

March 26, 2007

Re: SB1000, to establish the Autism Services Accessibility Program (ASAP), which is intended to give parents greater control over how and where our children are educated, depending on the individual needs of the student.

Dear Senate Committee on Education:

I am a Pharmacist and manage a Department in a Health System in San Antonio. More importantly, I am the Mother of a very loving, affectionate 6 year old boy, named Rudy. He was diagnosed with high functioning Autism at the age of 4. He is developing a sense of humor; he will say something funny and then seek affirmation by asking, "That's funny, huh?" Plus, he loves to play baseball.

I am an Advocate for my Son because he cannot represent himself. I am want to offer my feedback as a Parent of a child with Autism. My husband and I support Senate Bill 1000, to establish the Autism Services Accessibility Program (ASAP), which is intended to give parents greater control over how and where our children are educated, depending on the individual needs of the student.

Rudy was in the public school system for 3 years and it was not a good experience for us: He entered the Public School System at the age of 3 in the Pre-Kinder Program for Children with Disabilities (PPCD). More often than not the public schools did not provide the necessary tools and resources to Rudy. Every Admissions Review and Dismissal Process (ARD) was a battle. Services and resources were denied year after year (OT, 100% inclusion). Administrators would try to intimidate us in ARD's and would make irrelevant comments to get us emotional. The School Administrators and teachers would meet for a Pre-ARD and would already have their strategies in place. Although, they are supposed to give the parents a copy of the Pre-ARD—in all 3 years, we never got one. Thus, we were more often than not reading evaluations and results for the first time at the ARD meetings and expected to make decisions.

Rudy's Developmental Pediatrician made the following recommendations to the School:

1. Minimum of 2 hours per week of one on one Speech and language therapy
2. Minimum of 2 hours per week of 1:1 occupational therapy to address fine motor and sensory processing skills
3. minimum of 2 hours per week of Discrete Trial Teaching (ABA)
4. School placement with **inclusion**, including a Teacher's Assistant. Training for Assistant

The school violated the following:

1. “All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 code of Federal Regulations (CFR), 300.23 and 300.136; the Texas Education Code (TEC), 21.002, 21.003, and 29.304; of Chapter 89 Commissioner’s Rules” however, the School promised us that our Son’s teachers would all be trained on Teaching children with Autism—and, were not, although, it was agreed at the ARD and an Administrator informed us they were all trained. We requested that each and every Teacher and Aide be trained before the beginning of the school year of 2006-2007. When I requested proof of their training, I found that some Teachers had been trained a few years back and not as agreed in the ARD.
2. We filed a TEA complaint in 2005 because our Rudy’s rights were violated--He was removed from the least restrictive environment (LRE). The TEA found the School in violation of (1) not following the agreed ARD’s schedule and (2) removal of the child from LRE without approval of the ARD committee.

On several occasions, I visited the school unannounced and made the following alarming observations:

October 20, 2006 at 8:05 am: Aide was 5 feet away sitting with crossed arms (more like a police officer than Teacher), while Rudy was playing with pegs. I asked the Aide why Rudy was playing so early in the morning when he should have been working on “journal writing” assignment. The Aide responded Rudy had finished early and was being rewarded by allowing him to play. I looked at the other children’s progress on the assignment and they were not half way done. I asked the Aide, ‘Is this the same assignment Rudy worked on?’ and she responded, “yes”. It is incredible that a child with Autism could have finished his assignment first before all the other neuron-typical students.

October 25, 2006: My son suffered a pencil stabbing on his hand and the Aide and Teacher had different stories. My husband and I called a Parent Teacher Conference with the Principal. Principal defended the Teachers by stating my husband and I must have misunderstood. There was no investigation conducted. This is the type of treatment concerned parents receive.

On several occasions the agreed ARD schedule was not followed:

November 7, 2006: Rudy was brought out of the General Education Classroom 15 minutes earlier. Plus, at 2:15 pm I observed Rudy in hallway running around instead of working on his IEP (individualized Educational Plan) as dictated by the ARD schedule from 2:00 pm to 2:30 pm

Rudy often refused to go to school. He made alarming comments such as “people hurt me”, “no school, please, people hurt me”, “I am an idiot”, “I am a monster”, “I am

Second because he did not want to put his shoes on and the restraint lasted 20 minutes! The Commissioner's Rule for Special Education states that restraint for a student with a disability may be used only in a clearly defined situation: when the student is (1) hurting himself (2) hurting another person or (3) destroying school property! I was in disagreement that failure to go to a different area and throwing his shoes mandated physical restraint. My son was traumatized. He was not taught any skill by being treated like a criminal at such early age. I was scared to see how he would be treated in high school!

Rudy was also bullied and teased by other students & Teachers (ex: Rudy Meinster). One afternoon, as I picked him up from school his Aide said, "goodbye, Rudy-Meister". When we got to my car, I asked my Son, "does Mrs. X always call you Rudy-Meister?" He sadly answered, "yeah, everyone calls me Rudy **Monster**. Everyone hates me!" It is well known that children with Autism cannot understand humor. They are very factual people. Usually, it is recommended that idioms and nicknames not be used because these children are very literal! I spoke to the Principal and asked her to let all the Staff know to refer to Rudy only by his name and no nicknames.

A couple of weeks later, I picked him up and again, the Aide called him by the same nickname. It was very frustrating to know that my Son had to put up with that during the day at school with no one to stand up for him.

Due to the escalation of experiences with the Public School and my Son's comments and behaviors, my Husband and I decided to withdraw Rudy from the Public School system on 11/27/06 and it took 10 minutes. There were no hassles, no combativeness, no sarcasm; it was a really easy and smooth process vs. the ARD experiences with went through in the last three years which lasted anywhere from 4 to 8 hours.

Children with Autism have the potential of academic success: Effective inclusion makes every student feel welcomed and valued. "Jill England, Ph.D. and Inclusive Education Specialist, found that:

- Following implementation of a full inclusion model at two Michigan high schools, graduation rates for children with disabilities soared from 50% to 95% in 1 school and from 70% to 97% in the other.

The primary goal of the Individuals with Disabilities Education Act (IDEA) is to ensure that all eligible children with disabilities receive a quality education that:

- Meets their **unique** needs;
- Incorporates necessary technology and support services
- Is designed to meet specific, pre-determined outcomes;
- Is provided in the "least restrictive environment".

The Public Schools will say that they have exemplary practices in place; which may be true, however, they are not readily available to all students. Plus, their autism programs will not suffer if this SB1000 passes because these children are in existence already and need these services provided to them. I think SB1000 will hold the schools accountable

to improve services in all schools by determining best practices and disseminate that information to educators. I, personally, would prefer for my Rudy to attend the public school system for convenience (it is less than a mile from home) and for financial reasons. A lot of the therapies necessary to a child with Autism is not covered by most insurances; thus, there is a big financial drain on the family.

Since Rudy was moved to a Private School, there has been a tremendous improvement: Rudy has blossomed. He is more articulate. His cognitive and expressive skills have improved. He asks "WH" questions (why, where are you going?), when are you coming home? etc. He has mastered some IEP goals whereas in the public school system, all his progress reports indicated Needs More Time. His behavior has improved. And, he willingly goes to school and his negative comments have ceased.

In conclusion, there are state and federal funds given to the public school systems to give Special Needs children the resources and tools necessary for their academic success, however, the schools are not pro-active and do not freely offer these services.

We need to invest in these Children with early intervention to make them **self-maintained working** individuals who will not put a financial drain on the state, federal and other social programs.

SB1000 will give parents (especially the ones without the financial resources the opportunity) "to choose private school, provide funding equal to the amount to which their child would have been entitled in their school district."

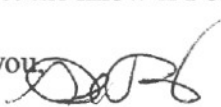
I am spending \$1100 a month on Rudy's private education because there is a need. I want to give him every opportunity to succeed.

Every child has the right to a **free** and **appropriate** public education (FAPE).

I support SB 1000 without reservation. I often worry about the families who do not have the resources I do to make choices. Fortunately, due to my profession, I have the option to provide my Son with the best education possible. By helping my Son, I hope to help other Autistic children in need.

Please let me know if I can be of further assistance.

Thank you



Tami DeLaRosa

The Inclusive Model

Inclusion supports the concept that all children should learn with their peers without disabilities, in the same classrooms, in their neighborhood schools. However, we are still a long way from inclusive schooling being the norm.

