

**CALIFORNIA DEPARTMENT OF EDUCATION**  
**Investigation Report**  
**Case S-0730-17/18**

<b>Public Agency</b> Lisa Andrew, Superintendent Hollister Elementary School District 2690 Cienega Road Hollister, CA 95023	<b>Complainant</b> Bridget Claycomb 1330 Broadway, Suite 500 Oakland, CA 94612
<b>Special Education Director</b> Richard Lust, Director, Special Education Hollister Elementary School District	<b>Attorney</b> Bridget Claycomb
<b>Special Education Local Plan Area (SELPA)</b> Christine Lompa, Director San Benito County SELPA 460 Fifth Street Hollister, CA 95023	<b>Student</b> Various
<b>Complaint Received</b> February 23, 2018	<b>Report Mailed</b> March 23, 2018

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**INVESTIGATION PROCEDURES**

The investigation and conclusions are based on the investigator's review of materials and documents provided by the Complainant and the District, as well as telephone contacts with the Complainant on March 1, 2018, and the District on February 28 and March 1 and 16, 2018, and e-mail communication with the District on March 16 and 19, 2018.

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**SUMMARY OF THE ALLEGATION**

The Complainant alleges the District failed to systematically seek out all individuals with exceptional needs, in violation of California *Education Code (EC)* Section 56300, when the District failed to assess the student and required the student success team (SST) process be followed to determine if special education assessment was needed.

**APPLICABLE CITATION**

*EC* Section 56300 requires, "A local educational agency shall actively and systematically seek out all individuals with exceptional needs, from birth to 21 years of age, inclusive, including children not enrolled in [SELPA] or a county office of education."

## ADDITIONAL APPLICABLE CITATION

Code of Federal Regulations, Title 34 (34 *CFR*) Section 300.301(c)(1) requires, "Procedures for initial evaluation. The initial evaluation – (1)(i) Must be conducted within 60 days of receiving parental consent for the evaluation . . ."

## FINDINGS OF FACT

1. The District's policy for initial referrals for special education assessment includes the SST process. Through the SST process, after three SSTs and data collection, the SST can recommend a referral for special education services. If a parent requests that their child be evaluated for special education services, the District will respond in 15 days to the parent request for assessment. When a parent requests a special education assessment the request is forwarded to the coordinator assigned to the school. School site staff are to expeditiously initiate the SST process. In collaboration with the findings of the SST, the school psychologist and other specialists, it will be determined if the special education assessment will be initiated. Evidence for this finding is based on the District's September 2017, Initial Referral for Special Education Assessment policy and the District's March 15, 2018, response to the complaint.
2. The District's policy for referrals for related services for speech state that if a student does not currently receive individualized education program (IEP) services, and a speech referral is made, the SST process must be utilized prior to referral for assessment. Evidence for this finding is based on the District's September 2017, Initial Referral for Special Education Assessment policy.
3. The California Department of Education (CDE) randomly interviewed 21 parents from eight District schools, and confirmed that the parents had requested special education assessment for their children and were denied because the SST process had not been utilized. Evidence for this finding is based on telephone calls to parents on March 16, 19, and 20, 2018.

## CONCLUSION

The District failed to meet the requirements of *EC* Section 56300 and 34 *CFR* Section 300.301(c)(1). The District denied parents' requests for special education assessment because the SST process had not been utilized. The SST process is not required prior to special education assessment of a student. Furthermore, the District's policy for initial referrals for special education requires an unnecessary requirement in the identification of students who may be eligible for special education. **The District is out of compliance.**

