

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2302.06
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: January 26, 2006
DATE OF REPORT: February 24, 2006
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: April 6, 2006

COMPLAINT ISSUES:

Whether Tipton Community School Corporation and Kokomo Area Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, including accommodations, therapies, and health services.¹

FINDINGS OF FACT:

1. The Student, 8 years old, has been identified as having an other health impairment (OHI) and a communication disorder, and has been determined eligible for special education and related services. The Student was absent during two (2) full weeks, and accumulated 26 full-day absences, all due to illness, for the current school year as of the date the complaint was filed.
2. The Student's CCC met on September 28 and October 19, 2005, for an annual case review. The IEP calls for the Student to be in a resource room from 21 to 60 percent of the school day, and to receive OT for 30 minutes, one time per week. The Student is to receive physical therapy for 30 minutes, two times per month. The dates for the delivery of services follow the dates of the IEP.
3. The Student received OT services one time per week during four (4) weeks out of a possible 23 weeks. The documentation does not record the length of the OT sessions.
4. The physical therapist provided PT services nine (9) times from August 18, 2005, through January 19, 2006. The Student met with the physical therapist once in August and once in November, and not at all in December. (The Complainants, awaiting a doctor's input, did not approve new PT goals. The old PT goals, except for hopping and jumping goals, would be used until further notice, and a school nurse would determine whether the Student would have PT on a particular day. One of the Complainants said that she requested a CCC meeting at the end of 2005 to complete the plan for PT goals; however, a meeting had not yet been scheduled for this purpose.)
5. Accommodations listed in the October 19, 2005, CCC Report include the use of a daily homework folder, assignment sheet, or notebook; a small group setting for test-taking; and additional time and breaks for tests. The CCC agreed to provide the following accommodations at the suggestion of the Student's doctor: enlarged print, reduced clutter on pages, and a reduced number of items the Student sees at one time.
6. The teacher of record (TOR) submitted a Daily Homework Assignment Sheet, daily schedules, a spelling list, a Reading Goals Checklist, and a Math Checklist for the Student. The checklists are to be

used to keep track of the Student's work throughout the school year. The Math Checklist was not filled out; however, the TOR said that this was because the Student missed so many days of school, and therefore the TOR was unable to administer new math tests. The Daily Homework Assignment Sheets were sent home and shared with the Complainants, who then signed them and sent them back to the School to indicate their understanding. The Complainants said that several assignment sheets had blank sections, and that pages were missing from a homework folder.

7. The Complainants and the School jointly developed a health care plan for the Student, incorporated into the IEP, that addresses the administration of medications to the Student, processes to follow for keeping the Complainants informed and maintaining a safe environment, and special equipment that is needed by the Student. Every day the Complainants send a record sheet to the School to be filled out by one of two nurses. This record sheet is used to keep track of the Student's health concerns and actions taken by the nurse's office or others. The School keeps all of the Student's health information, including care plans, in a large file in the nurse's office. School Nurse #1 reported that she has a trained aide who is prepared to assist the Student on field trips, if necessary (this was communicated to the Complainants in an e-mail on November 17, 2005).
8. The Student's health plan calls for teachers and aides who work with the Student to be instructed in the proper operation of his oxygen tank, as well as other health information. School Nurse #1 held inservices regarding the Student's health plan with the Student's teachers, and with School Nurse #2, on November 21 and 22, 2005. The Student's occupational therapist received inservice training separately on the plan on February 15, 2006.
9. The Complainants mentioned that they have not received duplicate teaching materials for use at home with the Student. However, the IEP does not call for duplicate teaching materials to be sent home. The Complainants also mentioned that academic testing has not been reviewed with them by the test giver; however, the IEP does not require this and the CCC notes state that the TOR discussed academic testing with the Complainants.
10. On October 19, 2005, the Complainants requested that a specific software program to assist the Student in handwriting ("Handwriting Without Tears") be continued on a few letters the Student struggles with. The CCC notes indicate that the occupational therapist stated that the Student was doing well and had requested to return to 30 minutes per week of OT instead of 45 minutes per week. The Complainants said that they trusted the judgment of the occupational therapist, and the time per week was reduced. Two occupational therapists who worked with the Student documented working on fine motor tasks and printing, and on vertical and horizontal lines, with the Student.
11. The Student's October 19, 2005, IEP says that the Student's goals and objectives will be reviewed for progress several times throughout the school year. The Complainants are to receive a copy of the IEP showing the Student's progress toward annual goals. The School has presented no documentation that indicates that progress reports were sent to the Complainants as required.
12. The Complainants stated that the School has not sent them weekly progress reports regarding OT and PT services; however, progress reports are not required for this purpose.

CONCLUSIONS:

Findings of Fact #3 and #4 indicate that the Student has not received the occupational therapy and physical therapy as required in his IEP. Finding of Fact #6 indicates that the School has documented accommodations (but some, as indicated in Findings of Fact #9 and #10, were not required). Finding of Fact #11 indicates that the School has not given academic progress reports to the Complainants as required. Findings of Fact #7 and

#8 indicate that, although the School has methods for tracking the Student's health care needs, most teachers and School Nurse #2 received training on the health plan a month after it was to go into effect, delaying implementation. Therefore, violations of 511 IAC 7-27-7(a) are found.

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

CORRECTIVE ACTION:

Tipton Community School Corporation and Kokomo Area Special Education Cooperative shall:

1. Reconvene the CCC to determine the extent to which compensatory occupational therapy and physical therapy will be provided, and to develop physical therapy goals. Discuss and include in the IEP the specific accommodations and services that will be added or removed, such as providing books or other materials for the Student. Develop a revised IEP that clarifies services and includes a plan to provide the compensatory services, signed by the Complainants, and send it to the Division with the CCC Report by March 31, 2006.
2. Provide documentation to the Division that the Complainants have been informed of the Student's progress toward annual goals by March 31, 2006.
3. Provide an assurance statement to the Division that all special education and related services will be delivered to students in accordance with IEP requirements, including length, frequency, and duration of services. Provide the assurance statement to the Division by March 31, 2006.