

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-167-2007
COMPLAINT INVESTIGATOR: Brenda Alyea
DATE OF COMPLAINT: January 4, 2007
DATE OF REPORT: February 2, 2007
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: March 14, 2007

COMPLAINT ISSUES:

Whether the Tipton Community School Corp and the Kokomo Area Special Education Cooperative violated:

511 IAC 7-22-1 (d) by failing to provide a copy of the notice of procedural safeguards to the student or parents at the notification of a case conference committee (CCC) meeting.

511 IAC 7-28-4 (e)¹ by failing to provide written notice to the student and the parent of the transfer of rights at eighteen (18) years of age.

511 IAC 7-27-2 (a) by failing to schedule the CCC meeting at a mutually agreed upon date, time, and place.

511 IAC 7-27-2 (c) by failing to provide adequate notice of the CCC meeting to the parent or student.

511 IAC 7-27-4(a)(2) by failing to convene a CCC meeting within twelve months of the preceding CCC meeting, specifically November 27, 2005.²

FINDINGS OF FACT:

1. The Student, 18 years old, has been identified as a student with a learning disability, primary, and a communication disorder, secondary, and has been determined eligible for special education and related services.
2. A Case Conference Committee (CCC) meeting was held on November 27, 2005. The CCC report indicated that the meeting was for the purpose of the annual case review. At the time of this CCC meeting, the Student had attained his 17th year birthday. The CCC report indicated that both the Student and parent were informed that at the age of eighteen (18) all rights accorded to parents will be transferred to the student. The Student signed this acknowledgement and the parent initialed the same.
3. The Prior Written Notification of Case Conference/Annual Case Review Meeting (the notice) was prepared by the Teacher of Record on November 20, 2006 and mailed out the same day. On the notice form, a box was marked yes next to the statement "a copy of the SE-8 Procedural Safeguards was given with notice." A proposed CCC meeting date was set for November 29, 2006. At the bottom

¹ The citation of this issue has been changed to more accurately reflect the standard based on the facts.

² The issue has been restated to more accurately reflect the facts.

of the notice form were it stated "PARENT: PLEASE COMPLETE THIS PAGE. SIGN. AND RETURN IT TO THE SCHOOL PRIOR TO THE CASE CONFERENCE," the line is checked that stated "I cannot attend the case conference on the day and time, but I could come on 1-9-07." The form was signed on January 9, 2007 by the Student. A letter from the parent to the Teacher of Record was received by the School on November 28, 2006. The parent stated in the letter that she needed to re-schedule the CCC meeting due to transportation issues³ and asked the Teacher of Record to call her in order to determine another date.

4. Log notes (unsigned), dated December 5, 2006 (although the denotation is unclear), submitted by the School, indicated that the Student allegedly claimed that his mother was considering the meeting to be held in her absence since he was 18 years old. Further, the note described that a notification of case conference was given to him to take home and have his mother sign the form if she wanted to attend. The log notes for December 5, 2006 did not mention the proposed conference date. Log notes (unsigned), dated December 15, 2006, submitted by the School, indicated that a staff person talked to the Complainant and the Complainant indicated that the Annual Case Review could not be held that day due to continued transportation problems and also noted that the Student had not received a copy of his rights. The staff person indicated in the notes that the student had not been given a copy of his rights because "I had not thought to do that."
5. The CCC annual review meeting for this Student was held on January 9, 2007 and both the Student and the mother were in attendance. The Prior Written Notice of Annual Case Review, dated November 20, 2006, indicated that a copy of the Procedural Safeguards was sent with the November 20, 2006 notice that was signed by the Student on January 9, 2007. However, there is no documentation from the School to demonstrate that prior written notice was sent out for the January 9, 2007 CCC meeting. As evident from the IEP participants' signatures, both the parent and the Student were in attendance. The IEP was signed by the Student and dated January 9, 2007. The IEP form has a paragraph addressing the transfer of rights at age eighteen written in future tense. While this same paragraph was signed by the Student at the Annual Case Review at age seventeen, there is no signature affixed by the Student at the Annual Case Review occurring on January 9, 2007.
6. The Student turned 18 on November 21, 2006. The School failed to provide documentation regarding whether or not the School provided written notice to the parent and the Student that the rights have transferred to the Student.

CONCLUSIONS:

1. Although Finding of Fact #4 indicates a staff person acknowledged the School's failure to provide the Notice of Procedural Safeguards to the Student at the notification of the case conference, Findings of Fact #3 and #5 indicate that the Student signed the November 20, 2006 notification form indicating that those rights had been received. Therefore, a violation of 511 IAC 7-22-1(d) is not found.
2. Finding of Fact # 5 indicates that the School failed to provide documentation substantiating the notice of transfer of rights at age eighteen, as evident from the lack of signatures in the transfer of rights to student section at the January 9, 2007 Annual Case Review. Finding of Fact #6 indicates that the Student turned 18 on November 21, 2006, and the School failed to provide documentation as to whether or not the School provided the parents and the Student written notice of the transfer of rights to the Student. Therefore, a violation of 511 IAC 7-28-4 (e) is found.

³ In the complaint filed by the Complainant with the Division, it was stated that the family was involved in an automobile accident, and consequently, left them without transportation.

3. Finding of Fact # 5 indicates that a CCC annual review meeting was held on January 9, 2007, with both Student and parent attending. Since both the parent and Student were in attendance, the meeting was scheduled at a mutually agreed upon date, time and place. Therefore, a violation of 511 IAC 7-27-2 (a) is not found.
4. Finding of Fact #5 indicates that the Student's CCC annual review meeting was held on January 9, 2007, however, even though the Student and parent were in attendance, the School is still required to provide written notice of the CCC. There is no indication that written notice was ever provided for the January 9, 2007, CCC meeting. Therefore, a violation of 511 IAC 7-27-2 (c) is found.
5. Finding of Fact # 2 indicates that the previous CCC meeting was held on November 27, 2005. Although Finding of Fact #3 indicates that an attempt was made to have a CCC meeting on November 29, 2006, Finding of Fact #5 indicates that the Annual Case Review was not convened until January 9, 2007, thus failing to conduct the required Annual Case Review within the 12 month timeline. Therefore, a violation of 511 IAC 7-27-4(a)(2) is found

CORRECTIVE ACTION:

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

The Tipton Community School Corporation and the Kokomo Area Special Education Cooperative shall:

Provide documentation of training with all relevant school administrators and special education personnel regarding compliance with 511 IAC 7-28-4(e), specifically that when a student attains eighteen years of age the School shall provide written notice to the parent and the student that the rights under Article 7 have transferred to the student. Documentation of training, including a copy of the in-service agenda and a list of participants with signature concerning attendance, shall be submitted to the Division **no later than March 1, 2007.**

Provide documentation of training with all relevant School administrators and special education personnel regarding 511 IAC 7-27-4(a)(2), specifically with respect to ensuring that a CCC meeting is convened within twelve months of the preceding CCC meeting. Documentation of training, including a copy of the in-service agenda and a list of participants with signatures concerning attendance, shall be submitted to the Division **no later than March 1, 2007.**

Provide documentation of training with all relevant School administrators and special education personnel in reference to documentation of adequate notice for Case Conference Committee meetings with regard to re-scheduled conferences pursuant to 511 IAC 7-27-2(c). Documentation of training, including a copy of the in-service agenda and a list of participants with signatures concerning attendance, shall be submitted to the Division **no later than March 1, 2007.**