nor does it include OT. Also included in the IEP is information provided by the parent, "A new social and developmental history form was given to the parents to complete, they turned it in on 3/4/2009." Clearly this information is outdated and suggests that no current parent information was obtained.
- **Student A's** IEP explains how her progress in the general curriculum is affected by her disability in the following statement, "[Student A's] progress in the general curriculum is greatly affected. She has started missing a lot of school. She tends to only show up for school three or four days out of the week. She is unable to comprehend sixth grade science. Basic sixth grade written directions are very hard for her to read and understand." Student A is eligible to receive special education services under the category of specific learning disability in the areas of math, reading, and writing. The statement of how her disability impacts her involvement and progress in the general education curriculum does not identify specifically how the Student is affected in her areas of disability.

That is, there is no mention of reading, math, or writing, only science and written directions.⁴

- **Student C's** PLAAFP includes the following statement: "The student's progress at [*sic*] a sixth grade level. In the general curriculum she is right at target." If this statement is accurate, it would appear that the Student's disability does *not* affect her involvement and progress in the general education curriculum, which calls into question her eligibility to receive special education and related services under the IDEA.
- The section of the PLAAFP entitled, "cognitive" for **Student G** includes the following statement: "Cognitively he has enormous difficulty with his memory and my guess would be he is ADHD." The "behavioral section" comment reads, "Behaviorally he demonstrates typical behaviors for an ADHD student and having him run errands helps." These statements neither outline the Student's present levels of academic achievement and functional performance, nor how his disability affects his involvement and progress in the general education curriculum.

These investigators discovered widespread evidence that the PLAAFP section of a majority of Students' IEPs were not written in accordance with the regulations that implement the IDEA. Specifically, numerous IEPs include outdated student information in the section that is supposed to describe where the student is *currently* performing, both academically and functionally. Additionally, a majority of the IEPs do not include accurate information about how the student's disability affects his or her involvement and progress in the general education curriculum. Based on the foregoing, the School is in noncompliance regarding this issue.

6. Whether Students' IEPs include measurable annual goals.

The Complainants allege that the School created goals for the Students' IEPs that were not reflective of their current needs, and that goals were written without data or goal-specific input from the students' general education teachers. These investigators reviewed a total of 41 IEPs and discovered widespread evidence of goals that were not measurable. Furthermore, this investigation revealed that the students' IEP goals are not developed on the basis of appropriate testing, data, or student need and are written by Ms. McClain, a paraprofessional, and Ms. Peck, an itinerant special education teacher who, by her own acknowledgement, has no direct knowledge of the students and has never even been on the School campus.

The federal regulations that implement the IDEA require that each student's IEP contain, among other things, a statement of measurable annual goals, including academic and functional goals that are designed to meet the child's needs that result from the disability, and that enable the child to be involved in and make progress in the general education curriculum. [34 C.F.R. § 300.320(a)(2)] The IEP must also include "a statement of the special education and related services and supplementary aids and services . . . that will be provided to enable the child to advance appropriately toward attaining the annual goals, and to be involved in and make progress in the general education curriculum" and a description of how the child's progress toward meeting the annual goals will be measured. [34 C.F.R. § 300.320(a)(3)and(4)]

The Arizona Department of Education/Exceptional Student Services (ADE/ESS) publishes an annual guide for schools so that they have information about how to construct IEPs that meet federal and state requirements. This document provides the following guidance in regard to annual measurable goals: "[T]o determine if there are annual goals that are measurable and that reflect student needs, baseline measurement must be documented either in the PLAAFP or in the goal statement for progress toward the goal to be measurable.

⁴These investigators were also quite concerned to read, in the accommodations section of the IEP, that the Student's curriculum has been "modified to a 2nd grade level." Ms. McClain explained to the investigators that all students were given curriculum and instructional materials at their current ability level, not at their grade level. For example, Student A, was given 2nd grade curriculum and instructional materials, not modification of her sixth grade curriculum. When asked where Ms. McClain obtained the instructional materials she responded that she found most of it on the internet.

