



OFFICE OF SPECIAL EDUCATION

FINAL REPORT for State Complaint C-7536-13 against the
Muskegon Heights Public School Academy
April 15, 2013

BACKGROUND INFORMATION

Date Filed: February 5, 2013
Muskegon Intermediate School Carolyn Smith-Gerdes
District (ISD) Investigator:
MDE Case Manager: Susan Liebetreu
Complainant: [REDACTED]
Address: [REDACTED]

Telephone: [REDACTED]
Student: [REDACTED]
Date of Birth: [REDACTED]
Grade: [REDACTED]
Eligibility: Cognitive Impairment
Program/Service: Programs for Students with Mild Cognitive Impairment
Speech and Language Services
Occupational Therapy Services
School Social Work Services

Resident/Operating District: Muskegon Heights Public School Academy

INDIVIDUALS CONTACTED

1. Complainant
2. [REDACTED] Special Education Teacher, District
3. [REDACTED] Occupational Therapist, District
4. [REDACTED] Speech Therapist, District
5. [REDACTED] Principal, District
6. [REDACTED] Mosaica National Director of Special Education, District

DOCUMENTS REVIEWED

1. Physical Therapy Report of June 2, 2011
2. Individualized Education Program (IEP) dated November 8, 2011
3. IEP dated November 8, 2012
4. Amendment to the Individualized Education Program dated February 15, 2013
5. Service Provider Logs for Speech and Language, Occupational Therapy, and School Social Work Services for the 2012-2013 School Year

ALLEGATIONS AND CONCLUSIONS

Conclusion	Allegation	
Noncompliant	Allegation 1	Whether the district implemented the IEP for the student in regard to speech and language services for the 2012-2013 school year
Noncompliant	Allegation 2	Whether the district implemented the IEP for the student in regard to occupational therapy services for the 2012-2013 school year
Compliant	Allegation 3	Whether the district implemented the IEP for the student in regard to physical therapy services for the 2012-2013 school year

Office of Special Education Findings		
Noncompliant	Finding 4	IEP implementation of school social work services for the 2012-2013 school year

Corrective action and proof of compliance for the district's noncompliance is directed in the attached document entitled *Corrective Action and Proof of Compliance*.

INVESTIGATION

Allegation 1: Whether the district implemented the IEP for the student in regard to speech and language services for the 2012-2013 school year

Regulation for Allegation 1:

34 CFR § 300.320(a) of the Individuals with Disabilities Education Act requires the IEP be developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324. 34 CFR § 300.320(a)(4) requires the IEP include a statement of the special education and related services to be provided to the student. Rule 340.1722(2) of the Michigan Administrative Rules for Special Education requires the district provide the programs and services identified in the student's IEP. 34 CFR § 76.731 of the Education Department General Administrative Regulations requires the district maintain records to document compliance with program requirements. Inclusive in this is the requirement to maintain records to document implementation of the programs and services identified in the student's IEP.

Findings of Fact and Conclusion for Allegation 1:

The complainant indicated the student has not received speech and language services since the start of the 2012-2013 school year. The complainant further indicated the IEP of November 8, 2012 did not include speech and language services that were included in the past. The district indicated staff members were told not to include related services in the student's IEP of November 8, 2012 as no related service providers were available to provide services.

The IEP of November 8, 2011 and the November 8, 2012 IEP did not include speech and language services. The Amendment to the Individualized Education Program dated February 15, 2013 indicates the student shall be provided with 40 to 160 minutes a month of speech and language services. Service logs indicate the student was not provided with speech and language services from September 2012 through January 2013 but was provided with 270 minutes of speech and language services in February of 2013 and 315 minutes of speech and language services in March of 2013.

Because the IEP of November 8, 2011 did not include speech and language services and because the district provided the requires speech and language services in February and March of 2013 following the development of the Amendment to the Individualized Education Program on February 15, 2012, the district is compliant with R 340.1722(2) and 34 CFR § 76.731. However, because the IEP team was not provided the opportunity to consider speech and language services during the November 8, 2012 IEP team meeting, the district is noncompliant with 34 CFR §§ 300.320(a) and 300.320(a)(4) from November 8, 2012 until the development of the Amendment to the Individualized Education Program of February 15, 2013.

Allegation 2: Whether the district implemented the IEP for the student in regard to occupational therapy services for the 2012-2013 school year

Regulation and Rule for Allegation 2:

34 CFR § 300.320(a) requires the IEP be developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324. 34 CFR § 300.320(a)(4) requires the IEP include a statement of the special education and related services to be provided to the student. Rule 340.1722(2) requires the district provide the programs and services identified in the student's IEP. 34 CFR § 76.731 requires the district maintain records to document compliance with program requirements. Inclusive in this is the requirement to maintain records to document implementation of the programs and services identified in the student's IEP.

