

**2011 – 2012 Stanislaus County Civil Grand Jury  
Modesto City School District  
Case 12-13C**

**SUMMARY**

On November 9, 2011, the Stanislaus County Civil Grand Jury (SCCGJ) received a complaint alleging procedural noncompliance in the Modesto City School District special education Individual Education Program (IEP). The complainant alleges that special education documents were signed prior to full completion of reports in order to receive reimbursement for testing. The complaint states there is inequity in the student population tested, the methods used for testing, and timeliness of reporting testing results.

The complainant requested that the SCCGJ investigate if signatures on IEP written reports were provided equally to all parents or persons holding the educational rights of special education students, in a timely manner, and that final reports were not signed as completed prior to having all required written reports submitted. The complainant also alleges, “a civil rights issue because the only parties that actually receive completed tests and results are affluent families. Both of these offenses are Special Education violations but go beyond that due to the intimidation, and threats levied if the procedures...are questioned.”

**GLOSSARY**

ADR – Alternative Dispute Resolution  
CASA – Court Appointed Special Advocate  
CDE – California Department of Education  
EC – Education Code  
IEP – Individualized Educational Program  
MCSD – Modesto City School District  
RS – Resource Specialist  
SCCGJ – Stanislaus County Civil Grand Jury  
SELPA – Special Education Local Plan Area

**BACKGROUND**

The investigation for this complaint occurred between mid December 2011 and the end of March 2012. An investigation report initiated and provided by the complainant from the California Department of Education (CDE) confirmed that Modesto City Schools Special Education Local Plan Area (SELPA) did not comply with various Education Code (EC) sections:

- The California Department of Education requested documentation for other special education students referred for initial or triennial assessment from October 2010 to October 2011 in order to determine if the alleged noncompliance was systemic in nature. The district complied and furnished information associated with 58 additional students. Eight reports were found not in compliance.

- The District shall provide training for all district psychologists emphasizing the time lines and guidelines for providing parents with a written psychoeducational evaluation report with the required content. Acceptable evidence shall include a copy of the training, and a sign in sheet with the printed name and signatures of each psychologist attending the training.
- The District shall provide training for all site administrators emphasizing the timelines for providing parents a written psychoeducational evaluation report, with the required content.
- The District shall provide evidence it has sent the parents of an identified student an assessment plan for evaluation of the student for autistic like behavior. Acceptable evidence should include a copy of the assessment plan sent to the parents.
- The District shall provide evidence it has randomly selected five active student files per month beginning in February 2012 to review for compliance with *EC sections 56327* and *56381(a)(2)*. If no additional noncompliance is found, the District shall submit a signed and dated letter that provides assurance the examination of active student files revealed no further instances of noncompliance. Acceptable evidence shall include a copy of the dated letter signed by the SELPA director.

Modesto City School District (MCSD) has a special education program that provides students with special learning needs a needs assessment, psychological evaluation, an Individual Education Program (IEP), and a Resource Specialist (RS) to monitor and document the student's progress throughout the program. MCSD has approximately 3,000 students enrolled in the special education program.

The IEP must contain: the child's eligibility for special education; present level of educational performance; strengths and needs as identified by the teachers, school, staff, and parent or person holding educational rights of the student.

The IEP team includes:

- A Case Manager, also known as the teacher, who identifies the student's learning disabilities requiring special education and related support services
- A Resource Specialist who interprets the results of the student evaluations and assessments, plans the instructional program, and commits the necessary resources
- A Program Manager who is present on-site at the school, has administrative experience, provides the special education student with accommodations, necessary support services and modifications, and any other special learning needs
- A school Administrator
- A school Psychologist who provides special education student evaluation and assessment reports
- The Director of Special Education Local Plan Area (SELPA)
- The student's parents or person holding educational rights of the student to provide information about the students needs and conditions.

There are multiple levels of special education that include:

- Resource Students with a normal to high IQ where focus is on a special area of weakness
- Speech and Language

- Learning Handicap with lower IQ level and less functional in mainstream program but may still participate in regular course work (class size 12-15 students)
- Emotionally Disturbed with severity requiring special learning needs (class size 10-12 students)
- Non-Public Students who demonstrate violent behavior and are put in non-public schools (sometimes located out of state) paid for by the school district up to the age of 21 years old.

