



COLUSA COUNTY OFFICE OF EDUCATION

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September 25, 2023

The Honorable Jeffrey A. Thompson, Presiding Judge
Colusa County Superior Court
532 Oak Street
Colusa, CA 95932

Dear Judge Thompson:

Subject: CCOE Response to the July 2023 Colusa County Grand Jury Special Education
Investigation Report

In compliance with the California Penal Code Section 933, I have compiled my response to the Colusa County Grand Jury Final Report findings and recommendations. Upon review of the Special Education Investigation, I have acknowledged and commented on the findings under the recommendations below. I understand that many have concerns and questions about the content of the report, and I want to take this opportunity to address those concerns and provide the Grand Jury and all Colusa County Residents with accurate information.

Grand Jury Update: Disappointment and Clarification

I must express my deep disappointment with the recently published Grand Jury report. It appears that despite their responsibility to conduct thorough interviews and gather relevant facts, the Grand Jury failed in their duty to fully examine the materials presented to them before finalizing the report.

Adherence to Procedure, Law, and Practice

I want to emphasize that all inquiries made by the Grand Jury were answered in accordance with established procedures, legal requirements, and industry best practices. Our responses were provided in writing and were aimed at providing clear and accurate information to address their concerns.

Lack of Acknowledgment and Personal Bias

It has come to light that the sub-committee responsible for compiling the report did not acknowledge receipt of the materials we provided as well as failed to interview the head of the Special Education Department (SPED). Instead, they presented their report from a subjective standpoint, heavily influenced by personal opinions and perceived issues in various districts within the County of Colusa. This approach has led to a report that lacks objectivity and does not accurately reflect the reality of our SPED program.

A Commitment to Facts and Professionalism

This response will not be based on hearsay or biased viewpoints, but will provide a balanced perspective that accurately represents our SPED program and its contributions to our community. We will continue to uphold the standards of integrity and excellence that we have always been known for.

Moving Forward Together

The Colusa County Office of Education's Special Education Department's dedication and hard work has been paramount throughout this challenging time. CCOE will continue to stay focused on our mission and the positive impact we have on the lives of parents and students we serve. Our continuing effort to remain transparent, cooperative, and collaborative with all districts and the public will ensure a comprehensive delivery of education to all students of Colusa County. CCOE will continue to provide outstanding educational services to all residents of our Colusa County.

Following are the CCOE *italicized* responses to the Grand Jury Findings and Recommendations.

FINDINGS

F1. There is a lack of communication to parents:

- Regarding their rights and responsibilities
- Their need to put a complaint in writing
- Their right to call an IEP meeting
- Lack of knowledge of the programs and services available
- Lack of knowledge that they can ask for an assessment

CCOE rejects this finding as the excerpt below is followed with fidelity:

Procedural Safeguards, in the parents' native language, are given to and reviewed with parents at least annually at IEP meetings. These safeguards outline the IEP process and parents' rights. Each LEA and county office has complaint policies and posts these on their websites.

Procedural Safeguards

When you have a concern about your child's education, it is important that you contact your child's teacher or administrator to talk about your child and any problems you see. Staff in your school district or special education local plan area (SELPA) may answer questions about your child's education, your rights, and procedural safeguards. Also, when you have a concern, this informal conversation often solves the problem and helps to maintain open communication.

You may also want to contact one of the California parent organizations (Family Empowerment Centers and Parent Training Institutes), which were developed to increase collaboration between parents and educators to improve the educational system. Contact information for these organizations is found on the CDE special education California Parent Organizations Web page at <http://www.cde.ca.gov/sp/se/qa/caprntorg.asp>.

OP 1312.10: Complaints Concerning School and Program Personnel

In order to promote fair and constructive communication, the following procedures shall govern the resolution of complaints. Every effort should be made to resolve a complaint at the earliest possible stage.

1. *Complaints concerning school and program personnel should be made directly by the complainant to the person against whom the complaint is lodged. Parents/guardians are encouraged to attempt to orally resolve concerns with the staff member personally.*
2. *If the complainant is not resolved at this level, the complainant may submit the complaint in writing to the immediate supervisor. If the complaint regards an assistant superintendent, the written complaint shall be initially filed with the County Superintendent. When necessary, County Office administration shall assist in the preparation of the written complaint so as to meet the requirements of this regulation. The administrative staff shall inform the complainant that such assistance is available if s/he is unable to prepare the written complaint without help.*

A written complaint must include the name of each employee involved and a brief but specific summary of the complaint and the facts surrounding it. It must also include a specific description of a prior attempt to discuss the complaint with the employee involved and the failure to resolve the matter.

