

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2269.06
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: August 4, 2005
DATE OF REPORT: September 1, 2005
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: October 26, 2005

COMPLAINT ISSUES:

Whether the Indiana School for the Deaf violated:

511 IAC 7-27-3 by failing to include the participation of a particular teacher in a case conference committee (CCC) meeting when that teacher claims he has a legal right to attend the meeting;

511 IAC 7-27-4(a)(3) by failing to convene a CCC meeting to reevaluate an individualized education program (IEP) when a teacher has made such a request; and

511 IAC 7-27-7(a) by requiring that a teacher submit a weekly grade report for a particular student when other teachers are not required to submit a weekly grade report.

FINDINGS OF FACT:

1. The Student, 13 years old, has been identified as having a hearing impairment and has been determined eligible for special education and related services.
2. A CCC meeting was held for the Student on October 12, 2004, to review the Student's IEP. This meeting served as the Annual Case Review. The participants were the Case Conference Coordinator, the Teacher of Record (TOR), the Student, an Assessment Team representative, a representative of the Local Educational Agency, an interpreter, the Supervising Teacher, and the parents.
3. A teacher at the School (Teacher) taught American Sign Language/Deaf Studies to the Student during the 2004-2005 school year. The Teacher was not invited to participate in the CCC meeting on October 12, 2004, even though he had made a formal request via the Case Conference Request Form and had given it to the Supervising Teacher. The School's procedure is to require a member of staff to complete a Case Conference Request Form when the individual wishes to request a CCC meeting. The form is part of the Faculty Handbook and is available at the School in various locations.
4. The parents of the Student had expressed a desire not to have the Teacher at CCC meetings because of their disagreement over how to approach discipline with the Student.
5. Although the Teacher was absent from the CCC meeting, the Teacher's comments concerning the Student, as well as those of other teachers, were included in the CCC report. These comments had been generated at a staff meeting prior to the CCC meeting. (The TOR believed that staff meetings were held regarding the Student during September, October, and December 2004, as well as January

and March 2005.) The Teacher submitted documentation of issues and concerns regarding the Student's behavior, which the TOR shared with CCC participants. The Teacher alleges that his comments and goals concerning the Student were not shared with the CCC.

6. The CCC decided to wait to discuss behavior goals at a separate meeting for staff and the parents, at which time information would be collected for the development of a functional behavioral assessment (FBA). The FBA would be used as a basis for developing a behavioral intervention plan (BIP).
7. The CCC report of October 12, 2004, indicated the CCC would reconvene after an evaluation for ADHD was completed and "enough information is gathered on (the Student's) behaviors." This was in preparation for developing the FBA, to which the Student's teachers were able to contribute.
8. The Teacher asserts that a general education teacher was not included in the CCC meeting as required.
9. All students at the School have IEPs and require accommodations, which include American Sign Language.
10. The Case Conference Summary/IEP dated October 12, 2004, states that the parents have requested "a written weekly report from (the Teacher) with a breakdown of (the Student's) specific grades in each area. They would also like to have a written report . . . from a teacher if (the Student) is receiving a 'C+' or below so that they can help (the Student) in these areas. . . . Reports are to be sent on Fridays via email."
11. The Teacher alleges that the Supervising Teacher refused his request for another CCC meeting for the Student, following the October 12, 2004, CCC meeting. The Teacher wanted to have the IEP reevaluated.
12. The Supervising Teacher does not recall the Teacher's request for another CCC meeting, nor does he recall receiving a Case Conference Request Form. The Case Conference Coordinator stated that a request for another CCC meeting was not received. The Case Conference Secretary, who is in charge of records, stated that a records search was conducted and a request form was not found.
13. The CCC met again on January 19, 2005, to discuss the results of a psychological assessment, which included information related to ADHD and the Student's overall behavior. This was separate from the FBA. The date was chosen with consideration given to participants' schedules, the school calendar, and data collection from teachers. The Teacher's schedule was not considered.
14. The Teacher, with the Student's parents and other teachers, had an opportunity to contribute to the FBA on February 8, 2005, by providing observations of the Student's behaviors, motivations, strengths, and weaknesses.
15. The Student's Mid-Term Grade Reports dated September 15, 2004, and February 7 and April 18, 2005, show the Student earning a grade of C+ or below in the Teacher's class in the first, third, and fourth quarters.
16. The State Employees' Appeals Commission decision of August 3, 2005, found that other teachers were required to provide weekly grade reports for the Student, and other teachers were required to provide weekly grade reports for other students. (Finding of Fact and Conclusion of Law No. 10) The Student's language arts teacher and art teacher were required to submit such reports. Four other

teachers testified at the hearing that they were required to submit weekly grade reports if the Student's grade fell below a certain level.

CONCLUSIONS:

1. Findings of Fact #2 through #6 indicate that the Teacher was not invited to participate in the CCC meeting on October 12, 2004, due in part to the parents' stated desire to not have the Teacher at CCC meetings. The Teacher had an opportunity to provide comments before the CCC meeting and to have recommended behavior goals shared with the CCC in his absence. (The Teacher also had another opportunity to provide input into the Student's behavior in February 2005, as indicated by Finding of Fact #14). Findings of Fact #8 and #9 indicate that the Student was not receiving services in the general education environment. 511 IAC 7-27-3(a)(3) requires a general education teacher at a CCC meeting "if the student is or may be participating in the general education environment."

511 IAC 7-27-3 does not grant rights to any specific teachers to attend CCC meetings. Article 7 spells out who must attend a CCC meeting, and in special circumstances, calls for the participation of additional people. The school and the parent may choose to invite individuals who have special expertise or knowledge concerning the student, but a teacher not already required to attend does not have a legal right to attend because he or she has requested to do so. Therefore, a violation of 511 IAC 7-27-3 is not found.

2. Findings of Fact #11 and #12 indicate that the School had no documentation of the Teacher's request for another CCC meeting after the CCC meeting on October 12, 2004. Moreover, the Teacher provided no documentation of the alleged request. Since the School has no record of such a request and no documentation exists to verify the Teacher made the request, no violation of 511 IAC 7-27-4(a)(3) is found. (Findings of Fact #7 and #13 indicate that the CCC followed a plan that had already been established to reconvene.)
3. Findings of Fact #10 and #16 indicate that the requirement of weekly grade reports from the Teacher had been documented in the Student's IEP, and that the Teacher was not alone in being required to submit weekly grade reports regarding the Student. Finding of Fact #15 indicates that the Student's grades in the Teacher's class also indicated that weekly grade reports should be submitted, per the IEP. 511 IAC 7-27-7(a) requires that the IEP be implemented. Several teachers were required to provide weekly grade reports if the Student's grade fell below a C+ in their classes, per proper implementation of the IEP. Therefore, a violation of 511 IAC 7-27-7(a) is not found.

The Department of Education, Division of Exceptional Learners, requires no corrective action based on the Findings of Fact and Conclusions listed above.