Indiana Department of Education Division of Exceptional Learners

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-153-2007
COMPLAINT INVESTIGATOR:	Kylee Bassett
DATE OF COMPLAINT:	December 7, 2006
DATE OF REPORT:	January 11, 2007
REQUEST FOR RECONSIDERATION:	n/a
DATE OF CLOSURE:	June 5, 2007

COMPLAINT ISSUES:

Whether the Bloomfield School District and the Greene-Sullivan Special Education Cooperative violated:

511 IAC 7-27-7(a) by not implementing the individualized education program (IEP) as written, specifically by not:

- ensuring that the Student's general education teacher made the appropriate modifications, adaptations, and accommodations regarding classroom assignments[1]; and
- informing the parent weekly of the Student's progress.

511 IAC 7-26-2(d) by failing to ensure that professional and paraprofessional staff serving students with autism spectrum disorder (ASD) have received specialized inservice training pertaining to Asperger's Syndrome.

511 IAC 7-27-2(d)(2) by failing to provide the Student's parents with adequate notice of the purpose of the December 5, 2006 case conference committee (CCC) meeting.

511 IAC 7-27-5(c) by failing to provide the parent with a copy of the written report of the CCC no later than ten (10) business days after the November 8, 2006 CCC meeting.

511 IAC 7-27-3(a) by failing to ensure the CCC participants at the November 8, 2006 meeting included the Student's father.

511 IAC 7-25-4(b) by failing to complete the initial educational evaluation and convene the Student's CCC within sixty (60) instructional days of the date the written parental consent is received by certified personnel, specifically regarding Occupational Therapy, Functional Behavioral Assessment, and Sensory Integration.[2]

An extension of time until January 12, 2007 was granted on December 20, 2006. The extension was requested to allow the investigator sufficient time to gather the proper documentation and information needed to conduct a thorough investigation due to the holiday season and its conflicts within the Division and the School's winter break beginning December 20, 2006 and ending January 3, 2007.

The original issue regarding 511 IAC 7-27-7(a) stated in the Notification Letter dated December 18, 2006 was clarified pursuant a memorandum from the Division dated December 21, 2006.

[1] The issue has been restated to more accurately reflect the facts.
[2] Upon investigation, this issue changed to better reflect the allegations.

FINDINGS OF FACT:

1. The Student, 13 years old, is eligible for special education and related services as a student with autism spectrum disorder.

2. An initial case conference committee (CCC) meeting was convened on November 8, 2006. The Student's IEP was developed and was signed at the November 8, 2006 CCC meeting. The Student's IEP specifically stated that the Student "will be given the opportunity to complete modified worksheets in history class as well as complete the classroom teacher's worksheets for credit." Further, the IEP stated that the teachers of service will implement the stated "adaptations/modifications/and/or accommodations during the 06-07/07-08 school year."

3. The School acknowledged that accommodations and modifications were not made regarding some of the assignments. The Teacher of Record provided documentation that she has attempted to implement the necessary modifications regarding the classroom worksheets. During the course of this investigation, the Principal met with the general education teacher involved and directed her "to allow any assignments completed after November 8, 2006 to be redone with appropriate accommodations given. [The Student's] second nine weeks grade and semester grade will be adjusted and reflect any and all changes made due to the impact of the accommodations."

4. The November 8, 2006 IEP stated that "parents will be e-mailed weekly updates as needed on [the Student's] academic/social progress." The School stated that the School utilizes the Harmony Student System, in which a parent at any time can access to view the current academic progress of individual students. The School submitted one weekly update e-mail dated January 5, 2007. The Complainant submitted an e-mail update from the Teacher of Record dated December 4, 2006. The Complainant had the understanding that she would receive "weekly updates."

5. The School acknowledged that the professional and paraprofessional staff members have not been trained. The School stated contractual issues as reasons why the training had not taken place. In the CCC notes from the December 5, 2006 CCC meeting, the Special Education Cooperative stated that they would like to meet with the staff to do ASD training. An ASD training was scheduled to occur December 11, 2006. Per e-mail communication dated December 11, 2006 from the School, the ASD training was cancelled and it was stated that the training would be rescheduled for January 2007. The School stated that the Special Education Cooperative provided books regarding the Student's disability to the Teacher of Record sometime after the November 8, 2006 CCC meeting. During the course of this investigation, the School stated that the training has been rescheduled for January 15, 2007 from 3:20-4:00 p.m. Because other students in the School have ASD, the School acknowledged that it would be beneficial for *all* of the School's teachers to be present.

