

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: CP-268-2008  
COMPLAINT INVESTIGATOR: Kylee Bassett  
DATE OF COMPLAINT: September 27, 2007  
DATE OF REPORT: October 24, 2007  
REQUEST FOR RECONSIDERATION: Yes/November 21, 2007 - Revised  
DATE OF CLOSURE: November 29, 2007

**COMPLAINT ISSUES:**

Whether the Concord Community Schools and the Elkhart County Special Education Cooperative violated:

511 IAC 7-27-2(a) by failing to arrange for a mutually agreed upon date, time, and place for a case conference committee (CCC) meeting to implement the hearing officer's order(s) rendered in due process hearing HR-123-2007.

**FINDINGS OF FACT:**

1. The Student, 12 years old, is identified as a student with ~~multiple disabilities~~ autism spectrum disorder, and has been determined eligible for special education and related services.
2. A due process hearing was filed on August 31, 2006 by the School, and a final decision was rendered on February 13, 2007. The Independent Hearing Officer (IHO) ordered the following:
  - 1) The Student shall be placed residentially at [Residential Facility A] (if it is not available the [case conference committee] CCC will need to find another appropriate residential placement).
  - 2) The CCC will convene within the next 10 school days and develop an IEP for the Student's residential placement. . . .
3. An appeal of the IHO's decision was filed on February 19, 2007 by the Complainant (the Student's Parent). The Board of Special Education Appeals (BSEA) upheld as written the IHO's orders on June 20, 2007.
4. In a letter dated July 19, 2007 to the Complainant, the Director of Special Education (the Director) asked for dates and times to schedule a CCC meeting to develop an IEP.
5. In an e-mail dated July 26, 2007, the Complainant sent an e-mail to the Director regarding various concerns, specifically regarding reimbursement costs associated with the Student's residential placement (i.e., visitation). In an e-mail dated July 26, 2007, the Director responded to the Complainant's concerns and stated that she would have to find answers to many of the Complainant's questions, but will get back to her as soon as possible. In an e-mail dated July 30, 2007, the Director indicated to the Complainant that they needed to set up a CCC meeting, and asked for days and times that the Complainant would be available for a conference. The Director stated that she wanted to ensure the participation of Residential Facility A at the CCC meeting. In addition, the Director indicated that the Complainant's transportation concerns would be addressed at the CCC meeting.

6. In an e-mail dated August 6, 2007, the Complainant sent an e-mail to the Director's administrative assistant (and sent a copy to the Director) stating that she will not set up a CCC meeting because she has not received her requested information from the Director. In an e-mail dated August 7, 2007, the Director responded to the e-mail and stated that the Superintendent was getting answers with respect to what the "corporation can offer regarding visitations to see [the Student]." Additionally, the Director asked for "dates and times that would be convenient to set up a case conference in order to comply with [IHO's and BSEA's orders]." The Director acknowledged that the Complainant wanted answers to questions regarding visitation prior to the CCC meeting, but the Director indicated that it has been difficult getting answers from other individuals and thought that "if we could get a date set that would make everyone a little more aware of when [the Director] needed the information." However, the Director responded to questions asked by the Complainant through the Student's notebook in an e-mail attachment. With respect to CCC meeting dates and time, the Director indicated in the e-mail that she called Residential Facility A and asked for their availability for a CCC meeting, in an effort to coordinate schedules.
7. On August 8, 2007 (at 6:33 a.m.), the Director e-mailed the Complainant the School's guidelines for reimbursement. The Director indicated that she needed dates and times that were convenient to the Complainant to set up a CCC meeting. In addition, the Director indicated to the Complainant that Residential Facility A has agreed to take the Student, and the Student "can start attending next week." In another e-mail dated August 8, 2007 (at 6:47 a.m.), the Director re-emphasized the importance of setting up a CCC meeting for the Student and stated that what the corporation has offered (with respect to transportation/visitation) is "more than double what is customary." In another e-mail dated August 8, 2007 (11:02 a.m.), the Director indicated that a representative from Residential Facility A said that they were available on August 13<sup>th</sup> or 14<sup>th</sup>, 2007, and can start at 8:00 a.m., 8:30 a.m., or 9:00 a.m. The Director asked the Complainant which day would be the best for her, and indicated to the Complainant that if a CCC meeting was convened on the 13<sup>th</sup> or 14<sup>th</sup> then the Student could be admitted on Monday, August 20, 2007. The Director sent the Complainant a letter dated August 8, 2007 with the same information as indicated in the August 8, 2007 e-mail. In an e-mail dated August 8, 2007 (at 12:11 p.m.), the Complainant responded to the August 8, 2007 e-mail (at 6:33 a.m.) where the Director attached the School's guidelines. The Complainant stated that nothing was enclosed in the e-mail, and stated that she needs the requested information "before [she] can schedule a meeting." In an e-mail dated August 8, 2007 (at 12:49 p.m.), the Director reattached (as well as faxed and mailed) the requested information, and asked the Complainant for clarification with respect to information that she has not received.
8. In an e-mail dated August 9, 2007, the Director e-mailed the Complainant and asked about the Complainant's participation on the proposed dates of August 13, or 14, 2007. Another e-mail dated August 10, 2007 was sent to the Complainant from the Director that reiterated the importance of scheduling a CCC meeting, addressed the School's responsibility in complying with the IHO's orders, and indicated that the School would need an answer about a CCC meeting date or that the Student will be alternatively educated by August 30, 2007. The Director sent a letter dated August 10, 2007 to the Complainant, stating the same information from the August 10, 2007 e-mail.
9. In an e-mail dated August 13, 2007 from the Director to the Complainant, the Director indicated that she has made numerous attempts to schedule a CCC meeting to no avail. Therefore, the Director indicated that a CCC meeting would be set for Tuesday, August 14, 2007 at 8:00 a.m. The Director indicated that the Complainant may participate via telephone, and gave the Complainant an opportunity to suggest alternate dates. The Director sent a letter dated August 13, 2007 to the Complainant, stating the same information from the August

13, 2007 e-mail.

