

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2266.06  
COMPLAINT INVESTIGATOR: Brian Simkins  
DATE OF COMPLAINT: July 27, 2005  
DATE OF REPORT: August 25, 2005  
REQUEST FOR RECONSIDERATION: no  
DATE OF CLOSURE: September 30, 2005

**COMPLAINT ISSUES:**

Whether the Peru Community Schools and the Wabash-Miami Area Programs for Exceptional Children violated:

511 IAC 7-25-5(c) by failing to take one of the following actions within 10 business days of the date the school received a parent's request for an independent educational evaluation (IEE): (1) initiate a due process hearing, or (2) notify the parent in writing that the IEE will be at public expense.

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by not providing the required summer speech services.

**FINDINGS OF FACT:**

1. The Student, four years old, is a student with a communication disorder (CD) and has been determined eligible for special education and related services.
2. The Complainant made a request for an IEE during the case conference committee (CCC) meeting on May 17, 2005 to conduct the Student's annual case review (ACR). The request for an IEE is acknowledged by the School in writing in the CCC discussion notes. Ten business days from the date the School received the request elapsed on June 1, 2005. Peru Community Schools dismissed for the summer on May 25, 2005. By June 1, 2005, the School had not initiated a due process hearing or notified the Complainant in writing that the IEE would be at public expense.
3. At the ACR, the School proposed dismissal from speech and language services and presented evaluation data upon which the proposal was based. The Complainant disagreed with the recommendation to dismiss the Student from the CD program, did not sign the IEP, and made a request for an IEE. The case conference agreed to convene some time before September 1, 2005 to discuss the IEE results.
4. The Complainant was contacted on August 1, 2005 by the Director of Special Education to discuss options for evaluators. At the request of the Complainant, the Director of Special Education faxed credentials of one particular evaluator. An IEE was scheduled for August 24, 2005, with the particular evaluator. The Complainant was contacted by telephone and certified letter to confirm the appointment for the IEE at public expense on August 4, 2005.
5. The Student's IEP dated May 6, 2004 indicates that extended school year (ESY) services shall be provided, specifically speech therapy one time a week for 30 minutes. The services are to be provided

during the summer months. ESY services were not addressed at the CCC meeting on May 17, 2005. No ESY services have been provided during the months of June, July, and August 2005.

#### **CONCLUSIONS:**

1. Findings of Fact #2 through #4 indicate that the School failed to notify the Complainant in writing that the IEE will be at public expense within 10 business days of the receipt of the request for an IEE. Therefore, a violation of 511 IAC 7-25-5(c) is found. The School did comply with the requirements of Article 7 during the course of this investigation.
2. Finding of Fact #5 indicates that the Student's IEP developed on May 6, 2004 states that summer speech services/ESY services are to be provided. Since the proposed IEP developed on May 17, 2005 has not been agreed to regarding whether the Student should be dismissed from special education, the IEP dated May 6, 2004 is still in effect. ESY services have not been provided during the summer months. Therefore, a violation of 511 IAC 7-27-7(a) is found.

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

#### **CORRECTIVE ACTION:**

Peru Community Schools and the Wabash-Miami Area Programs for Exceptional Children shall:

Send a written memorandum to all school administrators and relevant special education personnel stating the requirements of 511 IAC 7-25-5, particularly the 10 *business* days requirement in subsection (c). A copy of the memorandum and a list of all personnel who receive it shall be submitted to the Division no later than September 30, 2005.

Convene the Student's CCC to determine whether the Student will remain eligible for special education and related services based on the results of the IEE. Regardless of whether the Student remains eligible, the CCC must determine whether and to what extent compensatory ESY services will be provided. The School shall then submit a copy of the CCC Report/IEP to the Division no later than September 30, 2005. If the CCC cannot agree on eligibility, then mediation or a due process hearing may be pursued. If either of those options are pursued, then the School shall submit documentation indicating that this corrective action has been complied with no later than September 30, 2005.