

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2289.06
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: November 7, 2005
DATE OF REPORT: December 19, 2005
REQUEST FOR RECONSIDERATION: yes/January 3, 2006 - no changes
DATE OF CLOSURE: February 13, 2006

COMPLAINT ISSUES:

Whether Fort Wayne Community Schools violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written;

511 IAC 7-27-3 by failing to ensure that the student's case conference committee (CCC) included the required participants;

511 IAC 7-25-6 by failing to conduct a reevaluation of the student within the required timeframe; and

511 IAC 7-25-7 by failing to conduct an additional evaluation of the student within 60 instructional days.

FINDINGS OF FACT:

1. The Student, 15 years old, has been identified as having an emotional disability (ED) and a learning disability, and has been determined eligible for special education and related services.
2. The Student's IEP dated August 26, 2005, calls for the Student to participate in the general education curriculum. The Student is to receive integrative language arts instruction (which includes both a special education and general education teacher) for 47 minutes per day, integrative science instruction for 47 minutes per day, and 94 minutes (two class periods) in the resource room per day. Consultation services are to be provided by the ED teacher, who is also the TOR, for 30 minutes per month.
3. In addition to these special education services, there is a wide variety of accommodations listed in the Student's IEP. They include the following: receiving instructions in small, distinct steps (written, picture, and oral instructions); shortened assignments; extra cues or prompts on assignments; highlighted texts and study guides; note-taking assistance; the use of a calculator and a visual daily schedule; multiple choice and oral tests, and tests being read to the Student; and extended time on tests.
4. The Student's schedule indicates that the Student has been participating in integrative language arts and science during the 2005-2006 school year, and in two resource periods. The School's documentation indicates that the TOR provided 80 minutes of ED consultation regarding the Student to staff in September, as well as 65 minutes in October and 30 minutes in November 2005.

5. The School has presented modified and unmodified tests and worksheets from the Student's classes, seating charts from some classes to show the Student's location in the classrooms, some weekly schedules, and work completed by the Student. The School has presented no documentation of tests being read to the Student, extended time on tests, highlighted tests or study guides, the use of a calculator by the Student, or individual or small group instruction.
6. According to the TOR, she discusses services provided to the Student with the Teacher of Service on a regular basis. However, there is no log that details the implementation of accommodations over time. The TOR's own log refers only to ED consultation.
7. The Student's CCC convened on the following dates during the last 12 months: December 10, 2004; and May 27, August 26, and October 14, 2005. The CCC reports indicate that each meeting had at least a public agency representative, general education teacher, special education teacher (TOR), and the parent.
8. The Complainant alleged that the public agency representative left the Student's CCC meeting approximately one-half hour early on August 26, 2005. The Teacher of Service (TOS) acknowledged that CCC members had left meetings early on previous occasions with parent permission; however, no documentation exists to indicate whether the people who left early were required CCC members. Moreover, neither the Complainant nor the School has clear recollections as to who left which meeting early or when they left. Documentation from the August 26, 2005, meeting indicates that the public agency representative was at the CCC meeting, and no documentation exists to support the Complainant's allegation.
9. The March 16, 2004, Case Conference Summary indicates that the Student's last triennial reevaluation was completed on February 11, 2002.
10. On October 26, 2004, the Complainant signed her consent to the reevaluation of the Student. The consent statement lists a completion date of February 11, 2005, and states that the Complainant will be notified 20 days or more prior to completion of the reevaluation.
11. The reevaluation was completed by the School Psychologist on February 17, 2005. A copy of the School Psychologist's report was sent to the Complainant.
12. Before the completion of the reevaluation, the Complainant initiated a referral for an additional evaluation, due to concerns about the Student's emotional problems. The referral for the additional evaluation was signed on February 7, 2005. However, the Director of Special Education acknowledged that, due to internal problems at the School, the referral was not received in the psychological services office until August 1, 2005. The evaluation was completed on August 17, 2005, and a CCC meeting was held to discuss the results of the evaluation and the Student's services on August 26, 2005.
13. The 60 instructional days for the additional evaluation expired on May 10, 2005. The school year ended on June 3, 2005, and the current school year began on August 22, 2005.

CONCLUSIONS:

1. Findings of Fact #2 through #6 indicate that the School failed to document the implementation of the Student's IEP as written. The School currently has no method or log for tracking the implementation of student accommodations. Therefore, a violation of 511 IAC 7-27-7(a) is found.

2. Finding of Fact #7 indicates that the appropriate CCC members attended the Student's CCC meetings during the last 12 months. Finding of Fact #8 indicates that in past CCC meetings, the Complainant and School have agreed verbally to allow CCC members to leave the CCC meeting early; however, neither the Complainant nor the School has clear recollections regarding whether the people who left early were required CCC members, and no documentation exists to make that determination. Finding of Fact #8 indicates that the documentation confirms that the public agency representative did attend the CCC meeting, and there is no documentation indicating otherwise. Because documentation exists that supports the School's position, a violation of 511 IAC 7-27-3 is not found. However, because the School acknowledges that it has a practice of allowing CCC members to leave meetings early and does not record when they leave, a violation of 511 IAC 7-27-5 is found.
3. Findings of Fact #9 through #11 indicate that the School failed to conduct a reevaluation of the Student within 36 months of the last completed reevaluation. It was completed on February 17, 2005, six (6) days after it was due. Therefore, a violation of 511 IAC 7-25-6 is found.
4. Findings of Fact #12 and #13 indicate that the School failed to conduct an additional evaluation of the Student within 60 instructional days. The Complainant gave permission for the additional evaluation on February 7, 2005, and the evaluation was completed and the CCC convened on August 26, 2005, which amounts to 82 instructional days after parental consent was given. Therefore, a violation of 511 IAC 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:

Fort Wayne Community Schools shall:

1. Devise a log or other method of documentation to track the implementation of student accommodations. Provide a copy of the tracking mechanism, and a one-week record of its use, to the Division by January 20, 2006.
2. Provide a written memorandum to all special education teachers and case conference coordinators, informing them of the requirement to document the attendance of CCC members and to record whether they leave early. Additionally, send a written memorandum to all staff who may be considered required CCC members pursuant to 511 IAC 7-27-3 that state law requires their participation in a CCC meeting for the entire duration of the CCC meeting. Provide copies the memoranda and lists of individuals receiving them to the Division by January 20, 2005.
3. Provide a written memorandum to all special education and psychological services personnel, informing them of the time requirements for reevaluations and additional evaluations. Provide a copy of the memorandum and a list of individuals receiving it to the Division by January 20, 2006.