

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2305.06
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: February 1, 2006
DATE OF REPORT: March 1, 2006
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: May 25, 2006

COMPLAINT ISSUES:

Whether the Griffith Public Schools and the Northwest Indiana 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 implement the student's accommodations.

FINDINGS OF FACT:

1. The Student, 10 years old, is identified as a student with a communication disorder and has been determined eligible for special education and related services.
2. The Student's IEP dated May 23, 2005 states under the section Suggested Modifications/Accommodations/Supports to General Ed: "Allow for extra time for written work up to two times the time peers are allowed as needed. Allow for written work to be typed. Allow for cues when alphabetizing. Allow for use of audio taping when required to write paragraphs. Allow for spelling tests to be done orally if handwriting interferes or allow printing followed by cursive. Allow for peer review of spelling on assignments or assignments to be taken home."
3. The Student's IEP has Conference Notes immediately following the above stating, "Allow for use of Alpha Smarts for written work. Allow for scribing, a peer notetaker or copies of notes when appropriate. Make allowances for degree of neatness when [the Student] is trying to do his best. Allow for incomplete sentence answers for content areas when appropriate or needed. Check [the Student's] assignment sheet to aid in organization. Preferential seating towards the front to reduce distractions."
4. The documentation submitted by the School makes it difficult to determine whether and to what extent the Student's IEP was implemented as written. For example, the homework samples that were submitted do not show what accommodation or modification was implemented. One sample contains a note written by the teacher stating, "Do you want the Alpha Smart?" Furthermore, the general education teacher logs (the Student has two general education teachers) do not provide any specificity or explanation. The Student's two general education teachers submitted memorandums dated February 10, 2006, listing what they remember doing thus far during the 2005-2006 school year. Finally, the teacher of record consultation stops on September 19, 2005, and does not indicate whether and to what extent consultation or technical assistance was provided to the Student's teachers with regard to the accommodations and modifications.

CONCLUSION:

Finding of Fact #4 indicates that the School has failed to show whether and to what extent the Student's accommodations, modifications, and supports to general education have been implemented as written. Although the Student's case conference committee agreed to the IEP the way it is written, ambiguities in an IEP will be construed against the public agency responsible for its implementation. The Student's IEP dated May 23, 2005 lists the "suggested" accommodations, modifications, and other supports but does not specify what is necessary to meet the unique needs of the Student. The IEP lacks sufficient clarity so that both the parent and school personnel working with the Student know what accommodations and modifications the Student is to receive from whom and with what resources. 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:

The Griffith Public Schools and the Northwest Indiana Special Education Cooperative shall:

Convene the Student's case conference committee to determine which accommodations and modifications the Student shall be provided in the general education classroom environment and provide sufficient clarity so that both the parent and the school know what is to be provided, when, by whom, and with what resources employed. The case conference committee shall also determine whether and to what extent compensatory education services may be required. A copy of the Case Conference Report and IEP shall be submitted to the Division no later than April 14, 2006.