Indiana Department of Education Division of Exceptional Learners

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	CP-217-2007
COMPLAINT INVESTIGATOR:	Brian Simkins
DATE OF COMPLAINT:	May 16, 2007
DATE OF REPORT:	June 15, 2007
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	September 24, 2007

COMPLAINT ISSUES:

Whether the Rush County Schools and the Centerville-Fayette-Rush 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) utilize the student's journal to reflect progress;
(b) utilize the identified assistive technology;
(c) provide nine-week progress reports; and
(d) address the student's goals and short-term objectives.

511 IAC 7-27-7(b) by failing to ensure that the teacher of record monitors the implementation of the student's IEP; provides technical assistance and consultation to personnel working with the student; and is responsible for all other activities identified in 511 IAC 7-17-72.

511 IAC 7-27-4(a)(2) by failing to convene the student's case conference committee within 12 months of the preceding case conference committee meeting.

511 IAC 7-27-3(a)(3) by failing to ensure that the case conference committee participants include one of the student's general education teachers.

511 IAC 7-22-1(d)(2) by failing to provide a copy of the notice of procedural safeguards to the parent at the time of notification of a case conference committee meeting.

FINDINGS OF FACT:

1. The Student, 17 years old, is identified as a student with a severe mental disability, and has been determined eligible for special education and related services.

2. Case conference notes dated April 4, 2006 indicate that the Complainant is to be updated on the Student's progress toward the IEP goals and objectives by utilizing the Student's daily journal. The School did not submit documentation indicating whether and to what extent the daily journal was completed by the Teacher of Record (TOR). Documentation submitted from the Complainant indicates consistent written communication from the TOR, but rather than documenting progress on the goals and short-term objectives, the communication is more of an update on what the Student did in class on any given day.

3. In response to concerns voiced by the Complainant related to the use of the daily journal to report on progress, a case conference committee meeting was convened on May 1, 2007. At this case conference, it was agreed that the format of reporting progress would change from logging in a journal to use of IEP goal sheets sent home daily that would highlight goals and short-term objectives during a school day.

4. The IEP dated April 4, 2006 indicates that the Student is to utilize a “Mini Mo” device which allows the Student to make comments and utilize communication and receptive skills. It is also used, according to the IEP, to help the Student determine appropriate/inappropriate usage of words and learn functional vocabulary. The School cannot document whether and to what extent this assistive technology device was used.

5. In response to concerns voiced by the Complainant related to the utilization of assistive technology, a case conference committee meeting was convened on May 1, 2007. At this case conference, it was agreed that a daily log of the Student’s use of the Mini Mo will be completed and include a log of key words and phrases.

6. The Complainant specifically alleges that the School has not addressed the Student’s vocabulary short-term objective and a 911 usage objective that are in the IEP dated April 4, 2006. The School acknowledges that these goals were not addressed during the 2006-2007 school year. These goals were discussed at the case conference committee meeting held on May 1, 2007. However, the IEP does not address whether and to what extent more will be done to make up for the lost time or to ensure that the goals will be addressed in the 2007-2008 school year.

7. The School acknowledges that the TOR did not consistently utilize the Student’s daily journal to monitor the Student’s progress toward the IEP goals. In addition, the School acknowledges that the TOR did not send home to the Complainant the Student’s nine-week progress reports during the 2006-2007 school year in accordance with the IEP dated April 4, 2006.

8. The School cannot document whether and to what extent the TOR has provided technical assistance and consultation to personnel working with the Student. The School acknowledges that the TOR was to conduct an inservice with staff to address the Student’s health plan with respect to seizures, behavior intervention strategies specific to the Student, and provide updates on assistive technology. Documentation indicates that the seizure inservice was conducted on August 23, 2006. Updates on assistive technology have not been done since December 2005. There is no other documentation indicating that the TOR has consulted with the teachers, education assistants, and related service personnel who work with the Student.

9. In the letter of response to the Complaint Investigator dated May 30, 2007, the School states that the TOR failed to ensure that the Student’s IEP is accessible to each of the Student’s teachers, related service providers and other personnel who are responsible for the implementation of the IEP. The School also states that the TOR failed to ensure the supplementary aides and services, program modifications, and supports for school personnel are provided in accordance with the IEP. The letter also indicates that an “improvement plan” for the TOR is being developed by the Superintendent to address the TOR’s failure to follow Article 7.

