

With regard to Student A: : (the district) Attendance secretary, Vera Moser, notified the (district) office staff that Student A was taken to TAC. A student information sheet was received on and records, including the current IEP, were sent to TAC. Ms. Lorenz, TAC teacher, certified that she was aware of Student A's IEP.

- An email sent to Vera Moser to the HSOoffice states: "(Student A) was taken to the Attention Center at the end of today. is also suspended for 5 days, beginning
- A "Multi County Juvenile Attention Center" form was filled out with the student directory and home school information. A handwritten note at the bottom right corner states "(Student A) completed home school assignments in addition to the above grade."
- A copy of the student 2009-2010 school year IEP has effective dates from
- September 10, 2010: A letter from Ms. Lorenz to Mr. Dan Ifft states "(Student A) attended school at the Multi-County Juvenile Attention Center from to and from to (Student A's) IEP (Individual Education Program) was in school file and recognized by the teachers at the attention center.

Mr. Dan Ifft from Dover high school brought (Student A's) home school assignments to the attention center and picked up finished assignments at a later date to return to (the district) high school. (Student A) were instructed to work on home school assignments and that the teachers at the center would assist them in getting these completed."

- October 14, 2010: The TAC staff stated that a student's IEP is provided by the district of residence within 24 hours of the student's arrival.
- October 14, 2010: The teachers stated that although they had access to the student's IEP they do not address the goals and objectives.
- The complainant did not provide documentation regarding this issue.

FINDING:

The district is in violation of 34 C.F.R. 300.39 [Special education], 34 C.F.R. 300.323 (a) [When IEPs must be in effect], 34 C.F.R. 300.323(d) [When IEPs must be in effect- Accessibility of child's IEP to teachers and others] and O.A.C. 3301-51-06 (A)(1)[Evaluations –general]. It is unclear if the student was held at SAC prior to being transferred to TAC. The district did provide TAC with the student's IEP however, the IEP was not implemented by TAC staff. The district is the district of residence and is required to ensure that the student receives the services that are required by his IEP.

CORRECTIVE ACTION:

All corrective action will be found at the end of the letter of findings.

ISSUE 2:

The complainant alleges that the district does not have policies and procedures to transfer educational records for students who are similarly situated as student A. This is an alleged violation of OAC 3301-51-01 (A)(2)(a) [Applicability of requirements and definition – school district of residence], O.A.C. 3301-51-01 (A)(2)(a) [Applicability of requirements and definitions – school district of residence], O.A.C. 3301-51-07 (K)(7) [When IEPs must be in effect –Transmittal of records], O.A.C. 3301-51-04 (R)(2) [Referral to and action by law enforcement and judicial authorities], O.A.C. 3301-51-06 (A)(1)[Evaluations –general].

FACTS:

Based on the information provided by the district and the complainant the following facts were determined:

SAC

- It is unclear based on the documentation and the interviews if or how long Student A was held at SAC prior to being transferred to TAC.
- October 15, 2010: The SAC staff stated that they do not request IEPs for students who are placed there.

TAC

- September 30, 2010: The district response states "(the district) is first notified by Tuscarawas County Juvenile Court personnel when students are court ordered to TAC. Students are sometimes taken to SAC for processing first, which is typically only a period of a day or two at the most. TAC sends a records request on the day of the students/ placement at their facility. Records are then forwarded to TAC, including the current IEP.

With regard to Student A: March 4, 2010: (the district) Attendance secretary, Vera Moser, notified the (district) office staff that Student A was taken to TAC. A student information sheet was received on () and records, including the current IEP, were sent to TAC. Ms. Lorenz, TAC teacher, certified that she was aware of Student A's IEP.

- (): An email sent to Vera Moser to the HSOoffice states: "(Student A) was taken to the Attention Center at the end of today. () is also suspended for 5 days, beginning ()"
- (): A "Multi County Juvenile Attention Center" form was filled out with the student directory and home school information. A handwritten note at the bottom right corner states "(Student A) completed home school assignments in addition to the above grade."
- September 30, 2010: The district response states "Please refer to (the district's) Board Policy File JO: Student Records and ODE Special Education Model Policies and Procedures."
- A review of the (district's) Board Policy File: JO describes the district's policy on Student Records. The policy includes information regarding the following: Directory information, student records, annual notification, locations of education records, fees for copies of records, use of student education records, records of requests for access and disclosure made from education record, notice of designation directory information and a refusal to release directory information form.
- A review of the ODE Special Education Model Policies and Procedures describes the written policies and procedures regarding the manner in which the District fulfills its obligations under the Individuals with Disabilities Education Improvement act of 2004 (DEA and the *Ohio Operating Standards for Ohio Educational Agencies Service Children with Disabilities*.
- October 14, 2010: The TAC staff stated that a student's IEP is provided by the district of residence within 24 hours of the student's arrival.
- October 14, 2010: The teachers stated that although they had access to the student's IEP they do not address the goals and objectives.
- The complainant did not provide documentation regarding this issue.