6. There is discrepancy between the School and the Complainant as to whether the December 5, 2006 meeting was actually a CCC meeting or parent/teacher meeting. The Complainant claimed that adequate notice regarding the purpose of the CCC meeting on December 5, 2006 was not given. Both the Principal and the Teacher of Record believed that the meeting was a parent/teacher meeting and that the Complainant contacted the Special Education Cooperative, which precipitated their attendance at the December 5, 2006 meeting. Although the IEP was not signed, an IEP dated December 5, 2006 was developed and items were added with respect to adaptations/accommodations/and modifications. The December 5, 2006 meeting was comprised of the following individuals: the parent, the principal, the Teacher of Record, the school psychologist, the behavioral specialist, a special education cooperative representative, the School's social worker, and the Student's general education teacher.

7. The School acknowledged that it failed to provide the Complainant a copy of the written report of the

CCC no later than ten (10) business days after the November 8, 2006 CCC meeting.

8. The Complainant alleged that the School failed to ensure the CCC participants at the November 8, 2006 CCC meeting included the Student's father. The School claimed that an opportunity was made to include the father in the CCC meeting. According to the CCC notes at the November 8, 2006, the School acknowledged that the father was to participate in the case conference via speaker phone. The CCC notification stated that per contact between the Teacher of Record and the Complainant it was mutually agreed that the CCC meeting would be located in the School's conference room. However, according to the CCC notes dated November 8, 2006, there was a change in location and it was not possible for the Student's father to participate via speaker phone. The CCC notes indicated that the father was notified by the Complainant's cell phone and informed that the Teacher of Record would be contacting him later in the afternoon to discuss the findings of the CCC meeting.

9. Two signed and dated permissions for evaluations were submitted as documentation. The first permission form was signed by the parent and dated on May 16, 2006 with the 60-day compliance date denoted as November 2, 2006. The permission form was date stamped as received by the Special Education Cooperative on September 20, 2006 and had the following assessment areas marked: teacher interviews, review of records, intelligence, individual test, social/emotional, motor abilities, classroom observation, communication skills, academic achievement, adaptive behavior, and functional behavioral assessment (FBA). On September 15, 2006, the parent again signed a second permission for evaluation and the 60-day compliance date was denoted as December 15, 2006. This permission form was date stamped as received by the Special Education Cooperative on September 20, 2006 and the following assessment area were marked: teacher interviews, review of records, intelligence, classroom observation, communication skills, academic achievement, adaptive behavior, FBA, and other (specified as rating scales). A psychological report was submitted with the date of evaluation as November 1, 2006, which included the following evaluations: cognitive functioning, academic achievement, teacher reports, observation, and ratings.

10. The Special Education Cooperative acknowledged that the Student's eligibility was established in the November 8, 2006 CCC meeting and further assessment was requested. To date, the Special Education Cooperative alleged that the FBA and OT assessments are in the process of being completed. The School acknowledged that the 60 instructional day limit was not met in conducting the evaluations and convening a CCC meeting after the receipt of the parental consent form.

CONCLUSIONS:

1. Finding of Fact #2 demonstrates that the IEP states that the Student will be given the opportunity to complete modified worksheets in history class as well as complete the classroom teacher's worksheets for credit. Additionally, the IEP reflects that the teachers of service will implement the stated adaptations/modifications/and/or/accommodations during the 2006-2007/2007-2008 school year. Finding of Fact #3 indicates that the School acknowledges the violation and has begun to make attempts to correct this matter. Therefore, a violation of 511 IAC 7-27-7(a) is found.