10. The School acknowledges that more than 12 months had elapsed since the preceding case conference committee meeting had been held. The case conference committee convened on April 4, 2006, and then again on May 1, 2007.

11. The School acknowledges that a general education teacher was not in attendance at the case conference committee meeting held on May 1, 2007.

12. The School acknowledges that the Complainant did not receive a copy of the notice of procedural safeguards with the notification of the case conference committee meeting held on May 1, 2007.

CONCLUSIONS:

1. Findings of Fact #2 through #7 address whether and to what extent the School implemented the Student's IEP, specifically:
   (a) Finding of Fact #2 indicates that the TOR consistently updated the Student's daily journal, but did not reflect Student progress toward the IEP goals and objectives. Finding of Fact #3 indicates that the case conference committee on May 1, 2007 determined more specifically how the daily journal is to be utilized in order to indicate progress;
   (b) Finding of Fact #4 indicates that the School cannot document whether and to what extent the Student's assistive technology device was utilized. Finding of Fact #5 indicates that the case conference committee on May 1, 2007 addressed this issue and developed a log form for documentation of the use of the assistive technology device;
   (c) Finding of Fact #7 indicates that the School did not provide the Complainant with the required nine-week report cards; and
   (d) Finding of Fact #6 indicates that the School did not address the short-term objective related to vocabulary and another short-term objective related to 911 usage.

   Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to: utilizing the daily journal to report progress; utilizing the Student's assistive technology device; providing progress reports; and addressing goals and short-term objectives.

2. Findings of Fact #7 through #9 indicate that the TOR has failed to ensure that the implementation of the Student's IEP has been monitored; that technical assistance and consultation to other personnel working with the Student has not been provided; and that many of the responsibilities identified in 511 IAC 7-17-72 have not been followed. Therefore, a violation of 511 IAC 7-27-7(b) is found.

3. Finding of Fact #10 indicates that the School failed to convene the Student's case conference committee within 12 months of the preceding case conference. Therefore, a violation of 511 IAC 7-27-4(a)(2) is found.

4. Finding of Fact #11 indicates that the School failed to ensure that at least one of the Student's general education teachers participated in the case conference committee meeting held on May 1, 2007. Therefore, a violation of 511 IAC 7-27-3(a)(4) is found.

5. Finding of Fact #12 indicates that the School failed to provide a copy of the notice of procedural safeguards to the Complainant upon notification of the case conference committee meeting held on May 1, 2007. Therefore, a violation of 511 IAC 7-22-1(d)(2) 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 Rush County Schools and the East Central Indiana Special Services shall:

Convene the case conference committee to address whether and to what extent the Student shall receive compensatory services with respect to progressing towards the short-term objectives, including ones involving the use of the Mini Mo. A copy of the case conference report and IEP shall be submitted to the Division no later than **September 14, 2007.**

Conduct an inservice including all teachers of record (Student's school only) and other special education personnel that will address compliance with 511 IAC 7-27-7(b) and 511 IAC 7-17-72. A copy of the agenda, attendance sheet, notes, and any handouts or materials shall be submitted to the Division no later than **September 14, 2007.**

Submit copies of the Student's daily journal (five school days) updating progress toward the goals and short-term objectives. The journal pages must be signed by the Teacher of Record and be submitted to the Division no later than **September 14, 2007.**

Submit copies of the Mini Mo (five school days) usage log. The log must indicate specifically what was accomplished and be signed by the Teacher of Record. The log pages shall be submitted to the Division no later than **September 14, 2007.**

Submit an assurance statement, signed by the Director of Special Education, stating that the School will comply with 511 IAC 7-27-7(a), specifically by ensuring that the Complainant receives a copy of all progress reports for each nine week period of the 2007-2008 school year. A copy of the assurance statement shall be sent to the Division no later than **September 14, 2007.**

Send a memorandum to all school personnel addressing compliance with 511 IAC 7-27-4(a)(2), 511 IAC 7-27-3(a)(4), and 511 IAC 7-22-1(d)(2). A copy of the memorandum and a list of all personnel who receive it shall be submitted to the Division no later than **September 14, 2007.**