

Colorado Department of Education
Decision of the State Complaints Officer
Under the Individuals with Disabilities Education Act (IDEA)

State-Level Complaint 2010: 514

San Juan BOCES (Durango)

DECISION

INTRODUCTION

This is a pro-se, state-level complaint (Complaint) dated 10/13/2010, which was filed on 10/14/2010.

The Complainants are the mother and father of a child who has never been identified as a child with a disability under the Individuals with Disabilities Education Act (IDEA) and has never had an individualized education program (IEP).

In order to comply with the federal privacy laws (i.e., Family Educational Rights and Privacy Act (FERPA) and the IDEA¹ and to protect the anonymity of the Complainants and their child, hereafter, the persons and locations identified in conjunction with the Complaint investigation and Decision will be abbreviated as follows and redacted prior to publication:

[Parents], Complainants [Parents];
[Parent], Mother [Parent];
[Student], Child of [Parents], [Student];
[Student's] age of [Age] [Age];
[School] [School];
San Juan BOCES (Durango) [BOCES];
[District] [District];
[Superintendent], District Superintendent [Superintendent];
[Special Education Director], BOCES Executive Director and Special Education Director
[Special Education Director];
[Durango Interim Assistant Superintendent], Interim Durango School District Assistant
Superintendent [Durango Interim Assistant Superintendent];
[Section 504 Coordinator], District Section 504 Coordinator [Section 504 Coordinator];
[OT], BOCES Occupational Therapist [OT];
[WJ III Examiner], WJ III Examiner [WJ III Examiner];
[Dyslexia Specialist], Private Dyslexia Specialist [Dyslexia Specialist];
[Former School Psychologist], former School Psychologist [Former School Psychologist];

¹ FERPA, codified at 20 U.S.C. § 1232g, was enacted in 1974 to protect a parent's access to education records and to protect the privacy rights of students and their parents. The IDEA regulations are found at 34 CFR § 300.1, *et seq.*

[School Psychologist], School Psychologist [School Psychologist];
[Advocate], Advocate [Advocate];
[Physician], M.D., family physician of [Parents] and [Student] [Physician];
[State Special Education Director], State Director of Special Education [State Special
Education Director]; and
[BOCES' Legal Counsel], [District] and BOCES' Legal Counsel [BOCES' Legal
Counsel].

The Complaint consisted of five pages and Exhibits A-C and included a request for mediation.

On 10/18/2010, [Parent] was interviewed by the SCO and, at the SCO's request, supplied additional documentation on 10/20/2010. The SCO marked the documents as Exhibit "D" and promptly mailed the exhibit to [Special Education Director].

The State Complaints Officer (SCO) determined that the Complaint identified one allegation subject to the jurisdiction of the state-level complaints process under the federal Individuals with Disabilities Education Act (IDEA) and its implementing regulations at 34 CFR §§ 300.151 through 300.153.² The SCO has jurisdiction to resolve the Complaint pursuant to those regulations.

The overriding issue and, therefore, the scope of the investigation identified by the SCO,³ between the dates of 10/28/2009 and 10/07/2010 is:

Whether the BOCES refused to conduct an initial special education evaluation (hereafter IDEA evaluation) to determine whether [Student] was a child with a disability eligible for special education services under the IDEA Part B, thereby denying [Student] a free appropriate public education (FAPE) in violation of the IDEA, 20 U.S.C. § 1400, *et seq.* and its implementing regulations at 34 CFR Part 300.

On 10/19/2010, the BOCES [Special Education Director] was notified of [Parents'] allegation in a letter which included a complete copy of the Complaint and Exhibits A through C. The BOCES was specifically directed to supply the SCO with:

- A. A written Response specifically admitting or denying the Complaint allegation as it related to the dates of: 10/28/2009; 12/04/2009; 08/26/2010; and 10/07/2010 as detailed in the accepted allegation.
- B. All documentation supporting the BOCES' Response, including, but not limited to:
 - 1) Complete copies of all § 504 Plans in effect for [Student] between 10/14/2009 and 10/14/2010;

² Hereafter, only the IDEA regulation and any corresponding Exceptional Children's Educational Act (ECEA) rule will be cited (e.g., § 300.000 or Rule 1.00).

³ The remaining allegations raised in [Parents'] Complaint concerned [Student's] RtI and § 504 Plans and consequently were not accepted since these claims are not matters protected under either the IDEA or Colorado's Exceptional Children's Educational Act (ECEA) and, therefore, outside of the SCO's jurisdiction.

- 2) Complete copies of all Response to Interventions (RtI) Plans in effect for [Student] between 10/14/2009 and 10/14/2010;
- 3) All [Student] progress reports and supporting data collected between 10/14/2009 and 10/14/2010 in conjunction with either [Student's] § 504 or RtI Plan;
- 4) Each and every prior written notice, consistent with § 300.503, supplied to [Parents] regarding [Parents'] request(s) for an initial evaluation between 10/14/2009 and 10/14/2010;
- 5) Any other written communications between the BOCES staff, District staff and the Parents or the BOCES and District regarding [Parents'] request(s) for an initial evaluation between 10/14/2009 and 10/14/2010;
- 6) Any written meeting notice(s), written meeting invitations or other documentation inviting [Parents] to meetings to discuss an evaluation or eligibility determination of [Student] consistent with §§ 300.311(a) or 300.301(b);
- 7) Any meeting notes recorded in conjunction with any meetings between [Parents] and either BOCES or District staff between 10/14/2009 and 10/14/2010;
- 8) Complete copies of all criteria, testing and data considered in conjunction with any meetings held between 10/14/2009 and 10/14/2010 concerning [Student's] eligibility under § 504, RtI or the IDEA;
- 9) Complete copies of the BOCES' policies and procedures in effect between 10/14/2009 and 10/14/2010 regarding procedures implemented when a parent makes an evaluation request consistent with §§ 300.111(a) and 300.301(b);
- 10) The complete name, title and contact information for each BOCES and District staff member who has knowledge of the facts underlying the Complaint allegation; and
- 11) Any other information the BOCES believes would help the SCO in resolving the Complaint.

The BOCES declined [Parents'] initial proposal to mediate. However, on 11/02/2010, the BOCES offered to mediate on the condition that the parties mediate without the presence of either [Advocate] or [BOCES' Legal Counsel]. On 11/03/2010, [Parents] rejected mediation under these circumstances and this information was communicated to the BOCES. Consequently, [Parents] were notified that the Complaint investigation would move forward.

