

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2311.06  
COMPLAINT INVESTIGATOR: Joe Bear  
DATE OF COMPLAINT: February 13, 2006  
DATE OF REPORT: March 29, 2006  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: June 19, 2006

**COMPLAINT ISSUES:**

Whether Greenfield-Central Community School Corporation and Hancock-South Madison Joint 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 implement behavioral accommodations, and to provide a peer supervisor, a counselor, and transition services;

511 IAC 7-21-2(a) by failing to ensure that all personnel employed or contracted by a public agency to provide or supervise the provision of special education or related services are appropriately licensed or certified, specifically the assistant principal<sup>1</sup>;

511 IAC 7-28-3(b) by failing to include a statement in the student's IEP of needed transition services, which guides the development of the special education and related services and the student's course of study, goals, benchmarks and short term objectives;

511 IAC 7-28-4(e) by failing to provide written notice to the parent and the student that when the student turned eighteen (18) years of age, the rights under Article 7 transferred to the student unless a guardianship had been obtained, and by not assisting the parent to obtain guardianship of the student; and

511 IAC 7-27-2(c) by failing to give adequate notice of a case conference committee (CCC) meeting.<sup>2</sup>

On March 15, 2006, the Associate Superintendent of the Division of Exceptional Learners granted an extension of time until March 29, 2006, due to the complexity of the issues.

**FINDINGS OF FACT:**

1. The Student, 18 years old, has been identified as having an other health impairment (OHI) and a learning disability, and has been determined eligible for special education and related services.
2. **Issue #1: Implementation of the IEP:** The Complainant alleged that the School waited until the Student's behavior got bad before implementing behavioral accommodations listed in the IEP. The Student's IEPs dated May 17 and December 5, 2005, include a "hot pass" that allows the Student to take a break for the purpose of avoiding inappropriate behaviors in class. The December 5, 2005, IEP calls for the Student to have an alternate passing time, and if out-of-school suspension is called for, to assign the Student somewhere else besides the regular suspension facility. The School has not

provided documentation of the use of the hot pass, the implementation of an alternate passing time, or the use of a separate suspension facility.

3. The May and December IEPs cited above also require teachers to inform the parents by e-mail of any behavioral or academic problems. The School's documentation indicates that teachers corresponded via e-mail with the TOR about academic or behavioral concerns. The School has submitted no documentation regarding any communication with the parents addressing academic or behavioral concerns.
4. The Complainant also alleged that the School was not using a "peer supervisor" to assist the Student. A private doctor had recommended "supervised interactions with peers in a structured setting" in 2001; however, the CCC only agreed to supervision at lunchtime in the cafeteria (at the May 17, 2005, CCC meeting). The School acknowledged that the Student was being supervised at lunchtime.
5. The May 17, 2005, IEP calls for "resource support . . . with special education counselor to see if his services are helpful" as part of the transition plan. The School has not provided documentation that the Student received any resource support from a special education counselor.
6. **Issue #2: Appropriate licensure:** The Assistant Principal has a Professional Educator's License for school administration that expires in May 2007.
7. **Issue #3: Statement of needed transition services:** The Complainant alleged that the Student's IEP does not include a statement of needed transition services, and that no transition services have been provided. The Student's current IEP indicates only that the Student needs "instruction" for transition. As part of the services offered by the School to meet his transition needs, the current IEP indicates that the Student is to meet with a VR counselor. The Student has an appointment to meet with a VR counselor in April 2006.
8. The Complainant also alleged that the Student's parents did not receive information about or assistance with guardianship. The School acknowledged that it did not provide guardianship information relative to establishing a guardianship.
9. **Issue #4: Age of majority:** The Complainant alleged that information regarding transfer of rights was not shared with them. On the School's IEP form there are three boxes related to transition information. They address whether parental consent was obtained for release of information, whether parents have been provided information on community resources and adult service providers, and whether information was shared with the parents about the age of majority at least one year before the Student reaches 18. The third box, regarding information about the age of majority, was checked on the Student's IEP of December 5, 2005. The Student had not yet turned 18 by this time. The School also gave the parents a copy of the Notice of Procedural Safeguards at the December 2005 CCC meeting. Transfer of rights is discussed in it.
10. **Issue #5: Notice of CCC meeting:** A School Notice of Case Conference, indicating the purpose of the CCC meeting and the expected participants, is included with the Student's IEPs. Each notice is dated at least six (6) days before the planned meeting. However, the Complainant alleged that the parents did not receive the notices before the meetings and did not know the purposes of the meetings. The parents agree with the Complainant's allegation. The School cannot document that the notices were mailed to the parents so that they had prior notice (in writing) of the meetings.

## CONCLUSIONS:

1. Findings of Fact #2, #3, and #5 indicate that the School has failed to implement the Student's IEP as written, by not implementing behavioral accommodations as required, and not providing special education counseling. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Finding of Fact #6 indicates that the assistant principal is licensed to do the work that he does, and that his license is up to date. Therefore, a violation of 511 IAC 7-21-2(a) is not found.
3. Finding of Fact #7 indicates that the Student's IEP contains only that the Student needs "instruction" for transition. 511 IAC 7-28-3(b) mandates that the statement of needed services should guide the development of the special education and related services and the student's course of study, goals, benchmarks and short-term objectives. Additionally, it should include a coordinated set of activities designed within an outcome-oriented process that promotes movement from the public agency to postsecondary activities, the individuals and agencies responsible for implementing the activities and services, and an indication whether there is an expectation that the student will need adult services provided through state or local agencies. Therefore, a violation of 511 IAC 7-28-3(b) is found.
4. Finding of Fact #9 indicates that the School provided information to the parents and the Student about the transfer of rights before the Student turned 18. The School is not obligated to provide information about guardianship (Finding of Fact #8). Therefore, a violation of 511 IAC 7-28-4(e) is not found.
5. Finding of Fact #10 indicates that the School cannot document that the parents received written notice of CCC meetings. Therefore, a violation of 511 IAC 7-27-2(c) 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:**

Greenfield-Central Community School Corporation and Hancock-South Madison Joint Services shall:

1. Reconvene the Student's CCC to determine the Student's needed accommodations, related services and transition needs. The statement of transition needs should comport with the requirements of 511 IAC 7-28-3(b). The CCC must also devise procedures to track the implementation of the accommodations listed in the IEP and procedures to ensure communication with parents regarding the Student. Provide the CCC Report to the Division by April 21, 2006.
2. Provide an assurance statement that the School will implement IEPs as written and will communicate progress to parents. Provide a copy of the assurance statement to the Division by April 21, 2006.
3. Provide an assurance statement that the School will send out notices of CCC meetings pursuant to 511 IAC 7-27-2(c). Provide a copy of the assurance statement to the Division by April 21, 2006.