

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-176-2007
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: February 8, 2007
DATE OF REPORT: March 9, 2007
REQUEST FOR RECONSIDERATION: n/a
DATE OF CLOSURE: April 20, 2007

COMPLAINT ISSUES:

Whether the Kokomo-Center Township Consolidated School Corporation and the Kokomo Area Special Education Cooperative violated:

511 IAC 7-27-4(c)(1) by failing to utilize the case conference committee to develop the student's individualized education program (IEP), specifically by failing to take into consideration the concerns of the parent with respect to the development of a behavioral intervention plan (BIP).

FINDINGS OF FACT:

1. The Student, 10 years old, is identified as a student with autism-spectrum disorder and a communication disorder, and has been determined eligible for special education and related services.
2. The School acknowledges that it has a practice of collecting data on the behavior(s) of all students with autism in order to develop a proposed behavioral intervention plan (BIP) to review and revise at the case conference committee. This is done regardless of whether any of the students with autism exhibit severe behaviors or a prior case conference committee has agreed to develop a BIP. The Complainant does not allege that the School develops a boilerplate BIP for all students with autism.
3. The Student's case conference committee convened on December 11, 2006. The School brought a proposed BIP to review and revise. The Complainant did not know that a BIP was being proposed and did not agree with the BIP. Case conference notes state "[The Complainant] was very upset that a BIP must be part of [the Student's] IEP (because of her autism)." The Case Conference Report, under Consideration of Special Factors, indicates that the Student's behavior does not impede her learning or that of other students. The report indicates that if a student's behavior does impede learning, then a BIP must be attached to the IEP. The School has written in that section "A BIP is part of the IEP."
4. The case conference committee on December 11, 2006, did not further develop the BIP. The proposed BIP is not part of the Student's IEP, at the request of the Complainant, and is not being implemented by the School.

CONCLUSION:

Findings of Fact #2 and #3 indicate that the School's practice of developing a BIP based on collected data for autistic students regardless of whether a student's behavior impedes his/her learning and the learning of others is a failure to utilize the case conference committee to develop, review, or revise a student's IEP taking into

consideration the concerns of a parent and the specific needs of a student. Therefore, a violation of 511 IAC 7-27-4(c)(1) is found.

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 Kokomo-Center Township Consolidated School Corporation and the Kokomo Area Special Education Cooperative shall:

Send a written memorandum addressing compliance with 511 IAC 7-27-4(c) to all school personnel working with autistic students and to all personnel responsible for serving as a case conference committee chairperson. The memorandum must address the practice of drafting a BIP for autistic students regardless of whether the case conference committee has discussed whether a student's behavior impedes his/her learning and the learning of others. It shall also state that, if a student's case conference committee agrees that the student's behavior impedes his/her learning and the learning of others then, although draft behavioral intervention plans can be presented during a case conference committee meeting, the BIP must be developed during the case conference committee meeting process and not outside this process. The School must ensure that input is provided by the parent and that the School takes into consideration the concerns of the parent. A copy of the memorandum and a list of all personnel who receive it shall be submitted to the Division no later than **April 13, 2007**.

Send an assurance statement, signed by the Director of Special Education, stating that the School will address compliance with 511 IAC 7-27-4(c) in future in-service trainings with school personnel particularly with respect to making sure that the case conference committee is utilized to discuss behavior issues involving autistic students. The in-service trainings must also address the memorandum in the corrective action above. A copy of the assurance statement must be submitted to the Division no later than **April 13, 2007**.