Findings of Fact and Conclusion for Allegation 2:

The complainant indicated the student has not received occupational therapy services since the start of the 2012-2013 school year. The complainant further indicated the IEP of November 8, 2012 did not include occupational therapy services that were included in the past. The district indicated staff members were told not to include related services in the student's IEP of November 8, 2012 as no related service providers were available to provide services.

The IEP of November 8, 2011 indicated the student was to receive 60 to 120 minutes of occupational therapy services a month. The November 8, 2012 IEP did not include occupational therapy services. The Amendment to the Individualized Education Program dated February 15, 2013 indicates the student shall be provided with 180 to 600 minutes a month of occupational therapy services. Service logs indicate the student was not provided with occupational therapy from September 2012 through January of 2013 but was provided with 140 minutes of occupational therapy services in February 2013 and 140 minutes of occupational therapy services in March of 2013.

Because the district did not provide and document the provision of the occupational therapy services identified in the November 8, 2011 IEP from the beginning of the 2012-2013 school year and did not provide all of the required occupational therapy services in February and March of 2013 as identified in the Amendment to the Individualized Education Program of February 15, 2013, the district is noncompliant with R 340.1722(2) and 34 CFR § 76.731. Additionally as the IEP team was not provided the opportunity to consider occupational therapy services during the IEP team meeting of November 8, 2012, the district is noncompliant with 34 CFR §§ 300.320(a) and 300.320(a)(4) from November 8, 2013 until the development of the Amendment to the Individualized Education Program of February 15, 2013.

Allegation 3: Whether the district implemented the IEP for the student in regard to physical therapy services for the 2012-2013 school year

Rule for Allegation 3:

34 CFR § 300.320(a) requires the IEP be developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324. 34 CFR § 300.320(a)(4) requires the IEP include a statement of the special education and related services to be provided to the student.

Findings of Fact and Conclusion for Allegation 3:

The complainant indicated the student has not received physical therapy services since the start of the 2012-2013 school year. The complainant further indicated the IEP of November 8, 2012 did not include occupational therapy services that were included in the past. The Physical Therapy Report dated June 2, 2011 indicated physical therapy would be discontinued as the student is functioning within normal limits. No physical therapy services are included in the IEP of November 8, 2011, subsequent IEP of November 8, 2012, or the Amendment to the Individualized Education Program of February 15, 2013. As the physical therapy services were discontinued in an IEP team meeting decision of November 8, 2011; the district is compliant with 34 CFR § 300.320(a)(4).

Finding 4: IEP implementation of school social work services for the 2012 - 2013 school year

Regulation and Rule for Allegation 4:

34 CFR § 300.320(a) requires the IEP be developed, reviewed, and revised in a meeting in accordance with §§ 300.320 through 300.324. 34 CFR § 300.320(a)(4) requires the IEP include a statement of the special education and related services to be provided to the student. Rule 340.1722(2) requires the district provide the programs and services identified in the student's IEP. 34 CFR § 76.731 requires the district maintain records to document compliance with program requirements. Inclusive in this is the requirement to maintain records to document implementation of the programs and services identified in the student's IEP.

Findings of Fact and Conclusion for Allegation 4:

Staff members indicated they were told not to include related services in the student's IEP of November 8, 2012 as no related service providers were available to provide services.

The IEP of November 8, 2011 indicated the student was to receive 40 to 60 minutes of school social work services a week. The November 8, 2012 IEP did not include school social work services. The Amendment to the Individualized Education Program dated February 15, 2013 indicates the student shall be provided with 40 to 60 minutes of school social work services a week. Service logs indicate the student was not provided with school social work services from September 2012 through February of 2013 but was provided with 30 minutes of school social work services in March of 2013.

Because the district did not provide and document the provision of the school social work services identified in the November 8, 2011 IEP and because the district did not provide all of the school social work services in February and March of 2013 identified in the Amendment to the Individualized Education Program of February 15, 2013, the district is noncompliant with R 340.1722(2) and 34 CFR § 76.731. Additionally as the IEP team was not provided the opportunity to consider school social work services during the November 8, 2012 IEP team meeting, the district is noncompliant with 34 CFR §§ 300.320(a) and 300.320(a)(4) from November 8, 2013 until the development of the Amendment to the Individualized Education Program of February 15, 2013.



Corrective Action and Proof of Compliance

District: Muskegon Heights Public School Academy
 State Complaint: C-7536-13
 Final Report Date: April 15, 2013

Pursuant to R 340.1854, § 300.151(b), and the State Complaint Procedures, the Office of Special Education directs the district to implement the corrective action specified below. The intermediate school district is responsible for assisting the district and for monitoring progress of the corrective action.