On 11/04/2010, the BOCES' Response (pgs. 1-14), and Exhibits (1 through 11) were timely received.

On 11/05/2010 the SCO sent [Parents] a complete copy of the Response by overnight mail.

On 11/15/2010 [Parents'] Reply and Exhibits (E through G) were timely received.

On 12/02/2010 the SCO conducted telephone interviews with [Superintendent], [School Psychologist] and [Durango Interim Assistant Superintendent].

On 12/03/2010 the SCO interviewed [State Special Education Director] in person.

On 12/04/2010, the SCO briefly spoke with [Parent] by telephone and also emailed [Parents] three additional inquiries concerning documents that accompanied the Complaint (i.e., Exhibits B, pgs. 11-12 and 27; and D, pgs. 1-2).

On 12/04/2010 and 12/05/2010, [Parent] emailed additional documentation in response to SCO's written inquiries.

On 12/07/2010 the SCO interviewed [Section 504 Coordinator] and [Parent].

On 12/07/2010 and 12/08/2010, the SCO received additional documentation from the BOCES.

On 12/08/2010 the SCO closed the Record.

[PARENTS'] COMPLAINT ALLEGATION

[Parent's] Complaint contains one allegation which is summarized below:

Despite [Parents'] multiple requests (i.e., on 10/28/2009; 12/04/2009; 08/26/2010 and 10/07/2010), the BOCES failed to conduct child find or an IDEA evaluation to determine if [Student] was in need of special education and related services in violation of 34 CFR §§ 300.111(a) and 300.301(b).⁴

(Summarized) Proposed Remedies: a) [Student] receive two years of compensatory education in Assistive Technology (AT) services; b) [Student] receive an independent Educational Evaluation (IEE); c) [Student] receive an AT and Occupational Therapy (OT) assessment; d) the BOCES offer self advocacy classes (i.e., based on the LEAD Program) to children identified as having learning disabilities; e) the BOCES and District staff receive professional development and training concerning the identification of children with a specific learning disability (SLD); and f) the BOCES submit a Corrective Action Plan (CAP) and obtain assistance to come into compliance with all IDEA areas found to be in violation as a result of the Complaint.

THE BOCES' RESPONSE

The BOCES' Response is summarized below:

2009-2010 School Year: The BOCES denies that [Parents] made any requests for an initial evaluation for special education eligibility under the IDEA.

2010-2011 School Year: For the first time in the fall of 2010 [Parents] requested an initial IDEA evaluation. In response to this request, in conjunction with a meeting held on 10/07/2010, [Parents] were supplied with a 10/05/2010 prior written notice (PWN) proposing an IDEA evaluation as well as a 10/07/2010 consent evaluation form (Consent Form) which

⁴ Final Regulations implementing the Individuals with Disabilities Education Act at 34 CFR Part 300. Hereafter, the IDEA regulations will be referred to by section number only (e.g., § 300.000).

[Parents] immediately refused to execute. Subsequent to the meeting, [Parents] delivered to the BOCES the unsigned Consent Form with an appended signed letter dated 10/08/2010 which requested that the IDEA evaluation include specific tests in addition to evaluations listed in the initial Consent Form. In response, on 10/19/2010, [Parents] were supplied with a PWN refusing the additional specific tests [Parents] had requested to be performed in an IDEA evaluation. In conjunction with the 10/19/2010 PWN, [Parents] were again supplied with a Consent Form. However, to date, (i.e., 11/04/2010) [Parents] have refused to sign and return the Consent Form and, therefore, the BOCES has been unable to commence the IDEA evaluation.

The BOCES specifically denied that [Parents] ever supplied the BOCES or [School Psychologist] with the 10/28/2009 prescription or appended letter to [School Psychologist] at any time prior to 10/19/2010 in conjunction with filing of the Complaint. The BOCES disputed the authenticity of the 10/28/2009 letter to [School Psychologist] which accompanied the prescription (i.e., Exhibit D, pgs. 1-2).

[PARENTS'] REPLY

The relevant portions of [Parents'] Reply are summarized below:

[School Psychologist] told [Parents] earlier that a prescription was needed to get a referral for special education. Additionally, [Parents] "truly thought with a Prescription from our Doctor for Dysgraphia, requested by [School Psychologist] on 10/28/2009, that would be enough to start this process . . . We thought this Prescription was enough to get the necessary evaluations for [Student] to determine if [Student] is a student with a Specific Learning Disability. . . . [A] prescription from our Family Physician . . . should have been enough to refer [Student] for Special Education Eligibility."

The 10/28/2009 prescription was hand delivered to [School Psychologist] on 10/28/2009. Later on 10/28/2009 [Parents] sent by facsimile the prescription with the appended 10/28/2009 letter to [School Psychologist] (i.e., Exhibit D, pgs. 1-2). [School Psychologist] violated Child Find by not "starting the referral process" upon receipt of the prescription.

[Student] had an RtI Plan dated 09/11/2009. On 12/04/2009, [Parents] met with [School Psychologist] to discuss an IEP and 504 Plan.

[Parents] emphasized that the exhibits accompanying the BOCES' Response did not include a copy of "our Parental Statement and List of Concerns from the meeting on May 10, 2010 (i.e., [Parents'] Exhibit B, pgs. 1-2)."⁵ [Parents] note that in this writing they specifically requested a "Multi Disciplinary Evaluation in all areas of suspected disability."

Referencing Exhibit B, pg. 7, [Parents] insist that the BOCES "promised FBA [sic] on August 26, 2010 . . . They offered it then but now [School Psychologist]/BOCES refuses."

⁵ The SCO notes that there is no document entitled "Parental Statement and List of Concerns" from a meeting on 05/10/2010 contained anywhere in the Record. The document referenced in [Parents'] Reply is a 05/10/2010 letter addressed to [Superintendent] with notations at the bottom indicating that a copy of the letter had also been emailed to [Durango Interim Assistant Superintendent] and [State Special Education Director].

[Parents] admit that the BOCES supplied them with a Consent Form “to evaluate [Student] to determine if [Student] qualifies as a child with a disability under the IDEA” but insist that [Student] requires more than “just AT and OT” evaluations.

[Parents] reiterated that they have “asked for a referral for Special Education several times” but the BOCES and District have “failed to provide [Student] with a [sic] Initial Evaluation to determine if [Student] is a student with a Learning Disability.”

