

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

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**Federal Complaint 99:525**  
(Boulder County School District Re-2)

**Decision**

**FINDINGS**

The Federal Complaints Officer finds that complainants' son did not have a fully appropriate IEP in effect for the school year beginning in the fall of 1999. The Federal Complaints Officer finds that this was a violation of 34 CFR 300.342(a)(b) and 300.347(a)(2). See generally 34 CFR 300.340-300.350.

**DISCUSSION**

In investigating this Complaint, the Federal Complaints Officer considered: the initial Complaint letter of the complainants, the initial response of the school, the complainants' response to this response, the complainants' response to the Federal Complaints Officer's request for additional information (in his letter dated December 2, 1999), the school's response to this response, and the complainants' response to this response by the school. The Federal Complaints Officer also visited with the following school staff at an on-site: Ms. Julie Pion, complainants' son's special education teacher at Louisville Middle School; Mr. Sam Donelson, school social worker; and, Ms. Amy Wheatley, complainants son's special education teacher at Monarch High School. The Federal Complaints Officer also observed complainants' son in the classroom at Monarch High School. In addition, the Federal Complaints Officer reviewed audio tapes dated January 1, 1999, April 6, 1999, and May 18, 1999, which were recordings of meetings between the complainants and the school staff during the spring of 1999 in order to plan for complainants' son's education for the fall of 1999.

The information obtained by the Federal Complaints Officer indicates to him that updated goals and objectives were not in place for complainants' son when he began as a first year student at Monarch High School in the fall of 1999, and that his transition to Monarch High had not been adequately prepared for him. Therefore, a fully appropriate IEP was not in place for him. The information gathered by the Federal Complaints Officer also indicates to him that the reasons that complainants' son did not have a fully appropriate IEP when he began Monarch High in the fall of 1999 were: (1) the school's inability to see that this was done and (2) the complainants' inability to see that this was done. The audio tapes of January 1, April 6, and May 18, 1999 indicate to the Federal Complaints Officer that school staff were diligently engaged in discussion with the complainants in an effort to make decisions for complainants' son's schooling to begin in the fall of 1999. Hindsight is twenty-twenty, especially from a vantage point removed from the difficulties at hand, but nonetheless, in retrospect, the school staff, presumably in an effort to be accommodating to the complainants, were not able to get important planning decisions made on behalf of complainants' son. This being the case, however, it is also therefore true that the

complainants' were responsible for this lack of planning progress for their son, since the audio tapes indicate that their focus was on getting their son into a school other than Monarch High, and therefore they never raised the issue of educational goals and objectives for their son for the fall semester 1999 at Monarch High. They then blamed the school for not seeing that this was done, when they were at least as much to blame for this failure as was the school. The IEP process is designed to be a collaborative process between parents and the school. That means shared rights and responsibilities exercised and assumed to see to it that student needs are adequately met. This did not happen for complainants' son.

However, despite the collaborative nature of the IEP process, the Federal Complaints Officer only has the authority to order the school, not the complainants, to compensate a student who has not fully received a free appropriate public education. The Federal Complaints Officer considered ordering such compensation in this case, but beyond the forty-two (42) hours agreed upon between the complainants and the school, the Federal Complaints Officer does not see how anything he could order could compensate for the difficulties complainants' son experienced during the fall semester 1999 at Monarch High, and the complainants' have not provided the Federal Complaints Officer with any guidance about how this could be done. The complainants' proposed remedy, other than the forty-two (42) hours requested for transition services next summer, asked for enforcement of his current IEP. This is beyond the jurisdiction of this Federal Complaint. If the complainants believe that their son's current IEP is not being appropriately implemented, they are entitled to file another Complaint which makes this allegation.

### **REMEDY**

The school will provide complainants' son with forty-two (42) hours of educational services for transition and enrichment during the summer of 2000, in addition to any extended school year services which complainants' son may receive.

### **CONCLUSION**

This Decision is final as dated by the Federal Complaints Officer's signature. An explanation of appeal rights is attached to this Decision.

Dated today, March \_\_\_\_\_, 2000.

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Charles M. Masner, Esq.  
Federal Complaints Officer