Inclusion has six components:

1. Students with disabilities are educated in the school they would attend if they had no disability, either their home school or neighborhood school.
2. The number of students with and without disabilities mirrors the natural proportion you would find in the local community.
3. The school has policy and philosophy that no student will be excluded based on the type or extent of his or her disability.
4. All students learn in classes that are appropriate for their age and grade. There are no self-contained special education classes.
5. Cooperative learning and peer instruction are the preferred teaching methods.
6. Special education supports are integrated into the general education classes.

Effective inclusion makes every student feel welcomed and valued.

Jill England, Ph.D., an Inclusive Education Specialist, found that:

- Following implementation of a full inclusion model at two Michigan high schools, graduation rates for children with disabilities soared from 50% to 95% in 1 school and from 70% to 97% in the other.
- 80% of students with disabilities who learned in inclusive classrooms had higher levels of achievement than their counterparts in pull-out or "special class" models.
- Creating an inclusive school community costs the same as a segregated system and usually costs less than an inclusion model that is created student by student.

Positive results like these prove that full inclusion is well worth the effort!

ARD/IEP Supplement for a Student with Autism

RODOLFO DELAROSA

570262

LEWIS ES

04/21/2000

Name of Student

ID#

Campus

DOB

A. Extended Educational Programming

Year: 2006-2007

The ARD Committee discussed extended educational programming and agreed that based on a review of previous skill/behavior acquisition and retention:

- Extended school year is recommended.
 Extended school year is not recommended.
- Extended day services recommended.
 Extended day services are not recommended.

B. Daily Schedule Reflecting Minimal Unstructured Time:

Time	Activity	Location	Time	Activity	Location
7:15-7:45	Morning arrival & breakfast	General Education	11:25-11:50	Recess	General Education
7:45-8:00	Pledge, Announcements, M	General Education	11:50-12:15	Restroom, Read aloud	General Education
			12:15-12:50	IEP activities	Special Education
8:00-8:30	Journal writing	General Education	12:50-1:35	Specials (computer,art,music,P	General Education
8:30-9:15	Math wall, math	General Education	1:35-2:00	Science/Social Studies	General Education
9:15-9:45	Speech (T,Th)	Special Education	2:00-2:30	IEP activities	Special Education
9:15-9:45	Earobics (M,W,F)	General Education	2:30-2:45	Prepare for home	Special Education
9:45-10:35	IEP activities	Special Education	2:45	Dismissal	
10:35-10:50	Prepare for lunch, restroom	General Education	1:45-2:00	Social Skills (Tuesdays)	Special Education
10:50-11:25	Lunch	General Education			

C. List Behavioral Objectives in Order of Priority:

Transition difficulties, physical aggression, off-task behaviors. Use of visual strategies to help decrease aggressive behaviors

D. Describe Suitable Staff to Student Ratio:

General Education 2 : 22 Special Education: 1 : 1 to 3 : 17

E. Describe Pre-vocational/Vocational Needs:

(for students 12 yrs. and older)

- Not applicable due to student's age.

F. A Written Plan For Transition Into Services After 21 Years of Age is

- YES
 NO
 Not applicable due to student's age.

G. Parent Training (check one):

- The ARD Committee has considered parent training and determined this service is not needed at this time. Basis for this determination: Based on needs assessment 3/3/06 ARD, previous 4 hrs of parent training have been closed out.
- The ARD Committee has considered parent training and determined this service is needed. See pg. 2 for goals.

H. In-Home Training or Viable Alternatives: (check one):

- The ARD Committee has considered in-home training and determined this service is not needed at this time. Basis for this determination: As of 8/4/06 the last 17 hrs. of compensatory services have been completed.
- The ARD Committee has considered in-home training and determined this service is needed. See pg. 2 for goals.

ARD date of meeting: 04/21/06

Dr. Folks,

This letter is to inform you that Rudy DeLaRosa has been withdrawn from the public school system. I am sending a detailed explanation to you. I have gone to the school a number of times, unannounced, to make observations. There have been a number of concerning observations. I have spoken to the School Principal in regards to my concerns—however, I get the impression that she is not as concerned as I am. Even the morning of November 27th, when my Husband called her to inform her of our decision—she did not show any concern for Rudy. She did not ask why he was being withdrawn from the school. Nor did she ask what the school could do to do to keep Rudy. Is this coldness and lack of concern what is expected from school Administration? Is it policy for school administrators to be so cold?

On October 20, 2006, at 8:05 a.m. I observed Rudy playing at his desk carol. Mrs. Branch was sitting about 5 feet away from him with her arms crossed. As soon as she saw me, she went to the door and said, “Rudy finished his work and has been rewarded with playtime.” I looked at the work the other children were working on and it was not even half way done by most of them. It is hard to believe a child with Autism would have finished the work in less than 5 minutes while the majority of the class was not even half way done. This is not an example of a free and **appropriate** public education.

On October 25, 2006, Ms. Castro (Aide) brought Rudy out at dismissal and Rudy had a band aid on his hand. Ms. Castro had an injured finger and was instructing Rudy to put a band aid on her. I asked what had happened to Rudy and Ms. Castro answered that he had poked himself with a pencil without any reason. She stated that she was with Rudy and had walked him to the water fountain to drink water, then returned back to the AMC classroom, and Rudy grabbed the pencil off his desk and stabbed himself with it. She stated there was no antecedent. I asked when it had happened and where. She responded it had just happened—minutes ago—and it happened at the AMC. I asked my Son who had stabbed his hand and he responded, “she did it”—pointing to Ms. Castro the Aide. She got defensive and told Rudy, “Rudy, tell your Mother you did it to yourself.”

My husband asked Ms. Ash the following day and the story changed. She stated it had happened at 12 noon in the AMC and Rudy was playing airplane with the pencil and he had accidentally poked himself with it.

My husband and I called a parent teacher conference with Mrs. Sharon Browne to clarify the inconsistent stories. In front of Mrs. Browne, Ms. Castro repeated Mrs. Ash’s story and denied telling me a different story. The bottom line is there is no TRUST. It makes it difficult to trust my child’s well being from Monday through Friday from 7:30am to 3
...to a woman who lies. Our trust has been violated. Since I can no longer believe what

Michelle Wanke had told me Mrs. Browne and Mrs. Ruiz were going to be made aware of my concerns and check on Rudy's safety. Mrs. Browne just shrugged it off. It is obvious, she did not take my concerns seriously.

As you are aware, there is the potential of abuse toward Special Needs Students by some Staff. Unfortunately, a lot of Staff Members go unpunished and it is a disservice to all of the Students. It is unfortunate for the neurotypical children because they do not have the right mentors to learn from. And it is also a disservice to these special needs students whose rights are violated and they are discriminated against.

Incidentally, one day as Rudy and I walked out of the school after dismissal, Mrs. Bradshaw (Aide) said to Rudy, "bye, Rudy-meinster". Before we got in the car, I asked Rudy, "Does Ms. Bradshaw always call you Rudy-meinster?"

He responded, "Everybody calls me Rudy "monster". Everybody hates me." Any Teacher trained to teach a child with Autism should know that children with Autism cannot comprehend nicknames, nor humor. These children are very literal. Therefore, nicknames should not be used in these children. Teachers should be trained in dealing with these Students with sensitivity. When Teachers call children with Autism with something other than their name, then they are teaching the other children to do the same. This school year, Rudy made a lot of alarming comments, such as: "everybody hates me", "don't hurt me", "I am a bad boy", "I am stupid", "I am a freak", and, "I am an idiot". The second week of school, Rudy was restrained twice!

According to Ms. Wanke (when I asked what the antecedents are to Rudy's "behaviors"?), she responded "Mrs. DeLaRosa, there isn't always an antecedent".

I disagree with that statement. "Behaviors" is a form of communication. Especially, in Rudy's situation, since he is not fully verbal. His behavior may be the only way for him to express that he is not in agreement with whatever is done to him. Physical restraints do not teach a skill to children with Autism. This school year, Rudy had all new Teachers who did not know him nor understand him. In his 3 years in PPCD, he never hit, kicked, nor attempted to bite anyone.

Nonetheless, this school year the majority of the daily classroom notes focus on his bad behaviors. How he has had meltdowns up to one hour and-a-half. The daily classroom notes reflect an escalation of behaviors. There has been no evident change from the beginning of the school.