2. Finding of Fact #4 demonstrates the confusion between the Complainant and the School regarding the "as needed" basis for the weekly updates. Although Finding of Fact #4 indicates that on two separate occasions an e-mail was submitted to the Complainant regarding the Student's progress, the IEP contained ambiguous language that resulted in misinterpretation and misunderstanding. Where an ambiguity exists in an IEP, the ambiguity will be construed against the School that is responsible for its development and implementation. IEPs must have sufficient clarity so that both the parents and school personnel understand what services a student is to receive. Thus, the ambiguous nature of the phrase "as needed" results in a violation of 511 IAC 7-27-7(a).

3. Finding of Fact #5 indicates that the School acknowledges that it has failed to provide specialized inservice training for its professional and paraprofessional staff serving students with autism spectrum disorder. Therefore, a violation of 511 IAC 7-26-2(d) is found.

4. Finding of Fact #6 reflects the discrepancies between the parties as to whether the December 5, 2006 meeting was a parent/teacher meeting or a CCC meeting. Finding of Fact #6 reflects that an IEP was developed and the necessary CCC participants as required pursuant 511 IAC 7-27-3(a) were in attendance at the December 5, 2006 meeting. These facts provide evidence that the meeting on December 5, 2006 should be considered a CCC meeting, thus providing adequate notice to the parent regarding the purpose should have been done. Therefore, a violation of 511 IAC 7-27-2(d)(2) is found.

5. Finding of Fact #7 indicates that the Complainant was not provided a copy of the written report of the CCC no later than ten (10) business days after the November 8, 2006 CCC meeting. Therefore, a violation of 511 IAC 7-27-5(c) is found.

6. Finding of Fact #8 indicates that attempts were made to include the Student's father. Therefore, no violation of 511 IAC 7-27-3(a) is found.

7. Finding of Fact #9 indicates that the School had written parental consent to complete all of the requested evaluations on May 16, 2006 and the 60-day compliance date was November 2, 2006. Finding of Fact #10 indicates that the School acknowledges that it was not within the 60 instructional day timeline. Therefore, a violation of 511 IAC 7-25-4(b) 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:

The Bloomfield School District and the Greene-Sullivan Special Education Cooperative shall:

1. Convene a meeting with the appropriate school personnel to develop a system (e.g., chart or log book) for documenting the implementation of the appropriate modifications/accommodations/adaptations of classroom assignments. The School shall provide a copy of the documentation system along with an explanation as to how it will be utilized, copy of the meeting minutes, and a list of the participants with signatures confirming attendance and identified by name and title **no later than February 28, 2007.**

2. Convene a CCC meeting **no later than February 9, 2007**. The CCC shall review, and if necessary, revise the Student's IEP for the 2006-2007 school year with specific attention to and inclusion of a clear statement of how the Student's progress will be measured, what format will be used for reporting such progress, and the frequency with which the Teacher of Record will provide the progress reports to the parent.

   The School shall submit a copy of the CCC report and agreed-upon IEP (signed by the Complainant) **no later than February 28, 2007.**

3. Complete specialized inservice training of ASD for all staff working with students with ASD. Student-specific training pertaining to how ASD manifests itself in each particular student is also required to be provided to all professional and paraprofessional staff working with each student with autism or ASD. The School shall submit a copy of the inservice agendas, handouts or other materials provided to the inservice participants, names and titles of the presenters, and a list of participants with signatures

confirming attendance **no later than February 28, 2007**

4. Send a written memorandum to all relevant school administrators and special education personnel regarding compliance with 511 IAC 7-27-5(c), specifically with respect to ensuring that the Student's parent receives a copy of the written report of the CCC no later than ten (10) business days after the date of the CCC meeting. A copy of the memorandum and a list of all who receive it shall be submitted to the Division **no later than February 28, 2007.**

5. Provide an assurance statement that the School will provide adequate notice of CCC meetings to parents with respect to 511 IAC 7-27-2(d). The School shall submit an assurance statement **no later than February 28, 2007.**

6. Compensatory services are due to the Student for not completing the evaluations within the 60 instructional day timeline. The School shall complete the necessary evaluations and conduct a CCC meeting to review the evaluation data and determine to what extent compensatory services are necessary to make-up for time lost due to the late evaluations. The School shall convene a CCC meeting **no later than February 9, 20007**. The School shall submit the CCC report and agreed-upon IEP (signed by the Complainant) **no later than February 28, 2007.**