10. A Parent Notification of Case Conference dated August 8, 2007 indicated that the CCC meeting is scheduled on August 14, 2007 at 8:00 a.m. The notification indicated that on August 8, 2007, the Parent Notification of Case Conference was e-mailed, faxed, and mailed. The notification indicated that on August 13, 2007, the Parent Notification of Case Conference was e-mailed, hand delivered at work, and mailed (next day delivery).
11. E-mail correspondence between the Complainant and the Director dated August 13, 2007 addressed concerns regarding who would be attending and invited to the CCC meeting. The Complainant stated that she wanted the Student's "regular speech therapist" and the "ESY para" to be in attendance. Further, the Complainant stated that she would "pick a date" when she was informed when the stated individuals could meet. The Director indicated to the Complainant that the requested individuals were not required participants, but the Complainant could invite them. Additionally, the Director asked the Complainant if she would be attending or wished to participate via a telephone conference.
12. Although there is no documentation with respect to when the CCC meeting was changed from August 14, 2007 to August 20, 2007, in an e-mail dated August 14, 2007 from the Director to the Complainant, the Director indicated that a case conference is set for Monday, August 20, 2007 at 8:00 a.m. at Elkhart County Special Education Cooperative (ECSEC) office.
13. In an e-mail dated August 16, 2007 from the Complainant to the Director, the Complainant indicated that she could not meet at ECSEC because it was too far from work, and indicated that she wanted the behavior consultant at the CCC meeting. In an e-mail dated August 17, 2007, the Director indicated that another location could be utilized for the CCC meeting.
14. A CCC meeting was convened on August 20, 2007. However, the Complainant did not sign the IEP in agreement.
15. In a letter dated August 22, 2007 from the executive director of the Residential Facility A to the Director, it was stated that the facility would no longer be able to accept the Student for placement.
16. In an e-mail dated August 27, 2007, the Director e-mailed the Complainant and stated that she needed to talk to her "ASAP about the [Residential Facility A]." Documentation provided by the School documented a phone conversation between the Complainant and the Director on August 27, 2007 that addressed Residential Facility A no longer accepting the Student. Further, it was noted that the Director told the Complainant that another facility (Residential Facility B) had been called and had a tentative CCC meeting scheduled for the week of September 4, 2007. In an e-mail dated August 27, 2007 from the Director to the Complainant, the Director indicated that Tuesday, September 4, 2007 at 8:00 a.m. was a possible time for a CCC meeting. Further, it was stated that the Student could be enrolled on Monday, September 10, 2007 at Residential Facility B. In another e-mail dated August 27, 2007 from the Director to the Complainant, it was stated that Facility B confirmed its availability for a September 4, 2007 date CCC meeting.
17. On August 29, 2007, the Director e-mailed the Complainant and indicated that a CCC meeting was set for Tuesday, September 4, 2007 at 8:00 a.m. and would like to hold the CCC meeting at ECSEC office. In addition, the e-mail noted that the Director faxed a Parent Notification form and asked the Complainant to inform her if she would be attending in person or by phone. The Complainant responded to the e-mail (the same day) and indicated that she had not received the parent notification form; however, the Complainant did not indicate whether or

not the proposed date would work. The Parent Notification of Case Conference form documented that on August 27, 2007, the Complainant received a phone call and was faxed the Notification form.

18. On August 31, 2007, the School's attorney sent the Complainant a letter indicated that a CCC meeting would be held on September 4, 2007 at 8:00 a.m., and indicated that the School could accommodate the Complainant's schedule by "providing her opportunity to participate via conference call."
19. In an e-mail dated September 4, 2007 from the Director to the Complainant, the Director indicated that because the Complainant refused to give alternative meeting dates and times to reschedule, the Director gave the Complainant an option of September 5, 2007 at 8:30 a.m. or September 6, 2007 at 9:00 a.m. or 10:00 a.m. However, the Director stated that if the Complainant failed to respond by that day, the School would proceed with a CCC meeting on September 5, 2007. A Parent Notification was sent as an attachment to the e-mail. The Director sent a letter dated September 4, 2007 to the Complainant, stating the same information from the September 4, 2007 e-mail. The Parent Notification of Case Conference dated September 4, 2007 indicated under "Notifications" that "[m]other indicated that she would not meet at those times [, and the School] [h]eld a conference without mother since [the School] had an [August 20, 2007] conference in which mom attended an only change was [with respect to Facility B]."
20. In an e-mail dated September 25, 2007 from the Director to the Complainant, the Director indicated that the School would agree to a CCC meeting "via telephone" on Wednesday, September 26, 2007 at 8:00 a.m. Further, the e-mail indicated that a Parent Notification will be e-mailed to the Complainant (the same day). Documentation from the School indicated that the Complainant called on September 26, 2007 and would attend by phone.

## **CONCLUSIONS:**

1. Findings of Fact #5 through #13 and #16 through #20 address the scheduling of CCC meetings. Findings of Fact #5 through #13 and #16 through #20 indicate that the School has made attempts to convene a CCC meeting at a mutually agreed upon date, time, and place as required by the IHO's orders to place the Student in a residential facility (Finding of Fact #2). Finding of Fact #5 through #13 and #16 through #20 indicate that the School has maintained detailed records with respect to 511 IAC 7-27-2(b). Therefore, no violation of 511 IAC 7-27-2(a) is found.

The Department of Education, Division of Exceptional Learners requires no corrective action based on the Findings of Fact and Conclusions listed above.