

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2306.06  
COMPLAINT INVESTIGATOR: Joe Bear  
DATE OF COMPLAINT: February 2, 2006  
DATE OF REPORT: March 3, 2006  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: May 23, 2006

**COMPLAINT ISSUES:**

Whether MSD of Washington Township violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to:

- a) have a speech therapist work with the student prior to a speaking assignment; and
- b) provide information in such a way that it could be understood by a deaf student.

**FINDINGS OF FACT:**

1. The Student, 15 years old, has been identified as having a hearing impairment and a communication disorder, and has been determined eligible for special education and related services.
2. The Complainant alleged that the speech-language pathologist (SLP) did not provide support and work with the Student on a speech before the Student had to present it. At the November 22, 2005, CCC meeting, the Complainant indicated that she wanted the SLP to work with the Student on speeches before they were presented. While this was not reflected in the CCC notes, the School and the Complainant acknowledge that the CCC had decided at the meeting that the SLP would review speeches assigned in the communicative arts class with the Student prior to the Student delivering a speech.
3. After the November 22, 2005, CCC meeting, three speeches remained in the communicative arts class. The SLP acknowledged that she worked with the Student on only one assigned speech. The Communicative Arts Teacher said that the Student, who received an A overall, almost received the highest percentage in the class. Although the Student had some points taken off while speaking, the teacher did not view these as being connected to the Student's disability.
4. The Student's IEP calls for visual and auditory supports to assist the Student in accessing the general education curriculum and achieving his goals. Auditory supports include a personal sound field system (FM system), verbal cueing (restating directions and summarizing information), supplemental notes, repetition of non-written assignments and instructions, and an absence of background noise and music during instructions.
5. The Student participates in a wellness course that rotates students to different teachers – in the classroom, in the swimming pool, and in the gymnasium – to learn about various aspects of wellness. In January 2006, the Student participated in the swimming portion of the class for two weeks, receiving an A in that section. This is the only time the Student is required to swim for this course.

6. The Student's FM system and hearing aid will not operate while he is in the pool. Wellness Instructor #1, who taught the Student, stated that she gave instructions to all students prior to them entering the water and prior to the Student removing his hearing aid; used visual and gestural cues to indicate what she was requesting of the students; and made eye contact with the Student as she gave information. Other students in the class let the Student know when it was his turn. The Student asked for clarification when he did not understand, which the instructor provided. Wellness Instructor #1 had received a copy of the Student's IEP, and had met with the TOR prior to the Student's participation in swimming to review IEP requirements.
7. Wellness Instructor #2, who had another class in the pool area, stated that she had seen Wellness Instructor #1 visually demonstrating movements for the students, getting in front of the Student to make eye contact easier, and using color coding of pool equipment. She also said that she remembered seeing the Student come and thank Wellness Instructor #1 for the help that she provided to him.
8. In a telephone interview, the Student acknowledged that Wellness Instructor #1 gave a description of what the class was going to do before the students entered the water; that the instructor visually demonstrated movements the students were supposed to make; that the Student had opportunities to ask questions and to receive clarifying information from the instructor; and that the Student received assistance from other students. At times the Student missed information by the pool because he had already removed his hearing aid. The instructor was not always able to have eye contact with the Student because she was working with other students.

#### **CONCLUSIONS:**

Finding of Fact #2 indicates that, although the School and the Complainant acknowledge that the SLP was to work with the Student on speeches, this was not a written accommodation of the IEP. Therefore, no violation of 511 IAC 7-27-7(a) is found.

Findings of Fact #6 through #8 indicate that Wellness Instructor #1 did not fail to provide information in such a way that it could be understood by a deaf student. Therefore, no violation is found.

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

#### **CORRECTIVE ACTION:**

MSD of Washington Township shall provide to the Division an assurance statement that CCC decisions on services and accommodations will be reflected in future CCC Reports, and will be fully implemented as written. Provide the assurance statement to the Division by April 10, 2006.