

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2290.06
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: November 17, 2005
DATE OF REPORT: December 16, 2005
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: February 28, 2006

COMPLAINT ISSUES:

Whether Triton School Corporation and Joint Educational Services in Special Education (JESSE) violated:

511 IAC 7-23-1(p) by disclosing personally identifiable information about the student to an individual other than the parent, eligible student or authorized public agency official, without written and dated consent of the parent or eligible student;

511 IAC 7-27-2(a) by failing to convene a case conference committee (CCC) meeting at a mutually agreed time and place;

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically by failing to provide speech therapy as required; and

511 IAC 7-25-7 by failing to convene the student's CCC within 60 instructional days of parental consent for an additional evaluation.

FINDINGS OF FACT:

1. The Student, 3 years old, has been identified as having a communication disorder and has been determined eligible for special education and related services.
2. The Student's IEP for November 29, 2004, through May 30, 2005, calls for the Student to receive speech therapy for 40 minutes per week at the School. The Student's Daily Speech Log indicates that, during the period from November 30, 2004, through May 17, 2005, the Student received speech therapy twice per week 16 times and once per week 6 times. The log does not indicate the amount of time the therapy lasted during each session.
3. On June 2, 2005, the CCC discussed the Student's possible participation in the Head Start program in the following fall. The Coordinator acknowledges that the Student was not yet enrolled or accepted into the Head Start program at the time of the CCC meeting, and that the Complainants had to complete required paperwork. However, the IEP indicates that the Student will attend the Head Start program four days per week, during which time she will receive a total of 40 minutes of speech therapy per week provided by Head Start personnel. (The Student's initiation dates for speech therapy correspond to the initiation dates of the IEP.) The CCC indicated that it felt the Student's needs could best be met through the Head Start program.
4. The Complainants completed a Head Start application following the June 2, 2005, CCC meeting. The Head Start representative said that the program's interview process was discontinued in June 2005.

because the program had reached its capacity. The program had a waiting list of applicants hoping to get into the program. The Complainants were never called for an interview, and no correspondence was sent from the Head Start office or the School to explain that the Student would not be able to participate in the program in the fall.

5. On June 2, 2005, one of the Complainants provided the School with written consent to an additional evaluation concerning the Student's speech articulation. The Student was to be evaluated to determine ongoing speech therapy needs.
6. The additional evaluation was completed on August 19, 2005. However, the CCC has not yet convened to discuss the results of the evaluation.
7. The 2005-2006 school year began on August 17, 2005.
8. The SLP and the Early Childhood Coordinator (the Coordinator) communicated via e-mail on September 19, 2005, about the fact that the Student was not in the Head Start program as planned and would need to start receiving services at the School. The Student's Daily Speech Log indicates that, beginning on October 24, 2005, the Student received speech therapy twice per week 3 times and once per week 3 times. The last date of service in the log is November 22, 2005. Again, the log does not indicate the amount of time the therapy lasted during each session.
9. The Complainants are unable to attend CCC meetings until at least 4:30 p.m., due to the fact that they forfeit their wages and receive penalties when they leave their workplace early. The Coordinator remembers being contacted by one of the Complainants in May 2005 to schedule a CCC meeting, and being told that the Complainants' work schedule made it necessary for them to meet after school hours. During the course of the investigation the Coordinator reported that she could attend a late meeting, but that she could not require staff to do so.
10. The Complainants allege that the Coordinator said the latest possible CCC meeting time would be 4:30 p.m. The Coordinator acknowledged that she said this in May 2005. The Principal and the SLP both say that they have been asked by the Coordinator about their availability after the school day, and that they have agreed to stay late. The meeting on June 2 was set unilaterally by the School at 3:30 p.m., and the Complainants received points off at work for their attendance. Two other meetings the School tried to schedule to discuss the results of the speech evaluation that had been requested on June 2 were unilaterally set by the School for 4:00 and 5:00, respectively. A meeting on October 25, 2005 (at 4:00), was canceled by the Complainants due to a family emergency, and a meeting on November 8, 2005 (at 5:00), was canceled by the Complainants due to an insurance meeting they had to attend.
11. The Complainants told the School that they preferred a CCC meeting at 4:30 or 5:00 p.m. The School has presented no documentation to indicate that it sought the input of the Complainants regarding CCC meeting times for any of the CCC meetings.
12. In August 2005, the Coordinator initiated a conversation with the Student's aunt in August 2005, in which the Coordinator asked the aunt a question pertaining to the Student's placement, specifically the Student's participation in the Head Start program. The Coordinator did not have the Complainants' consent to speak to the aunt about the matter, and acknowledged that she "probably" identified the Student by name.

CONCLUSIONS:

1. Finding of Fact #12 indicates that the School spoke to a relative of the Student about the Student's placement without parental consent. Therefore, a violation of 511 IAC 7-23-1(p) is found.
2. Findings of Fact #9 through #11 indicate that the School failed to convene the Student's CCC at a mutually agreed time and place. A school must work with parents to schedule CCC meetings at times that are agreeable to them, and keep a detailed record of contacts with parents and the results of those contacts. Therefore, a violation of 511 IAC 7-27-2(a) is found.
3. Findings of Fact #3 and #4 indicate that the Student's IEP dated June 2, 2005, calls for the Student to receive 40 minutes of speech therapy per week. The School is responsible for ensuring that the Student is receiving services, despite referral to Head Start. The School should have a procedure that allows for follow-up of children enrolled in Head Start to ensure that these students are receiving a free appropriate public education (FAPE). Findings of Fact #2, #3, #7, and #8 indicate that the Student missed 10 weeks at the beginning of the current school year. Additionally, 9 weeks during the current and previous school years contained only one speech therapy session, and the total amount of service time has not been recorded. Therefore, a violation of 511 IAC 7-27-7(a) is found.
4. Findings of Fact #5 and #6 indicate that the School failed to convene a CCC meeting within 60 instructional days of the date parental consent was given for an additional evaluation. Therefore, a violation of 511 IAC 7-25-7 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:

1. Convene the CCC to determine the extent of compensatory services the Student will receive for 10 weeks (400 minutes) of speech therapy the Student did not receive at the beginning of the 2005-2006 school year, and for speech therapy that was not provided during the previous school year. Provide a copy of the CCC report and the plan of compensatory services to the Division by January 31, 2006.
2. Provide a letter of assurance to the Division that the School will schedule CCC meetings at times that are mutually agreeable to the parent and the School. A telephone conference call may also be utilized to ensure parental participation. The letter will also provide assurance that the School will provide students the requisite amount of therapy time according to students' IEPs. Provide the letter of assurance, addressing both issues, to the Division by January 31, 2006.
3. Provide a letter of assurance to the Division that the School will convene a student's CCC within 60 instructional days of parental consent for an evaluation. Provide the letter of assurance to the Division by January 31, 2006.
4. Send a written memorandum to all teachers and case conference coordinators (1) to remind them not to speak to others about placement or other personal information of students with disabilities without parental consent; and (2) to emphasize that the School is responsible for ensuring services despite referral to or enrollment in Head Start or other programs. Provide a copy of the memorandum and a list of individuals receiving it to the Division by January 31, 2006.
5. Develop policies and procedures to track students in Head Start to ensure that they are receiving services, and to ensure that students referred to Head Start are enrolled and receiving services. The policies and procedures should ensure that if there is no room in the Head Start program, or if the student is not enrolled for any other reason, the CCC will reconvene and determine an alternate

placement so that there is no gap in services for the student. Provide a copy of the policies and procedures to the Division by January 31, 2006.