

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: CP-224-2007  
COMPLAINT INVESTIGATOR: Sharon Knoth  
DATE OF COMPLAINT: May 29, 2007  
DATE OF REPORT: June 27, 2007  
REQUEST FOR RECONSIDERATION: no  
DATE OF CLOSURE: October 12, 2007

**COMPLAINT ISSUES:**

The specific issues of the complaint are whether the Tipton Community School Corporation and the Kokomo Area Special Education Cooperative violated:

511 IAC 7-27-7 with regard to implementing the student's individualized education program (IEP) as it was written for the 2006-2007 school year<sup>1</sup>;

511 IAC 7-26-12(c) with regard to the provision of specialized, student-specific inservice training; and

511 IAC 7-27-11 with regard to the provision of homebound instruction to the student and whether the special education and related services have been provided by appropriately licensed personnel.

**FINDINGS OF FACT:**

1. The Student is a 3<sup>rd</sup> grade male with a primary exceptionality area of other health impairment (OHI) and a secondary area of communication disorder (CD). The IEP developed on May 22, 2006 stated that the least restrictive environment for the Student was a shortened instructional day supplemented with homebound instruction (due to the Student missing 70 days of instruction during the 2005-2006 school year). The case conference committee report (the Report) stated the Student would receive a shortened instructional day for the remainder of the 2005-2006 school year along with 3 hours per week of homebound instruction, 30 minutes per week of occupational therapy (OT) and speech therapy on a two 20-minute sessions every 6 days rotation.
2. The May 22, 2006 Report states that the president of the United Mitochondrial Disease Foundation provided a "comprehensive, easy to understand overview" of mitochondria and its effect on bodily functions. The notes state that students (peers) and staff were in attendance for this training (overview) and that several booklets about this disease were provided to the staff working with the Student.

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<sup>1</sup> In speaking with the complainant, the issue of 511 IAC 7-27-6(a)(7) was clarified further. The issue was deleted and added to the second citation (511 IAC 7-27-7) which was modified to include whether the complainants received feedback on the assignments that were completed by the Student during his homebound instruction. The original issue was further modified during the course of the investigation as to whether touch point math and earobics<sup>®</sup> were specified in the IEP and provided by the school. Furthermore, an additional issue was added: whether student-specific specialized inservice training was provided for the staff working with the Student. Therefore an additional citation of 511 IAC 7-26-12(c) was added to the final complaint report.

3. The IEP that was in effect for the beginning of the 2006-2007 school year (dated October 25, 2006) states that goals and objectives will be reviewed for progress on January 11, March 16, and May 24, 2007 as well as during the annual case review (ACR) conference.
4. The Complainant stated that when the school year began the ToR used a notebook to send regular updates to the home regarding the Student's progress. When the homebound instruction began that communication method was discontinued. The Complainant stated that the teachers who provided the homebound instruction would take the worksheets back to the ToR for grading and that the Complainants did not get feedback regarding how the Student was doing.
5. There are two academic goals (one for Mathematics and one for Reading/Language Arts) stated in the October 25, 2006 IEP. The section of the IEP headed *Rating of Progress* provides space for the teacher to notate the date on which progress is sent home to the parent. Under the category titled *Evaluation Procedures* the IEP form has an option of "**J. Daily Logs**" but it is not selected for any of the benchmarks listed in the October 25, 2006 IEP.
6. Under *Rating of Progress*, the October 25, 2006 IEP contains updated notations for progress reports that were dated as being sent to the parents on January 11, March 16, and May 24, 2007. These updated notations of progress indicated that the Student had mastered or achieved progress on all benchmarks for both the English/Language Arts and Mathematics goal. The Complainant acknowledged that he had received those reports of progress (copies of the goal page) but that the specific complaint was the lack of the daily or weekly progress notes on the Student when he was moved to homebound. The Student's IEP that was in effect for the 2006-2007 school year does not specify that a progress notebook (or other system of ongoing communication) will be sent back and forth between home and school.
7. The Complainants state that they had questioned the School regarding whether the staff working with the Student had received inservice training to discuss the Student's unique medical needs. The Complainants also had concerns that homebound instructor B was not provided with any lesson plans to help guide her work with the Student. The Complainants state that they want everyone working with the Student to be able to read and follow the IEP and that all involved with the Student receive the training materials to help understand the Student's disability.
8. The ToR is licensed in the area of mild interventions (which covers the exceptionality areas of orthopedic impairment, emotional disability, learning disability, mild mental disability, moderate mental disability, autism spectrum disorder, traumatic brain injury, and other health impairment). The teacher who began providing homebound instruction to the Student (homebound instructor A) is licensed in general elementary, kindergarten and nursery school. Homebound instructor A attended homebound sessions on "approximately four different occasions along with [homebound instructor B]". Beginning in February 2007 homebound instructor A worked with the ToR to oversee the implementation of the Student's IEP by homebound instructor B.
9. Homebound instructor B completed a bachelor degree program with an elementary education major. Homebound instructor B held a general education teaching license for grades 1 through 6 that expired in 1995.
10. The Complainants expressed concern that the Student was not getting very much math homework and questioned whether the work being sent home incorporated the use of touch math as specified in the Student's IEP. The Complainants expressed concern about the failure to use earobics<sup>®</sup> and the lack of availability of the mitochondrial training booklets and materials that were provided during the October 25, 2006 IEP meeting. The Complainants questioned whether the staff working with the Student had been provided access to the training booklets.

