

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2316.06
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: March 20, 2006
DATE OF REPORT: April 19, 2006
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: May 25, 2006

COMPLAINT ISSUES:

Whether the Hamilton Southeastern Schools and the Hamilton-Boone-Madison Special Services 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:

- (a) provide a study carrel at the student's desk;
- (b) provide a visible daily schedule;
- (c) provide a therapy swing;
- (d) provide an appropriate core disk;
- (e) provide a slant board;
- (f) assist the student towards achieving reading instruction goals in an adequate environment;
- (g) provide crayon grasps and weighted pencils.

511 IAC 7-27-4(a)(3) by failing to convene the student's case conference committee upon request of the parent or school within a reasonable amount of time.

FINDINGS OF FACT:

1. The Student, six years old, is identified as a student with multiple disabilities and a communication disorder, and has been determined eligible for special education and related services.
2. The Student's IEP dated April 25, 2005, indicates that the Student is to be provided with a study carrel at the Student's desk. The School acknowledges that it failed to provide the accommodation as required. Since this complaint was filed, a temporary study carrel was provided in mid-March 2006 until the regular study carrel could be obtained. The regular study carrel has now been installed, and the Student has been using it.
3. The Student's IEP required that the Student be provided with a visible daily schedule as an accommodation. At the beginning of the 2005-2006 school year, a classroom picture schedule was posted for all students in the Student's classroom. In October 2005, a personal picture schedule was placed on the Student's desk. The Student's Teacher found that this was too distracting for the Student and decided to place the large classroom picture schedule near the Student's desk to read and follow. The Teacher subsequently found that this was not helping the Student, so "walking" picture schedules were compiled into short books for the Student to carry from task to task. At the Student's case conference committee meeting on February 14, 2006, it was agreed that the picture schedule would be re-initiated by the Teacher by February 20, 2006. On or about March 13, 2006, at the Complainant's

and the Student's occupational therapist's request, a picture schedule was placed in the Student's "cubby." This picture schedule has been utilized by the Student since that time.

4. The Student's IEP dated April 25, 2005, and reviewed on August 16 and October 7, 2005, and February 14 and March 24, 2006, does not identify a swing as an accommodation or adaptation. However, included in the *Discussion Summary* from the April 25 case conference is a statement that "[The Student] needs some sensory experiences during the day. [Occupational therapist] will work with the staff at [the School] and will provide that equipment (sensory disc; swing; ball for bouncing)." A therapy swing, located in one of the special education classrooms, was available for the Student's use when needed.
5. The Student's IEP in effect for the 2005-2006 school year indicates that a "red disk seat" is required as an accommodation. School personnel working with the Student initially implemented this accommodation, but eventually stopped using it because staff no longer thought it was beneficial for the Student. However, as of the March 24, 2006, case conference committee meeting, the School and Complainant have addressed this issue but are still in discussion as to how it can be best utilized.
6. The Student's IEP does not identify a specific environment within which the Student will work toward reading goals and objectives. The School and Complainant acknowledge that the Student does receive one-on-one instruction outside the classroom for 15-20 minutes per day. This instruction is normally provided in a conference room where the Student and the Teacher are the only occupants. However, when the Complainant visited the School on March 10, 2006, the conference room was unexpectedly being used by someone else and a different location had to be used for the Student's reading instruction.
7. Neither the IEP dated April 25, 2005, nor the subsequent revisions include a slant board as an identified accommodation or adaptation. An Assistive Technology Assessment, conducted on March 17, 2006, concluded that the Student "may benefit from the use of an adaptive keyboard with large keys that can sit at a slant while she types." However, the IEP reports do not indicate that a conclusion was ever made regarding the use of the slant board. The Case Conference Report from March 24, 2006, indicates the case conference committee is still in discussion about whether and to what extent a slant board might assist the Student.
8. Neither the IEP dated April 25, 2005, nor the subsequent revisions include crayon grasps or weighted pencils as identified accommodations or adaptations. An Assistive Technology assessment was conducted on March 17, 2006, and included the following conclusion: "using a weighted pencil may help [the Student] obtain enough pressure on the pencil to make darker marks..." The *Discussion Summary* from the March 24, 2006 case conference committee meeting states "OT found that grips that fit over [the Student's] hand didn't work [and] provided too much sensory input..." There is nothing further to indicate that the case conference identified this as an accommodation or adaptation to be provided the Student.
9. The Complaint specifically alleges that the case conference committee (CCC) convened on February 14, 2006 was not scheduled within a reasonable amount of time. The CCC meeting convened on February 14, 2006, was requested by the School. The School began its inquiry of possible CCC dates on January 5, 2006. The Complainant responded with dates for January and offered to provide dates for February as needed. Due to a scheduling conflict, the CCC meeting originally scheduled for February 9, 2006, was rescheduled for February 14, 2006.

