

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: CP-271-2008
COMPLAINT INVESTIGATOR: Brian Simkins
DATE OF COMPLAINT: October 1, 2007
DATE OF REPORT: October 31, 2007
REQUEST FOR RECONSIDERATION: No
DATE OF CLOSURE: January 24, 2008

COMPLAINT ISSUES:

Whether the Garret-Keyser-Butler Community School District and the Northeast Indiana Special Education Cooperative violated:

511 IAC 7-27-7(a) by failing to implement the individualized education programs (IEPs) of several seventh grade students, specifically by failing to:

- (a) check homework on a daily basis; and
- (b) implement the required testing accommodations in the resource room.

FINDINGS OF FACT:

1. The Students attend the local middle school (the "School"), and have been determined eligible for special education and related services.
2. Beginning on August 15, 2007 through September 21, 2007, the Complainant, a licensed teacher, was assigned as the substitute teacher for the School's seventh grade resource room while the regular full-time teacher was on maternity leave. Working in the resource room were two teacher assistants whom the Complainant alleges did not implement the accommodations identified in the IEPs of at least 15 seventh grade students who receive special education and related services in the resource room.
3. Of the 15 identified seventh grade students, three have "homework checks" identified as an accommodation in their IEPs. Their IEPs require that their homework assignments from the previous day are checked for completion on a daily basis. Documentation indicates that a record of completed or missing assignments had been maintained for the weeks leading up to the time this complaint was filed. However, the purpose of the record, a homework assignment completion percentage chart, is to determine the overall homework completion percentage of a group of 30+ students. The documentation does not indicate whether and to what extent the Complainant or the teacher assistants did a daily homework check for each of the three students.
4. The IEPs of all 15 of the identified students indicate that they are to be pulled out of their general education classes to receive test accommodations in the resource room. However, each of the Students has different specific testing accommodations, such as extended time, use of calculators, having the test questions or directions read, and others. Documentation indicates by subject which seventh grade tests were taken on what day and whether testing accommodations were provided. However, the documentation does not indicate which student took what test on a given date, nor does it indicate who provided what specifically identified accommodations for each student.

CONCLUSIONS:

Findings of Fact #2 through #4 address whether and to what extent the Students IEPs were implemented as written. Specifically:

- (a) Finding of Fact #3 indicates that the School cannot specifically document whether the three students with homework checks as an identified accommodation are having their homework assignments checked for completion on a daily basis. Therefore, a violation of 511 IAC 7-27-7(a) is found.
- (b) Finding of Fact #4 indicates that the School cannot specifically document which student is receiving what identified accommodation(s) on any given day on any given test, or who is providing the accommodation(s). Therefore, a violation of 511 IAC 7-27-7(a) is found.

DISCUSSION:

Although the Complainant alleges that the two teaching assistants in the seventh grade resource room were not implementing the identified accommodations in the IEPs, it is ultimately the responsibility of the teacher to ensure that the IEPs are implemented as written. The teacher of record, pursuant to 511 IAC 7-17-72 and 511 IAC 7-27-7(b), is also responsible for ensuring that all school personnel working with the students are informed about the provisions in the IEPs and that the IEPs are implemented as written. The Division is without authority to intervene in personnel disputes regarding job responsibilities at the local level that do not involve allegations of procedural non-compliance with Article 7.

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 Garrett-Keyser-Butler Community School Corporation and the Northeast Indiana Special Education Cooperative shall:

Convene a meeting to develop a documentation system for the resource room teacher and the teaching assistants to utilize as a way to thoroughly document the extent to which all identified testing accommodations have been implemented. The meeting shall include, but not be limited to: the principal; director of special education; the resource room teacher; the resource room teaching assistants; at least one general education teacher from each of the four core subjects of math, English-language arts, social studies and science; at least one teacher of record; and any other relevant personnel. A copy of the attendance sheet, a description how the documentation will be used, and a sample copy of the documentation shall be submitted to the Division no later than **December 14, 2007.**

Submit documentation indicating that the three students with homework checks as an identified accommodation have had their homework checked for completion on a daily basis for at least five school days. The documentation must indicate who checked the homework, when, and, if an assignment is missing, which assignment is missing and whether it will be completed or whether the student needs more help. The documentation shall be submitted to the Division no later than **December 14, 2007.**