

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-205-2007
COMPLAINT INVESTIGATOR: Kylee Bassett
DATE OF COMPLAINT: April 24, 2007
DATE OF REPORT: May 23, 2007
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: October 17, 2007

COMPLAINT ISSUES:

Whether the Monroe County Community School Corporation violated:

511 IAC 7-27-7(c) by failing to implement the individualized education program (IEP) of a student transferring to an Indiana school from another state until a new evaluation is conducted, if necessary, and the case conference committee (CCC) convenes to develop an IEP (see 20 U.S.C. §1414(d)(2)(C)(i) and 34 CFR 300.323(f)).

511 IAC 7-27-7(a) by failing to implement a student's IEP as written, regarding the IEP dated November 13, 2006.

511 IAC 7-25-7 by failing to conduct an additional evaluation and convene a CCC meeting within sixty (60) instructional days of the date of written parental consent.¹

FINDINGS OF FACT:

1. Student A and Student B are five-year-old twins and are both eligible for special education and related services as Students with a primary disability of developmental delay and a secondary disability of communication disorder.
2. During the summer of 2006, both Students moved into the Monroe County Community School Corporation from out of state. The Complainant called the School mid-August to notify the School that both Students moved into its district. The Complainant gave the School each Student's IEP on September 5, 2006. An e-mail dated September 7, 2006 from the Pre-School Coordinator confirmed the School's receipt of both Students' out-of-state IEPs.
3. The Complainant alleged that the School failed to implement both Students' out-of state IEPs, and she was particularly concerned that the Students were not provided with speech services. The School acknowledged that it "missed services" for each Student at the beginning of the year by failing to implement the Students' out-of-state IEPs. On May 3, 2007 a CCC meeting was convened for both Students, the CCC notes for both Students indicated that compensatory services will be provided to each Student for the School's failure to put services in place in a timely manner following the family's move to the school district from out of state.
4. Student A's out-of-state IEP indicated that the Student was to receive one hour of direct speech services per week and one hour of direct "fine motor, play, and communication" services weekly.

¹ Upon investigation, an additional issue was added.

Student B's out-of-state IEP indicated that the Student was to receive one hour of "fine motor and social communication" direct services weekly and direct speech services for one hour weekly. In addition, Student B's out-of-state IEP indicated that the Student was to receive 50 minutes of occupational therapy consultation monthly. There is no documentation that the School implemented these services upon the Students' transfer to Indiana from out of state.

5. Student A's IEP dated November 13, 2006 states that Student A's appropriate placement is in a "typical early childhood setting." In addition, Student A's early childhood special education services included the following: "consultation services to increase [Student A's] language and social communication; 2 hours each month for the next three months: one hour per month for the following months." Under speech and language services the IEP denoted an "evaluation of [Student A's] expressive, receptive, and pragmatic language." Student B's IEP dated November 13, 2006 states that Student B's appropriate placement is in a "typical early childhood setting." In addition, Student B's IEP stated that "[t]he early childhood special education teacher and speech language pathologist will coordinate consultation support with [Student B's] teachers to focus on the development of her social communication and peer friendships[sic] 60 minutes each month."
6. The School's time log for collaboration on Student A and Student B indicated that the School's first classroom observation of both Students at their day care was on December 15, 2006. The additional dates set forth in the time log consisted of both observation and consultation for both Students. The time log was not specific as to how many consultation hours were provided to each Student. The School indicated on the time log the following dates for consultation for both Students: January 25, 2007 from 12:30 pm – 2:00 pm, March 8, 2007 from 1:00 pm – 2:00 pm, March 9, 2007 from 1:45 pm – 2:00 pm,² and April 13, 2007 from 11:00 am – 11:30 am.³ According to the time-log from January 25, 2007 to April 13, 2007, the School provided consultation a total number of 3 hours and 15 minutes for both Students.
7. The Complainant alleged that she has repeatedly requested a speech evaluation for both Students since the beginning of the 2006-2007 school year (mid-August). E-mails between the Complainant and the Pre-School Coordinator in October and February indicate that the Complainant has been concerned that the speech language pathologist has not contacted her regarding evaluations for both Students.
8. Student A's evaluation was completed on March 21, 2007. Student B's evaluation was completed on March 7, 2007. Although the documentation indicates that the Complainant gave permission for an educational evaluation for Student A on April 13, 2007 and for Student B on May 3, 2007, the educational evaluations for the Students have not yet occurred and the sixty instructional days have not elapsed. There is no documentation as to when the Complainant gave written permission for the educational evaluations that were completed on March 21, 2007 (Student A) and March 7, 2007 (Student B). According to the Students' evaluation reports, each Student was assessed in the areas of communication (including receptive/expressive language), speech, and social communication interaction skills.