Both the measurability AND means to measure progress MUST be evident for this line item to be in compliance." [Arizona Monitoring System Manual 2011-2012, p. D23]

The following examples are representative of goal statements found in all of the School's 2010-2011 IEPs:

- **Student Q Goal Statement:** *"By June 2012, Student Q will maintain between a 70%-80% grade level average in reading, writing and math as measured through Student Q's report card. Progress will be measured quarterly and reported to parents at the end of each grading period."*
Baseline Data: No baseline data noted in goal or PLAAFP. Goal statement generalized, not related to specific curricular areas, and is not targeted to student specific need.
- **Student L Goal Statement:** *"By April 2012, [Student L] will be able to describe appropriate behaviors for different settings 8 out of 10 trials correctly. Progress will be measured quarterly and reported to parents at the end of each grading period."*
Baseline Data: No baseline data noted. Goal does not appear consistent with information in PLAAFP, which reads, "[Student L] is often used in class as a great model of student behavior. He is very attentive and follows classroom rules very well." There is no information in the Student's IEP that notes any current inappropriate behavioral concerns and, therefore, the goal does not appear to be reflective of Student's current needs.
- **Student O Goal Statement:** *"By June 2012, Student O will write sentences with proper spacing and consistent sizing of letter. Progress will be measured quarterly and reported to parents at the end of each grading period."*
Baseline Data: No baseline data noted in goal or PLAAFP. Goal does not have measureable components written into the goal statement, making it impossible to measure progress.
- **Student N Goal Statement:** *"By March 2012, given the general education curriculum, Student N given instruction in reading comprehension strategies; such as drawing conclusions, summarizing, making predictions, or identifying cause and effect; will be able to answer 3 out of 4 reading comprehension questions. Progress will be measured quarterly and reported to parents at the end of each grading period."*
Baseline Data: No baseline data noted in goal or PLAAFP. Goal is general and non-specific. Additionally the goal fails to delineate that the reading comprehension questions need be answered correctly, not just answered.

As stated above, these investigators reviewed the files for all special education students attending the School for the 2010-2011 school year. There is abundant evidence in Students' IEPs of goals that are not measurable. Specifically, these investigators noted that goals frequently have no baseline data either in the goal statement itself or in the PLAAFP, goals are often written in a manner that would not allow progress toward that goal to be measured in any meaningful way, and goals are often not reflective of the student's needs. Based on the foregoing, the School is in noncompliance regarding this issue.

7. Whether the Students were taught by a certified special education teacher during the 2010-2011 school year.

The Complainants allege that the School failed to provide the Students with a highly qualified special education teacher during the 2010-2011 school year. The Complainants further contend that the School allowed a paraprofessional to provide special education services in violation of federal and state law.

It is undisputed that a paraprofessional, Ms. Erica McClain, was serving as the sole provider of special education services for all students in the academic areas of reading, writing, and math. Ms. McClain reports that she provided occupational therapy (OT) services for Student F, Student I, and Student O.⁵

Arizona State Board of Education rules require that the IEP of each student with a disability "shall stipulate the provision of instructional or support services by a special education teacher, certified speech/language therapist, and/or ancillary service provider(s), as appropriate." [A.A.C. R7-2-401(G)(4)] Special education teacher is defined as "a teacher holding a special education certificate from the Arizona Department of Education." [A.A.C. R7-2-401(B)(25)]

As a general rule, individuals providing educational services to children with disabilities in public schools must be appropriately and adequately prepared and trained, and they must have content knowledge and skills to serve students with disabilities. [34 C.F.R. § 300.156(a)] The federal regulations allow paraprofessionals who are appropriately trained and supervised to be used to assist in providing special education and related services to children with disabilities. [34 C.F.R. § 300.156(b)(2)(iii)] The discussion to this federal regulation further clarifies that paraprofessionals should not be used as replacements for teachers and should not be directly responsible for providing special education and/or related services. [34 C.F.R. Part 300, Analysis of Comments and Changes, Subpart A - General, *Federal Register*, p. 46612] Paraprofessionals should provide special education or related services only under the supervision of special education and related services personnel. [*Id.*]

Although the School acknowledges that it did not have a certified special education teacher provide direct services to the Students during the 2010-2011 school year, it asserts that there was a certified special education teacher available on an itinerant basis to consult with the paraprofessional providing services, as well as the general education teachers.

Ms. Peck, the certified special education teacher for the School lives and works in the Phoenix metro area where she provides special education services at Sun Valley Charter School (SVCS).⁶ Ms. Peck explained to these investigators that in August 2010, the owner of SVCS asked if she would write IEPs for the School, as well as for SVCS, and Ms. Peck agreed. Ms. Peck affirms that she has never visited the School campus, has never met any of the School's special education students or staff, and has never attended any of the School's IEP or MET meetings. Ms. Peck merely consulted with the special education technician, Ms. McClain, via email and phone and also drafted the IEP and MET documents.

