

Resolution of NCLB SES Complaint Investigation
April 14, 2013

VIA EMAIL

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SUBJECT: Dallas Independent School District
Confidence Music, Inc. dba Confidence Education Group
Student Tutoring Attendance Sign-in Sheets Submitted for Invoice Payment
Incentives Prior to Enrollment

This letter serves to resolve the **November 16, 2012** complaint filed by **Dallas Independent School District** (district) concerning the named Provider. The agency's state-level investigation findings and conclusion are reported in this letter and is final.

Under the established state-level NCLB complaint process, the agency did not meet its 60-day resolution timeline. The review of the complaint for educator certification disciplinary actions did not have a timeline. The complaint was resolved through a desk review and submission of written documentation.

Authority: The agency's investigation was conducted under *Title I, Section 1116(e) of the Elementary and Secondary Education Act, No Child Left Behind Act (NCLB) and the Supplemental Educational Services (SES) Non-Regulatory Guidance, January 14, 2009.*

Complaint Allegations

The allegations are limited to the W.W. Samuell High School (high school) located at 8928 Palisade Drive; Dallas, TX 75217. Mr. John Vega is the Principal.

The district alleged:

1. The Provider submitted fraudulent documentation, specifically, student tutoring sign-in / attendance sheets, to invoice the district for payment for tutoring services that were not provided to the students.

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2. The Provider told students that they could “win” various electronic devices as a prize for signing up and attending tutoring.

District Local Investigation

In accordance with the state-level NCLB/SES Provider complaint process, the district submitted its local investigation findings and supporting documentation to the agency for a state-level investigation.

The district’s findings are based upon the interviews with the Provider’s tutors, a sampling of students enrolled, and available billing and student attendance records.

The district’s findings and conclusions are based on the following:

- inspection of student tutoring attendance sign-in sheets January through March 2012
- auditing of invoices and attendance and payment records (APR)
- notarized written statements of students
- notarized written statements provided by the Providers’ tutors
- rules and regulations, local policies, SES Agreement

District Findings

The “*Executive Summary*” below is taken from the district’s investigation report dated November 16, 2012. The full investigation report will not be disclosed due to student identifying information contained throughout the report and the information is subject to other investigations and is maintained as audit working papers by TEA.

1. The district finds that students’ and tutors’ names were forged on attendance records, students who never attended tutoring sessions were reported as attending, and incentives worth more than \$50 were promoted to students prior to their signing up with the Provider.
2. The Provider, through its employees falsely billed the district for tutoring hours that were not accomplished, presented supporting documents which had been forged and Provider employees recruited students and offered students incentives for signing-up with the provider. Through these actions, the Provider failed to comply with provisions of the Confidence Music contract with the district, TEA Code of Business Ethics for SES Providers.
3. Students described numerous instances of being recruited for tutoring and being offered prizes such as iPods, iPads and Kindle Fire electronic components for attending tutoring class. Students identified several instances when their names were falsely written on the attendance documents as having attended math tutoring classes. Numerous students reported signing up for math tutoring, but did not attend tutoring sessions at all even though the student’s names appeared on the attendance records. A few students confirmed that they actually attended tutoring session; however, some of those students indicated that their names were falsely entered on the attendance records.

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4. The district finds that five (5) district employees who also worked as part-time tutors for the Provider falsified information on the attendance and payment records (APRs) that the Provider submitted to the district for payment.
 5. The Provider's tutors recruited students and offered the student an electronic device for signing-up for tutoring services. In some instances, the tutor was not present as indicated on the APR. The tutors reviewed explained that the dates, student names, direct instruction times, room numbers, student ID#, grade, provider, campus, and subject would already be completed.
 6. Ms. Harris, the lead tutor for the Provider at W.W. Samuell High School, admitted being in control of the student APRs and would present the APRs to the tutors for their signature at the end of the month.

District Conclusion

The district concluded that Provider submitted false information to the district for the purposes of payment and promoted incentives to students to obtain their enrollment. The district finds the Provider in violation of federal and state requirements in the provision of SES to the eligible students at W.W. Samuell High School.

SES Provider Responses to TEA's Complaint Investigation

Based on documentation submitted to TEA, there is no indication that the Provider had an opportunity to respond to or submit information to the district as part of the local investigation. In its February 13, 2013 response to TEA, the Provider stated, "Until [TEA's] notice, we had no idea that further complaints were made and have been stone walled repeatedly by Dallas ISD. No response was given to multiple meeting requests..."