11. Touch point math is a multisensory process that teaches the student to see a number with dots or points superimposed on the number. The dots or points are used by the student to count off the given number of points (when subtracting) or count up the given number of points (when adding).
12. The School did not provide any documentation regarding student-specific training for all staff working with the student (including the homebound instructors) nor documentation that the staff working with the Student had been provided with copies of the mitochondrial training booklets. The October 25, 2006 IEP states that touch math “will be used to supplement math concepts being taught” but does not contain any reference to earobics<sup>®</sup>. On the *Adaptations and Modifications* page, the October 19, 2005 IEP states that touch math “will be used” but does not contain any reference to earobics<sup>®</sup>. The School did not provide any additional documentation of how touch math was used with the student but did provide a copy of a math worksheet the student had completed.
13. On January 30, 2007 the Student’s case conference committee was reconvened to “consider a change of placement from day school to homebound.” The notes from the conference indicate that goals and objectives were reviewed at that meeting. The placement determined at this meeting was two hours of homebound instruction for 4 days each week. Notes list the ToR as a teacher licensed for working with students with a mild mental disability and state that if the Student is too weak to receive homebound instruction the parents will call the School and tell the teacher not to come to the home and that these times will not be ‘made up’. The notes further state that if the homebound teacher is unable to attend a session, the School will notify the family and the time will be ‘made up’. The notes from the meeting state that although the “goals and objectives remain appropriate,” at the parent’s request the goal of mastering the subtraction of numbers 0 – 10 was added. Homebound was determined to be instructional in nature with OT and speech ‘suspended’ during homebound instruction.

## CONCLUSIONS:

1. A. Findings of Fact #3, #5, and #6 indicate that the parents were informed of the Student’s progress on the same schedule as all other parents (coinciding with quarterly report cards). Finding of Fact #4 indicates that a more frequent schedule of providing updates to the parents was used for part of the 2006-2007 school year but Finding of Fact #5 indicates that this was not a requirement of the Student’s IEP. Article 7 [at 511 IAC 7-27-6(a)(7)(B)] requires that parents are regularly informed “at least as often as parents are informed of their nondisabled students’ progress”. The IEPs submitted by the School contained information not only as to how often the parents would be informed but also who would be responsible for informing the parents of the Student’s progress on the goals. Therefore, no violation of 511 IAC 7-27-6(a)(7) is found.
 