Special education is, by definition, different from the instruction that is provided to regular education students by general education teachers, and is not merely the provision of accommodations or academic support by general education teachers and/or paraprofessionals. There is overwhelming evidence that the Students at the School were provided specialized instruction in all subject areas by a paraprofessional, Ms. McClain, rather than by appropriately qualified and/or appropriately supervised staff. There is no evidence that the paraprofessional providing the services to the students was doing so under the direction or supervision of the special education teacher. Indeed, Ms. McClain told these investigators that she had to provide services and locate curriculum and materials for Student instruction on her own.

These investigators found no evidence that supported the School's contention that the certified special education teacher was actively supervising the provision of special education services for the School. Because students were not provided special education services by a certified special education teacher during the 2010-2011 school year, the School is not in compliance regarding this issue.

⁵The Arizona Administrative Code defines a "paraeducator" as "a person employed to assist with the education of students but who is not certified to teach by the Arizona Department of Education. Alternate terms may include paraprofessional, teacher aide, instructional assistant, or other similar titles." [A.A.C. § R7-2-401(B)(19)] (Emphasis added)

⁶Sun Valley Charter School is owned by Ms. Tanae Morrison, the sister of Ms. Tonya Strozier, president of the School.

8. Whether the School made a continuum of alternative placements available to meet student needs.

The Complainants allege that the School failed to provide the full continuum of alternative placements because it does not have a self-contained program available for students that require that specific educational learning environment.

- **Student E**, a 5th grade student eligible under the category moderate cognitive impairment, transferred to the School with an IEP indicating his educational placement to be in a self-contained setting. The IEP included a statement that Student E was "unable to benefit in the general education curriculum" and extensive service minutes were dedicated to life skills. When the School rewrote his IEP, a self-contained setting was removed as were his life skills service minutes. The prior written notice issued following the IEP meeting states, "The team reviewed the previous IEP from Pennsylvania and determined that the goals and service time needed to be revised in order to reflect his current setting and needs."
- **Student I**, a 7th grade student eligible for special education services under the category of mild mental retardation, transferred to the School from a self-contained Life Skills classroom in another school. Prior to his transfer, Student I received all of his academic instruction in a special education self-contained setting and he participated with nondisabled peers only for recess, lunch, library, PE, and computer class. When the School revised Student I's IEP in a meeting that did not include his parents, not only was his placement changed to a full inclusion general education setting, but OT and Life Skills/Functional Skills services were removed entirely.
- Prior to transferring to the School, **Student Z** was receiving services in a self-contained setting for students with an emotional disturbance. When the School rewrote Student Z's IEP on May 21, 2010, it reflected zero special education service minutes and a regular education placement.⁷ Although Student Z's parents did participate in this meeting, these investigators were perplexed as to how this Student remained eligible under the IDEA if she was placed in the regular education setting without special education services.

The Arizona State Board of Education rules require that, "a continuum of services and supports for students with disabilities shall be available through each public education agency." [A.A.C. R7-2-401(H)(2)] The federal regulations that implement the IDEA require schools to "ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services." [34 C.F.R. § 300.115(a)] This continuum must include "instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions," and "supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement." [34 C.F.R. § 300.115(b)] The comments to the federal regulations clarify that, "[a]lthough the Act does not require that each school building in an LEA [local education agency] be able to provide all the special education and related services for all types and severities of disabilities, the LEA has an obligation to make available a full continuum of alternative placement options that maximize opportunities for its children with disabilities to be educated with nondisabled peers to the extent appropriate." [34 C.F.R. Part 300, Attachment 1 - Analysis of Comments and Changes, *Federal Register*, Vol. 71, No. 156, p. 46588] Thus, if a school does not have a placement on the continuum available in one of its own schools, it must make that placement available by, for example, contracting with an adjacent school or with a private provider.

⁷The regulations that implement the IDEA require that IEPs must include a statement of the special education and related services that will be provided to a student, the projected date for the beginning of the services, and the anticipated frequency, location, and duration of those services. [34 C.F.R. § 300.320(a)(4) and (7)] Although according to the IEP, the School is providing no special education instruction or services, it continues to collect special education funding for this Student.

