

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: CP-178-2007  
COMPLAINT INVESTIGATOR: Kylee Bassett  
DATE OF COMPLAINT: February 20, 2007  
DATE OF REPORT: April 19, 2007  
REQUEST FOR RECONSIDERATION: n/a  
DATE OF CLOSURE: July 26, 2007

**COMPLAINT ISSUES:**

Whether the Northwestern School Corporation and the Kokomo Area Special Education Cooperative violated:

511 IAC 7-27-2(c)(2) by failing to send notice of a scheduled case conference committee (CCC) meeting to the Student, specifically January 25, 2007 and February 23, 2007.

511 IAC 7-27-4(a)(3) by failing to convene the CCC meeting at the request of the parent, specifically to address the Student's assistive technology problems.

511 IAC 7-27-4(c)(6) by failing to utilize the CCC to develop, review, or revise the Student's individualized education program (IEP), specifically by failing to take into consideration the Student's need for assistive technology in the area of math.<sup>1</sup>

511 IAC 7-27-7(a) by failing to implement the Student's IEP as written, specifically with respect to the digital recorder and math software.<sup>2</sup>

511 IAC 7-21-6(g)(5) by failing to provide training and technical assistance to the Student, regarding his assistive technology services.

511 IAC 7-27-7(a) by failing to implement the Student's IEP as written, specifically with respect to the School's policy regarding the parent's written opinion.<sup>3</sup>

An extension of time was granted until April 19, 2007, due to the School's spring break and the extensiveness of the documentation.

**FINDINGS OF FACT:**

1. The Student is in the eighth grade and is eligible for special education and related services as a Student with other health impairment. The Student has Neurofibromatosis, which affects the Student's fine motor skills (specifically handwriting), and Attention Deficit Hyperactivity Disorder (ADHD).
2. During the 2006-2007 school year, a CCC convened on the following dates: October 18, 2006,

<sup>1</sup> The original issue 511 IAC 7-27-4(6)(c) was not investigated because upon investigation the facts show that this issue is addressed in 511 IAC 7-27-4(a)(3) and 511 IAC 7-27-7(a).

<sup>2</sup> Upon investigation, this issue was changed to better reflect the facts.

<sup>3</sup> During the course of the investigation, this issue was added.

November 22, 2006, January 25, 2007, and February 23, 2007.

3. The Student's date of birth is November 23, 1992. The Student turned fourteen (14) years old on November 23, 2006. A CCC meeting was held on November 22, 2006 for the purpose of secondary transition and the Student's annual case review. The Prior Written Notification of the Case Conference was signed by the Complainant on November 20, 2006. On the list of anticipated participants on the prior written notification the Student's name was listed. The comments page for the November 22, 2006 CCC meeting mentioned that Nathan participated in the CCC meeting as part of the transition. At the top of the Case Conference Committee Report for the November 22, 2006 CCC meeting "yes" was checked next to the phrase "Prior Written Notification (SE-10) of this case conference was given to the parent." The Complainant acknowledged that the Student's TOR invited the Student to the CCC meeting.
4. According to the Student's IEP dated November 22, 2006, the Student requires assistive technology devices to support the IEP. The following is a list of the assistive technology provided for the Student in the IEP: laptop computer, digital recorder, flashdrive, and the dragon (at home). The November 22, 2006 IEP developed a goal regarding the Student's use of the digital recorder. The Student's measurable short-term instructional objectives included that the Student will: "1) record lecture (assignment) a week and download data on the computer, 2) tell his parents he recorded 1 x per week, listen to the lecture with notes 1 x a week as observed by parents, and 4) flag concepts 1 x a week." It was stated that 2 of the 4 objectives needed related services to carry out the goal. No progress was made regarding these objectives on December 22, 2006, as denoted on the November 22, 2006 IEP. However, it was denoted on the November 22, 2006 IEP goal sheet that the Student was progressing on 2 of the 4 objectives and mastered the remaining 2 objectives as per a progress update of March 6, 2007. In an e-mail dated December 17, 2006 (as well as November 26, 2007) from the Complainant to the TOR the Complainant stated the Student has concerns with the following relating to the digital recorder: when to tape a lecture, how to "flag" the recorder, and unsure how to download the lecture on his flashdrive to bring it home. In addition, the Complainant stated that the IEP is not clear as to when and to what extent the digital recorder is to be used and who would help the Student download the information on to the flashdrive. In an e-mail dated December 12, 2006 from the TOR to the coordinator of special education, it was stated that the Student's training on the digital recorder was not completed. In an e-mail dated December 20, 2006 from the TOR to the Complainant, it was stated that the training regarding the digital recorder was completed. The School did not provide any additional documentation as to the implementation or training of the Student's assistive technology.
5. The Complainant alleged that she asked for a CCC meeting on January 3, 2007 to address some of the Student's assistive technology problems. The CCC meeting was scheduled for January 25, 2007. The Prior Written Notification of the CCC meeting had the parent listed as an anticipated participant, but the Student was not listed, and the Student did not participate. The purpose of the January 25, 2007 CCC meeting, as stated on the Prior Written Notification form, was to review the IEP per parent request. There is no documentation that the Student was provided notice to attend the CCC meeting.
6. The Complainant has been concerned about the math software, which would allow the Student to do his math homework on the computer, since the August 29, 2006 CCC meeting of the 2006-2007 school year. The November 22, 2006 IEP indicate that the Complainant wanted the math software investigated and addressed prior to the Student's attendance in high school. In addition, the CCC notes denote that another CCC meeting was suggested to discuss math technology. The November 22, 2006 IEP provides for the Student to utilize a scribe for math work. The CCC notes dated January 25, 2007 indicated that math software had been found, but it gave answers and staff was trying to find software that could turn off the computing. In addition the CCC notes indicated a tentative date of March 9, 2007 to have a decision regarding the Student's math software.

