

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-228-2007
COMPLAINT INVESTIGATOR: Tara Rinehart
DATE OF COMPLAINT: May 31, 2007
DATE OF REPORT: July 9, 2007
REQUEST FOR RECONSIDERATION: Yes/August 8, 2007 - Revised
DATE CLOSED: December 17, 2007

COMPLAINT ISSUES:

Whether the Hamilton Southeastern School Corporation and the Hamilton-Boone-Madison Special Services Cooperative violated:

511 IAC 7-27-7(c)(3) by failing to provide special education services identified in the agreed-upon individualized education program immediately upon enrollment from another district within the state.

511 IAC 7-27-4(a)(5) by failing to convene a case conference committee meeting within ten (10) instructional days of the enrollment date of a student who has been receiving special education in another district within the state.

During the course of the investigation, an additional issue came to light: whether the Hamilton Southeastern School Corporation and the Hamilton-Boone-Madison Special Services Cooperative violated 511 IAC 7-25-1 with regard to a provision of a free appropriate public education to the Student.

FINDINGS OF FACT:

1. The Student is in the eighth grade and is 14 years old. He is eligible for special education and related services as a Student with an Emotional Disability.
2. At the beginning of the school year 2006-2007, the Student was enrolled in the MSD of Lawrence Township (School Corporation A). Pursuant to the Student's Individualized Education Plan (IEP) from School Corporation A dated July 7, 2006, the student was placed in a private residential facility.
3. In a letter dated January 16, 2007 from School Corporation A to the Complainant, the School notified the Complainant that the Student would be discharged from the private residential facility in February 2007. At this time, School Corporation A requested permission from Complainant to apply for another residential setting. Complainant indicated to School Corporation A that she would not sign permission for them to apply for a more secure residential facility. In a letter dated January 16, 2007, the Special Education Director for School Corporation A indicated that they would communicate with the private residential facility to extend his stay until the application process occurs. In addition, the letter also indicated that the Student would "not be allowed to enroll at this time in any Lawrence Township School."
4. In a letter dated February 8, 2007, the consulting psychiatrist for the private residential facility stated "that [the Student] is in need of intense behavior modification and requires a more secure setting." In addition, the private residential facility recommended the Student "be placed in long term psychiatric

hospital care in an in-patient setting.”

5. The Complainant indicated that she moved into Hamilton Southeastern Schools (School Corporation B) on February 24, 2007. On or about March 12, 2007, the Complainant notified School Corporation B that the Student had moved into their jurisdiction. School Corporation A was unable to secure a new placement prior to the time the Student initiated enrollment at School Corporation B. No new IEP was developed by School Corporation A.
6. According to a counselor note on March 12, 2007, the school counselor contacted the Complainant about registering the Student in School Corporation B.
7. The local director of special education for School Corporation B enrolled the Student on March 26, 2007.
8. The Complainant alleged that School Corporation B failed to convene a Case Conference Committee Meeting (CCC) within ten instructional days of the student's enrollment. A Letter of Notification of CCC to schedule a meeting for March 28, 2007 was sent to the Complainant from School Corporation B.
9. The scheduled CCC meeting was then rescheduled due to a death in the family of the special education director for School Corporation B and an intervening spring break (March 30 through April 6, 2007). A Letter of Notification of CCC from School Corporation B to Complainant dated March 28, 2007 was sent to reschedule the CCC with a new meeting date of April 20, 2007.
10. A CCC was convened on April 20, 2007 and an IEP was developed for the Student. The CCC notes indicated that until an appropriate residential facility is found, School Corporation B would address the academic goals that were in the IEP of School Corporation A through homebound services while continuing to locate an appropriate residential facility. Transportation would be provided by School Corporation B to and from the setting. School Corporation B acknowledged that the CCC was not scheduled within the requisite ten instructional day deadline and considered this an interruption in services. To compensate, School Corporation B offered compensatory homebound services. School Corporation B would provide 10 extra hours of make-up homebound services. Due to the Student's aggressive behaviors, School Corporation B proposed that all homebound services would be held at Hamilton County Juvenile Services Center. The Complainant disagreed and did not give permission for placement or for School Corporation B to seek options for a new residential facility for the Student. The Complainant did not provide consent for School Corporation B to share the Student' educational records with potential providers.
11. At the conclusion of the CCC on April 20, 2007, the Complainant was informed that she must complete the School's enrollment intake form. This was accomplished on April 22, 2007.
12. School Corporation B met with the Complainant on June 25, 2007, ~~and received a signature for a release of information for a private residential facility.~~ The Complainant provided consent for School Corporation B to apply to a Day School/Day Treatment program and to share information with BehaviorCorp and Children's Resource Group. The Complainant did not give consent for School Corporation B to share information with private residential facilities. The Complainant signed the release for an independent evaluation, and School Corporation B has scheduled to reconvene the CCC the first week of August, 2007. However, the Complainant did not give permission for the homebound services to begin therefore since the Student's withdrawal from the private residential facility in February 2007; he has not received any educational services.