FINDINGS OF FACT

After thorough and careful analysis of the entire voluminous Record,⁶ the SCO makes the following FINDINGS:

Background:

1. At the time of the Complaint, [Student] was [Age] years of age. [Student] has never had an IEP and has never been identified under the IDEA as a child with a SLD.
2. Between August and September, 2009, [Parents] and [School Psychologist] met several times to discuss [Student’s] progress concerning a RtI Plan then in effect. The initial RtI Plan had been written by [Former School Psychologist] during the Spring of 2009. This was a tier two plan designed to focus on writing organization. During a review meeting on 09/11/2009, the RtI Plan was revised to include additional accommodations and goals using a word processor. That meeting was attended by [Parents], [School Psychologist] and one of [Student’s] teachers. The revised portions of the RtI Plan bear [School Psychologist’s] initials “DN.”⁷
3. [Parents’] Complaint claims that [Student] “is identified with a Specific Learning Disability/Dysgraphia.” In the Complaint, [Parents’] variously discussed and complained about prior RtI Plans, Section 504 plans and raised discrimination claims. The [Parents’] Complaint used interchangeable terms to describe plans purportedly at issue (i.e., Section 504 vs. RtI Plan). Additionally, the Complaint variously referenced [Student’s] need for: “more evaluations and training in AT,” “more comprehensive evaluations,” “additional evaluations for Initial Determination of Eligibility for Special Education,” “an Independent Education Evaluation,” and “an Initial Determination and Comprehensive Evaluation.”⁸
4. Consequently, on 10/18/2010, the SCO conducted a lengthy telephone interview with [Parent] to clarify the [Parents’] claims and the specific dates of those claims. During that interview, [Parent] claimed that despite [Parents’] multiple requests (i.e., on 10/28/2009; 12/04/09; 08/26/2010; and 10/07/2010) the BOCES failed to conduct child find or an IDEA evaluation to determine if [Student] was in need of an IEP.⁹ Notably, during this interview, [Parent] made no mention of having requested an IDEA evaluation on 05/10/2010. However, in

⁶ Appendix A, attached and incorporated by reference, details the entire Record.

⁷ Exhibits 2; 7, pg. 5; and 17; and Interview with [School Psychologist].

⁸ Complaint, pgs. 1-4.

⁹ Interview with [Parent], 10/18/2010.

conjunction with a careful reading of the entire Record subsequent to the 10/18/2010 interview of [Parent], the SCO reviewed [Parents'] 05/10/2010 letter (i.e., Exhibit B, pgs. 11-12) which requests "a Multi-disciplinary Evaluation and Individual Evaluation for [Student]."

5. Because [Parents'] Complaint alleges that [Student] was denied an IDEA evaluation on multiple dates, the date of each alleged violation, including the date of 05/10/2010, is discussed below.

Claims Concerning October 28, 2009 and [Physician's] Prescription:

6. In the Fall of 2009, due to [Parents'] repeated requests for increasing accommodations under the RtI Plan, [School Psychologist] had discussions with [Parents] to consider moving [Student] from the RtI Plan to either an IEP or a Section 504 Plan. [School Psychologist] assured [Parents] that an IEP would not result in [Student's] exclusion from the general education setting. However, because [Parents] perceived an IEP as labeling and segregating [Student] in a resource room with other disabled students, [Parents] expressed a strong desire to have [Student] evaluated for a Section 504 Plan and rejected an IDEA evaluation.¹⁰ The SCO finds [School Psychologist's] recollection to be credible. This is particularly true given [Section 504 Coordinator's] statements to SCO ("I recall during a few meetings, based on the accommodations [Parents] were requesting that [School Psychologist] told [Parents] it would be more appropriate to pursue an IEP but [Parents] rejected this.")¹¹ The SCO specifically finds that [Parents] did not request an IDEA evaluation on 10/28/2009.

7. [School Psychologist] requested that [Parents] supply a prescription from their physician in conjunction with their requested Section 504 Plan.¹² However, there is highly conflicting information concerning whether [Parents] ever supplied the BOCES or [School Psychologist] with [Physician's] prescription and the purported 10/28/2009 letter to [School Psychologist] (i.e., Exhibit D, pgs. 1-2):

- [Parents] claim that they hand delivered [Physician's] prescription to [School Psychologist] during the 10/28/2009 meeting and, subsequent to the meeting, faxed the prescription and a letter dated 10/28/2009 to [School Psychologist].¹³
- Conversely, [School Psychologist] denies that he ever received either [Physician's] prescription or the 10/28/2009 letter.¹⁴ Additionally, the BOCES emphatically denies knowledge of either document prior to initiation of the Complaint investigation.¹⁵

¹⁰ [School Psychologist's] meeting notes, Exhibit 7, pgs. 3 & 5 and Interview of [School Psychologist] on 12/02/2010.

¹¹ Interview of [Section 504 Coordinator] on 12/07/2010. [Section 504 Coordinator] specifically recalled [Parents] telling [School Psychologist] in her presence "no, we're not going down that road for an IEP, its just dysgraphia."

¹² Interview of [School Psychologist] on 12/02/2010.

¹³ [Parents'] Reply and 10/18/2010 Interview of [Parent].

¹⁴ Exhibit 15, Affidavit of [School Psychologist] and Interview of [School Psychologist] on 12/02/2010.

¹⁵ BOCES' Response.

8. Given the credible evidence in the Record, the SCO concludes that at no time prior to the SCO's 10/18/2010 interview of [Parent] did [Parents] supply either the BOCES or [School Psychologist] with the [Physician's] prescription or the purported letter of 10/28/2009 from [Parent] to [School Psychologist] (i.e., Exhibit D). The SCO makes this finding based upon the following persuasive evidence:

- On 05/12/2010, [Parent] emailed [Superintendent] requesting "any and all educational records that your institution has in regards to [Student]."¹⁶
- A complete copy of [Student's] records were hand delivered to [Parents] in May, 2010.¹⁷
- During the 10/18/2010 interview, [Parent] referenced a 10/28/2009 [Physician] prescription and argued that this supported [Parent's] claim concerning the alleged failure by the BOCES on 10/28/2009 to provide [Student] an IDEA evaluation. Because the documentation referenced by [Parent] during the interview was not included in the initial Complaint exhibit documentation, [Parent] was directed to promptly supply a copy of the documentation to the SCO and [Special Education Director].¹⁸
- For the first time on 10/19/2010, one day after the SCO's 10/18/2010 interview of [Parent] and over four months after her educational records request, [Parent] first claimed that the [Physician's] prescription was missing from [Student's] educational "file."¹⁹
- Although [Parent] claims that she sent the 10/28/2009 letter to [School Psychologist] by facsimile, Exhibit D contained no supporting facsimile verification.