10. The School reconvened the Student's case conference committee on March 24, 2006, and specifically discussed whether and to what extent the study carrel and the core disk/red seat disk would be utilized in order to benefit the Student.

The School has also scheduled an in-service training regarding compliance with the issues involved with this complaint, specifically regarding the implementation of a student's IEP as written, utilizing the case conference committee to make changes in accommodations, adaptations, or services to be provided a student, and ensuring that all school personnel working with a student are aware of his/her responsibilities pursuant to the IEP. The in-service is scheduled for April 24, 2006.

CONCLUSIONS:

1. Findings of Fact #2 through #8 address whether the Student's IEP was implemented as written. Specifically:
 - (a) Finding of Fact #2 indicates that the School acknowledges that it failed to provide the study carrel;
 - (b) Finding of Fact #3 indicates that a visible daily schedule was placed in a visible location;
 - (c) Finding of Fact #4 indicates that the School did not fail to provide a therapy swing;
 - (d) Finding of Fact #5 indicates that the School acknowledges that it failed to provide a core disk/red seat disk in a timely manner and in accordance with the Student's IEP;
 - (e) Finding of Fact #6 indicates that the Student does receive reading instruction in an adequate environment;
 - (f) Finding of Fact #7 indicates that the Student's IEP dated April 25, 2005, does not include a slant board as an identified accommodation or adaptation; and
 - (g) Finding of Fact #8 indicates that neither the Student's IEP dated April 25, 2005, nor the subsequent revisions include crayon grasps or weighted pencils as identified accommodations or adaptations though an Assistive Technology assessment suggested that they may benefit the Student.

Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the School's failure to provide the study carrel and the core disk/red seat disk in a timely manner and pursuant to the Student's IEP. Any change in the Student's accommodations should have been made by the Student's case conference committee.

2. Finding of Fact #9 indicates that the case conference committee requested by the School and held on February 14, 2006, (originally scheduled for February 9, 2006) took approximately one month to organize, but did convene. Therefore, a violation of 511 IAC 7-27-4(a)(3) is not found with respect to whether all of the Student's case conferences have been scheduled within a reasonable amount of time.

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:

Finding of Fact #10 indicates that Hamilton Southeastern Schools and Hamilton-Boone-Madison Special Services have taken voluntary corrective action by reconvening the Student's case conference committee to further discuss whether and to what extent the study carrel and the core disk/red seat disk will be best utilized to assist the Student.

Finding of Fact #10 also indicates that Hamilton Southeastern Schools and Hamilton-Boone-Madison Special Services have taken voluntary corrective action by scheduling in-service training regarding the implementation

of the IEP as written, utilizing the case conference committee to make changes in the accommodations, adaptations, or services to be provided a student, and ensuring that all school personnel working with a student are aware of his/her responsibilities pursuant to the IEP. The in-service has been scheduled for April 24, 2006. The School shall submit to the Division a copy of the attendance sheet, the agenda, and notes or hand-outs no later than May 26, 2006.