FINDING:

The district did not violate OAC 3301-51-01 (A)(2)(a) [Applicability of requirements and definition – school district of residence], O.A.C. 3301-51-01 (A)(2)(a) [Applicability of requirements and definitions – school district of residence], O.A.C. 3301-51-07 (K)(7) [When IEPs must be in effect –Transmittal of records], O.A.C. 3301-51-04 (R)(2) [Referral to and action by law enforcement and judicial authorities], O.A.C. 3301-51-06 (A)(1)[Evaluations –general]. A "Multi County Juvenile Attention Center" form dated

_____) was filled out with the student directory and home school information however this form did not include information regarding the student's IEP. The district and the TAC staff both state that the TAC does receive a student's IEP within 24 hours of the student's arrival.

Issue 3:

The complainant alleges that the district did not provide students who are similarly situated as student A with the following:

- Specially designed instruction.
- Implementation of the goals and objectives.
- Implementation of accommodations.
- Post secondary services.
- Reconvening the IEP team where the student exhibits "significant difficulties with behavior."

This is an alleged violation of 34 C.F.R. 300.39 [Special Education], 34 C.F.R. 300.323(a) [When IEPs must be in effect – accommodations], O.A.C. 3301-51-07 (c)(ii) [Transition], 34 C.F.R. 300.34 (c)(10)(vi) [Related services-behavior] and 34 C.F.R. 300.101 [Free appropriate public education (FAPE)].

FACTS:

Based on the information provided by the district and the complainant the following facts were determined:

SAC

- It is unclear based on the documentation and the interviews if or how long Student A was held at SAC prior to being transferred to TAC.
- October 15, 2010: The SAC staff stated that they do not request IEPs for students who are placed there.

TAC

- September 30, 2010: The district response states "One student was detained during the time period February 23, 2010-April 21, 2010 (Student A). Student A was detained from _____ Student A's IEP dated _____ was sent to TAC. Mr. Ifft, At-Risk Coordinator, served as the liaison between (the district) high school and TAC. Mr. Ifft requested assignments from each of Student A's teachers, delivered the assignments to Student A, and returned completed assignments to DHA. The Visitor's Register from TAC indicates the dates that Mr. Ifft visited TAC to deliver and pick up assignments. Student A continued to earn credit in _____ courses while at TAC as evidenced by _____ 3rd Quarter grade card.

On April 7, 2010 Dave Aubihl, (the district) HS Intervention Specialist, accompanied Mr. Ifft to TAC for the purpose of meeting with Student A. during this meeting, Mr. Aubihl administered the Gray Oral Reading Test to Dalton in preparation for _____ upcoming IEP review. Mr. Aubihl also conference with Student A during this visit regarding Student A's future planning statement for the upcoming IEP review."

- The "Visitors Register" shows that Dan Ifft, the "Dean of Students at the district high school" visited TAC on the following dates:
 - March 11, 2010.
 - March 15, 2010.
 - March 16, 2010.
 - March 17, 2010.

- March 18, 2010.
 - March 23, 2010.
 - March 24, 2010.
 - April 7, 2010.
 - April 7, 2010: Dave Aubihl also signed the Visitors Register.
 - April 14, 2010.
 - April 21, 2010.
- Student A's 3rd quarter grades which correspond to the student's stay at TAC shows the following: 1 B-, 1 C, 2 C-, 1 D and 1 D+.
 - April 7, 2010: A statement written by Dave Aubihl states "I went to the Tuscarawas County Juvenile Detention Center for a couple of reasons dealing with (Student A). Student A's work was not coming back to (the district) high school so I personally wanted to teak the needed papers, notes, and books to him for the following weeks. While I was there, I gave (Student A) the Gray Oral Reading Test (GORT) to assess in the areas of reading comprehension and fluency. ID did this to identify an accurate level of where (Student A) was when compared to the 10th grade norm. This information is of great use when searching for appropriate goals and objectives for (Student A) in his new Individualized Education Program (IEP)."
 - October 14, 2010: The TAC staff stated that a student's IEP is provided by the district of residence within 24 hours of a student's arrival.
 - October 14, 2010: The teachers stated that although they had access to the student's IEP they do not address the goals and objectives.
 - The complainant did not provide documentation regarding this issue.

FINDING:

The district violate 34 C.F.R. 300.39 [Special Education], 34 C.F.R. 300.323(a) [When IEPs must be in effect – accommodations], O.A.C. 3301-51-07 (c)(ii) [Transition], 34 C.F.R. 300.34 (c)(10)(vi) [Related services-behavior] and 34 C.F.R. 300.101 [Free appropriate public education (FAPE)]. It is unclear if the student was held at SAC prior to being transferred to TAC. The district did provide TAC with the student's IEP however, the IEP was not implemented by TAC staff. The district is the district of residence and is required to ensure that the student receives the services that are required by his IEP.

CORRECTIVE ACTION:

All corrective action will be found at the end of the letter of findings.

Issue 4:

The complainant alleges that the district did not provide SAC or the TAC with the students who are similarly situated as student A with IEP and special education materials in a timely manner. Due to this, the SAC and TAC did not implement the students who are similarly situated as student A's IEP which would allow the students to progress academically and earn academic credits resulting in the denial of a free appropriate public education (FAPE). This is an alleged violation of 34 C.F.R. 300.101 [Free appropriate public education (FAPE)].