Claim Concerning December 4, 2009:

9. The meeting on 12/04/2009, attended by [School Psychologist] and [Parent], was a follow-up meeting held for the purpose of discussing and creating [Student's] Section 504 Plan.²⁰

10. The 12/04/2009 Section 504 Plan replaced the 09/11/2009 RtI Plan. The SCO specifically finds that implementation of this Section 504 Plan was done with [Parents'] full knowledge and consent. At the bottom of the 12/04/2009 Section 504 Plan the affirmation "I give permission for my child to receive the above mentioned services" was signed and dated 12/04/2009 by [Parent].²¹ Additionally, in a 01/08/2010 email to [School Psychologist], [Parent] states "I appreciate you getting this [504 Plan] into action. [Student] really needs to have a good semester!"²²

¹⁶ Exhibit 11, pg. 1.

¹⁷ Interview of [Superintendent] on 12/02/2010.

¹⁸ On 10/20/2010, [Parent] supplied a copy of a letter to [School Psychologist] and [Physician's] prescription, both dated 10/28/2009. The documents were marked as Exhibit "D" pgs. 1-2, and sent by overnight mail to [Special Education Director].

¹⁹ Email to [Superintendent] from [Parent], Exhibit 11, pg. 4.

²⁰ Exhibit 5, pg. 17; and Exhibit 1, pg. 2.

²¹ Exhibit 1, pg. 2.

²² Exhibit 5, pg. 17. See also Complaint, pg. 2, paragraphs 5-6;

11. In fact, in their Reply, [Parents] admit that on 12/04/2009 they met with [School Psychologist] and elected to pursue a Section 504 Plan: “[A Section 504 Plan] wasn’t what we wanted for [Student] but we also didn’t want [Student] pulled out of class and put in the resource room.”²³ [Parents’] Reply alleging “confusion” concerning an IEP vs. a Section 504 Plan is simply not credible given [Parent’s] 12/04/2009 written consent and 01/08/2010 communicated satisfaction with the Section 504 Plan. Finding of Fact (FF #10).

12. Given the foregoing credible evidence, as well as other credible information in the Record,²⁴ the SCO finds that [Parents] never requested an IDEA evaluation on 12/04/2009.

Claim Concerning May 10, 2010:

13. In the body of their Complaint [Parents] complain about progress data that was or was not discussed on 05/10/2010. However, the Complaint is silent concerning a request for an IDEA evaluation on 05/10/2010. Nevertheless, [Parents] included a 05/10/2010 letter as an exhibit²⁵ in support of their Complaint. The unsigned letter was addressed to [Superintendent] and noted in the first sentence “I am writing to request a Multi-disciplinary Evaluation and Individual Education Evaluation for [Student].”²⁶ As noted in Finding of Fact (“FF” #4) above, during the 10/18/2010 interview, [Parent] made no mention of 05/10/2010 being one of the dates on which the BOCES is alleged to have failed to initiate an IDEA evaluation. (FF #5, above). However, given its contents, it is appropriate for the SCO to address the IDEA evaluation demand contained in the 05/10/2010 letter.

14. [Parents’] Complaint notes that “On May 10, 2010 another meeting to address [Student’s] needs and review progress from the entire 10th grade was held at [School].”²⁷ The SCO finds that, given the credible evidence in the Record, the [Superintendent] arranged the 05/10/2010 meeting to review [Student’s] progress on the 12/04/2009 Section 504 Plan and to “clear the air . . . to build better working relationships between [School] and [Parents].”²⁸ These findings are further substantiated by [Superintendent’s] pre and post 05/10/2010 emails to BOCES’ staff and [Parents].²⁹

15. [Parent] asserts that the 05/10/2010 letter was hand delivered at the 05/10/2010 meeting to numerous persons, including the addressee, [Superintendent], and via email to [Durango Interim Assistant Superintendent] and [State Special Education Director].³⁰ However, in conjunction with the Complaint, [Parents] did not supply copies of the purported emails to [Durango Interim Assistant Superintendent] and [State Special Education Director]. Conversely, [Superintendent], [Durango Interim Assistant Superintendent] and [State Special Education

²³ Reply, pg. 3, paragraph 17.

²⁴ 12/07/2009 Meeting Notes, Exhibit 7, pg. 9; Interviews of [School Psychologist] on 12/02/2010 and [Section 504 Coordinator] on 12/07/2010.

²⁵ Exhibit B, pgs. 11-12.

²⁶ Id. pg. 11.

²⁷ Complaint, pg. 2, paragraph 8.

²⁸ Interview of [Superintendent] on 12/02/2010.

²⁹ Exhibit 6, pgs. 1-6.

³⁰ Exhibits H, pg. 1; and I, pg. 1.

Director] all flatly deny having ever seen the 05/10/2010 letter prior to the Complaint being filed. Each of these persons signed sworn affidavits to this effect.³¹

16. The SCO notes that the 05/10/2010 follow-up letter from [Superintendent] to [Parents], written at 5:52 p.m., was very upbeat, thanked [Parents] for their participation and noted that the meeting seemed to go well. The letter made no mention of [Parents] having requested an IDEA evaluation in the meeting nor did it mention a letter dated 05/10/2010.³² Finally, the 05/10/2010 meeting notes contain no notation concerning the letter or a demand by [Parents] for an IDEA evaluation.³³

17. Given the credible evidence in the Record, the SCO finds that the 05/10/2010 letter was written by [Parents] but was never delivered to the BOCES' either personally, by email or by any other means prior to filing of the Complaint.