7. The Complainant alleged that new procedures were implemented at the January 25, 2007 CCC meeting, which would not allow the Complainant to sign the IEP until she submitted her written opinion. In the additional comments page dated January 25, 2007, it was stated that the School was concerned about misinterpretations between the parent's notes and the school's proposals and notes. The February 23, 2007 IEP included the Complainant's signature (dated February 23, 2007), with a note indicating that an opinion page would be submitted at a later date. In an e-mail dated February 13, 2007, a Division educational consultant sent an e-mail to the Director of Special Education reiterating the Complainant's concern that agreed changes to her son's IEP will not be implemented until the CCC reconvenes, if the Complainant continues to submit her version of meeting notes several days after the meeting.
8. The Complainant alleged that the January 25, 2007 CCC failed to address all of the Student's assistive technology issues, and had to reconvene on February 23, 2007. The Prior Written Notification of the CCC meeting for the February 23, 2007 CCC meeting had the parent listed as an anticipated participant, but the Student was not listed, and the Student did not participate. Furthermore, there is not documentation that the Student was provided notice to attend the CCC meeting. The Prior Written Notification form indicated that the purpose of this CCC meeting was a continuation from the January 25, 2007 CCC meeting. The Prior Written Notification denoted that the CCC meeting was scheduled to address the Student's educational progress and parent concerns regarding the Student's math software. According to the Student's IEP dated February 23, 2007, Math Type was listed as an assistive technology device and it is stated that the software is "on order" (the IEP did not include the date that it was ordered). The February 23, 2007 CCC notes, stated that "the School did not feel training was necessary for spring 2007," but indicated that the "first 3 weeks" in the fall of 2007 training would take place for the teachers on Math Type. The CCC notes indicated that the Math Type was ordered, but had not come in as of February 23, 2007. Further, it stated that the IEP will reflect the math software upon receipt, which "should be put in place by March 7, 2007." In a letter dated March 7, 2007, the parent signed in confirmation that a copy of MathType was received and a copy was loaded onto the Student's laptop. After the letter of confirmation dated March 7, 2007, there is no further information regarding the implementation of the math software.