The district must submit the proof of compliance specified below to the Office of Special Education and the intermediate school district as evidence the district corrected the noncompliance. The proof of compliance must be submitted under the joint signatures of the administrator primarily in charge of special education programs and services, the chief administrative officer, and the president of the board of education. The proof of compliance must be submitted to:

Supervisor, Program Accountability
 Office of Special Education
 P.O. Box 30008
 Lansing, Michigan 48909

Corrective Action	Proof of Compliance	Due Date:
<p>Allegation 1 and 2 and Finding 4: Pursuant to 34 CFR §§ 300.320(a) and 300.324(a)(4) of the Individuals with Disabilities Education Act and R 340.1722(2) of the Michigan Administrative Rules for Special Education, the district shall:</p> <p>1. For this and all students:</p> <p>a. Develop, review and revise the student's individualized education program (IEP) in a meeting in accordance with 34 CFR §§ 300.320 through 300.324.</p>	<p>The district shall submit:</p> <p>1. A written statement that assures that, for this and all students, the district shall:</p> <p>a. Develop, review and revise the student's IEP in a meeting in accordance with 34 CFR §§ 300.320 through 300.324.</p> <p>b. Identify the student special education</p>	<p>May 10, 2013</p>

Corrective Action	Proof of Compliance	Due Date:
<p>b. Identify the student special education and related services and supplementary aids and services in the student's IEP.</p> <p>c. Provide and document the provision of the programs and services identified in the student's IEP.</p>	<p>and related services and supplementary aids and services in the student's IEP.</p> <p>c. Provide and document the provision of the programs and services identified in the student's IEP.</p>	<p>May 10, 2013</p>
<p>2. Review and if necessary revise the district's procedures to ensure that, for this and all students, the district:</p> <p>a. Develops, reviews and revises the student's IEP in a meeting in accordance with 34 CFR §§ 300.320 through 300.324.</p> <p>b. Identifies the student special education and related services and supplementary aids and services in the student's IEP.</p> <p>c. Provides and documents the provision of the programs and services identified in the student's IEP.</p>	<p>2. A copy of the procedures the district reviewed and if necessary revised to ensure the district:</p> <p>a. Develops, reviews and revises the student's IEP in a meeting in accordance with 34 CFR §§ 300.320 through 300.324.</p> <p>b. Identifies the student special education and related services and supplementary aids and services in the student's IEP.</p> <p>c. Provides and documents the provision of the programs and services identified in the student's IEP.</p>	<p>May 31, 2013</p>
<p>3. Provide in-service training to all involved staff members regarding the requirement to:</p> <p>a. Develop, review and revise the student's IEP in a meeting in accordance with 34 CFR §§ 300.320 through 300.324.</p> <p>b. Identify the student special education and related services and supplementary aids and services in the student's IEP.</p> <p>c. Provide and document the provision of the programs and services identified in the</p>	<p>3. Documentation that all involved staff members were provided with in-service training regarding the requirements to:</p> <p>a. Develop, review and revise the student's IEP in a meeting in accordance with 34 CFR §§ 300.320 through 300.324.</p> <p>b. Identify the student special education and related services and supplementary aids and services in the student's IEP.</p> <p>c. Provide and document the provision of</p>	<p>May 31, 2013</p>

Corrective Action	Proof of Compliance	Due Date:
<p>student's IEP.</p> <p>4. The district shall contact/meet with the complainant and attempt to develop a written plan that identifies:</p> <ul style="list-style-type: none"> a. The amount of loss the student experienced because the district did not provide the student: <ul style="list-style-type: none"> i. Speech and language services from the IEP of November 8, 2012 when the district did not consider speech and language services until February of 2013. ii. Occupational therapy services from the beginning of the 2012-2013 school year until February of 2013. iii. School social work services from the beginning of the 2012-2013 school year through March of 2013. b. Appropriate remedy for the denial of service and loss identified in (i), (ii), and (iii). c. If the parties are able to agree on the written plan described above, in whole or in part, the complainant shall sign the plan indicating agreement, and the director of special education shall sign indicating both 	<p>the programs and services identified in the student's IEP.</p> <p>The documentation should include the date of the training, names of the participants, a copy of the training agenda, and copies of all written material distributed during the meeting.</p> <p>4. A copy of the mutually agreed to plan with the signature of the complainant and the director of special education for the district attesting to their agreement; or If mutual agreement is not attained, a description in writing as to the area or areas where agreement could not be reached and the district's proposal regarding appropriate remedy for denial of service.</p>	<p>May 10, 2013</p>

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Corrective Action	Proof of Compliance	Due Date:
<p>agreement with and intent to implement the plan.</p> <p>d. If the complainant and the district are unable to agree on any item in (a) through (c), the district will inform the Office of Special Education in writing about the specific item for which agreement could not be reached and request the Office of Special Education direct corrective action for this activity.</p>		