

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2339.06
COMPLAINT INVESTIGATOR: Joe Bear
DATE OF COMPLAINT: May 26, 2006
DATE OF REPORT: June 22, 2006
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: October 17, 2006

COMPLAINT ISSUES:

Whether Gary Community School Corporation violated:

511 IAC 7-27-4(a)(3) by failing to convene the student's case conference committee (CCC) upon request of a teacher, parent, or administrator;

511 IAC 7-27-4(a)(2) by failing to convene the student's CCC within twelve (12) months of the preceding CCC meeting for a student previously determined eligible for special education to determine whether the annual goals for the student are being achieved;

511 IAC 7-27-7(d) by continuing to implement an individualized education program (IEP) for a period of more than twelve (12) months unless the duration has been extended by operation of the stay-put provision of 511 IAC 7-30-3(j);

511 IAC 7-25-6(a) by failing to reevaluate the student every thirty-six (36) calendar months; and

511 IAC 7-25-7(b) by failing to conduct an additional evaluation of the student upon request or when conditions warrant such an evaluation.

FINDINGS OF FACT:

1. The Student, 11 years old, has been identified as having autism spectrum disorder and a severe mental disability, and has been determined eligible for special education and related services.
2. The Complainant reported that the Student's Guardian requested a CCC meeting several times since October 2005 to discuss placement concerns related to the Student, as well as signs of regression in the Student. The Guardian had no recollection of making the requests, and the School has no documentation of them. However, the School convened the CCC on January 11, 2006, for the purpose of conducting an annual case review.
3. The Program Supervisor acknowledged that over twelve (12) months had elapsed since the Student's last CCC meeting. The meeting on January 11, 2006, was the first meeting since the expiration of the prior EP in December 2005.
4. The School continued to follow the old IEP until the development of the new IEP on January 11, 2006. Neither the Guardian nor the School requested a due process hearing.

5. The Guardian gave written consent for an evaluation of the Student on January 11, 2006, due to concerns about the Student's behaviors. The consent form does not indicate the nature of the evaluation, but indicates that a CCC meeting will take place within 60 instructional days after signed parental consent is received.
6. The Student's previous triennial reevaluation was completed on March 8, 2003; a new one was due to be completed by March 8, 2006.
7. The CCC report of June 6, 2006, includes a psychological evaluation completed on April 27, 2006. The CCC determined that the Student remained eligible for special education and related services, and the Guardian signed that she agreed with the placement.
8. No documentation has been presented to indicate that an additional evaluation (separate from the reevaluation) was requested by the Guardian. The Complainant acknowledged that she and the Guardian intended the School to complete only one evaluation, which would address the Student's placement as well as satisfy the requirements of the reevaluation process.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School did not fail to convene the CCC upon request of a teacher, parent, or administrator. Therefore, a violation of 511 IAC 7-27-4(a)(3) is not found.
2. Finding of Fact #3 indicates that the School failed to convene the CCC within twelve (12) months of the preceding CCC meeting. Therefore, a violation of 511 IAC 7-27-4(a)(2) is found.
3. Finding of Fact #4 indicates that the School continued to implement the old IEP for more than twelve (12) months, until a new one was developed on January 11, 2006, and that there was no stay-put provision enacted.
4. Findings of Fact #6 and #7 indicate that the reevaluation was completed three (3) months after it was due. Therefore, a violation of 511 IAC 7-25-6(a) is found.
5. Findings of Fact #5 and #8 indicate that the School did not receive documentation of a request for an additional evaluation. Therefore, a violation of 511 JAC 7-25-7(b) 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:

Gary Community School Corporation shall:

Conduct inservice training for CCC coordinators and special education personnel to inform them of the following Article 7 requirements: the need to convene a student's CCC every twelve (12) months to determine whether annual goals are being achieved; the need to ensure that an IEP is not implemented for longer than twelve (12) months; and the need to reevaluate a student every thirty-six (36) calendar months. Provide an agenda, training materials, and a signed sheet of participants to the Division by September 1, 2006.