The Provider responded on April 12, 2013 with the following summary:

- "Documents submitted appeared appropriate, if the signatures were falsified, etc. they were done consistently by the same persons and passed normal verification processes. Only intense investigation from all parties could reveal fraudulent activity. Dallas ISD afforded no such opportunity.
- Some technical errors did exist, i.e. no signature, dates. And even though this only represents a small percentage of total activity (1-2%); we terminated responsible staff and have instituted improved oversight and monitoring practices. We now verify all tutoring with students and parents directly via phone and home visits.
- We operated in approximately 21 schools employing over 30 contract labor tutors. This is an isolated instance of a few unscrupulous individuals.
- This situation involves activity from last school year, 2011-2012. Since that time we have had no dealings with Dallas ISD. We have not serviced any students or conducted business with Dallas ISD in any way.
- Our organization responded immediately to all situations without fail. We have no historical or ongoing problems of this nature. This problem is primarily a result of lack of cooperation from Dallas ISD, who failed to seek resolution when they first identified potential problems. We should not be held responsible at a punitive level when we have done everything possible.

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- Dallas ISD had a responsibility the instant they identified problems to seek resolution and they failed to do so allowing the problem to go on for months without remedy all the while representing nothing was wrong.
 - The small amount of technical errors did not create or add to the alleged fraud in this situation. In addition, these technical errors are never processed for payment by DISD; the paperwork is consistently rejected back to us for revision as necessary and applicable. This is the policy and practice of Dallas ISD.”

“We took immediate action to address any problem as it became known to us. We conducted an internal investigation of our own volition without knowing all the facts, in the blind, and did our absolute best!! Ultimately, the only thing we’re guilty of is hiring DISD staff... And we’re still suffering today as a result. The greatest corrective action we exercised was electing to NOT WORK WITH DISD any further.”

TEA State-level Findings

General Provider Information

Mr. Isaac Barnes, Jr., is the Chief Executive Officer and Mr. Gregory D. Milton is the Vice President of Confidence Music Inc. Confidence Music also does business as (dba) Confidence Education Group. Confidence Music Inc. is the parent company and is both companies share the same address (5001 Spring Valley Rd, Ste. 1000) and office telephone number (469) 547-5279.

According to its SES State Application, Confidence Music has been providing tutorial or other supplemental educational services “at least 5 years but fewer than 10 years.” Confidence Music was approved to bill districts \$80 an hour per student.

On February 27, 2013, the agency sent a written notice to the Provider concerning the district’s investigation. In addition, on April 2, 2013, TEA staff gathered additional information from the Provider by phone and through follow-up written interview questions. The Provider was given opportunities to respond and submit any information for consideration in the resolution of the complaint. The provider was given until April 12, 2013 to submit relevant information.

The district terminated its contract with Confidence Music.

As part of its investigation, the agency reviewed the report and supporting documentation submitted by the district and Provider including:

- student sign-in sheets
- attendance and payment records
- notarized statements from students and tutors
- district and provider investigative findings

The agency determined that additional interviews with students and tutors were not necessary. There were no indications or reasons to question the authenticity or veracity of the students’ written statements or signatures on their notarized statements. The statements were obtained during the last week in October 2012 and first week of November 2012. The notarized statements were obtained from the five tutors on November 5 and 6, 2012.

The agency's findings, conclusions, and corrective actions are presented as follows:

1. The campus subject to this complaint is W.W. Samuell High School.

The high school was one of the campuses reviewed in the agency's on-site investigation in spring 2012, as well. As a result of the agency's findings, a certified educator was reported to the Division of Investigations for certification disciplinary actions for conduct associated with the provision of SES. The educator was employed by a different SES provider, not Confidence Music.