Claim Concerning August 26, 2010:

18. The purpose of the 08/26/2010 meeting was to discuss revision of [Student's] Section 504 Plan.³⁴ SCO interviewed [Section 504 Coordinator] concerning the meaning of the notation in her meeting notes "determination of disability." [Section 504 Coordinator] stated that she had written the note to herself thinking that, given all of the accommodations [Parents] were requesting during the meeting, [Section 504 Coordinator] questioned whether these were Section 504 Plan or IEP type of accommodations.³⁵

19. In conjunction with the meeting, [Parents] distributed to the meeting participants a 08/26/2010 Parental Statement (addressed to [Superintendent]) and a 08/26/2010 Parental List of Concerns. The SCO notes that neither of these documents mention an IDEA evaluation request. Instead, the Parental Statement details why [Parents] do not believe the current Section 504 Plan provides sufficient accommodations or modifications and lists several evaluations (i.e., WIAT II, WRAT 3, AT Assessment, FBA) [Parents] want conducted. The Parental Statement closes with the following statement "If we as a team can include all that we have mentioned we believe [Student's] 504 Plan will be complete and [Student] will have every opportunity to excel during [Student's] [School] year."³⁶

20. On 08/31/2010, [Parent] emailed [School Psychologist] a "Letter of Understanding Re: [Student's] 504 Plan August 26, 2010."³⁷ The email detailed [Parents'] understandings as a result of the 08/26/2010 meeting but made no mention of a request for an IDEA evaluation. In fact, in that letter [Parents] noted "[Section 504 Coordinator] and [School Psychologist]

³¹ Interviews of 12/02/2010 and 12/03/2010. See also Affidavits of [Superintendent], [Durango Interim Assistant Superintendent] and [State Special Education Director] at Exhibits 13, 14 and 16.

³² Exhibits 6, pg. 3; and 7, pg. 14.

³³ Exhibit 7, pgs. 15-16.

³⁴ Exhibit 5, pg. 25; [School Psychologist] meeting notes at Exhibit 7, pg. 17; and [Section 504 Coordinator] meeting notes at Exhibit 7, pg. 18.

³⁵ Exhibit 7, pg. 18 and Interview of [Section 504 Coordinator] on 12/07/2010.

³⁶ Exhibit 5, pgs. 26-29.

³⁷ Exhibit B, pg. 9.

confirmed that a 504 Plan will be written up soon and presented to us for signature, hopefully by Tuesday, August 31.”³⁸

21. Given the credible evidence in the Record, the SCO finds that [Parents] made no request for an IDEA evaluation on 08/26/2010.

Claim Concerning October 7, 2010:

22. On 09/08/2010 a Tier 3 RtI Plan was written to address [Student’s] math computation and listed an implementation date of 09/17/2010.³⁹

23. On 09/10/2010, [Parents] picked up a copy of the finalized 09/10/2010 Section 504 Plan.⁴⁰

24. On 09/13/2010, [Parent] emailed to multiple BOCES’ staff a “Parental Response to Proposed Actions 504 Plan Re: [Student].”⁴¹ In this writing, [Parents] noted “At the end of this meeting on August 26, 2010, [Superintendent] assured us our list of concerns would be included along with all accommodations and evaluations requested.”⁴² [Parents] requested another Section 504 meeting to “clarify many of the differences we found in reading over the 504 Plan with what was committed to on August 26, 2010” and again requested that AT and FBA evaluations be performed, an OT consultation occur and an RtI Plan be implemented.⁴³ In response to [Parents’] 09/13/2010 email, on 09/17/2010, [School Psychologist] emailed [Parent]:

Please see attached RTI plan approved by [Superintendent] yesterday.

...

1. Regarding AT: BOCES will not support an AT evaluation for a child who is not staffed into special education.
2. Regarding OT consult: I consulted with [OT] shortly after our 504 meeting. She recommends hand strengthening exercises to support [Student’s] handwriting (“theraputty”, etc.). Again, she will not be providing services to a child who is not receiving special education services.
3. Regarding the RtI plan: Attached.
4. Regarding FBA/BIP: Now that [Student] has been in school for a couple weeks, I will gather information from teachers regarding target behavior, FBA info, etc. This will take place next week at the earliest.⁴⁴

25. On 09/17/2010 in an emailed reply to [School Psychologist’s] email, [Parent] wrote:

³⁸ Id.

³⁹ Exhibit 5, pgs. 41-43.

⁴⁰ Exhibit 5, pg. 34.

⁴¹ Exhibit 5, pg. 35-36.

⁴² [Superintendent] replied to this claim noting “If I said that and I assume that I did, I misspoke.” Exhibit 5, pg. 38.

⁴³ Id., pg. 35.

⁴⁴ Exhibit 5, pg. 47.

Last December 2009 we met for an Eligibility Meeting for [Student]. At this meeting it was determined that [Student] did meet criteria for an IEP. However, we were confused and told by you that meant [Student] would be in the resource room so we agreed a 504/RtI Plan would be implemented instead.

Considering all of the information you have given us *we are at this time requesting an Additional Meeting to determine Eligibility for Special Education*. We believe there is enough Data, except for the AT evaluation, to come to consensus on [Student's] unique needs.

We are again request this Assistive Technology Assessment be administered to [Student] for Eligibility of Special Education. We requested this last December at [Student's] first Eligibility Meeting.⁴⁵

26. Having carefully reviewed the credible evidence in the Record, the SCO finds that [Parents] made their first request for an IDEA evaluation on 09/17/2010 in the 09/17/2010 email. Furthermore, [Parent's] email mischaracterizes the facts surrounding the 12/04/2009 meeting. (FF 11-14, above).

27. On 09/21/2010 [Parents] wrote [Superintendent] reiterating a request for AT and OT evaluations and now requesting an IEE. "In the interim, we expect for [Student] to stay put on the current 504 plan written on September 9, 2010."⁴⁶

28. On 10/07/2010 the Section 504 committee, including [Parents] and [Advocate], reconvened. During this meeting, the BOCES delivered to [Parents] a PWN proposing to evaluate [Student] to determine whether [Student] qualified as a child with a disability under the IDEA by assessing if [Student] has SLD. "This evaluation will include an assessment of [Student's] needs in terms of assistive technology and occupational therapy."⁴⁷ In a separate PWN, the BOCES rejected [Parents'] request for an IEE. This PWN noted that the BOCES had not yet had an opportunity to evaluate [Student] but that "once [the] BOCES has completed its evaluation process, and if you then disagree with the evaluation, you are entitled to an IEE, which the BOCES would then grant."⁴⁸ [Parents] were also given a Consent Form which indicated that the areas of occupational therapy, assistive technology, and [Student's] responsiveness to math interventions would be evaluated.⁴⁹ [Parents] and [Advocate] immediately rejected the BOCES' IDEA evaluation offer and refused to sign the Consent Form arguing that the BOCES' evaluation should include additional specific testing including aptitude assessments (WJ III), a cognitive ability assessment (WISC-4), a Test of Written Language (TOWL-4) and a FBA assessment. The meeting adjourned without [Parents] having signed the Consent Form.