The immediate supervisor who is responsible for investigating complaints will attempt to resolve the complaint to the satisfaction of the person(s) involved. If the complaint is resolved, the immediate supervisor will so advise all concerned parties, including the Superintendent or designee.

3. *If the complaint remains unresolved after review by the immediate supervisor, the written complaint, together with a report and analysis of the situation, shall be referred to the Assistant Superintendent.*
4. *If the complaint is unresolved by the Assistant Superintendent, the written complaint, reports, and analysis shall be referred to the Superintendent.*
5. *For any complaints received, the immediate supervisor, Assistant Superintendent or County Superintendent shall prepare a written report concerning the complaint. This written report shall contain, but not be limited to:*
 - a. *The name of each employee involved.*
 - b. *A brief but specific summary of the complaint and the facts surrounding it, sufficient to inform the employee(s) as to the precise nature of the complaint and to allow the employee(s) to prepare a defense.*
 - c. *A copy of the signed original complaint.*
 - d. *A summary of the action taken by the supervisor, Assistant Superintendent or County Superintendent.*

6. *All parties to a complaint may be asked to attend a meeting with the supervisor, Assistant Superintendent or County Superintendent for the purpose of presenting all available evidence and allowing every opportunity for explaining and clarifying the issue.*
7. *After all available evidence has been presented at the County Superintendent level, the decision of the County Superintendent following the hearing shall be final for the County Office of Education. If a complainant wishes to appeal the Superintendent's decision, s/he may contact the State Department of Education.*

SELPA Local Plan Section B: Governance and Administration

The Colusa County SELPA is very sensitive to assuring procedural safeguards, complaints, and due process rights to its parents and pupils. A conscientious effort to educate the educational community and provide protection regarding timeliness, services, information, etc. is ongoing in the Special Education Local Plan Area. The following policy indicates the administration's interest in assuring compliance of procedural safeguards, complaints, and due process rights throughout the Special Education Local Plan Area.

The governing boards of local education agencies within the Colusa County SELPA agree to provide procedural safeguards, complaints, and due process rights as required for special education services.

Complaints Resolution:

Complaints regarding due process violations shall be referred to the SELPA Director. The Uniform Complaint Policy and Procedures shall be followed.

Role of the Administrator of the SELPA:

The SELPA Director handles all due process violations and complaints received within the SELPA. The SELPA Director or their designee, assists parents with filing due process or compliance complaints. The SELPA Director or their designee, also assures procedural safeguards by providing technical assistance and guidance on forms and procedures to LEAs and SELPA staff in the areas of assessment, identification, and placement. The SELPA Director, or their designee, will also provide parents with a copy of their procedural safeguards upon request and will maintain a copy on their website. The SELPA Director, or their designee, also reviews compliance complaint determinations provided by the CDE and provides targeted or intensive assistance as appropriate.

F2. Funding may not be an issue, but a lack of staffing and case overload continues.

CCOE concurs with this view in that California is experiencing an annual 9% reduction in Special Education Teacher numbers that is higher than the national average. This shortage disproportionately impacts rural and frontier counties due to their location and pay structure to employ qualified staff.

F3. There is a lack of accountability and quality control regarding:

- Whether IEPs are being followed
- That timing between a parent's request for a meeting and getting the meeting is recorded
- No process to determine that the requirements of an IEP are being implemented

CCOE rejects this finding as the excerpt below is followed with fidelity:

The Individuals with Disabilities Education Act (IDEA) requires that the Individualized Education Program (IEP) for a child with a disability include a description of how the child's progress toward meeting the annual goals in their IEP will be measured and when periodic reports of the child's progress towards meeting the annual goals will be provided. IDEA section 1414(d)(1)(A)(i)(III)

In the Special Education Information System (SEIS – the web-based IEP program utilized by CCOE), this information can be found on the page "Educational Setting – Offer of FAPE." There, the team is given the option of selecting how often the parents will be informed of progress (quarterly, trimester, semester, or other) and how they will be informed of progress (progress report summary or other).