2. The district submitted 13 student statements and a statement from each of the five (5) educators who were part-time employees of Confidence Music at the high school.
3. The Provider's representatives authorized to sign attendance and payment records (APRs) on behalf of the Provider to attest that the information was proper and true for billing and payment to the district were:
 - a. La Wanda Thurman
 - b. Ashley Polk
 - c. Pamela Vickers
4. The Provider's tutors who signed the students' APRs, attesting that they tutored the student on the reported dates and times were:
 - a. Kimberly D. Harris
 - b. Joseph Anago
 - c. Willie Zachary
 - d. Angela Scott
 - e. Gregory Lewis

Attendance and Payment Records (APRs) Analysis

1. The agency reviewed 52 APRs which included APRs of the 13 students subject to this complaint.
 - a. On all 52 APRs, each tutoring session was conducted in a "small group" and for math or reading.
 - b. The APRs showed that the tutoring sessions were held at the high school after school in Rooms 215, 216, and 217. With a few exceptions, most all sessions were reported to be held from 4:00 PM – 6:00 PM.
 - c. On 20 APRs, one session was edited (strike through) on the tutoring "End Time" and changed from ~~6:00~~ to 5:57. Some were initialed with "AP".
 - d. The district required a "Provider Signature" on each student's APR. The APRs were either unsigned, or signed by three Provider representatives:
 - La Wanda Thurman
 - Ashley Polk
 - Pamela Vickers

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2. Of the 52 APRs, 25 were unsigned. The 25 APRs reported tutoring sessions during the month of February 2012. The total tutoring hours billed for nine (9) students caused each of the students to exceed their allotted hours. The district wrote, "Student went over hrs."
 3. Of the 52 APRs, La Wanda Thurman signed 13 on January 31, 2012. The 13 APRs reported tutoring sessions from January 25, 2012 to January 31, 2012.
 4. Of the 52 APRs, Ashley Polk signed 13 APRs on April 2, 2012. The 13 APRs reported tutoring sessions from March 5, 2012 to March 28, 2012. The total tutoring hours billed for 10 students caused each of the students to exceed their allotted hours. The district wrote, "Student went over hrs." The students' signatures are dated March 27 or March 28, 2012.
 5. Of the 52 APRs, Pamela Vickers signed one APR on July 25, 2012. The student's signature is dated February 15, 2012.
 6. The district's administrative and operational requirements, as stated on each APR, requires the Provider to submit "All documentation for SES... no later than the designated SES time reporting due date" [per the SES Time Reporting Billing Cycle Calendar]. Additionally, the APR states, "This form is to be completed daily and submitted at the end of the month along with the providers invoice as one of the pieces of supporting documentation."
 7. The district required the signature of the tutor on each student's APR. On November 5, 2012, Mr. Joe Anago, one of the tutors, wrote on the bottom of six (6) APRs, "Not my handwriting."
 - a. The six (6) APRs were not signed by the Provider's representative.
 - b. The tutoring sessions were reported as being held on February 1, 2012 to February 9, 2012 for each of the six (6) students.
 - c. The total number of hours billed for each of the six (6) students (12:00 hours) caused each of the students to exceed their allotted hours. The district wrote, "Student went over hrs."
 - d. The Provider charged the district \$70.00 per hour for six 2-hour sessions (4:00 PM-6:00 PM). The Provider invoiced exactly \$840.00 for each of the six (6) students, totaling \$5,040.00.

Based on Statements from the Provider's Tutors

8. Mr. Gregory Lewis, the Provider's tutor, recruited students by offering the student a Kindle Fire, iPOD, or iPad as an incentive for enrolling with the Provider.
9. Ms. Kimberly D. Harris, the Provider's tutor, maintained control of the students' APRs and entered information on the APRs before the tutors signed the APRs at the end of the month.
10. The tutors stated that for some of the students that attended math tutoring, the tutor required the students to also sign the "group attendance form." There were other students that were not asked to sign in on the group attendance form, and there were some students that the tutor did not know whether the student signed the group attendance form or not. Tutors did not verify students' signatures or attendance.

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11. Ms. Kimberly D. Harris was responsible for recording all information on the students' APRs, opening the tutoring rooms, getting the students signed in, and ensuring that the students received the incentives. The tutors are unable to attest to the validity of the information when Ms. Harris brought them the APRs to sign at the end of the month. While, the tutors did not indicate that Ms. Harris delivered tutoring, herself, she signed as the tutor on 16 APRs. There is no Provider Signature on seven (7) of Ms. Harris' APRs and Ashley signed the remaining nine APRs. The tutors stated that Ms. Harris was "involved in Administrative duties for Confidence Music."
 12. The Provider did not ensure the accuracy of the information, including tutoring dates and authenticating student and tutor signatures, reported to the district for the purposes of evaluating, monitoring, and payment associated in the implementation of SES to eligible students.