Children with various disabilities are provided with modifications, accommodations, and support services under their IEP. The District must provide a program that addresses the student's unique needs as identified by the evaluations and observations from the educational team. A Behavioral Specialist provides an educational plan for the student and determines if the student needs to be in an isolated teaching environment. The quality of education for special education students must equal that provided to all students at the school including non-academic and extracurricular programs. When members of the educational team are in disagreement or cannot produce a student IEP they must escalate resolution through the Alternative Dispute Resolution (ADR) process.

## **METHODOLOGY OF INVESTIGATION**

1. Reviewed complaints made to the California Department of Education, the US Department of Education, and the SCCGJ.
2. Interviewed the complainant
3. Interviewed the Superintendent of Modesto City Schools District (MCSD)
4. Interviewed the MCSD Director of Special Education Local Plan Area (SELPA)
5. Interviewed the MCSD Director of Special Education
6. Interviewed the Director of Court Appointed Special Advocate (CASA) program
7. Analyzed the investigation report and findings from CDE as to the allegations of non-compliance.
8. Reviewed applicable email communications.

## **FINDINGS**

- F1. The State investigation report confirms, and the school district acknowledges, the allegation that eight parents did not receive a psychoeducational evaluation report, and data provided by the District confirms one report that demonstrates the evaluation did not contain language that exhibits a determination was made concerning the effects of environmental, cultural, or economic disadvantage. The state report found the district to be out of compliance. EC 56327.
- F2. The State investigation report confirms, and the school district acknowledges, noncompliance in adhering to the 60-day timeline for the completion of the assessment, from the date the parent gave consent to the assessment plan for three of the students. It was also confirmed and acknowledged by the district that the triennial IEP team meetings conducted for those three students was not conducted by the triennial date. New IEP's were not developed in a timely manner. The state report found the district to be out of compliance. EC 56381(a)(2).

- F3. The State investigation report confirms, and the school district acknowledges, that multiple psychological assessments are used, as well as, academic assessments for determining whether a pupil is an individual with exceptional needs. The state report found the district to be in compliance. EC 56320(e).
- F4. The State investigation report confirms, and the school district acknowledges, that the district failed to properly test a student when an IEP team recommended further evaluation for Autism Spectrum Disorder. The District did not develop a new assessment plan following the IEP meeting. The state report found the district to be out of compliance. EC 56320(f).
- F5. Complainant alleges the district failed to prevent the use of official authority by an employee to intimidate, coerce, or threaten another employee to keep them from assisting a parent of a pupil with exceptional needs to obtain services or accommodations. The State investigation report confirms, and the school district affirms, evidence is insufficient to support the allegations of this claim. The state report found the district to be in compliance. EC 56046.
- F6. Complainant alleges discrimination in the population of special education students that actually receive completed tests and testing results. This allegation was not found to be substantiated.
- F7. The SCCGJ found there are lapses of management in the SELPA program. Evaluations and associated paperwork for some students in special education program was not done in a timely manner and submitted to the student's parents or the person holding educational rights of the student. The problems at a district high school may be systemic. The principal and the assistant principal did not adequately monitor the records of special education programs to ensure timely submissions of the reports. Personnel issues and disagreements between staff at the school may have contributed to problems with the timely submission and content of these reports.
- F8. Complainant alleges that MCSD is financially reimbursed for testing upon receiving signed IEP reports. This is not a valid complaint. Funding for special education programs come from a block grant and not through receipt of signed IEP reports as confirmed by the Superintendent of MCSD.

## **RECOMMENDATIONS**

- R1. The SCCGJ recommends the SELPA Director and staff continue to monitor student special education reports to insure they meet CDE standards in the future, even after mandates from the Department of Education expire.
- R2. The SCCGJ recommends that SELPA management randomly monitor student interviews from psychologist and Site Administrators to determine the special education program criteria are being met. The Modesto City School Board should receive results of these monitoring efforts on a scheduled regular basis to be assured these programs are being properly administrated.
- R3. The SCCGJ recommends additional training for Site Administrators and Psychologists, emphasizing timelines and guidelines for providing psychoeducational evaluation reports with the required content. Training should be documented.

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following organizations:

- Modesto City School District Superintendent
- Modesto City School District School Board

This report of case 12-13c is issued by the 2011-2012 Stanislaus County Civil Grand Jury. No members of the grand jury recused themselves due to perceived conflict of interest.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person, or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.