When these investigators questioned Ms. McClain as to why the placement of the above students was changed from self-contained, she reported that the School does not have a self-contained classroom on its campus and parents of students requiring this level of service are told that they can enroll their child in the School but that a self-contained setting is not available. These investigators find that the School does not have available a full continuum of alternative placements and does not offer to make alternative placements available based on students need. Instead, students' IEPs are simply revised to reflect the placement options available at the School. Because the School failed to provide a self-contained setting to students requiring this placement, it is in noncompliance regarding this issue.

9. Whether the School provided Students the related services set forth in their IEPs.

The Complainants allege that students did not receive the related services identified in their IEPs.

The IDEA and its implementing regulations obligate schools to make a FAPE available to students with disabilities, which means that the eligible student is entitled to special education and related services that are provided in conformity with an IEP. [20 U.S.C. § 1401(9); 34 C.F.R. § 300.17(d)] Related services are defined to mean "transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education," and include, but are not limited to, things such as speech-language pathology, audiology services, physical and occupational therapy, counseling, and orientation and mobility services. [34 C.F.R. § 300.34]

Review of Students A, C, D, E, F, J, and O files revealed that were all entitled to receive speech-language services by a certified speech-language pathologist. Although the School maintains that all of the students received the speech-language services set forth in their IEPs, staff was unable to produce speech provider student service logs or sign-in sheets, itemized billing invoices from the speech service provider, or any other documentation to support that the services were actually provided. The only documentation the School was able to provide in regard to the provision of speech services were very brief progress report notations by the speech therapist. Additionally, there is no evidence to support that OT services were provided to any of the Students. The School acknowledges that it does not contract with a certified occupational therapist to provide OT services. Instead, Ms. McClain was instructed by the School to provide OT support to students with OT needs reflected in their IEPs and to monitor their progress toward meeting their annual OT goals.⁸

These investigators find that the School failed to provide the related services set forth in students' IEPs. Specifically, there is no documentation to support the provision of speech-language services to students requiring this related service as set forth in their IEP. Moreover, it is uncontroverted that OT services were provided to students by the School's special education technician and not a licensed occupational therapist.⁹ Based on the foregoing, the School is in noncompliance with regard to this issue.

⁸Strangely, the IEPs of Students F, I, and O include OT goals, but no services. The federal regulations require that a child's IEP include, among other things, a statement of measurable annual goals designed to meet the child's educational needs and enable him or her to be involved in and make progress in the general education curriculum and a statement of the special education and related services to be provided to the child to enable him or her to advance appropriately toward attaining the annual goals. [34 C.F.R. § 300.320(a)(1)-(3)]

⁹"Occupational therapy" is defined to mean services provided by a qualified occupational therapist. [34 C.F.R. § 300.34(c)(6)]

Other Areas of Concern

The Complainants allege the following issues that are beyond the authority of this office to investigate:

1. That School Administrator, Kelvin Strozier, displayed unprofessional conduct when he told students that if they did not bring a strictly voluntary tobacco class form back signed by parents that he was going to make the students run outside in the heat until they "puked."
2. That a teacher was berated for discussing the special education evaluation process with a parent.

The IDEA invests in the state education agency (SEA) the responsibility for general supervision of public schools, specifically the authority to ensure that the requirements of Part B of the IDEA are carried out by schools. [34 C.F.R. §300.149] In accordance with those general supervisory responsibilities, the SEA must have procedures in place for resolving complaints filed with the SEA. [34 C.F.R. §300.151(a)(1)(i) and (ii)] However, the complaint must specifically allege a violation of Part B of the IDEA. [34 C.F.R. § 300.153(b)(1)] Because the above allegations do not constitute a violation of Part B of the IDEA, this office lacks authority to make a finding on this issue. Allegations of unprofessional or immoral conduct by certificated teachers or administrators should be addressed to the Arizona State Board of Education/Investigative Unit, 1535 W. Jefferson St., Phoenix, AZ 85007.