B. Findings of Fact #10 and #12 indicate that the special education services delineated in the various IEPs in effect during the 2006-2007 school year were provided. There was disagreement over the provision of specialized *Adaptations and Modifications* that were listed in the 2005-2006 IEP and the 2006-2007 IEP (specifically the use of touch point math and earobics<sup>®</sup>). As indicated in Finding of Fact #12 the implementation of touch point math for the 2006-2007 school year was ‘to supplement math concepts being taught’ and earobics<sup>®</sup> was not mentioned. There was no specificity as to what was inferred by ‘supplement’. The School provided minimal documentation to how the touch point math was to be provided which resulted in misinterpretations and misunderstandings. An IEP should be written so that all parties involved, including the parents, fully understand what is to occur. Therefore, although no violation of 511 IAC 7-27-7 is found with regard to the use of earobics<sup>®</sup>; it is inconclusive as to whether a violation of 511 IAC 7-27-7 has occurred with regard to the use of touch math.
2. Findings of Fact#1, #7 and #12 indicate that the Student is a student with an Other Health Impairment necessitating specialized inservice training for all “[p]rofessional and paraprofessional staff serving” the

Student including the providers of his homebound services. Although Finding of Fact #2 states that materials were provided to staff working with the Student, there is no documentation substantiating that the specialized student-specific training required by Article 7 took place. Therefore, a violation of 511 IAC 7-26-12(c) is found.

3. Findings of Fact #6, #7, and #11 indicate that homebound instruction was provided and Findings of Fact #1 and #10 indicate that the Student's case conference committee (of which the parents were a part) agreed that the homebound instruction would only be academic in nature. The IEP also states that speech services and occupational therapy would not be provided during times of homebound instruction. Therefore, no violation of 511 IAC 7-27-11 is found with regard to the provision of homebound services. However, under 511 IAC 7-21-2 (Article 7) it states that "All personnel employed or contracted by a public agency to provide or supervise the provision of special education or related services shall be appropriately licensed or certified to provide the services for which the individual is employed or contracted in accordance with standards established by the Indiana professional standards board or other applicable licensing and certification bodies." Although the ToR who developed the IEP and oversaw the provision of the homebound services was licensed to provide educational services to a child who has an Other Health Impairment; neither homebound instructor A nor homebound instructor B were. Furthermore, homebound instructor B does not hold a current license to provide any educational services and would be comparable to a paraprofessional providing educational services. A paraprofessional may only reinforce instruction that has already been directly provided by a licensed teacher and must remain under the direct supervision of the licensed teacher who is responsible for overseeing and supervising the services from the paraprofessional. Therefore, a violation of 511 IAC 7-27-10 is found.

#### **CORRECTIVE ACTION:**

1. The Indiana Department of Education, Division of Exceptional Learners (the Division) requires the Tipton Community School Corporation and the Kokomo Area Special Education Cooperative to conduct specialized inservice training for all professional and paraprofessional staff who will be working with the Student for the 2007-2008 school year. This inservice training shall be for all staff that will work with him at that time and must cover how the Other Health Impairment is manifested in and the specific educational needs of this Student. The Complainants (the Student's parents) must be consulted to provide input on the specific health needs of the Student to include in this training. Documentation of the Complainant's input and of the actual training, including copies of or references to training materials and copies of sign-in sheets of attendance shall be provided to the Division no later than September 1, 2007.
2. The Indiana Department of Education, Division of Exceptional Learners (the Division) requires the Tipton Community School Corporation and the Kokomo Area Special Education Cooperative to cease the practice of employing non-licensed personnel to provide unsupervised educational services for students with disabilities. A case conference committee meeting must take place within the next 40 calendar days to discuss the educational services to be provided to this Student by an individual who is "appropriately licensed or certified to provide the services for which the individual is employed or contracted". In this case it would be an individual licensed to provide educational services to a 3<sup>rd</sup> grade child who has an Other Health Impairment. The case conference committee shall also discuss whether compensatory educational services are necessary to compensate for the failure of the School to provide educational services by a licensed teacher. Documentation that this meeting has been scheduled shall be provided to the Division no later than July 31, 2007. Documentation that the case conference committee has convened shall be provided to the Division no later than August 10, 2007. At a minimum, the required documentation shall include the following:

- a. A copy of the Notice of Case Conference Committee Meeting;
- b. A copy of the Case Conference Committee report;
- c. A copy of the individualized education program developed during the meeting including how the parents will be kept informed of the Student's progress, any *Adaptations and Modifications* determined necessary for the Student, and how any *Adaptations and Modifications* determined necessary will be provided for the Student;
- d. A signed statement by all in attendance of the name and title of the individual(s) who will be providing the educational services decided upon including the compensatory or homebound services to be provided (if any); and
- e. A copy of the current teaching license for individual(s) named at subsection 2(d) (if applicable).