

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2293.06
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: November 23, 2005
DATE OF REPORT: December 20, 2005
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: April 20, 2006

COMPLAINT ISSUES:

Whether the MSD of Decatur Township and RISE Special Services 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 speech therapy.

FINDINGS OF FACT:

1. The Student, seven years old, is a student with a communication disorder and has been determined eligible for special education and related services.
2. The Student's IEP dated January 19, 2005, states that the Student is to receive 20 minutes of speech therapy two times per week.
3. The School acknowledges that the Student did not receive speech services until October 18, 2005. This is due to the School's inability to fill a speech therapist position vacated since the beginning of the 2005-2006 school year.
4. The Student's case conference committee (CCC) convened on October 26, 2005, to discuss the Student's speech therapy. The CCC amended the Student's IEP to state that the Student would begin receiving 60 minutes of speech therapy per week and that 12 speech therapy sessions, totaling 240 minutes, will be made up between October 26, 2005 through May 16, 2006.
5. Speech logs and notes indicate that speech services were provided the Student on October 25, and 26, 2005, and November 8, 9, 15, 16, 22, 23, 29, and 30, 2005. However, for most of these dates the School has provided 20 minutes of speech therapy per session. The speech therapy log on November 16, 23, and 30, 2005, indicates that 30 minutes of speech therapy was provided with a notation stating "make-up 10 minutes."
6. The School maintains that the agreed upon increase of speech therapy to 60 minutes per week allows for an extra 20 minutes of speech therapy above and beyond the 40 minutes (20 minutes two times per week) the Student was already receiving as a flexible way to make up the 240 minutes of missed time. However, the Complainant asserts that the 60 minutes per week is in addition to the 240 minutes of make-up speech therapy. The CCC notes and the amended IEP do not specify anything beyond what is stated in Finding of Fact #4 above.

7. At present, the School has not filled the speech therapist position. Other speech therapists from within the local school district are being utilized to provide speech therapy in the interim until the position is filled.

CONCLUSION:

Findings of Fact #3 through #6 indicate that the School failed to implement the Student's IEP as written, specifically with respect to providing the required amount of speech therapy. Also, the Student's IEP, as amended on October 26, 2005, does not have sufficient clarity with regard to how much speech therapy the Student is to receive per week and whether and to what extent some of that time can count as "make-up" minutes toward the agreed compensatory speech services. The School is responsible for the development and implementation of the IEP and any ambiguity with respect to what services a student is to receive will be construed against the school. Therefore, a violation of 511 IAC 7-27-7(a) is 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:

MSD of Decatur Township and RISE Special Services shall:

1. Convene the Student's case conference committee (CCC) to specify in writing the amount of speech services the Student shall receive each week and how compensatory speech services will be provided and accounted for. The CCC shall also determine how all of the Student's speech therapy minutes, whether regular or compensatory, shall be documented in order to maintain an accurate account of what has been provided. A copy of the CCC Report/IEP shall be submitted to the Division no later than January 27, 2006.
2. Submit documentation to the Division indicating that the speech therapist position has been filled no later than January 27, 2006. If the position is not filled by January 27, then the School shall submit documentation updating the School's efforts to fill the position and whether and to what extent alternative or compensatory speech services have been provided to the Student and all similarly situated students on a monthly basis beginning January 31, 2006, and the last day of each subsequent month until May 31, 2006, or when the position is filled (again documentation must be sent to indicate the position is filled) whichever happens first.