



# 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

## Notice of Reconsideration of Special Education Investigative Findings September 18, 2006

Dianna Pharr,  
Complainant  
2204 Westlake Drive  
Austin, TX 78746

Rockwell Kirk,  
Superintendent  
Lake Travis ISD  
3322 Ranch Rd. 620 S  
Austin, Texas 78738

Pamela Carroll,  
Special Education Director  
Lake Travis ISD  
3322 Ranch Road 620 S  
Austin, Texas 78738

Lake Travis ISD Co-Dist : 227-913  
FY 2005-2006  
Complaint: 20062275

This is a response to the August 28, 2006, letter filed by attorneys for Lake Travis ISD, requesting a reconsideration of the Agency's Investigative Report dated July 28, 2006. The Agency investigated the April 21, 2006, complaint filed by Ms. Pharr, concerning the educational circumstances of a student attending school in Lake Travis ISD, herein referred to as the local education agency (LEA).

### Procedural History

In the April 21, 2006, complaint, the allegation was identified as:

Did the LEA ensure the protection of confidentiality of any personally identifiable data, information, and records collected or maintained by the LEA in accordance with required procedures? [34 CFR 300.572]

The following discrepancy was determined:

The LEA does not always ensure the protection of confidentiality of any personally identifiable data, information, and records collected or maintained by the LEA in accordance with required procedures.

Documentation was submitted by the LEA and the complainant for the investigation.

Corrective actions were required and have been submitted by the LEA (receipt attached).

### Current Request

On August 11, 2006, Agency staff explained to LEA attorney that the deadline for reconsideration request had passed, and referred the attorney to the information in the cover letter for the investigative report dated July 28, 2006, regarding procedures for requesting a reconsideration of the findings and or conclusions. The attorney stated that the LEA felt that the Agency had no jurisdiction to investigate the complaint dated April 21, 2006, under FERPA. It

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was explained further that the investigation of said complaint was performed under jurisdiction of IDEA. The attorney expressed her understanding and thanked Agency staff for the explanation.

In a letter dated August 28, 2006, the attorneys for the LEA requested a reconsideration of the July 28, 2006, investigative report in relation to the April 21, 2006, complaint and indicated that the LEA disagrees with the Agency's July 28, 2006, findings. The attorneys for the LEA requested that the Agency review the July 28, 2006, Investigative Report, specifically with regard to jurisdiction, standing of the complainant, and use of the term "district staff," as opposed to school official regarding the conclusions and corrective actions required in the July 28, 2006, investigative report.

### **Panel Recommendation**

Based on the current request, the April 21, 2006, complaint, the Agency's findings of July 28, 2006, and the relevant information available through August 28, 2006, the following was determined:

1. The Agency assumes its jurisdiction to investigate this complaint under 34 CFR §300.572 of the IDEA, not under FERPA. Special education regulations under the IDEA require LEAs to protect the confidentiality of personally identifiable information at collection, storage, **disclosure**, and destruction stages (emphasis added). Under 34 CFR §300.127 of the IDEA, the Agency is required to maintain procedures for the protection of personally identifiable information under Part B of this Act. This is accomplished through the complaints investigation procedures that authorize this investigation under 34 CFR §§300.560-562 of the IDEA.
2. Regulations governing complaints under IDEA, 34 CFR §§300.660-662, do not prohibit third parties from filing complaints against a school district on behalf of students in the district.
3. The investigative report's corrective actions very clearly state that staff development should be provided to the individuals who contributed to the discrepancy. As was stated by the attorney in the August 11, 2006, telephone conversation with Agency staff, this staff development or training should be provided for all persons having access to educational records and/or personally identifiable information regarding students receiving special education services in the LEA. This would apply to members of the board of trustees for the LEA.
4. The July 28, 2006, investigative report, Finding of Fact #10 reads, "In response to the Agency's request for documentation the LEA provided policies and guidelines, as well as training documentation, for ensuring the confidentiality of educational records of students with disabilities. The LEA also provided sign-in sheets, and copies of signed Oaths of Confidentiality for all campus personnel, as well as for administrative assistants, district speech pathologists, and transportation and maintenance division employees. A review of the submitted records did not indicate documented training, and/or verification of Oaths of Confidentiality for school board members." Clearly, the violation cited was committed by neither the superintendent, nor the special education director, nor other school staff; however, the LEA must ensure instruction and/or training on this issue for all school officials having access to personally identifiable information for students with disabilities attending school in the LEA.