In the parent Teacher conference on November 1st, I asked Mrs. Sharon Browne to bring in a Behavioral Specialist to give the school suggestions to diminish these behaviors. I

Rudy was placed in AMC with a high frequency to cool down. He was allowed to cool down by using his "body sock" inside the AMC's closet. Plus, on November 7th, Rudy was brought to BMC fifteen minutes earlier than dictated on the last ARD's schedule. Of course, Ms. Castro stated it was the first time they got to BMC early.

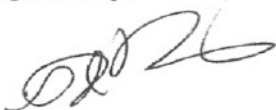
I pretended to leave at 2:05 p.m. Later at 2:15 p.m. I walked out to see Ms. Castro standing outside the library while Rudy was idly playing around. Ms. Castro was very surprised to see me again. She said, "Oh, I thought you had already left". At 2:00 p.m. in accordance to the agreed ARD schedule, Rudy should have been in AMC working on his IEP activities. This is an example of **failing to follow the ARD's agreed schedule**.

What happens to other Special Needs children without the resources that we, fortunately, have? I feel sorry for those families whose children are not receiving an appropriate education (or worse, are in threatening environments) who have no recourses to give them choices. What happens to those children? Who should be held responsible for them? After all, it is our taxpaying money that is allocated for the education for our children. Yet, the money does not follow the child when the appropriate education is not extended to them in one particular school. I have been a taxpayer in the NISD for the last 14 years; thus, as a Taxpayer, I have the right to voice my concerns.

Ms. DeNette Krawcynski has called me to resolve the above issues with the Lewis Elementary School Staff. She has always been very professional and caring. I did speak to her and expressed that I do not trust the Staff at Lewis Elementary School and do not wish for my Son to return to that school.

As an active member of my community, I can relate to you that there are a lot of cases similar to "Rudy's". As Superintendent you have been entrusted with the responsibility to provide a free and appropriate public education to all students including Special Needs children. I do hope this information is taken seriously by you and you hold your Staff accountable to their responsibilities.

Respectfully,



Mrs. Toni DeLaRosa (& Mr. Rodolfo DeLaRosa)
1003 Lynx Bend
San Antonio, TX 78251
(210) 358-3774

1003 Lynx Bend
San Antonio, TX 78251-4041

Mrs. Sharon Browne, Principal
Lewis Elementary School
1000 SeaScape
San Antonio, TX 78251

Dear Mrs. Browne,

We wish to dis-enroll our Son, Rodolfo DeLaRosa, from Bob Lewis Elementary School. It is our opinion that he is not receiving an appropriate education. The daily reports do not identify his academic progress.

On October 16, 2006, Monday, I visited the school at 8:05 a.m. and Rudy was playing with colored pegs. His Aide informed me that Rudy had already finished his work and was rewarded by allowing him to play.

On numerous occasions Rudy is placed in AMC to "cool down". AMC should be a service to assist him academically and not a placement.

Rudy's safety is also a concern. On October 25, 2006, Wednesday, Rudy had stabbed his hand with a pencil and, incidentally, his Aide had an injured finger and requested for Rudy to put a band-aid on her finger. Also, Rudy has exhibited some behaviors at school that he does not do at home (i.e. running). That is a big safety concern for us.

I have made every attempt to get the Teachers and Aides proper training to no avail. For the above reasons, my Husband and I have decided to dis-enroll Rudy from your School.

Respectfully,

Mr. and Mrs. Rodolfo DeLaRosa

*Received on
27-06*

Antonia DeLaRosa

From: DeNette Krawczynski [e022343@nisd.net]
Sent: Tuesday, November 28, 2006 11:18 AM
To: Antonia DeLaRosa
Subject: Re: FW: Running

Hi Toni,

I appreciate your letting me know that you have chosen to withdraw Rudy from Northside. I have left messages on phones for you to call me. I would like to have the opportunity to work with you to problem solve the concerns you have regarding Rudy's education at Lewis Elem. I would be happy to meet with you and staff at Lewis to discuss your concerns. If we all work together, I am confident that we can resolve the issues. Rudy's progress academically and behaviorally are certainly a priority. I suggest we meet to outline the issues and then convene an ARD to address any changes that may be needed to his IEP and/or program at Lewis Elem.

I am looking forward to hearing from you. My phone number is 397-8752.

Sincerely,
DeNette Krawczynski

>>> "Antonia DeLaRosa" <Antonia.DeLaRosa@uhs-sa.com> 11/27/06 4:28 PM

>>>

Mrs. Krawczynski,

This letter is to inform you that Rudy DeLaRosa will be withdrawn from the public school system. Out of respect to you, I am sending a detailed explanation. I have gone to the school a number of times, unannounced, to make observations. There have been a number of concerning observations. I have spoken to the School Principal in regards to my concerns-however, I get the impression that she is not as concerned as I am. Even this morning, when my Husband called her to inform her of our decision-she did not show any concern for Rudy. She did not ask why he was being withdrawn from the school. Nor did she ask what the school could do to do to keep Rudy. Is this coldness and lack of concern what is expected from school Administration? Is it policy for school administrators to be so cold?

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Rudy said "she did it"

My husband asked Ms. Ash the following day and the story changed. She stated it had happened at 12 noon in the AMC and Rudy was playing airplane with the pencil and he had accidentally poked himself with it.

My husband and I called a parent teacher conference with Mrs. Sharon Browne to clarify the inconsistent stories. In front of Mrs. Browne, Ms. Castro repeated Mrs. Ash's story and denied telling me a different story. The bottom line is there is no TRUST. It makes it difficult to trust my child's well being from Monday through Friday from 7:30am to 3 pm to a person who lies. Our trust has been violated. Since I can no longer believe what a School Representative (Aide)-with access to my child-tells me.

At the Parent Teacher conference, I asked Mrs. Browne if she had followed up on my earlier concerns and she did not know what I was talking about. I explained Mrs. Wanke had told me Mrs. Browne and Mrs. Ruiz were going to be made aware of my concerns and check on Rudy's safety. Mrs. Browne just shrugged it off. It is obvious, she did not take my concerns seriously.

As you are aware, as a Special Education Director, there is the potential of abuse toward Special Needs Students by some Staff. Unfortunately, a lot of Staff Members go unpunished and it is a disservice to all of the Students. It is unfortunate for the neurotypical children because they do not have the right mentors to learn from.

Incidentally, one day as Rudy and I walked out of the school after dismissal, Mrs. Bradshaw (Aide) said to Rudy, "bye, Rudy-meinster". Before we got in the car, I asked Rudy, "Does Ms. Bradshaw always call you Rudy-meinster?"

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children with Autism cannot comprehend nicknames, nor humor. These children are very literal. Therefore, nicknames should not be used in these children. Teachers should be trained in dealing with these Students with sensitivity. When Teachers call children with Autism with something other than their name, then they are teaching the other children to do the same. This school year, Rudy made a lot of alarming comments, such as: "everybody hates me", "don't hurt me", "I am a bad boy", "I am stupid", "I am a freak", and, "I am an idiot". The second week of school, Rudy was restrained twice!

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Nonetheless, this school year the majority of the daily classroom notes focus on his bad behaviors. How he has had meltdowns up to one hour and-a-half. The daily classroom notes reflect an escalation of behaviors. There has been no evident change from the beginning of the school.

In the parent Teacher conference on November 1st, I asked Mrs. Sharon Browne to bring in a Behavioral Specialist to give the school suggestions to diminish these behaviors. I asked for this to happen within a week. It never happened. In light of the lack of concern from the school, we have decided to disenroll him and pay someone to educate him. It is a financial sacrifice from our part to do this. Nonetheless, Rudy has a higher rate of success learning in a non-threatening environment with people who can be trusted.

Rudy was placed in AMC with a high frequency to cool down. He was allowed to cool down by using his "body sock" inside the AMC's closet. Plus, on November 7th, Rudy was brought to BMC fifteen minutes earlier than dictated on the last ARD's schedule. Of course, Ms. Castro stated it was the first time they got to BMC early.

