

TO: Mr. J. Hoeffler and Mr. C. Koneval
FROM: Alan E. Duncan (Ph./Fax 248-642-1525)
DATE: 11-06-00
SUBJECT: Multi-Functional Team Meeting for Alex Duncan

Mr. Hoeffler,

I wrote you on 10-24-00 requesting a Multi-Functional Team evaluation for my son Alex Duncan as is my right as a parent receiving Special Needs services from the public school system. I include a copy as Att. A. It appears that you have delegated your response to Mr. R. Kroopnick who has responded in the negative, included as Att. B.

I do not believe I can go along with the opinion of a single lawyer regarding whether the new information I have gathered constitutes adequate information to assemble a team of experts more knowledgeable in my son's multiple special needs involving Low Vision, Quadraplegia, and Low Cognitive Level. This refusal to fulfill my request to consider new information involving medical, adaptation, as well as assistive technology is a new issue not considered in any earlier hearing; therefore, I formally request a Due Process Hearing to resolve this issue. As in the past, I have been open to consider mediation, from an independent third party, as an alternative if it will serve both Alex and your interest.

Please have Mr. Koneval make the necessary arrangements and respond in writing or fax to this request by 11-10-00.

Thanks for your consideration.

Sincerely,

Alan E. Duncan

ATT. A-1

Fax

Name: Alan E. Duncan
Company: Automotive Analytics, Inc.
Voice Number: 248-642-1525
Fax Number: 248-642-1525
840 Ardmoor
Bloomfield Hills, Michigan 48301

Date: Wednesday, October 25, 2000

Total Pages: 3

Subject: Multi-Functional Team Evaluation for Alex Duncan

Name: J. Hoeffler

Company: Birmingham School

Voice Number:

Fax Number: (248) 2033007

Note: Please see attached Letter.

cc.

J. Rowell, MDE

C. Koneval, BPS

RESENT 11-05-00 to Mr. J. Hoeffler:

Mr. Hoeffler, I requested a reply in 5 business days.

I confirmed with your Sec. that my fax was received.

It has been 7 business days since I sent my request.

I hope you have had adequate time to give this due

consideration and can respond by Fax on 11-06-00,

or please notify me of just cause for delay. Each day's

delay impacts what Alex can achieve this year, so I

hope you can understand the need for expediency.

Sincerely,

Alan E. Duncan

ATT. A-2

TO: Mr. J. Hoeffler
FROM: Alan E. Duncan (Ph./Fax 248-642-1525)
DATE: 10-24-00
SUBJECT: Multi-Functional Team Meeting for Alex Duncan

Mr. Hoeffler,

You wrote me on Sept. 7 about the review officer's ruling on the IEP for Alex and your inability to conduct an IEP for Alex.

I am sure that the review officer's ruling was not intended to prevent a multi-functional evaluation team from reconvening to consider new medical and process information that may affect Alex's academic progress, especially for a boy who has many special educational needs (vision, quadraplegia, and cognitive).

Therefore, I am requesting a multi-functional team evaluation to consider revisions to Alex's plan. The team should consist of the usual members of the IEP team including vision, PT, OT, Speech, Psychology, Assistive Technology (AT), Regular, and Special Ed. teachers.

The new information that should be considered by the team is the following:

1. Alex had a low vision clinic over the summer with a report from Dr. Wicker dated, Sept. 21, 2000.
2. Alex has been going to computer sessions at DIC and a report of progress with recommendations from Pat Nizio was received on 7-26-00.
3. An initial AT review by I. Khirstin was conducted 10-23-00 which should have results in time for the meeting.
4. Alex has been having behavioral problems, involving laughing, that are detracting from his academic progress. A plan for this was discussed at the May 2000 initial IEP meeting and needs to be considered for implementation by the team.
5. There was an agreement arrived at during the Due Process Hearing providing for Alex to have access to his PC at home for homework. I would like this entered into the record of this meeting so all the team members are aware of the need to support this important accommodation.
6. Mrs. Brubaker indicated that Alex had achieved all of his 99-00 goals from his last report card. The team should update the goals to provide a basis for rating and tracking his progress on his quarterly report card for the 00-01 school year.
7. The review officer's ruling directed the school to provide educational materials for Alex's progress based on the testimony of Ms. Brubaker and Ms. Rokicki. They indicated that

ATT. A-3

Alex needed "high interest", "age appropriate", and "low vocabulary" reading material so as to have information in common with his age equivalent peers. In light of Alex's vision, accessibility, and cognitive needs, a plan needs to be outlined to assure that this can be done and measured for progress. I do not see evidence of a plan that is active at this point in time.

