

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	CP-261-2008
COMPLAINT INVESTIGATOR:	Bobbie Ritz
DATE OF COMPLAINT:	September 21, 2007
DATE OF REPORT:	October 19, 2007
REQUEST FOR RECONSIDERATION:	N/A
DATE OF CLOSURE:	February 6, 2008

**COMPLAINT ISSUES:**

Whether the Westview School Corporation and the Northeast Indiana 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 provide accommodations.

**FINDINGS OF FACT:**

1. The Student, 15 years old, is identified as a student with a learning disability, and has been determined eligible for special education and related services.
2. The Student's IEP dated March 27, 2007 and September 21, 2007, listed the following accommodations:
  - a. Student is provided extended testing time for each test session (e.g., 50% more time, double time).
  - b. Additional breaks between tests, if necessary.
  - c. Student has access to a calculator – but still will show his or her work for a given problem.
  - d. Student uses word processor/electronic Braille writer (without access to spell check or grammar check).
  - e. Student is allowed to circle the answers to questions rather than “bubble” them: answers are bubbled in by another.
  - f. Student is provided preferential seating.
  - g. Student is tested in small group setting.
  - h. May choose to leave classroom to take tests and quizzes in a quieter place free from distraction.
  - i. A staff member will sit with the Student during her supported study hall and go over the day's assignments as the Student makes sure they are written in her assignment book. The goal will be to eventually wean the Student from this so that she can monitor her own homework and keep her assignment book up to date.
  - j. Textbook copies and other materials provided for home.
  - k. Use chunking for memorization.
  - l. Use word banks. Spelling should not count against her in subject area assessments.
  - m. Email lesson plans home to parents.
  - n. Reduce choices on multiple choice exams (reduce distractions).
3. In the School's letter of response, the School acknowledged that three of the fourteen accommodations in the March 27, 2007 IEP were not being fully implemented. However, the School failed to provide documentation regarding the implementation of any of the accommodations.

4. The School acknowledged that despite the meetings between the Teacher of Record and the classroom teachers prior to the first day of school to review IEP accommodations, "several teachers misunderstood the requirements of the IEP and thought some of the accommodations were only required if need for it was seen in the classroom." Additionally, the IEP was not specific as to how and to what extent the Student's accommodations would be implemented. For example, the accommodation "use chunking for memorization" was not clearly defined as to how and to what extent this accommodation would be used with the Student.
5. The Complainant indicated in a phone conversation to the complaint investigator on October 18, 2007, that the accommodations for the Student are being implemented at this time.

#### **CONCLUSIONS:**

1. Finding of Fact # 3 indicates the School failed to implement the Student's IEP as written, specifically by failing to provide accommodations. In addition, Finding of Fact #4 indicates the IEP was ambiguous in that it resulted in misinterpretations and misunderstandings as to how and to what extent the Student's accommodations should be implemented. Where ambiguity exists in an IEP, the ambiguity will be construed against the school that is responsible for its development and implementation. Therefore, a violation of 511 IAC 7-27-7(a) 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 Westview School Corporation and Northeast Indiana Special Education Cooperative shall:

1. Convene a meeting with the appropriate school personnel to develop a system (e.g., chart or log book) for documenting the implementation of the Student's accommodations. The School shall provide a copy of the documentation system along with an explanation as to how it will be utilized, copy of the meeting minutes, and a list of the participants with signatures confirming attendance and identified by name and title **no later than Tuesday, November 20, 2007.**
2. Convene a CCC meeting **no later than Friday, November 9, 2007.** The CCC will review and revise the Student's IEP with specific attention to clear statements of how and to what extent the Student's accommodations will be implemented. The School shall submit a copy of the CCC report and agreed upon IEP to the Division no later than **Tuesday, November 20, 2007.**
3. Provide in-service training to all teachers regarding their responsibilities of implementing students' IEPs as written pursuant to 511 IAC 7-27-7(a). The School shall provide a copy of the in-service agenda, hand-outs or other materials provided to the in-service participants, name(s) and title(s) of the presenter(s), and a list of participants with signatures confirming attendance **no later than Tuesday, November 20, 2007.**