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Respectfully,

Toni DeLaRosa

last 2 wks Rudy has had no behavior issues, no running, hitting, kicking, attempting to bite. I've had "classroom work" he has been compliant idoes joke around but will eventually give correct answer. - Been happy
Attached is a copy of the letter I gave the Principal at Lewis. *- more verbal
- no alarming comment*

p.s. below is a correspondence my husband sent the school on November 9th which he NEVER got a response to. *- 2 ladies hunt me*

-----Original Message-----

From: Rodolfo De La Rosa [mailto:rodolfo@artchitecture-tx.com]
Sent: Thursday, November 09, 2006 12:16 PM
To: suzanneash@nisd.net
Cc: ofeliarui@nisd.net; Antonia DeLaRosa
Subject: Running

Mrs. Ash,

I am following up on the "running" occurrences the past 3 consecutive days. I appreciate you informing me on Monday that Rudy ran out of the AMC class and that he ran down the hall with his "body sock." You had to chase him & bring him back to the classroom. At this time, the AMC staff was in the classroom. We discussed the incident and discovered that Rudy was near the door and that as soon as it opened he ran out. So, we agreed that the following tactics would be tried: (1) if the body "sock" is to be used by Rudy, allow him to use it away from the door & (2) get in touch with Tana Sundberg & create a social story to let Rudy know that it is not proper to run out of the classroom. Please provide us with a copy of the social story, as well. Rudy has never done this at home and we do not want him to generalize the behavior at home.

On Tuesday, I came by to pick up Rudy from school & asked Mrs. Castro

as
to why Rudy was let out earlier than 2:45. She responded that she had not come out with Rudy earlier and quickly turned around and asked other parents waiting to pick up their children if they had seen her with Rudy earlier. I mentioned to her that I was informed that had been out of the classroom for at least 20 minutes. Then she mentioned that Rudy had run out of the BMC classroom and into the hallway and again they had to stop him and bring him back into the classroom. Incidentally, what was Rudy doing at BMC ahead of schedule? He was 15 minutes early.

Yesterday, Wednesday, I went by the school to pick him up and they had Rudy waiting in the Administrative office area. That is a good idea. It is safer there & less crowded than the hallway. In this instance, Rudy was with a different aide (not Mrs. Vela nor Mrs. Castro). I walked in to get Rudy, but Rudy ran away from the aide and down the hallway of the administrative area & the aide chased him. I stopped him this time and redirected Rudy. I asked the aide who she was & she mentioned that she is the one that walks Rudy to the cafeteria daily. She was with Rudy in the afternoon yesterday, because the aides had other duties to attend to.

I have the following questions:

- 1.) Has a social story been made for Rudy?
- 2.) What is or are the antecedents that are precipitating this behavior?
- 3.) How is Rudy being redirected?
- 4.) Why is he not following his schedule agreed upon in the ARD?

I think we can all agree that he needs a structured environment in order for him to succeed academically and for his own safety. His transitioning has to be consistent and the aides need to be consistent.

It was mentioned to us that Mrs. Castro was going to be helping Mrs. Vela on a rotating basis, but on Wednesday there was someone different at the end of the day. Consistency and structure is very important. WE ARE HERE TO HELP YOU AND TO WORK WITH YOU. We are very interested in hearing how his day went so please don't be guarded about informing us- good or bad.

We want to nip this behavior quickly and to prevent him from generalizing the behavior to his home setting as well. If you have any questions, please feel free to contact me. Thank you.

Best Regards,

ARTchitecture
Rodolfo G. De La Rosa, Principal
4606 Centerview, Suite 264
San Antonio, Texas 78228
(210) 736-0013
(210) 736-0233

CONFIDENTIALITY NOTICE: This communication is intended only for the

Bob Lewis Elementary School

1000 SEASCAPE
SAN ANTONIO, TEXAS 78251
(210) 397-2650
www.nisd.net/lewisww

Sharon Browne
PRINCIPAL

Lisa Gallego
VICE PRINCIPAL

April 29, 2005

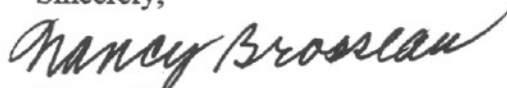
Dear Mr. and Mrs. De la Rosa,

Your child was involved in an emergency situation on 04/29//05 that resulted in the use of physical restraint. While in the hallway attending the Fiesta Parade, Rudy refused to leave the hallway and go back to class. When redirected, he threw himself on the floor and starting kicking and swinging his arms. Attached is a written description of the physical restraint used. During the time of restraint, trained staff members observed your child. The use of restraint ended as soon as the emergency situation no longer existed.

Commissioner's Rule for Special Education states that restraint for a student with a disability may be used only in a clearly defined situation. Schools must inform parents when restraint was necessary to protect the student, other students or prevent serious property damage.

Thank you for your support in creating a safe environment for your child and others.

Sincerely,



Nancy Brosseau
Special Ed. Campus Coordinator
Bob Lewis Elem.

Cc: Lisa Gallego, Vice-Principal, Bob Lewis Elem.

Special Education Department
Physical Restraint Documentation Form

Student name: Rodolfo De La Rosa D.O.B. 4-21-00 Student ID#: 570262

School: Lewis Elem. Campus Code: 168

Date of restraint: 4-29-05 Time began: 9:40 Time ended: 9:42

Nature of restraint: One Person Two Person Team

Location of restraint: (Hallway, Classroom, etc.) Hallway

Name(s) of staff member(s) administering restraint: Teresa Castro (TA)

Description of activity in which student was engaged immediately preceding the use of restraint: was in the hallway watching the parade. refused to get back to class

Reason for restraint: (Check only one Restraint Reason Code, this code will be entered as PEIMS Data)

- 01 Imminent Serious Physical Harm to Themselves
- 02 Imminent Serious Physical Harm to Others
- 03 Imminent Serious Physical Harm to Themselves and Others
- 04 Imminent Serious Property Destruction
- 05 Imminent Serious Physical Harm to Themselves and Imminent Serious Property Destruction
- 06 Imminent Serious Physical Harm to Others and Imminent Serious Property Destruction
- 07 Imminent Serious Physical Harm to Themselves and Others and Imminent Serious Property Destruction

Efforts made to de-escalate the situation:

Provided choices Verbal redirection Calming techniques Other _____
Explain: _____

Alternatives to restraint that were attempted:

Removal of other students Request for assistance Voluntary removal of student to another location
 Other _____ Explain: Rody chose to walk to different classroom

Parental Notification of Restraint: Name of Person Notifying Parent: Sandra Ayala Moore
(please print)

Date of Notification: 4-29-05 Type of Notification: Written Verbal

Name of person completing this form: Teresa Castro
(please print)

Mrs. Moore left message
parent's home ph. #
on 4/29/05

talked w/ Mrs. DeLaRosa
when she returned call
@ 1:58 pm 4/30/05

NORTHSIDE INDEPENDENT SCHOOL DISTRICT

PARENT - TEACHER CONFERENCE

Name Rudy DeLaRosa Grade 1

Teacher S. Ash Date 8-31-06

Conference requested by:

1. Parent Mrs. DeLaRosa Teacher S. Ash

Telephone Conference _____

Items covered in conference:

1. Child working below grade level in _____ subject area(s)

2. Child is making failing grades in _____ subject area(s)

3. Other Rudy's aggressive behavior & strategies to deal w/it.

Summary of Parent's comments:

Parent expressed concerns about Rudy's behavior being exhibited these 1st 2 weeks of school. His behavior has been more non-compliant which ~~then~~ then evolved to some physical aggression. Parent gave staff some suggestions to help lessen beh.