Progress towards IEP goals is provided to families at least as frequently as general education reporting periods. This means that for a trimester system, progress (including final progress on the annual goal) must be provided at least 3 times per year. It is the Colusa County Office of Education's policy to align the progress dates with the district's reporting periods.

Each annual goal lists the responsible party for collecting data and reporting progress on the goal (e.g., special education teacher, occupational therapist, speech therapist, etc.). Each responsible party is required to report on their respective goals. Progress reports are affirmed (finalized) in SEIS and a copy is turned into the special education office. These hard copies, in addition to the digital copies, are maintained by the Colusa County Office of Education as part of the student's educational record.

In addition, the CDE has not yet provided feedback on the Cyclical Monitoring for Small LEAs that was submitted for Maxwell Unified School District. For the other three districts and the Colusa County Office of Education, the IEP Implementation Monitoring and Step 1 of the Compliance and Improvement Monitoring were due June 30, 2023. The CDE has not issued a timeline on when they will provide feedback on the activities, however continued monitoring activities are planned for the Fall.

In accordance with IDEA Section 616(e) and 34 CFR Sections 300.600–300.604, the CDE is required to make an annual determination on the performance of each local educational agency (LEA). The CDE reviews LEA compliance, disproportionality, and performance data related to the implementation of IDEA requirements (includes IEP data). Based on these results, a district may be required to engage in Compliance and Improvement Monitoring, which has a series of required activities such as Student Record Reviews (IEP review), Policies and Procedures Reviews, and a gap analysis. The only

exception to this is small LEAs, who engage in Cyclical Monitoring for Small LEAs once every three-year period.

If an LEA is put into Compliance and Improvement Monitoring, they are required to stay in it until their results indicate otherwise.

Outside of monitoring done by the State, when an omission or error is found in an IEP, there are two possible procedures to follow. One is a clerical correction of the IEP if there is simply a typo (e.g., the annual date was written as 2123 instead of 2023). The other is to hold an amendment IEP to correct the error or omission, which must be done as soon as possible upon finding the error.

F4. There is a lack of awareness that physical illnesses constitute grounds for an IEP.

CCOE rejects this finding as the excerpt below is followed with fidelity:

Individuals with Disabilities Education Improvement Act (IDEA) (20 U.S.C. §§ 1400 et. seq) and California Education Code §56301 requires every Local Educational Agency (LEA) to identify, locate, and evaluate all children with disabilities in the state who are in need of special education and/or related services regardless of the severity of their disability. This is called "Child Find."

*The courts have consistently upheld that LEAs have an affirmative and ongoing duty to assess student's **suspected disabilities that may require special education services**.*

There can be a difference between having a chronic or physical illness and having a suspected disability which may result in the need for special education services. There is also a difference between suspected disability and actually qualifying for special education.

To qualify for special education services there is a three-part test:

- *Does the student have a disability?*
- *Does the disability adversely affect the student's educational performance?*
- *Due to the disability, does the student require special education and related services?*
20 U.S.C. § 1401(3)(A); 34 C.F.R. § 300.8(c)

A student's medical records, while they must be considered, are alone not sufficient in determining eligibility, nor does that absence of a diagnosis prevent a student from receiving services. Well-rounded assessments may also include, but are not limited to, a review of records, educational testing, teacher, parent, and student interviews and rating scales, functional performances, report cards, classroom observations, and cognitive testing.

*In response to an injury and qualifying for an IEP, the same three-part test applies as listed above. It is important to note, however, that a student does not qualify for special education and related services if the child does not otherwise meet the eligibility criteria and his or her educational needs are due primarily to **temporary physical disabilities**. California education Code Section 56441.11.C.2*

Many students with medical needs who do not qualify for Special Education services do qualify for 504 Plans.

F5. There are policies regarding bullying at each campus that are not being followed.

CCOE rejects this finding as the excerpt below is followed with fidelity:

The Colusa County Office of Education and all four school districts within the Colusa County SELPA have Bullying Prevention policies and procedures in place.

Although there is not a specific page on the IEP that directly addresses bullying, there are many strategies that can be written into the IEP if the team determines that it is necessary for the student to receive free and appropriate education. Examples include a goal to work on self-advocacy and staff monitoring during unstructured times. If there were aspects on the IEP related to bullying, they would be monitored and implemented with fidelity during the duration of the IEP.