Corrective Action

1. The School must contract with a special education monitor for a period of no less than nine (9) months to assist in completing the corrective action ordered below. Upon request, the Arizona Department of Education/Dispute Resolution (ADE/DR) will provide the names and resumes of individuals to serve as potential monitors. The special education monitor must have extensive experience in special education and must possess knowledge of federal and state special education requirements. The special education monitor will be paid by the School with its special education funds and must be approved by ADE/DR. A letter outlining the name and qualifications of the special monitor the School wishes to contract with, the minimum number of hours each week the monitor will work, an anticipated start date, and a statement that the School will implement the monitor's orders must be sent for approval to Ms. Shannon Chavez, Corrective Action Compliance Monitor; 1535 W. Jefferson, Bin 62, Phoenix, AZ 85007 by **November 18, 2011**.
2. The School, in collaboration with the special education monitor, must review the files of Students R, S, T, U, V, W, AA, BB, CC, DD, EE, and FF in order to determine if any of the students need to be referred for a full and individual evaluation in accordance with the School's child find obligation to identify, locate, and evaluate children with disabilities who are in need of special education and related services. The School must provide detailed reports on Students R, S, T, U, V, W, AA, BB, CC, DD, EE, and FF documenting decisions made regarding follow-up on concerns outlined on 45-day screening forms, including evidence that parents were notified within 10 school days of any concerns in accordance with A.A.C. R7-2-401(D), to Ms. Chavez, Corrective Action Compliance Monitor, at the above referenced address by **December 2, 2011**.
3. The School must immediately secure the services of a certified special education teacher to provide onsite special education services and oversight at all School locations.

The School must send one of the following to Ms. Chavez, Corrective Action Compliance Monitor, at the above referenced address by **December 2, 2011**:

- a. Documentation that the School has secured the services of a certified special education teacher to provide instruction to students with disabilities in accordance with their IEPs (including the teacher's resume, a copy of his or her certification, a copy of the employment contract, and a letter outlining the minimum number of hours the teacher will be onsite at each location and the anticipated start date); or
 - b. Evidence of the School's active recruitment activities to secure the services of a certified special education teacher, including copies of advertisements for the position, copies of internet postings for the position, a list of agencies contacted to secure contracted services, evidence of attendance at teacher recruitment events, etc. The School will provide **monthly** updates to the Correction Action Compliance Monitor on the status of its search for a certified special education teacher until the position is filled. **If the position is not filled by December 31, 2011, additional corrective action will be ordered.**
4. The contracted special education monitor must conduct a series of comprehensive in-service trainings for all special education instructional staff, general education instructional staff, administrative staff, and any special education contract staff. The in-service trainings must cover the following topics: (a) child find; (b) the role of the parent in the special education process; (c) collecting data on and drafting compliant PLAAFP (this training must include a detailed explanation of the components of a compliant PLAAFP and examples of at least five acceptable and five unacceptable PLAAFP sections. Sample PLAAFP sections will be provided upon request); (d) developing measurable annual goals (This training must include the identification and explanation of the components of a compliant IEP goal: an observable skill or behavior that the student must do, baseline data, criteria for mastery, a tool to measure progress [must be the same tool used to determine baseline as used to measure progress and determine whether mastered—and the writer(s) must ask, does the goal make sense?] and must include examples of at least five acceptable and five unacceptable measurable goals. Sample goals will be provided upon request; (e) the requirement to provide eligible children with disabilities the special education and related services required by their IEPs (and not just academic support and accommodations) and how this can be accomplished; and (f) the requirement to ensure a continuum of alternative placements. A proposed schedule of in-service trainings, including the agenda(s), must be sent to the Corrective Action Compliance Monitor at the above referenced address by **December 16, 2011**.
 5. A letter of assurance that the in-service trainings took place must be sent to the Corrective Action Compliance Monitor by **March 16, 2012**. The letter must include the date(s) of the trainings; the beginning and end times of the trainings; copies of agenda(s); copies of any handouts; and a list of attendees (including their job titles/positions) and their signatures.
 6. The School must ensure that it has formal systems in place to ensure compliance with federal and state special education requirements. To that end, the School, in collaboration with the contracted special education monitor, must develop draft procedures that **delineate in detail** how the School will ensure the following: (a) that it will implement child find procedures that comply with federal and state requirements; (b) that parents will be properly notified of MET and IEP meetings and afforded the opportunity to meaningfully participate in accordance with the IDEA; (c) that required participants are always present at IEP meetings unless properly excused in accordance with the regulations that implement the IDEA; (d) that staff members and IEP team meeting facilitators understand how to properly excuse required IEP team member(s) from a meeting; (e) that eligible students under the IDEA are provided with specially designed instruction, in accordance with their IEPs by appropriately certified staff (and not just academic support from a paraprofessional or accommodations); and (f) that it has available the full continuum of educational placements as required by federal and state law.