This team should be empowered to make revisions to Alex's plan as needed and to provide for the necessary accommodations. Please let me know within 5 business days if this team request can be accommodated.

Thanks for your consideration.

Sincerely,

Alan E. Duncan

ATT. B-1



BIRMINGHAM PUBLIC SCHOOLS • 550 W. MERRILL • BIRMINGHAM, MI 48009

FAX

Date: 11-6-2000

Number of pages including cover sheet: 6

TO: ALAN DUNCAN

Location: AUTOMOTIVE ANALYTICS, INC

Phone: _____

Fax: 248-642-1525

From: John Hoessler

Superintendent's Office

Phone: 248-203-3004

Fax: 248-203-3007

REMARKS: Urgent For your review Reply ASAP Please comment

IMPORTANT NOTICE: The transmitted documents are intended for the use of the individual or entity named above and may contain information that is attorney privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of the documents transmitted with the transmittal sheet is strictly prohibited. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY.

ATT. B-2**BIRMINGHAM PUBLIC SCHOOLS**

John W. Hoeffler, Ph.D.
Superintendent

550 West Merrill • Birmingham, Michigan 48009
(248) 203-3004 • Fax (248) 203-3007

November 6, 2000

Mr. Alan E. Duncan
840 Ardmoor Drive
Bloomfield Hills, MI 48301

Dear Mr. Duncan:

I did receive your request for a multi-function team evaluation to consider revisions to Alex's IEP. Since Alex's IEP was the subject of a hearing officer's ruling, I have asked Rick Kroopnick, school district counsel, to review your request and provide me with his response. I am enclosing it for your review.

If you have any questions, please direct them to Chuck Koneval at 203-3014. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Hoeffler", written over a printed name.

John W. Hoeffler

cm
Enclosure
c Chuck Koneval

ATT. B-3

LAW OFFICES

POLLARD & ALBERTSON, P.C.38505 WOODWARD AVENUE, SUITE 2300
BLOOMFIELD HILLS, MICHIGAN 48304-5096

Telephone (248) 258-2850

Facsimile (248) 258-2851

firm@pollardlaw.com

DENNIS R. POLLARD
WILLIAM G. ALBERTSON
DOUGLASS A. WITTERS
RICHARD E. KROOPNICK
NEIL H. GOODMAN
ROBERT NYOVICH
PATRICK M. HIGDON
JAMES M. CROWLEYANN L. VANDERLAAN
JOSEPH C. BENNETT
LAURA M. HALLAHAN
DANA L. ABRAHAMS
KARI K. SHAYOF COUNSEL
JEFFREY T. STEWART
JOHN M. POLLOCK, PLC

November 2, 2000

John W. Hoeffler, Ph.D.
Superintendent
Birmingham Public Schools
550 W. Merrill
Birmingham, MI 48009-1443**RECEIVED**
NOV 02 2000
SUPERINTENDENT'S OFFICE**Re: *Communication from Alan E. Duncan***

Dear Dr. Hoeffler:

You have forwarded for our review and comment a memorandum dated October 24, 2000 that you recently received from Mr. Alan E. Duncan. In this communication, Mr. Duncan requests the convening of a "multi-functional team" to review the Individualized Education Plan that has been developed for his son, Alex. A discussion of Mr. Duncan's request follows immediately below.

By way of brief background, a special education due process hearing was held on March 1, 2000 to address certain concerns that Mr. and Mrs. Duncan had with Alex's IEP. In a Decision dated March 29, 2000, Local Hearing Officer Frank Wawrzaszek ruled in favor of the Birmingham Public Schools. Mr. Wawrzaszek also offered the following pertinent observations:

Reading the record will show that the (parents') concerns about assistive technology are near the obsessive and unrealistic.