5. An error in one or more of the facts outlined in the dated report was not identified. Therefore, the findings and corrective actions of the Agency investigation remain as outlined in the July 28, 2006, report.

**Corrective Action Timeline**

Documentation of the completed corrective actions were be submitted to the Agency on August 29, 2006. Please note that all officials of the LEA have a responsibility to maintain confidentiality of personally identifiable information at collections, storage, disclosure, and destruction stages. Therefore, documentation of training of any official, including members and officers of the LEA's board of trustees regarding the protection of the confidentiality of personally identifiable information regarding students receiving special education services in the LEA, must be submitted as per enclosed receipt. Further intervention by the Agency may result if the LEA does not provide the requested information or respond.

This concludes the Agency's reconsideration of the July 28, 2006, investigative findings. The Agency's decision is final.

Sincerely,



Kathy Clayton  
State Director  
Division of IDEA Coordination

KC:CS



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## Notice and Receipt of Special Education Corrective Action September 18, 2006

Dianna Pharr,  
Complainant  
2204 Westlake Drive  
Austin, TX 78746

Rockwell Kirk,  
Superintendent  
Lake Travis ISD  
3322 Ranch Rd. 620 S  
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Lake Travis ISD Co-Dist : 227-913  
FY 2005-2006  
Complaint: 20062275

### RE: Investigative Report dated date 2005

Staff members from the Texas Education Agency (Agency) have reviewed the August 29, 2006, response submitted by the Lake Travis Independent School District (ISD), herein, referred to as the local education agency (LEA). The response was received by the Agency on August 29, 2006, and is associated with the above referenced complaint investigation.

The attached receipt is the Agency's determination of the implementation of the required corrective actions and should not be construed to cover any other issues outside the scope of this investigation or actions that may have occurred since the investigation.

For questions regarding this notice and receipt, please contact me in the Division of IDEA Coordination at (512) 463-9414.

Sincerely,

Cindy Swain  
Manager of Support Services  
Division of IDEA Coordination

enclosure

CS

**Notice and Receipt of Special Education Corrective Action  
September 18, 2006**

Co-Dist: 227-913  
FY 2005-2006  
Complaint: 20062275

**RE: Investigative Report dated July 28, 2006**

**Discrepancy Cited:**

Based on the evidence and current state and federal requirements, the following discrepancies were cited:

1. The LEA does not always ensure the protection of confidentiality of any personally identifiable data, information, and records collected or maintained by the LEA in accordance with required procedures.

**Documentation**

The  indicates that the documentation, submitted by the LEA in response to the required corrective actions, addressed the discrepancy and is accepted. Unmarked boxes indicate documentation that either needs to be submitted or that needs to be corrected and resubmitted to the Agency.

**For all the students with disabilities within the jurisdiction of the LEA  
Policies and Related Guidelines**

- The determination of whether the LEA's special education policy and related guidelines are in need of revision.

**Focused Technical Assistance:**

- An agenda, including timelines of proposed content/information to present in staff development – **submit training documentation for all officials who contributed to the discrepancy in the LEA.**
- 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.
- Relevant memorandums, guidance letters issued to staff, if any.

**Status of Implementation**

- Incomplete: Additional documentation and/or timeline must be submitted by October 20, 2006.

Notice of Further Intervention: Should the LEA not provide the requested information or respond within the specified timeframe, the Agency may require the LEA to request and assume the cost of technical assistance from Education Service Center (ESC) XIII, the primary provider of technical support to the LEA.