CONCLUSIONS:

1. Findings of Fact #5 through #11 indicate that School Corporation B did not provide special education services to the Student immediately upon his enrollment. This issue was complicated by the fact that School Corporation A was unable to secure a new residential facility prior to the time the Student enrolled in School Corporation B. Finding of Fact #10 indicates that an IEP was developed to address the Student's academic goals pending location of a new residential facility. However, the Complainant did not agree to the placement nor did she provide permission for the Student's educational records to be shared. As a consequence, the IEP from School Corporation A continued to be in effect. Although School Corporation B failed to implement the Student's current IEP immediately upon enrollment, compensatory services were offered. Finding of Fact #12 indicates that School Corporation B met with the Complainant a CCC was reconvened on June 25, 2007 and the Complainant gave permission for the release of information to seek a Day School/Day Treatment program for the Student and to share information with BehaviorCorp and Children's Resource Group. ~~residential placement;~~ However, the Complainant still refused to sign permission for services to begin and therefore the Student has not received a free appropriate public education. The Complainant and the School acknowledge that a CCC will reconvene the first week of August, 2007 to determine the appropriate placement of the Student. Therefore, a technical violation of 511 IAC 7-27-7(c)(3) is found. However, if the CCC cannot agree on an appropriate program or educational placement, then resolution must be sought through the due process procedures at 511 IAC 7-30-1 (mediation) or 511 IAC 7-30-3 (due process hearing).
2. Finding of Fact #7 indicates that the Student was enrolled in School Corporation B on March 26, 2007. Findings of Fact #8 and #9 indicate that a CCC was scheduled to occur on March 28, 2007; however, the meeting was cancelled and rescheduled for April 20, 2007. Finding of Fact #10 states that School Corporation B acknowledged that it failed to convene a CCC meeting within the requisite ten instructional day deadline and offered compensatory homebound services for the delayed timeframe. ~~However, Findings of Fact #10 and #12 indicate the Complainant disagrees with the proposed compensatory services.~~ Therefore, a violation of 511 IAC 7-27-4(a)(5) is found.
3. Finding of Fact #12 indicates that the Student has not received any educational services since February 2007 and Finding of Fact #1 shows the Student is of compulsory school age. When a school is unable to secure parental permission, there are other due process avenues that should be pursued. The School did not make attempts to remedy this situation. Therefore a violation of 511 IAC 7-25-1 has occurred.

CORRECTIVE ACTION:

The Hamilton Southeastern Schools and the Hamilton-Boone-Madison Special Services Cooperative shall convene a case conference committee meeting for this Student. This meeting must take place within the next 35 calendar days to discuss the educational services to be provided to this Student. The case conference committee shall also discuss whether compensatory educational services are still necessary to compensate for the failure of the School to provide any educational services to this Student since his withdrawal from the previous residential facility. Documentation that this meeting has been scheduled shall be provided to the Division no later than August 5, 2007. Documentation that the case conference committee has convened shall be provided to the Division no later than August 17, 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;

- d. A signed permission for placement indicating agreement by all parties to the services described in the IEP or if agreement cannot be reached documentation of what efforts will be undertaken by School Corporation B to ensure the Student receives a free appropriate public education; and
- e. An anecdotal log of the steps the School Corporation B has taken to locate a residential placement facility for the Student.