Summary of Teacher's comments:

Staff reported about all the new changes in Rudy's schedule this year may contribute to the beh. ^{environment}

Staff will incorporate visuals for "break", "need help", & the Promack Principle, ~~the~~ ~~his~~ & different feelings that he is exhibiting & a timer for transitions

Suzanne Ash
Teacher's Signature

R DeRosa
Parent's Signature

Lemire P. Vela
Lillie Bradshaw

The Commissioners Seven Rules for Autism

For Students with Autism/Pervasive Developmental Disorders, information about the following shall be considered and, when needed, addressed in the Individual Education Plan (IEP):

1. Extended educational programming
2. Daily schedules reflecting minimal unstructured time
3. In-Home training or viable alternatives
4. Prioritized behavioral objectives
5. Prevocational and vocational needs of students 12 years of age or older
6. Parent training and
7. Suitable staff-to student ratio

Northside Independent School District
Special Education Department
Physical Restraint Documentation Form

mon

Student name: Rudy Delafosa D.O.B. April 21 Student ID#: 570262

School: Lewis Campus Code: 168

Date of restraint: 8-28-06 Time began: 9:15 Time ended: 9:20

Nature of restraint: One Person Two Person Team

Location of restraint: (Hallway, Classroom, etc.) AMC Classroom

Name(s) of staff member(s) administering restraint: Lemira Vela

Description of activity in which student was engaged immediately preceding the use of restraint: transitioning from classroom to computer lab for aerobics

Reason for restraint: (Check only one Restraint Reason Code, this code will be entered as PEIMS Data)

- 01 Imminent Serious Physical Harm to Themselves
- 02 Imminent Serious Physical Harm to Others
- 03 Imminent Serious Physical Harm to Themselves and Others
- 04 Imminent Serious Property Destruction
- 05 Imminent Serious Physical Harm to Themselves and Imminent Serious Property Destruction
- 06 Imminent Serious Physical Harm to Others and Imminent Serious Property Destruction
- 07 Imminent Serious Physical Harm to Themselves and Others and Imminent Serious Property Destruction

Efforts made to de-escalate the situation:

Provided choices Verbal redirection Calming techniques Other transition pics

Explain: _____

Alternatives to restraint that were attempted:

Removal of other students Request for assistance Voluntary removal of student to another location

Other time-out Explain: after striking and kicking me was given a choice for time out but he continued hitting and kicking and attempted to bite me.

Parental Notification of Restraint: Name of Person Notifying Parent: Suzanne Ash
(please print)

Date of Notification: 8-28-06 Type of Notification: Written Verbal

Name of person completing this form: Lemira Vela
(please print)

Antonia DeLaRosa

From: Antonia DeLaRosa
Sent: Tuesday, August 29, 2006 12:03 PM
To: Ofie Ruiz (ofeliar Ruiz@nisd.net)
Cc: Sharon Browne; rodolfo@artchitecture-tx.com
Subject: Restraint Incident on 8/28/06

Ms. Ofie Ruiz,

I received the report regarding the incident on 8/28/06 involving Rudy and Ms. Vela. I called this morning and scheduled a conference with Mrs. Ash and Ms. Vela for Thursday after school.

Of course, I want to help prevent this incident from occurring in the future and wish to get as much information as possible in order to come up with solutions. It is hard to believe that Rudy--a 6 year old child--needed the use of physical restraint. The incident has already occurred and there is nothing anyone can do. The only thing as Professionals and concerned Parents that we should do is discuss the Antecedents so that we can work together to ensure everyone's safety. I do not know that Rudy ever--in the last three years--hit the Aides in PPCD. I have not met Ms. Vela and do not know what kind of verbal redirection techniques, calming techniques nor transition pics she used. I am also unclear as to what was being requested of Rudy right before the incident.

I do hope Ms. Vela is okay.

Ms. Ash mentioned Rudy is having a good day today. I am sure we all want him to have "good days" every day.

I look forward to brainstorming together to ensure Rudy has more good days than bad ones. He and his Teacher(s) need to be given the right tools and resources to increase Rudy's chances of success in the school environment.

Respectfully,
Toni DeLaRosa

tel. 210-358-3774
pager 210-756-0063

Where did it happen, what was happening

- Rudy hit face - Was Ms. Vela sitting? playing? standing?
- Rudy did not do that last 3 yrs in PPCD is Aides nor at home

Questions

- Antecedents
 - ? social factor, confrontational factor?
 - visual?
 - ? provocation

Prevention
? for Aide

if he's totally at fault - we can advise + counsel - don't think should go record "appeal"

8/29/2006 my H = I = "Dales to do let Madera"

Patricia M. Harkins, MD
4093 DeZavala Rd.
San Antonio, TX 78249
Tel: 210-692-3439/ Fax 210-493-3444

Patient Name: Rudy DeLaRosa
Parent Names: Toni, Rodolfo
DOB – 4/21/00
Age – 5 years, 6 months
PCP – Jerry Abrams, M.D.
Grade – Kindergarten
District – NISD

Chief Concern: Management of an autism spectrum disorder.

History:

Rudy is a 5 year, 6 month old boy who was diagnosed with autism by the Village of Hope and his school district. His parents would like advice and suggestions about early intervention to address his special needs. His language skills were late. He began babbling at 13 months, but his babble sounded like a native language. He did not say his first word, "Daddy," until he was 2. Two word combinations began at 3½, and he has not yet used complete sentences. His articulation is inconsistent and some words are unintelligible.

Rudy had delayed gross motor skills. He had sensory difficulties and was tactilely defensive. He had particular difficulty with his scalp. He made little eye contact at 2, although it has improved. Although he plays with his sister and initiates contact with family members, he is aggressive at school with the other children. He hits and kicks them, particularly when he is over stimulated. Rudy is included in the regular classroom. Although he has an aide, he does not always receive 1:1 supervision. His aide focuses primarily on his behavior, rather than academics. He began receiving 30 minutes of speech therapy once a week when he was 2.

Rudy received occupational therapy in the past, but no longer due to finances. Since he stopped receiving occupational therapy, he has more sensory defensiveness, is more aggressive, and is more hyperactive. His parents have been trying to toilet train Rudy since he was 18 months with no success. He resists and says he is still a baby. Although he understands the concept of toilet training, he is more comfortable wearing diapers.

Birth History – Rudy was born vaginally at 40 weeks. He weighed 9 pounds, 9 ounces. He was well in his first few months. He overate as a newborn "as if he were starving".

Social – Rudy smiled and laughed in early infancy. He responded to social games such as peek-a-boo by 12 months. He never raised his arms to be picked up. He pointed at 18

Diagnoses

1. Congenital Encephalopathy manifesting as High Functioning Autism
2. Developmental Coordination Disorder manifesting as delayed motor and sensory processing skills
3. Aphasia manifesting as a moderate expressive, receptive and pragmatic language disorder
4. Symptoms of anxiety

Recommendations

1. Minimum of 2 hours per week of one on one speech and language therapy addressing expressive, receptive, and pragmatic language
2. Minimum of 2 hours per week of one on one occupational therapy to address fine motor and sensory processing skills
3. Strong home programs in each area of intervention to extend their impact
4. Develop an IEP under the eligibility of Autism and Speech Impaired
5. Schedule time for social and sensory breaks
6. Remediation and support for Dysgraphia
 - a. *Handwriting Without Tears* curriculum
 - b. task reduction
 - c. allow dictation
7. Supports for attention control
 - a. preferred seating
 - b. shortened tasks
 - c. visual supports (written directions, checklists, written information to support auditory information such as a teacher's outline or study guide)
 - d. token economy
8. Use current interests to increase attention to low interest tasks. Reward work with time to play with preferred toys or to discuss the special interest(s). Adapt lessons to include the special interests (i.e. teach math by using numbers of Power Rangers instead of abstract numbers).

loops & groups

9. School placement with inclusion, including a teacher's assistant whose primary tasks are to monitor him for stress, behavior breakdown, on task behavior, and to assist socialization and classroom modifications. Times with less structure and more social confusion are where the aid is most needed – i.e. recess, lunch, PE, art, and music. Training for the aide should be modeled by *How to be a ParaPro* by Diane Twachtman Cullen.
10. Institute a lunch bunch. Have a group of socially adept children who can rotate having lunch with him in a small, quiet setting.
11. Consider use of SSRIs to increase socialization and decrease stress
12. Employ the socialization curriculum developed by Steven Gutstein, *Relationship Development Intervention with Young Children*.
13. Increase reciprocal communication using Floortime as developed by Stanley Greenspan
14. Visual supports for learning and to keep him oriented to the schedule, the current task, classroom rules, control of behavior, and socialization. Materials are available from Linda Hogdgon and Carol Gray.
15. Laboratory evaluation
 - a. CBC
 - b. lead
 - c. chromosome studies
16. Use of a sensory diet to be used at school to help him self-regulate and increase attention. Provide the *How Does Your Engine Run* self regulation program
17. Books on tape to increase auditory attention. Decrease TV time. Use closed captioning when the TV is on to improve reading
18. No phone, TV or computer in the bedroom at any age
19. Special Education law web sites
 - a. Wrightslaw.com
 - b. Reedmartin.com
20. Ongoing developmental surveillance and medication management.
21. Books and other resources:
 - Warren and Capehart – *You and Your ADD Child*
 - Ross Greene – *The Explosive Child*

Texas Education Agency
Customer Service Representative
1701 North Congress Avenue
Room 2-125
Austin, TX 78701-1494
(512) 463-9437

To Whom It May Concern:

I would like to submit a letter of complaint to the Texas Education Agency on behalf of my Son who attends Lewis Elementary School (campus # 015915168) in the Northside ISD in San Antonio. My son's name is Rodolfo DeLaRosa (his nick name is Rudy), date of birth 4/21/2000, and has the diagnosis of Autism. He has been in PreKinder Program for Children with Disabilities (PPCD) for the last two years. This fall he started Kinder and in accordance with the Admissions Review and Dismissal (ARD) document dated 3/11/2005 he was to receive 25 hours per week in the General Education classroom and 5 hours per week in the Special Ed. Classroom. However, the Staff made the decision to be non-compliant with the last signed ARD dated 3/11/05.