⁴⁵ Exhibit 5, pg. 49 (emphasis added).

⁴⁶ Exhibit 5, pg. 52.

⁴⁷ Exhibit 4, pgs. 1-2.

⁴⁸ Exhibit 4, pgs. 3-4.

⁴⁹ Exhibit 4, pgs. 5-6.

29. On 10/08/2010, [Parents] delivered to BOCES the unsigned Consent Form with an appended signed and dated page which noted in part “We feel this referral does not contain a complete list [sic] Comprehensive Evaluations that will be administered at this time for [Student] in all areas of suspected learning disability.” The [Parents] again requested the additional evaluations detailed during the 10/07/2010 meeting noting “These assessments are necessary for a student transitioning to post secondary opportunities and must be done within 3 years of graduating or the student may not receive the necessary accommodations in College and may not be considered a student with a disability.”⁵⁰ The SCO specifically finds that [Parents’] 10/08/2010 communications did not constitute consent and therefore, the BOCES could not conduct the proposed IDEA evaluation.

30. In a PWN dated 10/19/2010, the BOCES refused to initiate the additional assessments requested by [Parents] explaining “The request is refused because these evaluations are inappropriate and unnecessary to determine if [Student] qualifies as a child with SLD under . . . ECEA/IDEA. . .”⁵¹

31. When [Parent] filed their Complaint, the Consent Form had still not been executed and therefore, an IDEA evaluation had not commenced. However the SCO has learned that on 11/22/2010 [Parents] delivered to the BOCES an executed Consent Form (dated 11/16/2010) although, on the face of the form, [Parents] wrote “We still feel that more comprehensive testing needs to take place to ensure best placement for [Student].”⁵² The BOCES has now commenced [Student’s] IDEA evaluation and an Eligibility Team meeting has tentatively been scheduled for 01/07/2011.

CONCLUSIONS OF LAW:

Based on the foregoing Findings of Fact (FFs), the SCO enters the following CONCLUSIONS OF LAW:

1. Either the parent of a child or a public agency may initiate a request for an initial IDEA evaluation to determine if the child is a child with a disability. Section 300.301(b).
2. Contrary to their Complaint, [Parents] never requested that [Student] receive an IDEA evaluation on the following dates:
 - a) October 28, 2009 (FF # 6);
 - b) December 4, 2009 (FF #s 9-12);
 - c) May 10, 2010 (FF #s 13-17);
 - d) August 26, 2010 (FF #s18-21); or
 - e) October 7, 2010 (FFs #s 25-26).
3. [Physician’s] Prescription. As noted above, a public agency may initiate a request for an initial IDEA evaluation. Yet prior to [Parents’] filing of the Complaint, neither the BOCES nor

⁵⁰ Exhibit A, pg. 42.

⁵¹ Exhibit 4, pg. 7.

⁵² Exhibit 12.

[School Psychologist] received from [Parents] the physician prescription or the purported 10/28/2009 letter to [School Psychologist]. (FF #7-8). Therefore the BOCES' child find responsibilities were not triggered by these documents. ECEA Rule 4.02(2)(c)(iii).

4. The Record clearly demonstrates that [Parents'] requested an IDEA evaluation for the first time on 09/17/2010. (FF #s 25-26).

5. In response to [Parents'] 09/17/2010 request, and consistent with the IDEA, on 10/07/2010 the BOCES supplied [Parents] with PWN and a Consent Form in order to conduct an IDEA evaluation for a specific learning disability (FF # 28).

6. Under the IDEA, "a public agency proposing to conduct an initial IDEA evaluation to determine if a child qualifies as a child for a disability under § 300.8 *must*, after providing notice consistent with §§ 300.503 and 300.504, *obtain informed consent*, consistent with § 300.9, from the parent of the child *before conducting the evaluation*." Section 300.300(a)(1)(i) (emphasis added). Informed "consent" means:

- (a) *The parent has been fully informed of all information relevant to the activity for which consent is sought . . .;*
- (b) *The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought*, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
- (c) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime.

Section 300.9(a) through (c) (emphasis added).

7. In conducting an evaluation, the public agency must:

- (1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, *including information provided by the parent*, that may assist in determining –
 - (i) Whether the child is a child with a disability under § 300.8; and
 - (ii) The content of the child's IEP. . .

Section 300.304(b)(1)(i) and (ii) (emphasis added). Additionally, effective 08/14/2009, when a child is suspected of having a specific learning disability, the BOCES *must use criteria under the RtI model* and cannot use a discrepancy model. See §§ 300.307 through 300.310 and ECEA Rule 2.08(6)(b)(ii)(A) through (B). Criteria under the RtI model is precisely the type of evaluation the BOCES proposed to conduct in the Consent Form. (FF # 28).

8. On 10/07/2010, [Parents] refused to sign the Consent Form. (FF # 28).

9. On 10/08/2010, [Parents] delivered the unsigned Consent Form and an appended signed note which insisted that the BOCES conduct numerous specific tests in conjunction with the evaluation. [Parents'] communication constituted a counter offer and did not supply consent to

the IDEA evaluation. (FF #29). Section 300.300(a)(1)(i). *Muscogee County School District*, 108 LRP 69483 (Georgia SEA November 19, 2008) (“Although the [student’s] parents ultimately signed the consent form for the reevaluation, they imposed so many conditions on their consent that it was effectively no consent at all.”).

10. In a PWN dated 10/19/2010, the BOCES refused to conduct the specific tests [Parents] were demanding. (FF # 30). Because [Parents] refused to sign the Consent Form and, instead, made their purported 10/08/2010 consent contingent on additional specific testing, the BOCES’ 10/19/2010 refusal (i.e., 10/19/2010 PWN) was consistent with the IDEA. “If the parent of a child enrolled in public school . . . does not provide consent for initial evaluation . . . the public agency *may, but is not required to, pursue the initial evaluation of the child by utilizing . . . the mediation procedures . . . or the due process] procedures.*” Section 300.300(a)(3)(i) (emphasis added).