Decision, p. 1

Mr. Duncan wants the P.C. as a main tool for reading, writing, math and testing. There is diagnostic information provided by educators which suggests that Alex learns best through the auditory approach. . . . [Mr. Duncan] is not a trained teacher and should not be in charge of the instructional process. . . .

Decision, p. 7

Curriculum is developed by School professionals and administration. The type of program to be provided remains the prerogative and the responsibility of the District.

Decision, p. 7

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By its terms, Mr. Wawrzaszek's Decision was to remain in force for up to one year.

On May 14, 2000 Mr. Duncan requested a state level review of Mr. Wawrzaszek's decision. William Sosnowsky, Ed.D. was appointed to serve as the State Hearing Review Officer. In a Decision dated August 6, 2000, Dr. Sosnowsky ruled in favor of the Birmingham Public Schools and said, in pertinent part:

A. The contested IEP is procedurally and substantively sound. It constitutes a FAPE that confers substantial educational benefits to Alex.

Decision, p. 25

C. Respondent-Appellee directed [*sic*] to conduct a review of Alex's Assistive Technology needs as and [*sic*] recommendations as set forth in Exhibit D-6.

Decision, p. 26

Following his receipt of Dr. Sosnowsky's Decision, Mr. Duncan made an inappropriate *ex parte* contact with the State Hearing Review Officer. In a supplemental Order dated September 14, 2000, Dr. Sosnowsky said:

6. . . . [T]he SHRO finds no reason to modify the period of validity of the IEP. Therefore, it shall, as previously ordered, remain in effect for one calendar year from the date of this Decision: 8-06-01.

Despite this unequivocal ruling, Mr. Duncan, in his October 24, 2000 memorandum, has requested the convening of a "multi-functional team," to consist of "the usual members of the IEP team." It is our opinion that the Decisions of Mr. Wawrzaszek and Dr. Sosnowsky are to be given finality and a new IEPT should only be scheduled in the event of a significant change in Alex's circumstances that would impact his eligibility, program or placement.

In terms of the "new information" that Mr. Duncan suggests should now be considered by the "Team," none involves such a significant change in circumstances. We offer the following suggestions to address Mr. Duncan's concerns.

1. Low Vision Clinic Evaluation

The referenced report should be provided to the School District by Mr. Duncan and then shared with Jaci Rokicki and the low vision consultant at Oakland Schools.

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2. Progress Report From DIC

The referenced report should be provided to the School District by Mr. Duncan and, in turn, forwarded to Ina Kirsten, the assistive technology consultant at Oakland Schools.

3. Oakland Schools' Assistive Technology Report

Upon completion, copies of the report from Oakland Schools should be provided to both the School District and the parents.

4. Problems With Alex's Behavior

To the extent that the professional staff finds that Alex's behavior is interfering with his education, a behavior plan would be in order. The first question, therefore, is whether the staff believes this is necessary. If so, a meeting to develop a plan should be convened. This plan would typically not be a part of the IEP.

5. Access To PC At Home For Homework

It is unclear what Mr. Duncan is requesting in this regard. Mr. Duncan has been repeatedly given assurance that Alex may bring the PC home when he has assigned homework.

6. Updated Goals For 2000-2001 School Year

If Alex's current goals and objectives have been achieved or are no longer considered appropriate, the classroom teacher would request a reconvening of an IEPT to update the goals. The question, again, is whether the classroom teacher believes this to be the case.

7. Selection Of Educational Materials

The selection of appropriate educational materials is the responsibility of the teacher. Such materials are not the subject of an IEP.

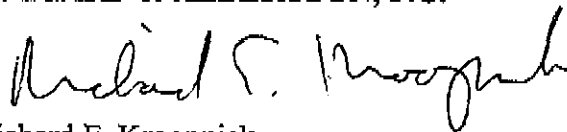
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Birmingham Public Schools
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I trust that the discussion above will be helpful in responding to Mr. Duncan's October 24, 2000 memorandum. As always, if you have any questions, or if we may be of further assistance, please do not hesitate to contact me.

Very truly yours,

POLLARD & ALBERTSON, P.C.



Richard E. Kroopnick

REK/kbj

cc: Mr. Charles Koneval
69322