

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2261.05
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: June 23, 2005
DATE OF REPORT: September 9, 2005
REQUEST FOR RECONSIDERATION: yes/October 12, 2005-revised
DATE OF CLOSURE: January 24, 2006

COMPLAINT ISSUES:

Whether Jay School Corporation violated:

511 IAC 7-27-3(f) by inhibiting the parent's right to include other individuals who have knowledge or special expertise regarding the student, specifically a parent advocate;

511 IAC 7-27-4(a)(3) by failing to convene the case conference committee upon the request of a teacher, parent, or administrator;

511 IAC 7-27-3(a)(3) by failing to include one of the student's general education teachers at the CCC meeting on June 8, 2005;

511 IAC 7-27-4(d) by failing to provide an algebra textbook in Braille or another alternate format;

511 IAC 7-27-2(a) by failing to schedule a CCC meeting at a mutually agreed upon date, time, and place¹;

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) specifically by failing to provide a textbook (for environmental science) to the student during a nine-week class period; and

511 IAC 7-27-9(a)(6) by failing to make provision for supplementary services to be provided in conjunction with general education placement, specifically by failing to provide for the student's participation in summer school.

During the course of the investigation, the following additional issue was identified:

511 IAC 7-27-5(c) by failing to provide the parent with a copy of the written report of the June 6, 2005, case conference committee meeting, and a written notice of the proposed placement or denial of placement, within 10 business days after the date of the case conference committee meeting.

An extension of time until August 26, 2005 was granted on July 6, 2005 because a new issue had been added, and due to problems regarding the availability of personnel, for interviewing and assisting in the investigation.

A second extension of time until September 9, 2005 was granted on August 26, 2005 to allow the investigator sufficient time to review the information related to the issues involved.

¹During the course of the investigation It was determined that 511 IAC 7-27-2(a) is not relevant to the facts herein.

FINDINGS OF FACT:

1. The Student, 16 years old, is identified as a student with a visual impairment and an orthopedic impairment and has been determined eligible for special education and related services.
2. On March 29, 2005, the Executive Director of the Indiana Resource Center for Families with Special Needs (IN*SOURCE) contacted the Director of Special Education (the Director) and stated that the Student's long-time advocate (the Advocate) would no longer be advocating on the behalf of parents and children living in Jay County or attending case conferences in Jay County under the auspices of IN*SOURCE. The Advocate's replacement became the regional program specialist for Jay County and attended an administrator's meeting on April 26, 2005 to introduce herself. The replacement also attended the Student's CCC meeting in April of 2005.
3. A meeting was held on May 4, 2005 between the Executive Director, two others from IN*SOURCE, and school officials from Jay County Schools, including the Principal of the School.

The purpose of the meeting was to discuss the School's concerns regarding the Advocate. At the meeting there was discussion regarding the Advocate and it was reiterated by the participants that the Advocate would be representing no families with special needs in Jay County under the auspices of IN*SOURCE.

4. Some time after that meeting, the Complainant requested the case conference convene. A case conference was originally scheduled for May 23, 2005. For various reasons, including illness of the participants and confusion regarding the role of the Advocate, the case conference did not convene until June 1, 2005. The Principal of the School was to act as the Case Conference Chair.
5. The Parent informed the Principal that the Advocate would be attending the June 1, 2005 case conference committee meeting. On May 18, 2005, the Advocate also informed the Principal that she would be attending the meeting at the request of the Parent and Student.
6. The Principal shared his concern with the Advocate that it was his understanding that she was not supposed to represent any families of children with special needs in Jay County. The Advocate informed the Principal that she was representing the Student and Parent independently and not under the auspices of INSOURCE. (IN*SOURCE has no prohibition regarding the independent representation of families of children with special needs).
7. The Principal also contacted the Director of Special Education ("Director"). The Director told the Principal to get clarification on whether the Advocate was going to be there independently or under the auspices of INSOURCE.
8. According to the School, it made several attempts to contact the Director of IN*SOURCE to seek clarification regarding the role of the Advocate. The School alleges that the Director of INSOURCE was unresponsive.
9. The School did speak to a senior supervisor at IN*SOURCE and informed him that the Advocate planned to come to the case conference.
10. The Advocate was advised by INSOURCE not to participate in the case conference. The Advocate responded that she was working independently. Mother senior supervisor at

IN*SOURCE indicated that she understood, but again advised her not to attend the case conference.