11. *The BOCES* determines what specific assessment tools to use in conducting an IDEA evaluation. Upon completion of the assessments, a group of qualified professionals and the parent (i.e., the Eligibility Team) makes an eligibility determination, deciding whether the child is a child with a disability and, if so, the educational needs of the child. Sections 300.306(a)(1) and 300.309. If, at the conclusion of the evaluation, the [Parents] disagree with the evaluation that the BOCES has conducted, [Parents] may request an IEE. If [Parents] request an IEE, the BOCES must, without unnecessary delay, either (i) file a due process complaint to show that the evaluation was appropriate or (ii) ensure that an IEE is provided at public expense. Section 300.502(b)(1) through (3). The 10/05/2010 PWN so informed [Parents]. (FF #28).

12. Subsequent to filing the Complaint, [Parents] signed the Consent Form and the BOCES has now commenced an IDEA evaluation of [Student]. (FF #31). [Parents] have provided the BOCES with [Physician’s] prescription (FF #s 7-8) which, consistent with § 300.304(b)(1), is one piece of information which the BOCES must consider in conducting the evaluation. The Eligibility Team is scheduled to meet on 01/07/2011. (FF #31). If, at the conclusion of the IDEA evaluation, [Parents] disagree with the evaluation, the parties may pursue their options available under the IDEA.

13. There being no violation, no remedy is ordered.

CONCLUSION

The Decision of the SCO is final and is not subject to appeal. If either party disagrees with this Decision, their remedy is to file a Due Process Complaint provided that the aggrieved party has the right to file a Due Process Complaint on the issue with which the party disagrees. *See*, 34 C.F.R. § 300.507(a) and Analysis of Comments and Changes to the 2006 Part B Regulations, 71 Fed. Reg. 156, 46607 (August 14, 2006).

This Decision shall become final as dated by the signature of the undersigned State Complaints Officer.

Dated this 13th day of December, 2010.

Jeanine M. Pow

Jeanine M. Pow, Esq.
State Complaints Officer

Appendix A
2010:514 Record

[Parents'] Complaint, pgs. 1 through 5;

Exhibit A "Supportive Evidence"

- Pgs. 1-2 Section 504 Accommodation Plan, 09/10/2010
- Pgs. 3-5 RtI Plan, 09/08/2010
- Pgs. 6-8 Parental Statement to [Superintendent], 08/26/2010
- Pg. 9 Parental List of Concerns – 504 Committee Meeting, 10/07/2010
- Pgs. 10-12 Parental Statement – 504 Committee Meeting, 10/07/2010
- Pgs. 13-21 Not relevant to Complaint & not considered by SCO
- Pgs. 22-23 Section 504 Accommodation Plan, 12/04/2009
- Pg. 24 To Whom It May Concern Letter from [OT], 11/06/2009
- Pgs. 25-27 RtI Plan, 09/11/2009
- Pgs. 28-30 [WJ III Examiner] Summary Score Report, 04/24/2009
- Pgs. 31-34 [Dyslexia Specialist] Report, 03/27/2009
- Pgs. 35-38 Not relevant to Complaint & not considered by SCO
- Pgs. 39-40 Fax Coversheets of 10/08/10 and 10/13/10
- Pg. 41 Consent for Evaluation of 10/07/10 (unsigned)
- Pg. 42 "Add on to Referral for Sped and Initial Evaluations" signed by [Parents] 10/08/2010

Exhibit B "Correspondence," pgs. 1-35

- Pgs. 1-3 Not relevant to Complaint & not considered by SCO
- Pg. 4 Email to [Superintendent] from [Parent], 09/21/10
- Pg. 5 Email to [Parent] from [School Psychologist], 09/21/10
- Pg. 6 Email to [Advocate] from [Parent], 09/17/10
- Pg. 7 Email from [School Psychologist] to [Parent], 09/17/10
- Pg. 8 Email from [Parent] to [Superintendent], 09/13/10
- Pgs. 9-10 Emailed [Parent] Letter of Understanding – 504 Plan, 08/26/10
- Pgs. 11-12 Letter to [Superintendent] from [Parents]," 05/10/10
- Pgs. 13-15 Emails between [Parent] & [School Psychologist], 05/02/10
- Pgs. 15-20 Not relevant to Complaint & not considered by SCO
- Pgs. 21-22 Emails between [School Psychologist] and [Superintendent], 04/19/10 to 04/20/10
- Pgs. 23-26 Not relevant to Complaint & not considered by SCO
- Pgs. 27-28 Edited email from [Parent] to [Advocate], 10/05/10
- Pg. 29 Email from [School Psychologist] to [Parent], 11/27/09
- Pg. 30 Email from [School Psychologist] to [Parent], 10/26/09
- Pgs. 31-34 Not relevant to Complaint & not considered by SCO
- Pg. 35 Email from [Parent] to [School Psychologist], 09/22/09

Exhibit C "Resources," pgs. 1-52

- Pgs. 1-52 Not relevant to Complaint & not considered by SCO

Exhibit D

- Pg. 1 Letter from [Parent] to [School Psychologist], 10/28/09
- Pg. 2 Rx. From [Physician], dated 10/28/09

BOCES' Response, pgs. 1-14;

Exhibit 1

- Pgs. 1-2 Section 504 Accommodation Plan of 12/04/2009
- Pg. 3 Accommodations information provided to teachers in 2009-10
- Pgs. 4-5 Section 504 Accommodation Plan of 09/10/2010
- Pgs. 6-8 Section 504 Accommodation Plan of 10/07/2010

Exhibit 2

- Pgs. 9-12 RtI Plan of 09/11/2009
- Pgs. 13-15 RtI Plan of 09/08/2010
- Pgs. 16-19 Not relevant to Complaint & not considered by SCO

Exhibit 3

- Pgs. 1-8 CSAP Student Report
- Pgs. 9-24 NWEA Student Report
- Pgs. 25-27 [Student] Scores—Geometry (2009-10)
- Pgs. 28-29 [Student] Scores—World History (Fall 2009)
- Pgs. 30-32 [Student] Scores—Spanish 2 (2009-10)
- Pgs. 33-35 [Student] Scores—Jazz Band (2009-10)
- Pgs. 36-37 [Student] Scores—Photography (Fall 2009)
- Pgs. 38-40 [Student] Scores—English 2 (Spring 2010)
- Pgs. 41-42 [Student] Scores—Physical Science (2009-10)
- Pg. 43 [Student] Quick Lookup—2010-11 (Semester 1)
- Pgs. 44-45 [Student] Scores—English 3 (2010-11)
- Pgs. 46-47 [Student] Scores—Algebra 2 (2010-11)
- Pg. 48 [Student] Scores—Adv Computers (2010-11)
- Pgs. 49-51 [Student] Scores—Jazz Band (2010-11)
- Pg. 52 [Student] Transcript

