

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

Federal Complaint 2002:515

South Central BOCES

Decision

INTRODUCTION

This Complaint was dated May 31, 2002, and was received by regular mail on June 14, 2002. The school district's response was dated June 25, 2002, and was received by the Federal Complaints Officer on June 27, 2002. By certified letter dated June 28, 2002, with green card receipt dated July 1st, 2002, the complainant was provided with a copy of the school district's response to her Complaint, and given an opportunity, within ten (10) calendar days of her receipt of the certified mailing, to respond to the school district's response. No response was received from the complainant. The Federal Complaints Officer subsequently closed the record.

COMPLAINANT'S ALLEGATION

The complainant alleged that her son's individualized education program (IEP) required that he receive occupational therapy, and that this service had not been provided.

SCHOOL DISTRICT'S RESPONSE

The school district's response, in relevant part, as excerpted by the Federal Complaints Officer, with personally identifiable information deleted, stated:

The complaint filed addresses the occupational services for [student]. The staffing forms clearly state that [student] would receive **Indirect Consultation** services, once monthly for 30 minutes. This staffing occurred 1/16/02. Therefore, in monthly increments, [student] was to receive **indirect consultation** and not direct therapy, 4 times for a total of 2 hours of consultation. The occupational therapy report determined some motor delays and made the following suggestions for activities in [student's] preschool environment:

... Work for a better prehension of crayons, markers or pencils

- ... Needs supported seating for table top activities – elbows supported on table
- ... Do lots of finger play, i.e., where is Thumbkin; Itsy Bitsy Spider
- ... Work with playdough, finger paint, water and sand play
- ... Encourage all prehension activities, i.e., picking up and placing object
- ... Encourage bead stringing, puzzles, pegboards, and cutting activities.

When following up with the occupational therapist, I was informed that on one occasion she was able to discuss this with Headstart. She further stated she went to the Headstart to meet with the teacher but she was absent, and on another occasion in May attempted to consult, but the Headstart was on a field trip activity.

No direct therapy was a part of [student's] IEP, therefore, the following resolutions to this complaint are proposed:

1. Occupational therapist will meet with mother and [student] in [town] to provide summer consultative activities and demonstrate or model any specific techniques.
2. Occupational therapist will discuss [student's] developmental program activities with his receiving Kindergarten teacher at [attendance center] to keep consistent monitoring of [student's] skills, through the teacher's submission of data collection forms.
3. Emphasis to Kindergarten teacher will be at least restrictive environment, which includes developmentally appropriate practices and activities.

...

Id. Personally identifiable information deleted by the Federal Complaints Officer. Bold and underlining in original.

FINDINGS AND DISCUSSION

The Federal Complaints Officer finds that the relevant IEP for this student for this Complaint time period required that one-half (1/2) hour per month of indirect consultative occupational therapy (OT) services be provided for this student, commencing January 16, 2002. The Federal Complaints Officer finds that one-half (1/2) hour of such services was provided, and that at least one (1) and one-half (1/2) hours of such IEP required services were not provided. The Federal Complaints Officer also finds the school district's proposed resolution of this Complaint to be appropriate.

REMEDY

The occupational therapist will meet with the mother and [student] in [town] to provide summer consultative activities and demonstrate or model any specific techniques. The occupational therapist will discuss [student's] developmental program activities with his receiving kindergarten teacher at [attendance center] to keep consistent monitoring of [student's] skills, through the teacher's submission of data collection forms. Emphasis to kindergarten teacher will be at least restrictive environment, which includes developmentally appropriate practices and activities.

CONCLUSION

This Decision shall become final as dated by the signature of the Federal Complaints Officer. A copy of the appeal procedure is attached.

Dated today, July _____, 2002.

Charles M. Masner, Esq.
Federal Complaints Officer