

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2343.06
COMPLAINT INVESTIGATOR: Alexandra Curlin
DATE OF COMPLAINT: June 22, 2006
DATE OF REPORT: July 21, 2006
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: September 28, 2006

COMPLAINT ISSUES:

Whether the North Adams Community Schools and the Adams-Wells Special Services Cooperative violated:

511 IAC 7-27-3 (a)(3) by failing to ensure the case conference committee (CCC) participants at the November 17, 2005, December 14, 2005, and May 22, 2006 meetings included at least one general education teacher;

511 IAC 7-27-7 (a) by failing to implement the Student's Individualized Education Program (IEP) as written, specifically by failing to provide progress reports to the Student as frequently as required by the IEP; and

511 IAC 7-27-2 (d)(2)¹ and (3) by failing to provide the Student's parents with adequate notice of the purpose of the May 22, 2006 CCC meeting and the attendees of the March 1, 2006 CCC meeting.²

FINDINGS OF FACT:

1. The Student, 15 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. A CCC meeting was held on November 17, 2005. The CCC report from that meeting indicates the Student's placement was in a full-time special education program wherein he had no participation with non-disabled peers. There was no general education teacher present at that meeting.
3. Another CCC meeting was held on December 14, 2005. The CCC report from that meeting indicates that the Student participates in an educational setting with non-disabled peers in the afternoon for one hour and twenty minutes with supervision to and from this setting. No general education teacher was present at this CCC meeting.
4. On May 22, 2006, another meeting was held. The School alleges that the meeting was not a CCC meeting but a "staffing" meeting. Notice of this meeting was sent to the parents on May 10, 2006 on the same form on which notice for a CCC meeting is given; however, the notice indicated that the

¹ 511 IAC 7-27-2(d)(2) has been added to more accurately reflect the allegations of the parent as well as the complainant.

² The Student is also involved in a due process hearing #1590.06. There were two issues included in the complaint letter that were also identified in the hearing request and therefore not appropriate for resolution through a complaint investigation.

purpose of the meeting was marked as “staffing.” The parents allege that the meeting started out as a staff meeting but with their permission became a CCC meeting. The parents also allege that had they known the meeting was to be a CCC meeting, they would have invited additional CCC participants.

5. The participants at the May meeting were the parent, CCC coordinator, Special Education teacher, Speech and Language pathologist, the itinerate autism teacher, the music therapy teacher and a parent advocate. Notice of Procedural Safeguards was given to parents and notes were made regarding discussions at the meeting. Additionally, the Student’s schedule was set for the 2006-2007 academic school year. The notes regarding the schedule indicate questions regarding the Student’s participation in the general education setting the first semester and more integration of the Student in the general education setting by the second semester. There was also a discussion regarding extended school year and counseling services.
6. The School sends reports cards to all students every nine (9) weeks. In addition to the report cards, special education students also receive reports regarding an individual student’s progress in defined goals and objectives in the IEP. The Student was sent progress reports in the first, third and fourth nine-week periods. The Student’s IEP indicates that he is to receive progress reports every nine-week period.
7. On March 1, 2006 a CCC meeting was held wherein the Parents received notice of the meeting on February 23, 2006. The School acknowledges that it invited a Program Supervisor from another school corporation to facilitate the meeting. The School also acknowledges that they did not include this person on the notice for the March 1 meeting. The Parents, however, acknowledge that before the meeting they gave the school verbal permission for the Program Supervisor to facilitate the meeting.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the Student was not participating in the general education environment when the CCC convened in November and that there was no general education teacher at that CCC meeting. Finding of Fact #3 indicates the Student was participating in the general education environment when the CCC was convened in December and that there was no general education teacher at that meeting. Finding of Fact #5 indicates the May meeting was a CCC meeting because the purpose of the meeting was to perform the functions of the CCC as defined in 511 IAC 7-17-10 and no general education teacher was present. These Findings also indicate that the Student was moving in and out of the general education environment as the CCC saw appropriate. Therefore, a violation of 511 IAC 7-27-3 (a)(3) occurred because it requires that a general education teacher be present at CCC meetings when the child is or *may be* participating in the general education environment.
2. Finding of Fact #6 indicates that the IEP requires the Student be sent a progress report every nine weeks and that the Student was not sent a progress report the second nine-week period. Therefore, a violation of 511 IAC 7-27-7(a) is found.
3. Findings of Fact #4 and #5 indicate that the May meeting was a CCC meeting for which the parents did not receive proper notice regarding the purpose of the meeting. Finding of Fact #7 indicates that the parents were given adequate notice of the March 1 CCC meeting. Therefore, though there is a violation of 511 IAC 7-27-2(d)(2) with respect to the May 22 meeting, there is not a violation of 511 IAC 7-27-2(d)(3) with respect to the March 1 meeting.

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

CORRECTIVE ACTION:

The Division acknowledges that the parties in this complaint are in the process of resolving issues through Article 7 Hearing #1590.06. Therefore, the North Adams Community Schools and the Adams-Wells Special Services shall:

1. With cooperation of the parents, determine whether another case conference committee should be convened to include a general education teacher to review and revise the IEP. If the parents and school determine that another CCC meeting is *not necessary*, the School shall with cooperation of the parents set the date of the next CCC meeting and invite a general education teacher to that meeting. If the parents and school determine that a CCC meeting is *necessary*, the School shall convene a CCC meeting that includes a general education teacher within 30 calendar days. The School shall send documentation indicating that it has complied with this corrective action to the Division by August 21, 2006.
2. Send a memorandum to all special education staff and case conference coordinators regarding the need to send progress reports to parents as often as required by the IEP and the importance of adequate notice of CCC meetings as defined by 511 IAC 7-27-2. Send documentation of compliance with this corrective action by August 21, 2006.