Exhibit 4

- Pgs. 1-2 Prior Written Notice—Evaluation, 10/05/2010
- Pgs. 3-4 Prior Written Notice—IEE, 10/05/2010
- Pg. 5 Prior Notice and Consent for Evaluation, 10/07/2010
- Pg. 6 Prior Notice of Special Education Action, 10/12/2010
- Pgs. 7-8 Prior Written Notice—Additional Assessment, 10/19/2010

Exhibit 5

- Pgs. 1-3 Email exchanges between [Parent] and [School Psychologist], 05/01/10 through 05/02/10
- Pg. 4- 8 Email exchange [Parent] and [School Psychologist], 04/30/10 through 05/03/10
- Pg. 9 Emails between [Spanish teacher] and [Parent], 04/07/10 through 04/14/10
- Pgs. 10-13 Emails between [English teacher] and [Parent], 04/12/10 through 04/30/10
- Pg. 14 Email from [School Psychologist], 10/26/10
- Pgs. 15-16 Emails between [Parent] and [School Psychologist], 11/27/09 through 12/04/09
- Pg. 17 Email between [Parent] and [School Psychologist], 01/08/10

Pgs. 18-19 Email from [Parent], 02/05/10
 Pgs. 20-21 Email between [Parent] and [School Psychologist], 03/01/10 through 03/02/10
 Pgs. 22-23 Emails between [Parent] and [School Psychologist], 03/09/10 through 03/11/10
 Pg. 24 Email from [School Psychologist], 04/07/10
 Pg. 25 Email from [Superintendent], 08/11/10
 Pgs. 26-28 Parental Statement, 08/26/10
 Pg. 29 Parental List of Concerns, 08/26/10
 Pgs. 30-33 Emails between [Parent], [Superintendent] and [Advocate], 08/31/10 through 09/09/10
 Pg. 34 Email from [Parent], 09/13/10
 Pgs. 35-48 Email between [Parent], [School Psychologist] and [Superintendent], 09/13/10 through 09/21/10
 Pgs. 49-50 Emails between [Parent] and [School Psychologist], 09/17/10 through 09/21/10
 Pgs. 51-52 Email from [Parent], 09/21/10
 Pgs. 53-54 Emails between [BOCES staff] and [Advocate], 09/27/10
 Pgs. 55-64 Emails between [Parent], [Superintendent], [School Psychologist], [Section 504 Coordinator] and other BOCES staff, 09/27/10 through 10/05/10
 Pgs. 65-67 Parental Statement, 10/07/10
 Pg. 68 Parental List of Concerns, 10/07/10
 Pg. 69 Email from [School Psychologist], 10/07/10
 Pg. 70 Emails between [Superintendent] and [Advocate], 10/07/10

Exhibit 6

Pg. 1 Email from [Superintendent], 05/03/10
 Pg. 2 Email from [Superintendent], 05/10/10
 Pgs. 3-6 Email from [Superintendent] to [Parents], 05/10/10 subsequent to meeting

• Exhibit 7

Pgs. 1-2 Meeting Notes [School Psychologist], 08/20/09 (original handwritten notes as well as typed-written copy)
 Pgs. 3-4 Meeting Notes [School Psychologist], 08/26/09 (original handwritten notes as well as typed-written copy)
 Pgs. 5-6 Meeting Notes [School Psychologist], 09/11/09 (original handwritten notes as well as typed-written copy)
 Pgs. 7-8 Meeting Notes [School Psychologist], dated 10/28/09 (original handwritten notes as well as typed-written copy)
 Pgs. 9-10 Meeting Notes [School Psychologist], 12/04/09 (original handwritten notes as well as typed-written copy)
 Pgs. 11-12 Meeting Notes [School Psychologist], undated (the original handwritten notes as well as typed-written copy)
 Pgs. 13-14 Meeting Notes [School Psychologist], undated (the original handwritten notes as well as typed-written copy)
 Pgs. 15-16 Meeting Notes [Superintendent], 05/05/10
 Pg. 17 Meeting Notes [Superintendent], 08/26/10
 Pg. 18 Meeting Notes [Section 504 Coordinator], 08/26/10

- Exhibit 8: Blank
- Exhibit 9
 - Pgs. 1-10 Special Education Parent Handbook
 - Pgs. 11-28 Parent and Child Rights in Special Education Procedural Safeguards Notice
 - Pgs. 29-46 San Juan BOCES Special Education Procedural Manual
 - Pg. 47 *Referral to Special Education* form
- Exhibit 10: Blank
- Exhibit 11
 - Pgs. 1-2 Emails between [Superintendent], [Parent] and [School Psychologist], 05/12/10 through 05/13/10
 - Pgs. 4-5 Emails between [Superintendent] and [Parent], 10/19/10
 - Pgs. 6-10 Emails between [Parent] and [BOCES staff], 09/14/10 through 10/22/10.

[Parents’ Reply, pgs. 1-4;

Exhibit E

Pg. 1 Duplicate of 10/29/2009 Rx and “clarification” Rx of 11/06/2010

Exhibit F

Pgs. 1-3 Not relevant to Complaint & not considered by SCO

Exhibit G

Pg. 1 Emails between [School Psychologist] and [Parent], 04/18/20010 through 04/19/2010

Additional Documentation from Parent:

Exhibit H

Email from [Parent] to SCO w/attachments, 12/04/10

Exhibit I

Email from [Parent] to SCO w/attachments, 12/05/10

Additional Documentation from BOCES:

Exhibit 12

Consent for Evaluation, signed 11/16/10

Exhibit 13

Affidavit of [Superintendent]

Exhibit 14

Affidavit of [Durango Interim Assistant Superintendent]

Exhibit 15

Affidavit of [School Psychologist]

Exhibit 16

Affidavit of [State Special Education Director]

Exhibit 17

[BOCES' Legal Counsel] email of 12/08/2010 to SCO inquiries

Interviews:

10/18/2010: Telephone interview with [Parent].

12/02/2010: Telephone interviews with: [Superintendent]; [School Psychologist] and [Durango Interim Assistant Superintendent] in the presence of [BOCES' Legal Counsel].

12/03/2010: Face to face interview with [State Special Education Director].

12/07/2010: Telephone interview with [504 Coordinator] and [Parent].