

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-229-2007
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: June 4, 2007
DATE OF REPORT: July 3, 2007
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: November 7, 2007

COMPLAINT ISSUES:

Whether the Mississinewa Community School Corporation and the Grant County 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 not providing weekly progress reports.

511 IAC 7-27-7(b) by failing to ensure that the teacher of record monitors the implementation of the student's IEP, specifically with regard to the student's medical needs.

511 IAC 7-27-7(a) by failing to implement the student's IEP as written, specifically by failing to provide homebound instruction.¹

511 IAC 7-27-5(c) by failing to provide the parent with a copy of the written case conference committee report dated May 14, 2007.

During the course of this investigation the following issue was added:

511 IAC 7-26-12(c) by failing to provide specialized inservice training to personnel working with the student.

FINDINGS OF FACT:

1. The Student, 7 years old, is identified as other health impaired, and has been determined eligible for special education and related services.
2. Neither the IEP dated May 19, 2006, nor the subsequent revised IEPs identify the provision of weekly progress reports. However, the case conference notes dated November 27, 2006 indicate that it was suggested that the Teacher will note anything unusual about the Student's behavior (with respect to certain medical symptoms) and that the Teacher will maintain a weekly sheet noting any minor behavior changes. The notes do not state that the Teacher is required to submit copies of the weekly sheets to the Complainant.

¹ During the course of this investigation it was determined that 511 IAC 7-27-11 did not reflect the facts herein and was replaced with 511 IAC 7-27-7(a).

3. The Student has many medical needs. The Student's medical condition often precludes the Student from attending school on a regular basis and requires close supervision of medical needs while at school. Medical concerns were addressed at the case conference committee meeting on November 27, 2006. The IEP includes more information about the Student's medical issues and includes a seizure plan. The School cannot document whether and to what extent the Teacher of Record has monitored the implementation of the IEP or provided consultation or technical assistance to other school personnel working with the Student. The School also cannot document whether school personnel working with the Student have received specialized inservice training regarding the Student's unique needs.
4. On April 30, 2007, the case conference committee convened. The Complainant requested to change the Student's placement to a homebound placement. The Complainant submitted a statement from the Student's physician recommending homebound services. The case conference notes indicate that the School did not agree with the recommendation. However, the case conference committee agreed to place the Student in a homebound setting for the remainder of the school year until the case conference committee can reconvene in August 2007. The case conference agreed to 10 hours a week of homebound. The IEP does not specify who would provide the homebound services, where, and when. The Complainant signed the IEP in agreement.
5. On May 2, 2007, an assigned homebound teacher came to the Student's home to provide homebound instruction. Arrangements were made and a schedule determined. Homebound instruction would be provided from 4:00 p.m. to 6:00 p.m. on school days for the rest of the 2006-2007 school year. By the next day, May 3, 2007, homebound instruction in the Student's home ceased. The School states that its unwritten policy is not to have personnel provide instruction in the home unless a student's medical condition precludes attendance at a neutral site. The Student had been attending school on a partial school day schedule that included 1.5 to 2 hours in the morning in a resource room setting at school and then "homebound" in a neutral setting for 2 to 2.5 hours as tolerated in the afternoons at a nearby middle school.
6. The case conference convened on May 14, 2007. The Student had not received any instruction since homebound was provided on May 2, 2007. The Complainant does not agree with the case conference committee's recommendation to provide homebound instruction at an agreed upon neutral setting. The School acknowledges that the Complainant did not receive a copy of the written case conference report dated May 14, 2007 until 15 business days had elapsed.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School did not fail to implement the Student's IEP by failing to provide weekly progress reports to the Complainant. The Student's IEP does not contain such a requirement. Therefore, a violation of 511 IAC 7-27-7(a) is not found.
2. Finding of Fact #3 indicates that the School cannot document whether and to what extent the Teacher of Record monitored the Student's IEP and provided technical assistance and consultation to staff working with the Student with respect to the Student's unique medical needs. Therefore, a violation of 511 IAC 7-27-7(b) is found.
3. Findings of Fact #5 and #6 indicate that the School failed to provide homebound instruction to the Student as the case conference committee agreed on April 30, 2007. Finding of Fact #4 indicates that the School ceased providing homebound instruction in the Student's home after one day because the School did not agree that the Student's medical condition was such that it precluded the Student from receiving homebound instruction at a neutral site. This, the School states, is in accordance with its

policy. The Student went the remainder of the school year without homebound instruction. Therefore, a violation of 511 IAC 7-27-7(a) is found.

4. Finding of Fact #6 indicates that the School failed to mail a copy of the written case conference report dated May 14, 2007 within 10 business days. Therefore, a violation of 511 IAC 7-27-5(c) is found.
5. Finding of Fact #3 indicates that the School cannot document whether and to what extent specialized inservice training has been provided to school personnel working with the Student. Therefore, a violation of 511 IAC 7-26-12(c) 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 Mississinewa Community School Corporation and the Grant County Special Education Cooperative shall:

Convene the case conference committee and determine the Student's placement and services. The case conference committee shall also determine the amount of compensatory services the Student will receive as a result of not receiving homebound instruction the remaining four weeks of the 2006-2007 school year. A copy of the case conference report and IEP shall be submitted to the Division no later than **August 31, 2007**. If the case conference committee cannot agree, 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).

Conduct a specialized inservice training to all school personnel (including, for example, the school nurse) working with the Student about the Student's unique medical needs. The Teacher of Record shall be included. A copy of the agenda, attendance sheet, notes, and materials shall be submitted to the Division no later than **August 31, 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(b) in future inservice trainings with all teachers of record. A copy of the assurance statement shall be sent to the Division no later than **August 31, 2007**.

Send a memorandum to all case conference committee chairpersons and special education office support staff regarding compliance with 511 IAC 7-27-5(c). A copy of the memorandum and a list of all who receive it shall be submitted to the Division no later than **August 31, 2007**.