

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2321.06
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: April 10, 2006
DATE OF REPORT: May 9, 2006
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: July 10, 2006

COMPLAINT ISSUES:

Whether North Gibson School Corporation and Gibson-Pike-Warrick Special Education Cooperative violated:

511 IAC 7-27-9(c) by failing to offer physical education (PE) to a student; and

511 IAC 7-21-5(a)(3) by failing to provide an instructional space for a student that would sufficiently accommodate the student's curricular needs, specifically a space for gym class.

FINDINGS OF FACT:

1. Student A and Student B, both 7 years old, have each been identified as having an orthopedic impairment, and have been determined eligible for special education and related services.
2. The current IEPs for Student A and Student B (dated October 5, 2005, and May 11, 2005, respectively) both stipulate that the students "will participate in the general physical education program that is available to nondisabled students."
3. The School acknowledged that Student A, who uses a wheelchair, has not participated in PE during the 2005-2006 school year. (Nondisabled students at the same grade level are participating in PE for 30 minutes twice per week.)
4. Student B has participated in PE throughout the 2005-2006 school year. The elementary school she attends is located inside the high school. The high school students use the gymnasium floor for PE, and the elementary students use an upper-level floor that requires them to ascend approximately 20 steps. A ramp or an elevator is not available.
5. At a parent-teacher conference on March 9, 2006, the Complainant was told by the Kindergarten Teacher that Student B was having trouble ascending the steps to the PE area, and that she was concerned for Student B's safety. The Kindergarten Teacher suggested to the Principal that Student B only use the steps when she or her teaching assistant were providing assistance. The Complainant acknowledged that, after the conference, the School started using staff members to ensure that Student B could ascend and descend the steps safely.
6. The Physical Therapist said that she worked with Student B last school year on going up and down steps, and had not heard about Student B's difficulty with the steps until a case conference committee meeting on April 7, 2006. The Physical Therapist stated that the student's going up and down steps is helping her to meet her physical therapy goals.

7. The Principal stated that an alternate schedule could be arranged so that Student A could participate in PE on the first floor next year, and the PE program could accommodate his wheelchair. The School could continue to provide assistance for Student B as she goes up and down the steps, or if necessary, could alternate the schedule so that she could participate in PE on the first floor as well. CCC meetings are scheduled for both students on May 17, 2006, to finalize these issues.

CONCLUSIONS:

1. Finding of Fact #3 indicates that the School failed to make PE available to Student A during the 2005-2006 school year. Therefore, a violation of 511 IAC 7-27-9(c) is found.
2. Findings of Fact #5 and #6 indicate that the School has ensured that the PE room accommodates Student B's curricular needs. Therefore, a violation of 511 IAC 7-21-5(a)(3) is not found.

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

CORRECTIVE ACTION:

Reconvene Student A's CCC to discuss the compensatory instruction that is warranted to make up for missed instruction in PE, and the manner in which it will be provided. The CCC notes will contain supportive information and a compensatory services plan. Provide a copy of the IEP and CCC notes for Student A to the Division by June 16, 2006.