My Son started Kinder on August 22, 2005 and by the second day (August 24, 2005) the staff, according to Area Special Education Coordinator Michelle Wanke, decided to pull Rudy out of the General education classroom. Since that day, the staff decided to place Rudy 2 hours in the Kinder classroom (General Education) and the remaining 4 hours in the Special Ed. Classroom. This equals a total of 10 hours in General education per week and 20 hours per week in the Special Ed. Classroom— which is not in compliance with the ARD dated 3/11/05.

I requested an ARD meeting, upon realizing my Son's last ARD was not being followed and also upon finding that he was being removed from the least restrictive environment (LRE). In accordance with the Individuals with Disabilities Education Act (IDEA) — a federal law that assures students with disabilities receive free appropriate education in the least restrictive environment — my Son's rights are being violated.

According to an email from the PPCD teacher, Ms. Sandra Moore, it was decided on the 24th of August to remove Rudy from the General Ed. Classroom due to the following incident: *"Rudy experienced difficulty during lunch in the cafeteria. The instructional Assistant (IA) on duty in the cafeteria reported that Rudy threw his tuna fish sandwich and it hit another child in the face. This was an unprovoked behavior. The IA gave Rudy the choice to be removed from the cafeteria or remain quiet at the table. Rudy chose to remain at the table and did not cause any further disruptions."*

Rudy chose to remain with his class and he remained quiet at the table without any further disruptions; nonetheless, it was decided without the Parents' approval to remove him from the Least Restrictive Environment and place him in the Special Ed. Classroom during lunch and the remainder of the day after lunch.

Since the Texas Education Agency is responsible to ensure that the delivery of special education and related services to eligible students is in compliance with state and federal laws, I have decided to file a formal complaint with you. I am outraged that the Lewis Elementary School Staff have violated my son's rights. In accordance with the law, "each child with a disability will be removed from the regular

educational environment only when the nature or severity of the child's disability is such that education in regular classes **with the use of supplementary aids and services** cannot be achieved satisfactorily (Sec. 300.550 (b)(1)).

An incident at the Cafeteria setting is not a valid reason to make the decision to remove him from his peers. In addition, the School failed to intervene with the use of supplementary aids/services to redirect the behavior. The School also reported that on the first day of school my Son went under a table and refused to come out. Again, intervention with supplementary aids/services should have been used.

I spent the entire day of September 1, 2005 with my Son at school to gain objective insight. The following were my observations: Rudy had breakfast with the Special Ed class. At 7:30 a.m. he was walked over to the General Ed. Classroom by Special Ed Teacher Sandra Moore and I informed her I was spending the day with Rudy. **There was no teacher and no assistant in the classroom. There was social confusion.** About 5 minutes later, a substitute teacher entered to teach the class and stated the General Ed. teacher Marilyn Villarreal was in a meeting. The children were instructing the substitute as to their routine. They said they first got up and got their name tags which were on top of a table. All the children got up to get his/her name tag including Rudy; however, each child had a name tag **except** Rudy, I noticed disappointment on his face when there was no name tag for him. This is discrimination, Rudy should have INCLUSION 100% — not having a simple thing as a name tag sends a message that he does not belong.

The Children walked through their routine with the substitute, such as naming the days of the week, counting, and their writing assignment; and, the substitute read a Dr. Seuss book. A Teacher Assistant walked in and said she had been sent by Ms. Sandra Moore to watch Rudy. I asked where the usual Assistant, Lynn Miller, was and she said she did not know. Rudy was then pulled out to go to lunch with the Special Ed Classroom. This is when I found out about the staff's decision to pull him from the General Education classroom.

At lunch, Rudy **sat alone** at the Special Ed. Table. I asked if he always sat alone and the teacher informed me that Rudy chooses not to sit next to the Special Ed. group because they are younger and smaller children and he feels like he is a big boy and does not belong. I see a failure of the School not providing socialization skills training for Rudy; instead he is being punished by being removed from the LRE — again, this is not INCLUSION.

After lunch, Rudy was walked over to the Special Ed. Classroom for a nap until 12:40. Then he was taken to Art Class by an Assistant and returned to Special Ed. afterwards for *discrete trial training* by Ms. Moore. Ms. Moore then asked if we could have a parent-teacher conference since I was already there. It was then on September 1st that she informed me that they previously agreed Rudy was not being successful in the General Ed. Classroom and modifications were made. I told her, I had requested an ARD meeting since August 25th, one week earlier, because the General Ed. Teacher had informed me at the Open House that Rudy was already behind by his second day of school. She stated that Rudy did well in the morning when he had an Instructional Assistant; however, he failed in the afternoon when he was alone. I informed the Gen. Ed. Teacher, Marilyn Villarreal, that she needed to get face-to-face with Rudy to better communicate with him because he learns well in one-on-one settings. Mrs. Villarreal responded that she was responsible for teaching

the entire class and had no time to do one-on-one with my son. Clearly, it is her responsibility to either make the time or request additional support.

Ms. Moore went to see the Special Ed. Coordinator and was successful in scheduling the ARD meeting for September 8, 2005, Thursday, at 8:30 a.m. I told her I wanted to have an ARD meeting because I wanted to intervene early on to help my child become successful.

Notes: I noticed social confusion in the morning. I also noticed ISOLATION (Discrimination) when Rudy sat alone at lunch. I noticed lack of structure and lack of following the Daily PEC (picture exchange communication) schedule. Children with autism function better with structure. Rudy did not have any behavioral issues the entire day.

At the ARD meeting, on September 8, I requested an instructional assistant for Rudy all day in the General Education classroom (LRE) whose primary tasks would be to monitor for stress, behavior breakdown, on task behavior, and to assist socialization and classroom modifications. Times with greater structure and less social confusion should be used first.

Michelle Wanke said that was not going to happen. They were not going to have an assistant for Rudy all day. Instead at this ARD meeting, they proposed (ARD date 9/8/05 (they wrote 3/11/05) on page 7 of 17) a total of 30 hours of Special Education each week. Based on the IDEA and failure of the NISD to give Rudy the support he needs to be successful in the Least Restrictive Environment, I strongly disagreed with the ARD.

I asked Ms. Michelle Wanke the amount of money they receive for children diagnosed with autism and she said the amount is the same for all disabilities and that she did not know the exact amount. I was informed that the school receives approximately 4 times the amount for a child with autism as opposed to a child with other disabilities. According to the TEA website, Lewis Elementary School received a total of \$389,634 for Special Education for the School year 2003-2004. I also asked the General Ed. Teacher Mrs. Villarreal, what kind of support she felt Rudy needed to be successful in her classroom and Mrs. Michelle Wanke responded, "she was not qualified to answer". According to Sec. 300.344 (a)(2), the regular education teacher can determine supplementary aids and services for the child...consistent with 300.347 (a) (3) (Sec. 300.344 (d)).

When asked why they were non-compliant to follow the last ARD which was agreed upon by the ARD committee and parents on March 11, 2005, Michelle Wanke responded, "they had made a mistake."

In accordance with *A Guide to the Admission, Review and Dismissal Process*, page 17, "if your child's behavior interferes with his or her learning or the learning of others, the ARD committee **must consider strategies and supports** to address your child's behavior by conducting a functional behavioral assessment. The ARD committee should use the results of this assessment to develop positive behavioral supports and develop a behavior intervention plan (BIP)."