Colusa County Board Policies

- 5138.00 - Bullying Prevention
- 5136.00 Gangs
- 5137.00 Positive School Climate
- 5145.20 Freedom of Speech/Expression: Publications Code
- 5145.30 Nondiscrimination
- 5145.70 Sexual Harassment
- 1312.30 Uniform Complaint Procedures

Legal References: Education Code, 234 (the Safe Place to Learn Act), 32260-32262, 32280-32289, 46600, 48900

RECOMMENDATIONS

R1. The school districts need to increase the visibility of the IEP program. At the beginning of each school year parents should be informed of

- What an IEP is
- What services are available through the Special Education Program
- They can request an assessment of their child
- All communications with the district need to be in writing
- Parents can call for an IEP when needed

*This process is transparent and complete as described in CCOE's response to **Finding 1**. All parents and educational care givers are informed of all levels of support available for their child at the time of registration or enrollment into the school system.*

R2. Hire more educators who are in direct contact with students to address case overload and understaffing.

CCOE is constantly striving to find and recruit Special Education new hires to Colusa County. Whether through active recruiting from other counties, or out of state, to Job fairs, partnership with other entities, such as One Stop, and offering a full-service onboarding process with hiring on the spot methodology, to active recruiting at theaters, as well as advertising on all social media platforms.

R3. All Directors, Superintendents and Program Specialists should visit sites and talk to parents as well as teachers and administrators.

All Special Education Personnel, including Program Specialists, Occupational Therapists, Speech Therapists, Paraprofessionals, Teachers, and Administrators communicate internally and externally, at least weekly and if needed daily, with all District and County sites via emails, Teams or Zoom meetings and definitely in person meetings to continue best practices for every Special Education student.

R4. The Superintendent should ask for metrics that track requests for IEPs and scheduled meetings.

Requests for IEP meetings are tracked internally and responded to within the legal timeline.

A meeting of an individualized education program (IEP) team requested by a parent or guardian of a student with an existing IEP must be held within 30 calendar days, with exceptions for school breaks in excess of 5 days. If a parent/guardian makes a verbal request, the district must assist the parent in making a written request. EC 56043 (I), EC 56343.

A request for an initial evaluation must be responded to in writing within 15 days of the initial request, not including breaks in the school year in excess of 5 school days. If referral received 10 days or fewer before end of school year, then due within first 10 days of next school year. Procedural safeguards are attached to the proposed assessment plan. EC §56043(a) EC §56321(a)

Meetings held are tracked through SEIS. All IEP documents are Special Education Pupil Records and are mandatory interim student records. These are records which the schools are directed to compile and maintain for the stipulated periods of time and are then destroyed in accordance with state law, regulation, or administrative directive. (5 CCR 430) The Colusa County Office of Education maintains these records.

R5. Communicate specifically to parents that children with physical illnesses have the right to an IEP.

Through the notification process (as outlined in F1) and as explained in Finding 4, parents are notified that physical illness is a consideration during IEP assessment, and not a right to an IEP, yet could potentially qualify for either an IEP or a 504 plan.

R6. Provide training to teachers, staff, and coaches regarding bullying.

All educators, para-educators, and administrative personnel are required to complete a battery of video trainings and take competency exams from Keenan & Associates (CCOE's workers' compensation insurance carrier) for safety, operational procedures, mandated reporting, and especially recognition of bullying, avenues for corrective behavior, and reporting procedures that are followed with fidelity.

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R7. CCOE should place a prominent link to official complaint procedure on their website in both English and Spanish and any other language needed.

CCOE has prominently displayed on their home Web page (www.ccoe.net) Complaint Procedure (not complaint) forms in both English and Spanish (other languages identified during registration) and displayed in every classroom on their campus.

R8. CCOE should ensure each school district places a prominent link to the formal complaint procedure on their website in both English and Spanish and any other language needed.

CCOE does not dictate content on District websites, however, all Districts have displayed on their Web pages Uniform Complaint Procedure forms in both English and Spanish (other languages identified during registration) and displayed in every classroom on their campus.

Thank you for the opportunity to address the findings and recommendations of the 2022-23 Colusa County Grand Jury.

Sincerely,



Michael P. West
Colusa County Superintendent of Schools

cc: Madison Martin, President, Colusa County Board of Education
Kent S. Boes, Chair, Colusa County Board of Supervisors

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