A copy of the draft procedures must be sent for review and approval to the Corrective Action Compliance Monitor at the above referenced address by **January 13, 2012**.

7. After all draft procedures have been approved by the ADE, they must be distributed to all staff, including general education, special education, and administrative, at the School. A copy of the finalized procedures and a list of the staff (including their job titles/positions and their signatures) that received it must be sent to the Corrective Action Compliance Monitor at the above referenced address by **March 16, 2012**.
8. The School must develop or obtain a recordkeeping system to document the provision of all related services so that it can demonstrate that the services have been provided in accordance with students' IEPs. The School must send the following to the Corrective Action Compliance Monitor at the above referenced address by **January 13, 2012**: (a) If the School develops its own tracking system, a description of the system; **or** (b) if the School purchases a recordkeeping system, confirmation that this system addresses the requirements above (Confirmation can be pertinent pages from the operating manual provided by the manufacturer); and (c) a letter of assurance that staff will be trained on the use of the recordkeeping system and will utilize the system with fidelity.
9. The School must reconvene the IEP team meetings of all children with disabilities currently enrolled in the School and must ensure that the parents of the students are afforded the opportunity to participate in these meetings. At the meetings, each student's IEP must be reviewed and revised, as appropriate, to ensure that: (a) the PLAAFP is current and accurate; (b) goals are both measurable and reflective of the student's current needs; (c) special education and related services reflect the student's needs and are not based upon the School's available resources; and (d) educational placement is based on the student's unique needs and not based on the School's available placement options. Copies of all meeting notices, revised IEPs, and prior written notices (which must clearly outline any changes to the IEP proposed or refused by the School) must be sent to the Corrective Action Compliance Monitor by **February 10, 2012**. If the School is unable to convince parents to attend their child's IEP meeting, the School must still hold the meeting, but must provide documentation of its attempts to convince the parents to attend to the Corrective Action Compliance Monitor, at the above referenced address, by **February 10, 2012**.
10. The School must notify the parents of all children enrolled in all School campuses, in writing either by letter or via email that the ADE/DR has conducted an investigation into allegations of noncompliance with state and federal special education requirements and that significant noncompliance was discovered. The School must notify parents that if they wish to review a copy of the Letter of Findings issued as a result of the investigation, that they may contact the ADE/DR to request a copy. A draft copy of the notification must be sent to the Corrective Action Compliance Monitor, at the above referenced address, for review and approval by **November 18, 2011**.
11. After the draft letter has been approved by the ADE/DR, the School must send a copy to the parent of each student enrolled in the School. The letter may be sent via certified letter or by email. Copies of the return receipts or copies of email receipts must be sent to the Corrective Action Compliance Monitor, at the above referenced address, by **January 6, 2012**.
12. The special education monitor selected by the School will report to the ADE/DR Corrective Action Compliance Monitor on a monthly basis about the School's progress toward completing the corrective action. A written report summarizing the School's progress must be sent to the Corrective Action Compliance Monitor on the first business day of each month, beginning **January 1, 2012**. A final report explaining in detail the systems the School has put in place to ensure ongoing compliance with federal and state special education requirements must be sent to the Corrective Action Compliance Monitor at the above referenced address by **September 1, 2012**.

As stated in the federal regulations, the State Educational Agency (SEA) has the responsibility to "Issue a written decision to the complainant that addresses each allegation in the complaint and contains: (i) Findings of fact and conclusions; and (ii) The reasons for the SEA's final decision." [34 C.F.R. § 300.152(a)(5)] Therefore, the Letter of Findings is final and is not subject to appeal.

If the Complainants and/or Students have not received any corrective action(s) due by the date(s) noted above, please inform the Arizona Department of Education/Dispute Resolution (ADE/DR) office immediately.

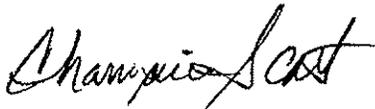
Done this 17th day of October, 2011



Leanna DeKing
ADE/Dispute Resolution
Complaint Investigator



Kacey Gregson
Director of Dispute Resolution



Charmaine Scott
ADE/Dispute Resolution
Complaint Investigator