Appendix 10-1 Sample Complaint Letter

Via fax and U.S. Mail: (517) 373-8414 and (000) 555-0000

November 18, 2013

Michigan Department of Education
Office of Special Education
608 West Allegan Street
Lansing, Michigan 48909

Gene Simmons, Superintendent
Hades School District
123 Lucifer Street
Hades, MI 48000

This is a formal complaint under 34 CFR 300.151-153 and R 340.1851-55. Please see the following pages showing how the school district did not follow the law and the facts showing how that happened.

Complainant:

Mark McWilliams
Michigan Protection & Advocacy Service, Inc
4095 Legacy Parkway, Suite 500
Lansing, MI 48911
(517) 487-1755, mmcwill@mpas.org

Student Information:

Name: Sherry Smith
Age: 7 years
Date of birth: 02/26/2003
Grade: 1
School of attendance: Gates Elementary School, 12 Lucifer St., Hades, MI 48000
Resident district/operating district: Hades Public Schools
Parent name: Jerry Smith
Address: 781 Mephistophiles Road, Hades, MI 48000
Phone number: (517) 555-4321

I have enclosed a Release of Information signed by the student's parent.

Complaint Allegations and Supporting Facts

Allegation	Supporting Facts
1. The district has failed to identify, locate, and evaluate children with disabilities, in violation of 34 CFR 300.111.	See fact statements 3, 4, 5, and 6 below.
2. The district has failed to base decisions on data by not basing IEP goals on student needs, in violation of 34 CFR 300.320(a)(2).	See fact statement 7 below.
3. The district has failed to apply standards by not offering services and supports reasonably calculated to confer educational benefit, in violation of 34 CFR 300.101(a) and _Board of Ed. of Hendrick Hudson Central School Dist., Westchester Cty. v. Rowley,_ 458 U.S. 176, 102 S.Ct. 3034, 73 L.Ed.2d 690.	See fact statement 8 below.
4. The district has failed to follow procedures by denying access to copies of records, in violation of 34 CFR 300.613.	See fact statement 9 below.

Supporting Facts

1. Sherry Smith is a 7 year old girl with autism. She lives at home with her father, Jerry Smith. She loves to paint, and some of her paintings have been displayed at school.

2. Sherry was diagnosed with autism at the University of Michigan Clinic at age 4. Her diagnosis was confirmed by the Mayo Clinic at age 5.

3. Despite her artistic success, Sherry has struggled in school since she began kindergarten. From September 2009 to May 2011, Sherry received all "unsatisfactory" ratings from her teachers, who noted that she did not play well with other children and would not participate in group activities.

4. One teacher wrote on Sherry's November 2010 progress report, "Your daughter needs medical help – please get it!"

5. From September 2009 to May 2011, the district received at least four letters from Sherry's father asking for help. Each letter included copies of the University of Michigan and Mayo Clinic evaluations. Although none of the letters specifically asked for a special education evaluation, each letter put the district on notice that Sherry had a disability and needed help.

6. Despite having this information, the district did not initiate an evaluation until May 5, 2011, one day after receiving MPAS' initial request for records.

7. Once the district finally initiated an evaluation, they convened an IEPT meeting within a week. In the IEP drafted by the district, there was a statement of present level of academic achievement and functional performance that concluded: "Sherry is developmentally delayed, but she is able to perform first grade work with appropriate supports and services." However, her goals were drawn from the district's day care center and included such goals as recognizing colors and shapes.

8. In the services section of Sherry's IEP, the district listed "the same services everyone gets, without exception." These services were not individually designed to help Sherry access the general curriculum or make progress toward her IEP goals.

9. MPAS submitted a detailed records request on May 1, 2011, attached. The district at first did not respond to the request for records. After a call to the district's counsel, the district responded by sending a single page – page 4 of Sherry's most recent IEP, describing "secondary transition services." All other documents were received from Sherry's father and CMH case manager.

Impact on the Student

Sherry was denied special education services for at least a year. As a result, she is a year behind in school. Her loss comes at a key age and creates a disproportionately high risk of future educational struggles and delays.

Systemic Violations

The school district violations shown in this complaint may include patterns and practices of violations that affect many students. In resolving a complaint, MDE has a responsibility to assure through its general supervisory authority to address 'appropriate future provision of services for all children with disabilities.' 34 CFR 300.151(b)(2); 71 Fed.Reg. 46601 (8/14/06).

A review of the district's State Performance Plan data from 2008-9 indicates that they have no special education students identified. Since the district's child find practices are at issue in this complaint, the absence of any students with disabilities suggests the district is not meeting its child find responsibilities.

Informal Resolution Attempts

Sherry's father sent four letters and made 78 phone calls to the district asking for help. The district did not respond to any of these overtures.

Proposed Corrective Action

1. Order a complete reevaluation and IEPT meeting to rewrite Sherry's IEP.

2. Order compensatory education based on an independent evaluation by an evaluator of the Smiths' choosing.

3. Order a revision of the district's child find policy.

4. Maintain oversight of the district to ensure compliance and improvement.

Please be advised that, although MPAS will allow the district to communicate directly with the parent regarding the issues in this complaint, as the complainant we reserve the right to accept or decline any proposed resolution the district might suggest.

Sincerely,

Mark McWilliams