Based on Statements of 13 Students

13. The student received tutoring once last school year. Mr. Lewis provided the math tutoring. Therefore, the days indicated in the Provider's attendance forms are inaccurate. The student's signature is not on the Provider's January and February 2012 attendance forms. The student and the district do not know who signed the student's name or recorded the tutoring sessions on the Provider's attendance document.
14. The student attended tutoring classes twice in January 2012 and did not attend any math tutoring sessions in February 2012. The student and the district do not know who signed the student's name and recorded the tutoring sessions on the Provider's attendance document.
15. The students explained that a lady, representing the Provider, approached the student in the cafeteria and offered the students an iPod, iPad, or a Kindle Fire for enrolling with the Provider. The Provider's representative received the student's contact information from the student, including the student's unique identification number and address. The students did not receive the representative's name or contact information. The students did not attend any math tutoring sessions after school in January, February, or March 2012 and did not receive a prize, iPad, or laptop. The students and the district do not know who signed the student's name or recorded the tutoring sessions on the Provider's attendance document.
16. A senior indicated that tutoring was received during the 9th and 10th grade year and it was received online. The student and district did not know who signed the student's name or recorded the tutoring sessions on the Provider's attendance document.
17. The seniors reported not knowing Mr. Willie Zachary. The students acknowledged knowing Mr. Anago, but not receiving any tutoring from Mr. Anago as reported by the Provider. The student did not receive tutoring in January 2012; however, the Provider representative stated she would complete an attendance form so that the student could receive credit for tutoring in January 2012. The student and district do not know who signed the student's name or recorded the tutoring sessions on the Provider's attendance document.
18. Another student indicated not being able to attend any after school tutoring due to needing to assist with child care at home. Therefore, the student could not have signed in attendance as represented on the APR with the student's name.

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19. The student's signature on the APR did not match the signature on the student's notarized statement for 12 of the students.

Conclusion

Violation: Category 2: Systemic | Probationary Status (6 consecutive months)

This investigation finds that the violation by the Provider is categorized as systemic in accordance with the agency's standards and mechanism for removal. As a result, the Provider is placed on a probationary status for six (6) months beginning on the date of this resolution letter. A subsequent finding of a systemic or serious violation by a state-level investigation may result in the removal of the Provider for the remainder of the school year.

Based on the evidence, the agency finds that the Provider, through its employees and representatives, falsified information on students' tutoring attendance and payment records. The Provider submitted the false information to the district for the purposes of invoicing and receiving payment for tutoring services that were not provided to the students.

Individuals, such as tutors and recruiters, employed by the Provider, represent the Provider. The Provider, as a company, assured the state in its state SES application that is responsible for ensuring that all federal, state, and local requirements are met. The Provider is held responsible for the actions of its employees in the provision of SES.

District Actions

The district is required to take the following actions:

1. The district must report the agency's investigative findings at the next public meeting of the district's Board of Trustees, as a board agenda item.
2. The district must ensure that students subject to this complaint have an accurate account of the hours allocated, by the Per Pupil Allotment (PPA), to them and that the student has the opportunity to receive full access and benefit of the educational services to which the student is entitled under the district's PPA.

Invoicing and Payment Disputes

The agency does not have jurisdiction or authority to resolve invoicing and payment disputes. Those are contractual matters that are resolved between the parties to the contract. TEA is not a party to the contract (SES Agreement).

Applicable Regulations are included as an enclosure/attachment.

Appeal of TEA's Decision

The TEA's decision is final and there is no administrative appeal at TEA.

The district or Provider may appeal this decision to the Secretary of Education, U.S. Department of Education. The TEA will consider these findings in the selection of providers for the next SES application year.

This concludes TEA's state-level investigation and review of the November 16, 2012 complaint filed by the district. You may contact the Texas Center for District and School Support (TCDSS) for technical assistance.

Referral to Other Agencies

This report refers Ms. Kimberly D. Harris, a certified educator, to the TEA Educator Certification and Standards' Division of Investigations for further determinations regarding certification disciplinary actions.

Contacts

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TEA SES Program	Leticia Govea	512.463.1427	sisdivision@tea.state.tx.us
TCDSS Assistance	Brandon Spenrath	512.919.5169	brandon.spenrath@esc13.txed.net

Respectfully,



Emi Johnson, Director
Special Investigations

Enclosure(s): Applicable Requirements

Courtesy Copy:

Office of Inspector General
US Department of Education, Dallas Regional Office

Accreditation Department
School Improvement and Support Division, TEA
TCDSS
Region XIII Education Service Center, Austin, TX