

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 2327.06  
COMPLAINT INVESTIGATOR: Joe Bear  
DATE OF COMPLAINT: April 18, 2006  
DATE OF REPORT: May 18, 2006  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: June 22, 2006

**COMPLAINT ISSUES:**

Whether MSD of Lawrence Township violated:

511 IAC 7-27-4(c) by failing to utilize the case conference committee (CCC) to develop, review, or revise an individualized education program (IEP) of the student; and

511 IAC 7-22-2(a)(1) by failing to provide prior written notice to the parent of a proposal to change the student's special education placement.

**FINDINGS OF FACT:**

1. The Student, 11 years old, has been identified as having autism spectrum disorder and has been determined eligible for special education and related services.
2. The CCC report from the February 7, 2006, meeting indicates that the Complainants viewed the Student's current elementary school as the least restrictive environment (LRE) for the Student, and that they wanted the Student to remain there for one more year to develop maturity before going to middle school. The Student is in fifth grade. The Complainants had concerns about the Student's ability to be successful in middle school during the two prior years and earlier in the current school year.
3. At the CCC meeting, the Complainants stated that the Student had been successful at the School, and they did not want the Student to "start over" with transition activities. The Director stated that the Student was already six months older than most students in her grade, and that the Student's educational plan could be implemented at the middle school.
4. On February 21, 2006, the Complainants wrote a letter to the Director in which they requested a description of the School Corporation's proposal with regard to the Student's placement for the 2006-2007 school year. They requested an explanation of why the middle school was being proposed, and why the middle school was viewed as the LRE and not the Student's School. They requested a response from the Director.
5. On April 14, 2006, the CCC met again to review the Student's IEP. The School proposed a program that was essentially the same as the plan the Student is currently following, included the following: the use of an autism consultant; 60% of the Student's time in a resource room; support from an instructional assistant in the lunch line, special classes, science, and social studies; and speech and occupational therapy services. The Student is to receive extended school year services with the

support of an instructional assistant, to help with the transition to middle school. The IEP calls for the Student to receive special transportation, and includes a functional behavioral assessment (FBA) and a behavioral intervention plan (BIP). The Student is to participate in ISTEP+ testing, as she has previously. Another CCC meeting is scheduled for May 19, 2006, to further review the Student's program.

6. The length and frequency of resource, speech, and occupational therapy services remain the same as those outlined for the Student in the April 18, 2005, IEP. Additional time was added for the instructional assistant, who previously assisted the Student only in special classes and recess, and the FBA and BIP were added. The Student's goals correspond to those outlined in the former IEP. The goals have been adjusted slightly, such as stating that the Student "will read a short story or passage at a 5.0 reading level with 80% comprehension" instead of "will read at a 4.0 average reading level with 80% average comprehension scores," and that the Student "will increase her math computation skills by meeting the following objectives with 80% accuracy" instead of "will increase her math skills to meet fourth grade standards in number sense and computation." Benchmarks were updated and two goals were removed.
7. The Complainants included a statement with the April 14, 2006, IEP, in which they again stated that they did not believe the Student was ready for the middle school. They stated that their primary concerns were the Student's need to improve in the area of social interaction with peers, her ability to participate in group activities, her independence with daily routine skills, and a good foundation of basic academic skills. They stated that the Student would need more assistance in the middle school than she currently receives, including assistance in physical education, an instructional assistant in the resource classroom, a visual schedule, special transportation, assistance in the lunch area and in getting around the school, and other areas.
8. The Complainant acknowledged that she had requested mediation with the School regarding the issue of whether the Student's IEP should be implemented in the elementary school or the middle school, but the School had refused to participate. Neither the Complainant nor the School has pursued a due process hearing.

#### **CONCLUSIONS:**

1. Findings of Fact #2, #3, and #5 indicate that the School did not fail to utilize the CCC to develop, review, or revise the Student's IEP. The Complainants were involved in these discussions. Therefore, a violation of 511 IAC 7-27-4(c) is not found.
2. Findings of Fact #5 and #6 indicate that the Student's move to middle school follows a similar educational plan and does not constitute a change of placement according to Article 7. Prior written notice is not required in this circumstance. A violation of 511 IAC 7-22-2(a)(1) is not found.

**The Department of Education, Division of Exceptional Learners, requires no corrective action based on the Findings of Fact and Conclusions listed above.**