

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: CP-213-2007  
COMPLAINT INVESTIGATOR: Kylee Bassett  
DATE OF COMPLAINT: May 4, 2007  
DATE OF REPORT: May 31, 2007  
REQUEST FOR RECONSIDERATION: no  
DATE OF CLOSURE: October 17, 2007

**COMPLAINT ISSUES:**

Whether the Indianapolis Public Schools violated:

511 IAC 7-27-7(a) by failing to implement the Student's individualized education program (IEP) as written, specifically by failing to:  
(a) provide inclusion services for 45 minutes a day; and  
(b) provide accommodations in the resource room three days a week.

**FINDINGS OF FACT:**

1. The Student, 10 years old, is eligible for special education and related services as a Student with a mild mental disability and communication disorder.
2. The Student's annual case review was convened on September 5, 2006. The Student's IEP states that the Student is to receive special education supports and services in the general education setting in language arts and math for 30-40 minutes daily.
3. In the letter of response dated May 16, 2007, the School indicated that the Student's inclusion teacher provided services to the Student for "45 minutes each day during the 90 minute reading block." In a letter (undated), the inclusion teacher stated that she works with the Student during the reading block from 10:15 am – 11:00 am daily. In a letter dated May 13, 2007 from one of the Student's teachers, it was indicated that she worked with the Student "four and five [times] a week in Math skills. . . .[in the] [m]ornings [for] 45 minutes." There is no further documentation.
4. The Complainant alleged that the School failed to provide services in the resource room three days a week. The Student's IEP does not provide for this service. On November 1, 3 and 7, 2006, the Complainant and the elementary special education supervisor met to discuss the Complainant's concern that the Student needed additional services. The special education supervisor and the Complainant agreed at the November meetings that the special education resource teacher would provides services to the Student "3 days a week in the resource room to address math and reading goals." The School acknowledged that it failed to convene a CCC meeting to revise the Student's IEP.
5. In the letter of response, the School asserted that the Student's special education teacher began "informally seeing [the Student] 3 days a week, in the resource room, following the November 7, 2007 meeting with [the Special Education Supervisor]." According to the School, the special education teacher worked with the Student until she was on medical leave beginning on March 19, 2007. The

School indicated in the letter that another special education teacher started providing the Student services. The teacher provided lesson plans (beginning the week of March 15, 2007) prepared for the Student. The School acknowledged that the Student did not receive the resource services for 7 days due to the Student's teacher's bereavement leave from April 9 through April 18, 2007.

## CONCLUSIONS:

- 1a. Finding of Fact #2 indicates that the Student's IEP states that the Student is to receive special education supports and services in the general education setting in language arts and math for 30-40 minutes daily. There is no documentation the Student received 30 to 40 minutes of instruction daily in both language arts and math. Further, "30-40 minutes daily" is not specific, and the IEP contains no provision as to how it is determined, how many minutes per day the Student will receive supports and services for language arts and math, or who makes this determination. The IEP contained ambiguous language that resulted in misinterpretations and misunderstanding between the Complainant and the School. 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 parents and school personnel understand what services a student is to receive. As a result, a violation of 511 IAC 7-27-7(a) is found.
- 1b. Finding of Fact #4 indicates that the IEP does not call for services in the resource room. Finding of Fact #4 indicates that these decisions were made during the November meetings between the Complainant and the elementary special education supervisor. Since this service was not written into the Student's IEP, no violation of 511 IAC 7-27-7(b) is found. However, the School acknowledged that it agreed to provide the Student with services 3 days a week in the resource room to address math and reading goals. Article 7 does not provide for the creation of informal agreements pertaining to a Student's IEP. Under the current version of Article 7, there is no provision that would allow the Student's IEP to be amended without reconvening a CCC meeting. 511 IAC 7-27-4(c) states that a case conference committee shall develop, review, or revise an individualized education program for each student who is eligible for special education and related services. Therefore, the School had to reconvene a CCC meeting to discuss the changes to the Student's services.

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 to revise the Student's IEP for the 2007-2008 school year with specific attention to the inclusion of a clear statement of how the Student will receive services in language arts and math in the general education setting 30-40 minutes daily. The range of 30-40 minutes is not specific and provides a range of 30-40. Whenever a range is used, there has to be an objective measure to establish how it is determine, how many minutes a day are designated to each subject area, and who makes this determination. In addition, the CCC meeting should address and include in the Student's IEP the Student's additional support in the resource room recommended at the November 2006 informal meetings. Further, the CCC shall determine what compensatory service, if any, are necessary to make up for the time the Student did not receive services as agreed-upon at the November meeting. The School shall submit a copy of the CCC report and agreed-upon IEP (signed by the Complainant) **no later than September 7, 2007.**

Send a written memorandum to all relevant school administrators and special education personnel regarding compliance with 511 IAC 7-27-4(c) and the inability, under Article 7, to amend a Student's IEP without reconvening a CCC meeting. A copy of the memorandum and a list of all who receive it shall be submitted to the Division **no later than September 7, 2007.**