

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-214-2007
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: May 4, 2007
DATE OF REPORT: June 1, 2007
REQUEST FOR RECONSIDERATION: Yes/June 14, 2007 - Revised
DATE OF CLOSURE: November 7, 2007

COMPLAINT ISSUES:

Whether the Pike County School Corporation and the Gibson-Pike-Warrick Special Education Cooperative 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) implement the behavioral intervention plan (BIP); and
- (b) transition the student into middle school.

511 IAC 7-27-4(c)(3) by failing to utilize the case conference committee to review and revise the student's IEP, taking into consideration strategies, including positive behavioral interventions and supports, to address the student's behavior.¹

FINDINGS OF FACT:

1. The Student, 12 years old, is identified as a student with autism-spectrum disorder, and has been determined eligible for special education and related services.
2. The Student's IEP dated May 9, 2006, does not include a behavioral intervention plan (BIP). However, the IEP states under behavioral strategies that, "All of [the Student's] needs and behaviors are targeted through his current behavior plan." According to the IEP, the Behavior Specialist has performed a functional behavior assessment and unilaterally developed a daily behavior plan, but was not a participant in the case conference. A functional behavior assessment (FBA) is also not included in the IEP. The only item included with the IEP is a copy of a sample behavior management sheet which helps the teacher document whether and to what extent the Student is following the class rules applicable to all students.
3. At the beginning of the 2006-2007 school year, the Student was assigned to a new special education teacher (the "Teacher"). Documentation indicates that from August 17, 2006, to January 31, 2007, the Teacher consistently completed behavior management sheets to be sent home. It wasn't until September 26, 2006, that the Teacher was presented with a copy of the behavior plan developed by the Behavior Specialist. The completion of daily behavior management sheets is just one of the specific behavior strategies. The other strategies explain the reward system with the use of tokens for

¹ Although the complaint investigation originally included an issue involving the alleged violation of 511 IAC 7-27-7(b), it was determined during the course of the investigation that 511 IAC 7-27-4(c)(3) better reflects the facts herein.

supporting good behavior. There is no documentation indicating whether and to what extent the reward strategies were utilized during the course of the school year.

4. The School acknowledges that from February 2007, through May 9, 2007, the Teacher unilaterally decided to not complete and send home the behavior sheets and follow the BIP. The School states that this was so because the Student's behavior had improved and the Teacher no longer thought the BIP beneficial for the Student. Documentation shows that the BIP was reinstated on May 9, 2007, after this complaint was filed.
5. Both the Complainant and the School agree that at a case conference committee meeting in May 2006 ~~March 2007~~, and subsequently on April 18, 2007, a recommendation was made to start helping the Student transition to the middle school setting before the end of the 2006-2007 school year. Visits were to be set up at the middle school so the Student could meet school personnel and get familiar with the classroom environment. The case conference notes do not reflect this. There is no indication of a discussion regarding this topic. The IEP does not identify this or indicate any specifics about how or who would be making the necessary arrangements.
6. During the course of this investigation, the case conference committee convened on May 14, 2007. The case conference notes do describe the transition to the middle school setting in preparation for the 2007-2008 school year. Specifically, the Student's Life Skills Teacher is to take the Student out to the middle school one day per week for one hour for three to four times, and then ride the bus out to the middle school and stay all day for three to four days before the end of the 2006-2007 school year. The School states that the Student has visited the middle school on May 14, 16, and 18, for three hours each visit. However, there is no documentation indicating that this has occurred.

CONCLUSIONS:

1. Findings of Fact #3 and #4 indicate that the Student's BIP was not implemented during certain periods of the 2006-2007 school year. Even when the BIP was being implemented, documentation shows only that it was the behavior sheets that were completed and that other strategies may or may not have been utilized. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the BIP.
2. Finding of Fact #5 indicates that both parties acknowledge discussing helping the Student transition into the middle school setting before the end of the 2006-2007 school year, but that there is no record indicating what was discussed or decided. Specifics were added in the case conference notes dated May 14, 2007. The School failed to submit any documentation indicating that the Student has visited the middle school. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the School's failure to include specific notes about the topic in earlier case conference committee meetings in May 2006 ~~March~~ and April 2007, and then delaying action until May 14, 2007.
3. Finding of Fact #2 indicates that an FBA and a BIP were developed by the Behavior Specialist without input from the case conference committee. The FBA and BIP were not included with the IEP dated May 9, 2006. Finding of Fact #4 indicates that the Teacher stopped implementing the BIP. Any changes in the implementation of the Student's BIP or dealing with the Student's behavior should have been made by the Student's case conference committee. Therefore, a violation of 511 IAC 7-27-4(c)(3) 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 Pike County School Corporation and the Gibson-Pike-Warrick Special Education Cooperative shall:

Convene the Student's case conference committee meeting to review and revise the Student's BIP with the input from all the case conference committee participants. A copy of the case conference report and IEP shall be submitted to the Division no later than **September 7, 2007**.

Convene a meeting including the Student's assigned middle school teacher and all school personnel who will be working with the Student to review the Student's IEP/BIP and discuss how it will be implemented. The meeting participants shall also develop convenient ways of documenting that the Student's IEP is being implemented, especially in regard to the BIP. A copy of the meeting notes, agenda, sample documentation forms, and an attendance sheet shall be submitted to the Division no later than **September 7, 2007**.

Submit an assurance statement signed by the Director of Special Education stating that the School will address compliance with 511 IAC 7-27-7(a) with respect to the middle school visits. The assurance statement must indicate that in the future the School will document such activities to demonstrate discharge of responsibility contained in the Student's IEP. A copy of the assurance statement shall be sent to the Division no later than **September 7, 2007**.