

Colorado Department of Education
Decision of the State Complaints Officer
Under the Individuals with Disabilities Education Act (IDEA)

State Level Complaint 2008:503

Douglas County School District RE-1

Decision

INTRODUCTION

This Complaint dated January 28, 2008, was filed by Student's parent (hereafter, the "Complainant") and was received in the office of the State Complaints Officer on March 6, 2008.¹ The Complaint was transmitted by certified mail to Douglas County School District (hereafter, the "District") on March 7, 2008, and receipt thereof was acknowledged by the District on March 11, 2008. The response of the District, with attachments, was timely received on March 12, 2008. On March 27, 2008, the State Complaints Officer transmitted the District's response to Complainant and advised that any reply should be submitted by or before April 14, 2008. As of the date of this decision, no reply had been received from Complainant. The record in this matter was closed on April 28, 2008.

ISSUE

Whether the provisions of Student's Individualized Education Program ("IEP") were properly implemented during the 2007-2008 school year.

CONTENTIONS OF THE PARTIES

The Complainant alleges that Student did not receive all of the speech and language services to which he was entitled pursuant to his IEP during the 2007-2008 school year. Complainant maintains that 10 hours of such services were not provided during the first and second quarters of the school year and requests compensatory education in an equivalent amount.

¹ The Complaint had been filed earlier, but was rejected on February 21, 2008, because it lacked essential information. It was re-submitted with complete information on March 6.

The District acknowledges that Student did not receive all scheduled services between August 27 and October 29, 2007.² The District maintains that Student was shorted 8 hours of services and concedes that a compensatory ratio of 1:1 is appropriate here.

FINDINGS OF FACT

1. Student is a [AGE] male residing within the boundaries of the District and eligible for special education in the category of Speech or Language Impairment. During the 2007-2008 school year, Student attended [SCHOOL].³
2. Pursuant to his operative IEP, Student was to receive one hour of speech and language services per week, delivered in two 30 minute sessions outside of his regular classroom setting.
3. District Speech and Language Pathology Coordinator Sharon Brychka determined that Student missed a total of eight hours of services between August 20, 2007 and October 29, 2007. As Complainant did not dispute or otherwise comment on this calculation by the District by way of reply, it is determined to be accurate.⁴
4. Student has suffered educational harm as a result of the District failing to provide promised Speech and Language services. There is no dispute in this case that compensatory services are appropriate in a ratio of 1:1 to those hours missed.
5. Since November 7, 2007, Student has been provided with all of the services specified in his IEP. In addition, the District has established a schedule of compensatory sessions to make-up for those service hours missed in the period prior to October 29, 2007.

CONCLUSIONS OF LAW

It is well established that a school district must provide special education services that comport with a student's IEP as one element of a free appropriate public education. *Board of Educ. Of the Hendrick Hudson Central Sch. Dist. V. Rowley*, 458 U.S. 176 (1982). Here, Complainant contends that the District did not provide the direct services set forth in Student's operative IEP for the 2007-2008 school year. The District concedes that Student did not receive the specified quantity of services from August

² The District's references to these dates in 2008 were determined to be typographical errors.

³ The 'File Review' included in the District's response lists Student as a first grader for the 2007-2008 school year, but an IEP dated December 17, 2007, lists his current grade as 'K'. This lack of consistency, coupled with the other errors in the response (some service hours were documented as having been provided on weekends) is troubling, but not material to the issue here.

⁴ Complainant noted in the Complaint that she did not have 'concrete' information from the District in arriving at her estimate of 10 hours of missed services.

through October, 2007. The reason(s) for the sporadic and incomplete level of service during this period are not entirely clear, however to its credit, the District takes responsibility for the shortage. There is also an indication in the record that since the District hired a new speech therapist, Student has not missed any services and has actually begun to make up some of the hours owed to him by arrangement with Complainant.

There is no detailed documentation of how Student's progress toward his special education goals and objectives was affected by the District's failure to provide all of the services due to him during the time period covered by the Complaint. It is logical to conclude that direct services which both sides agree were appropriate for Student were also necessary to permit him to advance toward attainment of his goals and objectives. Thus, the failure to provide such services must have adversely affected Student's educational progress. In summary, the services provided from August 20, 2007, to October 29, 2007, did not adequately comport with the substance of Student's IEP.

REMEDY

Complainant established that the District failed to provide direct services specified in Student's operative IEP. The District concedes that compensatory services are appropriate in an equivalent amount to those hours missed. In order to compensate for the educational harm caused by the failure to provide direct services to Student, the District shall provide to Student eight hours of direct speech language services, in addition to any services he currently receives, that are designed to advance Student toward his currently implemented IEP goals and objectives. Lastly, the additional compensatory services shall be provided at a time and place convenient to Student and his family.

Student's compensatory education program shall be completed no later than August 15, 2008, and the District shall provide documentary evidence of compliance with this decision to the Complaints Officer no later than September 30, 2008. To the extent that compensatory services have already been delivered to Student prior to the date of this Decision, the District may document them and receive credit against the total of eight hours due. Taking into account the District's acknowledgement of the problems that led to the shortage of services to Student and the proactive steps it demonstrated it had taken to redress those problems, no further corrective action is warranted in this case.

CONCLUSION

This Decision shall become final as dated by the signature of the State Complaints Officer.

Dated this 28th day of April, 2008.

Keith J. Kirchubel
State Complaints Officer