## REQUIRED CORRECTIVE ACTIONS

1. On or before June 1, 2018, the District shall provide evidence that a parent training has been provided by an independent agency not affiliated with the District, regarding referrals for special education assessments as required by *EC* Section 56300 and 34 *CFR* Section 300.301(c)(1). The District shall schedule the training in the evening; provide translation services to parents as required by *EC* Section 48985; provide letters and/or flyers to all parents and guardians, District English Learner Advisory Committee (DELAC) members, and Migrant Parent Advisory Council (PAC) members regarding the training at least two weeks in advance of the training; and memorialize the training in video format to make it available to parents in the future. Acceptable evidence should include the letters, flyers and sign-in sheets, including the school name and the participants' role.
2. On or before June 30, 2018, the District superintendent or a designee shall present a copy of this report to the District School Board. The superintendent shall summarize to the Board the report findings, issues of non-compliance found and corrective actions, and introduce a copy of the report into the School Board record. Acceptable evidence should be a copy of the Board agenda item and minutes from the meeting that reflect that the District superintendent or designee presented a copy of this report to the School Board.
3. On or before June 30, 2018, the District shall provide evidence that a training has been provided by an independent agency, not affiliated with the District, which specializes in special education training to school districts, regarding the implementation of *EC* Section 56300 and the findings of non-compliance in this case. Required attendees shall include all District general education and special education staff members and administrators responsible for implementing *EC* Section 56300 and 34 *CFR* Section 300.301(c)(1). Acceptable evidence should include rosters of staff for each District school, a copy of the dated training agenda reflecting the requirements above, including a sign-in sheet with the names, titles, and signatures of the participants, and the name of the individual and organization, who provided the training.
4. On or before September 10, 2018, the District shall coordinate and facilitate a parent training at each of its schools, regarding referrals for special education assessments as required by *EC* Section 56300 and 34 *CFR* Section 300.301(c)(1). The District shall provide letters and/or flyers to all parents and guardians, DELAC members, and Migrant PAC members two weeks prior to the training. The training shall include translators and the memorialized video presentation. Acceptable evidence should include the letters/flyers and sign-in sheets, including the school name and the participants' role.
5. On or before August 17, 2018, the District shall send assessment plans to each parent who has requested a special education assessment in the past two years.

Acceptable evidence should include the assessment plans sent, a list of parents to whom the assessment plans were sent, and contact information for each of the parents.

6. On or before November 1, 2018, the District shall have completed all special education assessments that are a result of a parent request and a signed assessment plan, and convened an IEP team meeting within 60 days of the signed assessment plan to review the results of the assessments. In the event the student is eligible for special education services and the request to assess for special education was made over a year ago from the date of the this report, the District shall offer one year of compensatory services. In the event the student is eligible for special education services, and the request to assess for special education was made within a year from the date of the this report, the District shall offer compensatory services equitable to the period of delay in assessing the student. Acceptable evidence should include a copy of the each assessment report and documentation of the compensatory offered in the IEP.

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## RECONSIDERATION NOTICE

The findings in this investigation report are specific to this case. While general rules are cited, findings in other investigations may differ due to the facts and issues in each case.

Pursuant to *California Code of Regulations*, Title 5, Section 4665, either party may request reconsideration:

Within 35 days of receipt of the Department investigation report, either party may request reconsideration by the Superintendent. The request for reconsideration shall designate the finding(s), conclusion(s), or corrective action(s) in the Department's report to be reconsidered and state the specific basis for reconsidering the designated finding(s), conclusion(s) or corrective action(s). The request for reconsideration shall also state whether the findings of fact are incorrect and/or the law is misapplied. . . . Pending the Superintendent's reconsideration, the Department report remains in effect and enforceable.

A request for reconsideration must be postmarked 35 days from the receipt of the investigatory report and sent to:

**Ana Marsh, Education Administrator II  
Complaint Resolution Unit  
California Department of Education  
1430 N Street, Suite 2401  
Sacramento, CA 95814  
916-445-4623 Phone  
916-327-8878 Fax**

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Evidence of required corrective actions or questions regarding corrective actions shall be directed to:

**Donna DeMartini, Education Administrator I  
Focused Monitoring and Technical Assistance Unit Two  
California Department of Education  
1430 N Street, Suite 2401  
Sacramento, CA 95814  
916-445-4632 Phone  
916-327-0326 Fax**

If compliance is determined in this investigation and no corrective actions are required, consider this case closed.

Ana Marsh  
Education Administrator II  
Complaint Resolution Unit

Jane Canty  
Education Administrator I  
Complaint Investigation Unit II



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California Department of Education  
Special Education Division