It is my opinion, the staff:

- Are non-compliant with executing the ARD dated March 11, 2005
- Are in violation of the IDEA by having Rudy removed from the LRE

- Have failed to give Rudy the use of supplementary aids and services in the LRE
- Have failed to do BIP first before removal from LRE

On behalf of Rudy, I am requesting the following for his success:

- An Instructional Assistant — certified to teach children with Autism—all day in the general education classroom
- Adapting lessons to include his special interests (i.e. teaching math by using manipulatives instead of abstract numbers)
- Have a Behavioral Therapist work with IA and teachers to help Rudy
- Have one-on-one Speech therapy
- Have one-on-one Occupational therapy
- The IDEA states that if these services cannot be provided at the school, then we are allowed to choose his own setting and I would like to request the setting at *One For Autism*, a private facility specializing in teaching children with Autism.

We thank you for looking into this matter and appreciate any feedback that can be provided. Please do not hesitate to call us for any questions or comments at 210-393-2988. We are strong advocates for our child, and are willing to work together with everyone involved in his success. We are here to help and not as a roadblocks. Please advice us as to what we can do to help Rudy become successful.

Respectfully,



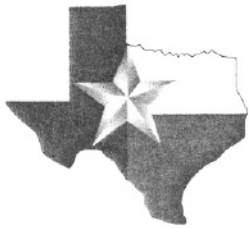
Toni DeLaRosa & Rodolfo DeLaRosa, Sr.
1003 Lynx Bend
San Antonio, TX 78251

Work (210) 358-5647
Cell (210) 393-2988

Rudy DelaRosa student at Lewis Elementary school (campus # 015915168)
DOB: 4/21/2000
SS: 641-70-7515
Grade: Kinder

Attachments: ARD dated 3/11/05 (**note: I only have DRAFT because the school's printer was not working and they never provided me with the final version**), proposed ARD dated 9/8/05, Parents Requests at ARD on 9/8/05

Cc: Dr. Folk, NISD Superintendent; Congressman Charlie Gonzales; Senator Leticia VanDePutte. R.Ph.; Nancy Brosseau, Special Ed. Campus Coordinator; DeNette



TEXAS EDUCATION AGENCY

1701 North Congress Ave. ★ Austin, Texas 78701-1494 ★ 512/463-9734 ★ FAX: 512/463-9838 ★ <http://www.tea.state.tx.us>

Shirley J. Neeley, Ed.D.
Commissioner

Special Education Complaint Investigation Report November 15, 2005

Rodolfo De La Rosa
Complainant
1003 Lynx Bend
San Antonio, Texas 78251

John M. Folks
Superintendent
Northside ISD
5900 Evers Road
San Antonio, Texas 78238

Denette Krawczynski
Special Education Director
Northside ISD
5900 Evers Road
San Antonio, Texas 78238

Northside ISD Co-Dist: 015-915
FY 2005-2006
Complaint: 20060100

The purpose of the attached report is to provide the parties with the written decision of the Texas Education Agency (Agency) regarding the complaint filed with this Agency. In a letter received on September 16, 2005, Mr. Rodolfo De La Rosa alleged violations of the Individuals with Disabilities Education Act (IDEA), Texas Education Code (TEC), and/or the Texas Administrative Code (TAC) by the Northside Independent School District (ISD), herein, referred to as the local education agency (LEA) with respect to Rodolfo De La Rosa.

Reconsideration of the Investigative Process:

If either the LEA or complainant believes that the Agency has made an error in one or more findings of fact, a reconsideration of the investigative findings may be requested, in writing, to the Division of IDEA Coordination. The request should include relevant information pertaining to the fact(s) in question. The Division will conduct a review of the investigative findings and inform the complainant and LEA of its determinations, in writing, within 30 calendar days. During the reconsideration process, the Division will continue to ensure the implementation of any corrective actions required from this investigation.

The reconsideration is reviewed by a panel of Division staff. The panel reviews the investigative report subject to the review, any relevant information available at the time of the request, and the documentation submitted for the investigation. Through this review, the panel verifies the accuracy of the fact(s) in question and recommends appropriate actions to address the stated concerns.

As a result of the reconsideration, actions taken by the Division may include (a) an amendment of the investigative report, (b) the provision of technical assistance, including explanation of TEA complaint resolution systems, (c) the acknowledgement of a complaint, and/or (d) the determination that the findings remain as outlined in the investigative report.

This concludes the Agency's investigation. The attached Investigative Report is the Agency's final written decision, and is provided to the LEA. The Agency will ensure the implementation of any corrective actions. Questions regarding this letter or attached report may be directed to Bonnie Garza and/or Gaynel Roberts at (512) 463-9414.

"Good, Better, Best—never let it rest—until your good is better—and your better is BEST!"

Northside ISD Co-Dist: 015-915
FY 2005-2006
Complaint: 20060100

Sincerely,

A handwritten signature in cursive script that reads "Cindy Swain".

Cindy Swain
Manager of Support Services
Division of IDEA Coordination

CS: gr

enclosure to LEA

This report is the written decision of the Texas Education Agency (Agency) regarding the complaint filed on behalf of a student in the Northside Independent School District (ISD), herein, referred to as the local education agency (LEA). The complaint alleged violations of federal and state special education laws and the implementing regulations pertaining to the Individuals with Disabilities Education Act (IDEA), Texas Education Code (TEC), and/or the Texas Administrative Code (TAC).

Statement of the Complaint

The student attends kindergarten at an elementary school in the LEA. Student meets eligibility for special education services as a student with autism and speech impairment.

The complaint centered on the following allegations:

1. Did the LEA ensure that the individualized education program (IEP) was implemented with regard to placement in accordance with required procedures? [34 CFR §300.342]
2. Did the LEA ensure that an admission, review, and dismissal (ARD) committee, including the parents, convened to determine the student's change in placement at the beginning of the 2005-2006 school year? [34 CFR §300.552]

The specific allegations, the Agency's findings of fact and conclusions, together with the reasons for the Agency's final decision, are as follows:

Allegation 1

Did the LEA ensure that the individualized education program (IEP) was implemented with regard to placement in accordance with required procedures? [34 CFR §300.342]

Allegation 2

Did the LEA ensure that an admission, review, and dismissal (ARD) committee, including the parents, convened to determine the student's change in placement at the beginning of the 2005-2006 school year? [34 CFR §300.552]

Findings of Fact

1. The complainant's letter, received by the Agency on September 16, 2005, reads in part, "This fall [student] started Kinder and in accordance with the Admissions Review and Dismissal (ARD) document dated 3/11/05 [student] was to receive 25 hours per week in the General Education classroom and 5 hours per week in the Special Ed. Classroom. However, the Staff made the decision to be non-compliant with the last signed ARD dated 3/11/05. ... by the second day (August 24, 2005) the staff decided to pull the [student] out of the General Education Classroom. Since that day, the staff decided to place [student] 2 hours in the

- [student] from the Least Restrictive Environment and place [student] in the Special Ed. Classroom during lunch and the remainder of the day after lunch.”
2. The LEA submitted paperwork for an ARD meeting held March 11, 2005. On page 13 of 41 the schedule of services for the 2005-06 school year listed Service Time per Instructional Week as “General Education 25 hours per week [and] Special Education 5 hours per week.” Under Course Curriculum Comments it reads, “For the 2005-06 school year, [student] will participate in a full-day PPCD/ECC [(Preschool Program for Children with Disabilities/Early Childhood Collaboration)] classroom with planned, regular participation in a kindergarten class including specials classes, P.E., Art, Music, and Computer.”
 3. Additional information on page 38 of 41, ARD/IEP Supplement for a Student with Autism, Daily Schedule Reflecting Minimal Unstructured Time lists the time for services from 7:15 to 10:50 as General Education. The instructional setting for Public Education Information Management System (PEIMS) was determined as “40” mainstream. Parents participated and agreed with the ARD committee decisions.
 4. An October 6, 2005, response provided from the LEA reads in part, “The student was initially placed in a Kindergarten classroom for a full-day during the first two days of the school year. [Student] was given the special education support in the Kindergarten general education setting. After two days, the staff realized that a full-day placement in Kindergarten was not appropriate for meeting the [student’s] needs even with the support of special education staff. It was then that the student was removed from Kindergarten in the afternoon due to behavioral issues and placed in the PPCD/ECC classroom for the afternoon. This provision was stated in the ARD dated March 11, 2005. “
 5. LEA submitted a copy of an email from complainant to LEA dated August 29, 2005, which read, “I am requesting an ARD meeting for [student]. This is my third written request to [LEA staff]. I know you are busy however please call me at your earliest convenience to schedule an ARD meeting. Thank you.” The Notice of ARD Meeting for September 8, 2005, indicates that the ARD meeting was parent requested.
 6. LEA submitted an ARD report dated September 8, 2005. On page 7 of 17 the LEA proposed a schedule of services with 30 hours in special education per week. The Course Curriculum Comments read, “ For the 2005-06 school year, [student] will receive instruction in the PPCD/ECC classroom with planned inclusion in the kindergarten classroom for circle time and center time and rotation classes; P. E., Art, Music, Computer.
 7. The minutes from the September 8, 2005, ARD report read in part, “Parent inquired about the schedule change from the March 2005 and the beginning of the school. The [LEA] PPCD teachers implemented the March 2005 schedule for a 10 day trial period. PPCD teachers stated that [the student] was not being successful in the kinder classroom and the decision was made to have [the student] complete work in the PPCD classroom. “
 8. Additional information from page 15 of 17, September 8, 2005, ARD/IEP Supplement for a Student with Autism, Daily Schedule Reflecting Minimal Unstructured Time, lists the times for services from 7:15 to 2:30. The following services are listed to be provided in the general education location:
 - morning arrival & breakfast,
 - pledge/announcements,

