

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2270.06
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: August 8, 2005
DATE OF REPORT: September 6, 2005
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: November 4, 2005

COMPLAINT ISSUES:

Whether the Sunman-Dearborn Community School Corporation and the Ripley-Ohio-Dearborn Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to provide the required amount of speech therapy.

511 IAC 7-25-7(a) and (b) by failing to conduct an additional educational evaluation in accordance with the timelines for conducting the evaluation and convening the case conference as required by 511 IAC 7-25-4(b).

FINDINGS OF FACT:

1. The Student, 14 years old, is a student identified as having multiple disabilities and a communication disorder and has been found eligible for special education and related services.
2. The Student's IEP dated May 26, 2004 states that the Student is to receive 20 minutes per day of direct speech therapy two times per week for a total of 40 minutes. It also states that the Student is to receive 20 minutes per day of integrated speech therapy one day per week for a total of 20 minutes.
3. The Student's speech services for the 2004-2005 school year were to begin on August 16, 2004, and continue until May 25, 2005. According to the Speech Therapist's logs and notes, the Student's required integrated speech session was done on Mondays and the direct speech therapy was accomplished on Tuesdays and Thursdays throughout the school year.
4. The Speech Therapist's log has no entries the weeks of August 16, 23, and 30, 2004, and May 9, 16, and 23, 2005. Speech services began on September 7, 2004.
5. In addition, according to the Speech Therapist's logs, there are several dates throughout the 2004-2005 school year in which integrated speech services were not provided. The Student missed at least 12 integrated speech therapy sessions on the following dates: September 13, and 20, 2004; October 18, 2004; November 15, and 22, 2004; January 10, and 24, 2005; February 14, and 21, 2005; March 7, 14, and 28, 2005. Six of these dates were missed due to the Speech Therapist's required attendance in other students' case conference committee meetings.
6. According to the Speech Therapist's logs, there are also several dates throughout the 2004-2005 school year in which direct speech services were not provided. The Student missed at least 7 direct speech therapy sessions on the following dates: January 11, 2005; February 15, 17, and 22, 2005;

March 10, and 14, 2005; and May 5, 2005. Four of these dates were missed due to the Speech Therapist's required attendance in other students' case conference committee meetings.

7. The Director of Special Education conducted an in-service to address issues related to implementing IEPs with respect to required speech services. The in-service was conducted on August 23, 2005, and was attended by the Assistant Director of Special Education and six speech and language pathologists, two who have provided services to the Student.
8. The Complainant signed and dated the School's "Parent Permission for Educational Evaluation" form, for an additional evaluation, during the Student's case conference committee meeting on May 26, 2005. Case conference notes indicate that the Complainant specifically requested an additional physical therapy evaluation. The 60 day time-line for evaluation and completion of the case conference elapses on November 3, 2005.
9. The Complainant specifically requested an additional physical therapy evaluation. A referral letter from the Student's Pediatric Neurologist dated May 12, 2005, states "I feel [the Student] would benefit from physical therapy for this condition and recommend the [the Student] have therapy during the school year." This referral letter was presented by the Complainant at the Student's case conference committee meeting on May 26, 2005.
10. The Director of Special Education sent a letter to the Complainant dated July 8, 2005 with an enclosed "Physician Referral for Related PT Services" form and informing the Complainant that the additional evaluation could not be conducted until the Director's office received the form completed by the Student's Pediatric Neurologist.
11. The Complainant sent a letter to the Director of Special Education dated July 12, 2005 stating that the required "Physician Referral for Related PT Services" form was never mentioned during the case conference meeting. The Complainant also indicates refusal to have the form completed because the referral letter from the Student's Pediatric Neurologist is all the School needs.
12. The Director of Special Education followed that letter with a response to the Complainant dated July 18, 2005, stating that the form was a requirement pursuant to Indiana Code 25-27-1-2(d)(1) for physical therapy.

CONCLUSIONS:

1. Findings of Fact #2 through #6 indicate the School did not consistently implement the Student's IEP as written with regard to the provision of speech therapy. Therefore, a violation of 511 IAC 7-27-7(a) is found. Finding of Fact #7 indicates that the School has acknowledged implementation problems with regard to speech services and has begun to develop solutions to ensure that the IEPs of similarly situated students are implemented as written.
2. Findings of Fact #8 through #12 indicate that the referral letter from the Student's Pediatric Neurologist is all that is required to initiate the additional physical therapy evaluation. The requested additional physical therapy evaluation has not been started. However, the 60 instructional day time-line for conducting the additional evaluation and convening the case conference committee ends on November 3, 2005, due to school not being in session during the summer months. Therefore, a violation of 511 IAC 7-25-7(a) is not found.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

Sunman-Dearborn Community School Corporation and the Ripley-Ohio Dearborn Special Education Cooperative shall:

Reconvene the Student's case conference committee to determine whether and to what extent compensatory speech services shall be provided. The case conference committee must also determine a way to make up missed speech sessions due to the speech and language pathologist's required attendance at other students' case conferences. A copy of the Case Conference Report and revised IEP shall be submitted to the Division no later than October 14, 2005.