CONCLUSIONS:

1. Finding of Fact #2 indicates that both Students had an IEP in effect for the 2006-2007 school year from another state. Finding of Fact #2 indicates that the School had knowledge of the Students' enrollment in Monroe County Community School Corporation district in August of 2006 and had both Students' IEPs on September 5, 2006. Finding of Fact #4 indicates that the Students' IEP were not implemented

² Because the consultation time was not denoted on the School's time log, the day care's visitor sign-in sheet was used.

³ Because the consultation time was not denoted on the School's time log, the day care's visitor sign-in sheet was used.

and no CCC was convened within 10 instructional days of the Students' enrollment. Finding of Fact #3 indicates that the School acknowledged its failure to implement the IEP, and at the May 3, 2007 CCC meeting for both Students the School agreed to provide compensatory services. Therefore, a violation of 511 IAC 7-27-7(c) is found with respect to Student A and Student B, but no further corrective action is required.

2. Finding of Fact #5 indicates that a CCC meeting for both Students was held on November 13, 2006. Finding of Fact #5 indicates that Student A's IEP stated that the Student was to receive consultation services "2 hours each month for the next three months [and] one hour per month for the following months," beginning in November 2006. Finding of Fact #5 indicates that Student B's IEP stated that the Student was to receive consultation support 60 minutes each month. Finding of Fact #6 indicates that the School provided a total of only 3 hour and 15 minutes of consultation between January and April 2007, which included services for both Students. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to Student A and Student B.
3. Finding of Fact #8 indicates that the Students' educational evaluations were conducted on March 21, 2007 (Student A) and March 7, 2007 (Student B). Finding of Fact #8 indicates that speech evaluations were conducted for the Students. However, Finding of Fact #7 indicates that the School knew or should have known that the Complainant wanted to have both Students evaluated, specifically for speech services. Finding of Fact #8 indicates that there is no documentation that indicates the date the Complainant gave written permission to the School to conduct evaluations on both Students. A parent's lack of knowledge of the School's internal procedures for processing referrals may not be used to delay the process. The School should have explained the requirements of 511 IAC 7-25-4(b). The Students went for approximately 8 months before they were evaluated by the School. Therefore, a violation of 511 IAC 7-25-7 is found with respect to Student A and Student B.

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:

Convene a CCC meeting for Student A and Student B to determine what, if any, compensatory services are required for each Student individually due to the School's failure to implement Student A's and Student B's November 13, 2006 IEPs. In addition determine what compensatory services, if any, are necessary for each Student individually for the School's failure to complete the requested speech evaluations within 60 instructional days. Because the School failed to ensure that the parent understood the procedures for starting the evaluation process upon a parent's verbal request, the School shall determine compensatory services for both Students beginning 60 instructional days after September 1, 2006. The School shall submit a copy of each Students' CCC report and IEP no later than **June 29, 2007**.

Send a written memorandum to all relevant school administrators and special education personnel regarding the implementation of the IEP of a student transferring to an Indiana school from another state until a new evaluation is conducted, if necessary, and the CCC convenes to develop an IEP in accordance with 20 U.S.C. §1414(d)(2)(C)(i) and 34 CFR 300.323(f). A copy of the memorandum and a list of all personnel who receive it shall be sent to the Division no later than **June 29, 2007**.

Send a written memorandum to all relevant school administrators and special education personnel explaining the requirements of 511 IAC 7-25-4(b). The memorandum shall emphasize the School's responsibility to ensure that parents understand the procedures for starting the evaluation process when they verbally request that their student be tested. A copy of the memorandum and a list of all personnel who receive it shall be sent to the Division no later than **June 29, 2007**.