FACTS:

Based on the information provided by the district and the complainant the following facts were determined:

SAC

- It is unclear based on the documentation and the interviews if or how long Student A was held at SAC prior to being transferred to TAC.
- October 15, 2010: The SAC staff stated that they do not request IEPs for students who are placed there.

TAC

- September 30, 2010: The district response states "Student A progressed academically and earned credits while at TAC. Student A was visited regularly by (district) staff member Mr. Ifft, as well as having one visit from his (district)HS intervention specialist, Dave Aubihl. Student A did not have behavioral difficulties that (district) staff were made aware of while at TAC. An IEP review was held while Student A was detained at TAC, on . Student A's parent did not attend the IEP meeting despite 3 letters of invitation and 2 phone calls home."
- While the student was placed in TAC the student's IEP team did meet on . The signature page shows that the district representative, intervention specialist, general education teacher and guidance counselor were in attendance. A handwritten note on the right hand side states "(the parent) did not show up for (Student A's) IEP meeting. A copy of the procedures were sent home for signatures. (Student A) was not available to attend the meeting because was in the juvenile detention center."
- The "Documentation of Attempts to Obtain Parent Participation" shows that the district sent an invitation and letter to the parent on and with "no response given" to the three attempts. A phone call was placed to the parent at her home on with "no answer". A second phone call was placed on the note states "spoke with mom. She was unsure if she would make it to the meeting."
- October 14, 2010: The TAC staff stated that the student's IEP was provided by the district of residence within 24 hours of the student's arrival.
- October 14, 2010: The teachers stated that although they had access to the student's IEP they do not address the goals and objectives.
- The complainant did not provide documentation regarding this issue.

FINDING:

The district violated 34 C.F.R. 300.101 [Free appropriate public education (FAPE)]. Although the district did provide the student's IEP to TAC, the TAC staff did not implement the student's IEP. The district is the district of residence and is required to ensure that the student receives the services that are required by his IEP. In this case, the student was held at TAC for over one month without receiving IEP services.

The due dates for corrective action to be in our office are as follows:

District corrective action regarding Student:

- The district will reconvene the student's IEP team and discuss the issue of the compensatory education for those services which were lost after the 10th day. The district will provide the following:
 - The student's IEP team will reconvene by **December 10, 2010** to discuss the compensatory education which the student will be provided due to the fact that the student's IEP was not implemented while held at TAC.

- A copy of the parent invitation to the IEP team meeting where the issue of compensatory education will be discussed will be provided to the Office for Exceptional Children **at the same time as the parent.**
- The IEP team will discuss the appropriate amount of time and type of services which will be needed to compensate the student for the loss of transition services, accommodations and implementation of the goals and objectives due to the non-implementation of the students IEP while he was held at TAC.
- A copy of the minutes/notes from the IEP team meeting where the issue of the student's compensatory education plan was discussed will be provided by the district to the OEC by **December 10, 2010.**
- A copy of the compensatory education plan or a copy of the revised student's IEP (which includes the compensatory education plan) will be provided to the Office for Exceptional Children by **December 10, 2010.**

District Corrective Action regarding TAC:

- The district and special education administrators at TAC will meet and discuss a process and determine if it is sufficient to provide and implement the district's students IEPs which may be held at TAC. The district must ensure that the process: informs the district that the student is held at TAC, is a student on an IEP, the IEP is provided to TAC in a timely manner, the IEP is provided to the TAC teachers and is implemented while the student is held at TAC. The meeting and policy discussion will occur by December 17, 2010.
- The district will provide the OEC with the date of the meeting and the anticipated participants by November 19, 2010.
- A copy of the meeting notes/minutes between the district and the TAC administrators will be provided to OEC by December 17, 2010.
- A copy of any written policy and/or forms will also be provided to the OEC one week after the date of the meeting.
- A copy of the names and titles of the individuals who were involved in the meeting will be provided to the OEC by December 17, 2010.
- The last Friday of the month the district will provide the OEC with the following:
 - A list of the names of the (students with disabilities) that were held at TAC that month and the dates the student was held.
 - A copy of the student's IEP which was in affect while the student was held at TAC.
 - A copy of any information regarding when communication was given to the district regarding the fact that the student was on an IEP.
 - A copy of any documentation showing when the IEP was provided to the TAC (i.e. fax, form, emails).
 - A copy of documentation showing the student's IEP was implemented during the time period that the student was held at the TAC (this could include: journals, teachers notes, charts etc.) or an affidavit stating the student's IEP was implemented.

We appreciate your cooperation in the resolution of the complaint investigation.

Please refer to the above referenced complaint number when corresponding with this office and address all correspondence to the attention of Shirley Crabtree.

Sincerely,

A handwritten signature in cursive script, appearing to read "Thomas Lather".

Thomas Lather, Associate Director
Office for Exceptional Children

Cc:

Joshua Crabtree, Parent/Guardian/Complainant
Melanie Cronebach, Special Education Director
Monica Drvota, Educational Consultant