11. On June 1, 2005, the Advocate accompanied the Complainant and the Student to the School with the intention of participating in the case conference.
12. The Director did not come to the case conference. The Principal decided not to convene the case conference due to the presence of the Advocate. He handed the Complainant a letter indicating that he was not in a position to differentiate between the Advocate's presence as an independent advocate or one working under the auspices of IN*SOURCE.
13. The CCC reconvened on June 8, 2005. The Advocate was not a participant. ~~The School acknowledges that the Student's general education teacher was invited to participate but was only in attendance "when needed."~~ A general education teacher attended the whole conference. However, though the teacher had helped the Student on previous occasions with computer problems, the Student was not a student of the teacher. The Student had never been in the teacher's class.
14. The Student's IEP dated August 27, 2004 indicates that the Student is to have access to large print and altered format materials through the use of assistive technology. The Student does not read Braille.
15. Prior to the end of the 2004-2005 school year, the Student registered for an algebra class during summer school. The Student's special education teacher made attempts on May 26, and 27, 2005, through the Indiana Educational Resource Center (IERC) and the publisher, to obtain a large print version of the required algebra textbook. Through that effort, it was determined that the textbook would not be available for 2-3 months.
16. The Principal, with the approval of the Superintendent on June 8, 2005, retained an instructional assistant for the purposes of accommodating the Student's needs during summer school, including copying the algebra textbook to enlarge the print and assisting with the implementation of assistive technology such as text-to-speech software on a laptop computer.
17. At the CCC on June 8, 2005, the Student stated that he did not want to attend summer school and the Complainant agreed with the Student's decision despite the arrangements the School had already made, including the retention of an instructional assistant to implement other accommodations.
18. The written Case Conference Report from the CCC held on June 8, 2005 was mailed to the Complainant on June 22, 2005. Ten business days from the date of the CCC meeting elapsed on June 22, 2005.
19. An Environmental Science textbook was ordered for the Student on July 7, 2004 from IERC. A CCC convened on August 27, 2004 to transition the Student into high school. The IEP developed at this case conference indicated the accommodation of access to large print materials as well as employing an instructional assistant to implement accommodations for a visual impairment. These accommodations included Kurzveil and Window Eyes (computer programs designed to enlarge text). In addition, the Student had access to the use of a CCTV, a special light with a magnifier, a PC, and a notebook computer- all with programs that allowed the materials to be scanned and enlarged. IERC informed the School that the Student's Environmental Science textbook was not available on or about July 15, 2004. The School sent

two copies of the text to IERC so that it could be enlarged in time for the Student's nine-week course that fall on August 6, 2004. The textbooks did not arrive until October 11, 2004. The School maintains that the Student's VI instructional assistant enlarged the textbook and other materials for the course. ~~However, the School could not obtain copies of the enlarged materials and other documentation that may indicate whether and to what extent the Student's text was enlarged in addition to other accommodations during the course.~~ Documentation of the enlarged texts was sent to the Division.

CONCLUSIONS:

1. Finding of Fact #12 indicates that the Principal did not convene the case conference due to the presence of the Advocate. Therefore, a violation of 511 IAC 7-27-3(f) is found.
2. Finding of Fact #12 also indicates that the case conference did not convene despite a parent's request to do so. Therefore, a violation of 511 IAC 7-27-4(a)(3) is found.
3. ~~Finding of Fact #13 indicates that the School acknowledges that one of the Student's general education teachers invited to participate was only in attendance "when needed" at the CCC meeting on June 8, 2005. School personnel who are part of the required membership of a CCC meeting must be in attendance for the entire meeting. Therefore, a violation of 511 IAC 7-27-3(a)(3) is found.~~ Finding of Fact #13 indicates that though the School did have a general education teacher at the conference, the teacher was not one of the Student's general education teachers. Therefore a violation of 511 IAC 7-27-3(a)(3) is found.
4. Finding of Fact #15 indicates that the School made an effort to obtain a large print version of the required algebra textbook for summer school. The Student does not read Braille and the IEP also states that texts and materials can be provided in alternative formats. Through the help of a VI instructional assistant and access to assistive technology, the School found comparable ways to accommodate the Student with regard to successfully taking the course. Finding of Fact #16 indicates that the School retained an instructional assistant to help the Student in summer school once it was clear the enlarged textbook would not be available. Finding of Fact #17 indicates that the Student unilaterally withdrew from the summer school program on June 8, 2005. Therefore, a violation of 511 IAC 7-27-4(d) is not found.
5. Finding of Fact #19 indicates that the Student received the required Environmental Science textbook in the enlarged print format near the end of the nine-week course. ~~The School failed to produce documentation from the Student's VI teacher that may indicate whether and to what extent the Student's text was enlarged in addition to other accommodations during the course. Therefore, a violation of 511 IAC 7-27-7(a) is found.~~ Finding of Fact #19 also indicates that the School did enlarge the text by utilizing other accommodations to help meet the needs of the Student. Therefore a violation of 511 IAC 7-27-7(a) is not found.
6. Findings of Fact #15 and #16 indicate that the School made provisions to help the Student participate in the summer school program, specifically by hiring an Instructional assistant to work one-on-one with the Student. The Student had registered for summer school earlier in the spring but withdrew at the CCC meeting held on June 8, 2005. Therefore, a violation of 511 IAC 7-27-9(a)(6) regarding summer school is not found. ~~However, Finding of Fact #19 indicates that the school did not make provision for supplementary services in the Student's Environment Science class, therefore a violation of 511 IAC 7-27-9(a)(6) is found.~~ the School utilized several supplementary services to help meet the Student's needs in his Environmental Science class. Therefore no violation of 511 IAC 7-27-9(a)(6) is found with regard to the Environmental

Science class.

7. Finding of Fact #18 indicates that the School mailed a copy of the written Case Conference Report to the Complainant on June 22, 2005. However, the Complainant did not receive a copy within 10 business days of the CCC meeting held on June 8, 2005. Therefore, a violation of 511 IAC 7-27-5(c) is found.

The Department of Education, Division of Exceptional Learners, requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Jay School Corporation shall:

1. Send a written memorandum to all school administrators and relevant special education personnel stating the requirements of 511 IAC 7-27-3(f), 511 IAC 7-27-4(a)(3), and 511 IAC 7-27-3(a)(3) ~~with respect to at least one of the student's general education teachers participating in a CCC meeting. The memo must make clear that school personnel who are part of the required membership of a CCC meeting must be in attendance for the entire conference.~~ regarding the attendance of a general education teacher at a CCC meeting. The teacher must be one of the student's general education teachers. A copy of the memorandum and a list of all who receive it shall be submitted to the Division no later than ~~October 14, 2005~~ November 12, 2005.
2. Submit documentation indicating that the Complainant has received a copy of the written CCC Report from June 8, 2005. If the Complainant has not yet obtained a copy, the School shall arrange an appointment to have the Complainant pick up a copy or make arrangements to have it hand delivered to the Complainant's home. Documentation indicating the corrective action has been accomplished shall be submitted to the Division no later than ~~October 14, 2005.~~ November 12, 2005.
3. Review and revise or develop procedures regarding the submittal of print requests to IERC. The revised procedures shall specifically state what steps shall be taken, when, and by whom when IERC cannot fulfill a request and the School must implement a student(s) IEP. A copy of the procedures and a list of relevant special education personnel who receive them shall be sent to the Division no later than ~~October 14, 2005.~~ November 12, 2005.
4. Review and revise or develop procedures for ensuring compliance with 511 IAC 7-27-5(c). The procedures shall include, but not be limited to, a process whereby the School routinely logs letters sent by regular and certified mail. In addition, the procedures shall also include the appropriate steps taken when a letter is sent via certified mail and contemporaneously sent by regular mail to a parent known to not pick up certified letters, such as keeping a returned certified letter in an "unopened" file as proof it was sent. A copy of the procedures and a list of relevant special education personnel who receive them shall be sent to the Division no later than ~~October 14, 2005.~~ November 12, 2005.