- kinder circle time,
- kinder center,
- lunch
- rotation class.

The instructional setting for PEIMS was determined "43" self-contained 50% to 60%. The record reflects that the parents disagreed with the ARD committee decisions and an ARD meeting was scheduled to reconvene on September 20, 2005.

9. At the reconvened ARD meeting on September 20, 2005, the minutes read in part, "Parent concerns were addressed and [complainant] would like for the committee to address full inclusion for [student]. [LEA staff] asked why parents have changed their mind from the ARD dated 3/11/05 where [student] was to be transitioned slowly to kinder until now where they want [student] fully included. Complainant stated that they have not changed their mind that the last ARD stated 25 hours in general ed. LEA staff reviewed the hours from the schedule from the ARD report dated 3/11/05 with the parents and informed them that the time was written incorrectly on the last ARD. "

10. The September 20, 2005, ARD/IEP Supplement for a Student with Autism, Daily Schedule Reflecting Minimal Unstructured Time (page 19 of 22), was amended with regard to location of some services. This schedule was provided to the Agency as the student's 2005-06 daily schedule.

The following services were listed to be provided in the general education location:

- Morning Arrival/Breakfast
- Pledge/announcements
- Kinder circle time
- DTT on Mon/Wed, small group*
- Kinder centers
- Lunch with kinder
- Rotation class
- Return to kinder for snack time*
- Prepare for dismissal-closings*

*Services changed to general education

The 43 PEIMS code remained the same. Parents signed in agreement with the revised schedule of services.

11. A letter submitted to the Agency from the LEA reads in part, "The ARD document from 3/11/05 stated that [student] was to receive **SE** [special education] **support** (emphasis in original) for only 5 hours per week for the 2005-06 school year. It was explained to the parents that the hours were documented incorrectly and [student] was in fact supposed to receive **SE support** (emphasis in original) for a total of 25 hours a week. In fact, this was one of the reasons the ARD committee was meeting. We were going to correct the error in support time."


12. Additional information from the letter reads in part, "[Student] did begin the year

would be slowly transitioned to the kinder class and that [student] participate a total of 2 hours and 25 minutes in the general ed. setting."

Conclusions and Reasons for the Agency's Final Decision


Authority: [34 CFR §300.342] [34 CFR §300.552]

Special education regulations require the LEA ensure that at the beginning of each school year, the LEA shall have an IEP in effect for each child with a disability within its jurisdiction. Each LEA shall ensure that an IEP is in effect before special education and relates services are provided to an eligible child and is implemented as soon as possible following the ARD meeting. [34 CFR §300.342]

For allegation 1, based on the evidence, the Agency concludes that the LEA did not ensure that the individualized education program was implemented with regard to placement at the beginning of the 2005-06 school year. 

Specifically, from August 23, 2005, to September 20, 2005, the student's placement was to be 25 hours in general education and 5 hours in special education. According to information submitted by LEA, the student received services in accordance with the March 11, 2005, IEP for the first two days of school. The LEA made a decision, outside of an ARD committee meeting and without the parents, to remove the student to the PPCD classroom. The ARD held on September 8, 2005, addressed a change of schedule of service/placement.

Special education regulations require that in determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that the placement decision is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options and is made in conformity with the LRE provisions. [34 CFR §300.552]

For allegation 2, based on the evidence, the Agency concludes that the LEA did not ensure that an ARD committee, including the parent, convened to determine the student's change in placement at the beginning of the 2005-06 school year. 

Specifically, the LEA made a decision, outside of an ARD committee meeting and without the parents, to remove the student to the PPCD classroom. Further documentation shows that an ARD meeting was not scheduled until requested by the parent.

The allegations are substantiated.

Discrepancies

Based on the evidence and current state and federal requirements, the following

2. The LEA does not always ensure that an admission, review, dismissal (ARD) committee is convened to determine change of placement for students as per required procedures. [34 CFR §300.552]

Required Corrective Actions

In accordance with 34 CFR §300.660, the special education regulations require the Agency to address: (1) how to remediate the denial of those services based on the needs of the student; and (2) appropriate future provision of services for all students with disabilities when resolving a complaint in which appropriate services were not provided to the student(s).

For effective implementation of the Agency's final decision, technical assistance activities, negotiations, and corrective actions to achieve compliance shall be required of the LEA as follows:

For the student subject to this complaint: Convene an ARD meeting for the student subject to the complaint to review the IEP and current progress. The ARD committee shall determine if compensatory services are needed based on the student's needs to address the lack of access to general education during the time of August 25, 2005, through September 20, 2005. The ARD committee shall state the frequency, location, and duration of the compensatory services, if appropriate.

For all the students with disabilities within the jurisdiction of the LEA:

1. Policies and Related Guidelines

- (a) Representatives of the LEA's administration who have oversight responsibilities to ensure the provision of a free appropriate public education under 34 CFR §300.300 shall determine whether there is a need to revise the policies and related guidelines based on the Agency's findings. The LEA shall review its policy and related guidelines pertaining to monitoring ARD recommendations for student placement and procedures for requesting ARD meetings.
- (b) While the LEA is currently not selected for the Performance Based Monitoring Interventions, representatives of the LEA's administration, who have oversight responsibilities for the development of the LEA improvement plans under TEC §§11.252-253, and the activities related to special education program evaluation, shall determine whether there is a need to revise the plans based on the Agency's findings.

2. Focused Technical Assistance

- (a) Provide staff development to the individuals who were involved in or contributed to the discrepancy at the school where the discrepancy occurred to provide guidance to address monitoring

- (b) Provide written notice of revised policy/guidelines to LEA staff who may be affected by the revisions.

3. Submission of Corrective Action

The following documentation must be submitted to indicate completed corrective actions:

For the student subject to this complaint

- (a) The ARD/IEP report documenting the determination of the compensatory services, including if appropriate frequency, location, and/or duration, for the student subject to the corrective actions.
- (b) Documentation to indicate the implementation of compensatory services in accordance with the student's IEP, if appropriate.

For all the students with disabilities within the jurisdiction of the LEA

(1) Policies and Related Guidelines

- (a) The determination of whether the LEA's special education policy and related guidelines are in need of revision.
- (b) The revised portions of special education policies and related guidelines, if any.
- (c) The determination of whether the LEA improvement plans are in need of revision.
- (d) The revised portions of the LEA improvement plans, if any.

(2) Focused Technical Assistance

- (a) An agenda, including timelines of proposed content/information to present in staff development.
- (b) A description of the content/information presented in staff development and a listing of the individuals, indicating their positions, who participated in the staff development.
- (c) Relevant memorandums and/or guidance letters issued to staff.

Corrective Action Timeline

Documentation of the completed corrective actions and/or the projected timeline in which the corrective action will be complete must be submitted to the Agency by **December 15, 2005**. Further intervention by the Agency may result if the LEA does not provide the requested information or respond within the required timeline.

This concludes the Agency's investigation of the complaint. The Agency will ensure the implementation of any corrective actions required of the LEA.