

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2304.06
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: January 31, 2006
DATE OF REPORT: March 3, 2006
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: April 3, 2006

COMPLAINT ISSUES:

Whether Center Grove Community School Corporation and Johnson County Special Services violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically by failing to develop and implement a behavioral intervention plan (BIP); and

511 IAC 7-21-7(c) by having a longer transit time for a student with a disability than for students without disabilities.

FINDINGS OF FACT:

1. The Student, 13 years old, has been identified as having autism spectrum disorder and a communication disorder, and has been determined eligible for special education and related services.
2. The Student's IEP from May 18, 2005, states that a functional behavioral assessment (FBA) and BIP "will be completed when [the Student] begins attending school so that data can be collected. The Behavior Plan will be distributed at that time." The dates for services in the IEP run from August 10, 2005, through August 14, 2006.
3. On October 28 and November 23, 2005, the CCC again discussed the development of a BIP by the School. The teacher of record (TOR) and a teacher began the FBA on December 8, 2005, and the Complainant completed a behavior questionnaire for the FBA in early December. The School also met with a private behavior specialist (associated with a Medicaid waiver the Student is receiving) regarding the FBA. The Complainant authorized the behavior specialist to work on behalf of the Student.
4. The TOR and the teacher met on January 23, 2006, and completed a proposed BIP for the Student.
5. At a CCC meeting on February 14, 2006, the Complainant had an opportunity to review the proposed BIP, which she found to be different from what she had previously discussed with the Middle School. The CCC discussed changes at the meeting. The Complainant received a revised version, based on the discussion, on February 16, 2006. The Complainant stated that she had not signed the BIP because she wanted to review it with the behavior specialist.
6. The Student's IEP states that the Student will receive special transportation to the Middle School. He is picked up by the bus at 6:35 a.m., and the bus arrives at the Middle School by 7:20 a.m. (making it a 45-minute ride for the Student).

7. The bus for nondisabled students in the Student's neighborhood stops on the Student's street (3.04 miles away from the School) at 6:54 a.m.
8. The bus for nondisabled students in the Student's neighborhood carries middle school and high school students. It has its first two stops at 6:34 and 6:35 a.m. The stops are located just 1.78 miles and 1.88 miles from the School. The bus first drops off the high school students at the High School, and continues to drop off the remaining students at the Middle School, arriving at the Middle School at 7:20 a.m.
9. There are other bus routes for nondisabled students that have similar mileage to the Student's route and start at about the same time. For example, there are routes that have lengths of 8.27 miles (starting at 6:36 a.m.), 9.06 miles (starting at 6:32 a.m.), and 8.5 miles (starting at 6:32 a.m.). The buses arrive at the Middle School at 7:20 a.m.

CONCLUSIONS:

1. Findings of Fact #2 through #5 indicate that the School failed to implement the student's IEP as written, specifically by failing to develop and implement a BIP. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Findings of Fact #6 through #9 indicate that the School has provided bus transportation for the Student with a transit time that is comparable to that of nondisabled students. Therefore, a violation of 511 IAC 7-21-7(c) is not found.

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

Center Grove Community School Corporation and Johnson County Special Services shall:

1. Convene the Student's CCC to complete the development of the BIP. If agreement is reached within the CCC, provide a copy of the revised IEP, including the BIP, to the Division by April 14, 2006. If agreement is not reached and the Complainant has not requested due process, Johnson County Special Services shall either submit an offer for mediation that was shared with the Complainant or file for a due process hearing by April 14, 2006.
2. Provide an assurance statement to the Division that, when a BIP needs to be developed for a student, it will be developed in a timely manner and with full parental participation, and that other IEP requirements will be observed. Send the assurance statement to the Division by April 14, 2006.