## **CONCLUSIONS:**

1. Finding of Fact #3 indicates that the November 22, 2006 CCC meeting was convened for the purpose of secondary transition and the Student's annual case review. Finding of Fact #3 indicates that the Complainant acknowledged that the Student's TOR invited the Student to the CCC meeting. Finding of Fact #5 and #8 indicate that the Student was not provided notice to attend the CCC meetings on January 25, and February 23, 2007. 511 IAC 7-27-2(c)(2) requires the Student to be given notice *beginning* with the CCC meeting in which the CCC develops a statement of the Student's transition service needs. Because the Student was not invited to attend the CCC meetings on January 25, and February 23, 2007, a violation of 511 IAC 7-27-2(c)(2) is found.
2. Finding of Fact #5 indicates that the Complainant requested a CCC meeting on January 3, 2007 to address the Student's assistive technology problems. Finding of Fact #5 indicates that the CCC meeting convened on January 25, 2007. Finding of Fact #8 indicates that the February 23, 2007 CCC meeting was a continuation of the January 25, 2007. Although Finding of Fact #8 indicates that the Complainant was concerned that the continuation CCC meeting was not held until February 23, 2007, the School within a reasonable time convened a CCC meeting upon the Complainant's request. Therefore, no violation of 511 IAC 7-27-4(a)(3) is found.
3. Finding of Fact #6 indicates that the Complainant has been concerned about math software for the Student since the August 29, 2006 CCC meeting. Finding of Fact #6 indicates that the math software

was addressed, and the CCC initiated a tentative date of March 9, 2007 to make a decision on the software. Finding of Fact #8 indicates that Math Type was listed as an assistive technology device and was denoted on the IEP that it was ordered. Finding of Fact #8 indicates that MathType was received by the Complainant and the Student on March 7, 2007. Finding of Fact #8 indicates that the February 23, 2007 IEP is silent with respect to how MathType is to be utilized, with the exception of training. The MathType was received by the March 9, 2007 date denoted in the January 25, 2007 CCC notes. Therefore, no violation of 511 IAC 7-27-7(a) is found.

4. Finding of Fact #4 indicates that the Student utilized a digital recorder and had a goal relating to his need to improve his digital technology. Finding of Fact #4 indicates the Complainant's concern with the ambiguity of the objectives. Finding of Fact #4 indicates that the Student made no progress on December 22, 2006, and on March 6, 2007 the Student was progressing on 2 objectives and mastered 2 objectives. The School failed to provide any documentation regarding the implementation of the digital recorder. Therefore, a violation of 7-27-7(a) is found.
5. Finding of Fact #4 indicates that the School failed to provide documentation of training regarding the Student's assistive technology. Therefore, a violation of 7-21-6(g)(5) is found.
6. Finding of Fact # 7 indicates that a discussion occurred at the January 25, 2007 CCC meeting, which would not allow the Complainant to sign the IEP until she submitted her written opinion. Finding of Fact #7 further indicates that the parent did sign the IEP developed on February 23, 2007 and there is no evidence of the school's delay in the implementation of the Student's IEP. Stipulating that a parent submit a written opinion before being allowed to sign the IEP places a condition precedent upon the implementation of the IEP. According to 511 IAC 7-25-1, no student shall be denied a free appropriate public education as a result of a public agency's inability to obtain parental consent for special education services. However, 511 IAC 7-27-5(c), requires a school provide the parent a copy of the written report no later than 10 business days after the CCC meeting. Thus, the parent's written opinion must be attached to the CCC report before the 10<sup>th</sup> business day in order for it to be a part of the CCC report and thereby comply with 511 IAC 7-27-5(c). Therefore, no violation of 511 IAC 7-27-7(a) 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 Northwestern School Corporation and the Kokomo Area Special Education Cooperative shall:

Convene a CCC meeting **no later than May 31, 2007** to develop clear statements of how the Student will progress toward annual goals, including short term objectives regarding the Student's digital recorder. Provide a copy of the CCC report and agreed-upon IEP **no later than June 8, 2007**

Provide training to the Student to address the assistive technology devices as required by 7-21-6(g)(5). The training should include the Student and all relevant school personnel. Because the Student is transitioning to high school in the fall of 2007, the training should involve relevant high school personnel. Documentation describing the training and who was in attendance shall be submitted to the Division no later than **June 8, 2007**.

Provide an assurance statement to the Division stating that no parent will be required to provide a written opinion prior to signing an IEP, and the School will not implement any policy that delays the implementation of the Student's IEP. The assurance statement shall be submitted **no later than June 8, 2007**.

Provide an assurance statement to the Division stating that notice of a CCC meeting will be given to all students beginning with the first meeting at which the CCC will develop a statement of needed transition services. The assurance statement shall be submitted **no later than June 8, 2007**.